

LEGISLATIVE COUNCIL

Wednesday 24 September 2008

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

The President offered the Prayers.

CRIMES (SENTENCING PROCEDURE) AMENDMENT (VICTIM IMPACT STATEMENTS) 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.

INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, the following reports:

- (1) Annual report of the Inspector of the Independent Commission Against Corruption for the year ended 30 June 2008.
- (2) "Special Report of the Inspector of the Independent Commission Against Corruption to the Parliament of New South Wales pursuant to section 77A of the Independent Commission Against Corruption Act 1988 on issues relating to the Investigation by the Independent Commission Against Corruption of certain allegations against the Honourable Peter Breen MLC", dated 24 September 2008.

The President announced that, pursuant to the Act, it had been authorised that the reports be made public.

Ordered to be printed on motion by the Hon. Tony Kelly.

AUDITOR-GENERAL'S REPORT

The President tabled, pursuant to the Public Finance and Audit Act 1983, a performance audit report of the Auditor-General entitled "Delivering Health Care out of Hospitals—Department of Health", dated September 2008.

Ordered to be printed on motion by the Hon. Tony Kelly.

PROGRAM OF APPLIANCES FOR DISABLED PEOPLE

Production of Documents: Order

Motion by Mr Ian Cohen agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 7 days of the date of the passing of this resolution the following documents in the possession, custody or control of the Minister for Health or the Department of Health:

- (a) any document showing or relating to audit data and information collated by Oakton, formerly Acumen Alliance, concerning the Program of Appliances for Disabled People (PADP),
- (b) any reports produced and authored by Oakton on PADP Lodgement Centres, and
- (c) any document which records or refers to the production of documents as a result of this order of the House.

UNPROCLAIMED LEGISLATION

The Hon. Ian Macdonald tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 24 September 2008.

PETITIONS

La Perouse-Phillip Bay Chinese Market Gardens

Petition opposing incorporation of Chinese market gardens at La Perouse-Phillip Bay into Botany Cemetery, received from **the Hon. Henry Tsang**.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business items Nos 135 and 147 outside the Order of Precedence withdrawn by Ms Lee Rhiannon.

Private Members' Business items Nos 85, 90 and 121 outside the Order of Precedence withdrawn by Dr John Kaye.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Duncan Gay agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 137 outside the Order of Precedence, relating to questions asked by him regarding Roger Fletcher and Ramiens Timber, be called on forthwith.

Order of Business

Motion by the Hon. Duncan Gay agreed to:

That Private Members' Business item No. 137 outside the Order of Precedence be called on forthwith.

THE HON. DUNCAN GAY: APOLOGY BY *DAILY TELEGRAPH*

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.16 a.m.]: I move:

- (1) That this House notes that the Honourable Duncan Gay MLC has informed the House that:
 - (a) he has not been asked by Roger Fletcher or by Ramiens Timber to ask questions on their behalf,
 - (b) he has not received money from Roger Fletcher or Ramiens Timber for this or any other purpose, and
 - (c) he has not at any time requested money from Roger Fletcher or Ramiens Timber for this or any other purpose.
- (2) That this House notes the apology to the Honourable Duncan Gay MLC by the *Daily Telegraph*, published on Tuesday 23 September 2008 in response to an article entitled "Dubbo donation scandal" published on 1 May 2008, which acknowledges that any inference that the questions asked in Parliament by Mr Gay were as a result of donations he or the New South Wales Nationals received is incorrect.
- (3) That this House directs the Honourable Amanda Fazio MLC to withdraw the notice of motion given by her on 8 May 2008.
- (4) That this House calls on Ms Fazio to unreservedly apologise to Mr Gay for impugning his motives in asking questions in relation to this matter, and for failing to adequately research her facts before giving notice of her motion on 8 May 2008.

This important motion is about the integrity of the House and information that remains on the Legislative Council *Notice Paper*. The information in the notice of motion given by the Hon. Amanda Fazio is incorrect, and that is why I have moved this motion. I rate this matter as one of great importance, and that is why I have brought it on as a matter of urgency today. It is about a person's integrity, and it is about people either

deliberately or accidentally getting their facts wrong. On this occasion we have given every opportunity for the record to be cleared. Indeed, in the toughest area that one could go, I went to the *Daily Telegraph* and, to its great credit, it published a full apology. That apology appeared on page 4 of the *Daily Telegraph* yesterday. I seek leave to table the original article and the apology.

Leave granted.

The apology in the *Daily Telegraph* states:

Apology to The Hon Duncan Gay MLC

An article titled "Dubbo donation scandal" published on May 1, 2008 concerned allegations that Duncan Gay MP used question time to lobby on behalf of Dubbo trucking company, Fletchers. Any inference that the questions asked in Parliament were as a result of donations he or the NSW Nationals received is incorrect. *The Daily Telegraph* apologises to The Hon Duncan Gay MLC.

I thank the *Daily Telegraph* for publishing that apology and appreciate it was a big step to do so. Of course, the next step when a member either accidentally or deliberately misuses facts, which remain in *Hansard*, is for that member to remove the incorrect information. Despite several requests, the particular member in this instance has failed to do that. As the House is the master of its destiny, my only alternative is to move this motion so that she is instructed to remove that information. I call on the member to have the decency also to apologise to me for besmirching my name. The incorrect information she provided has been recorded in *Hansard* and will remain a matter of history. This Chamber must pass a motion for its removal to indicate to history students that the matter did not just fall away but was settled appropriately.

Today's vote is not about whether a member is liked; rather, it is to demonstrate that no facts support the allegations put before the House. The questions I asked of the Minister had nothing to do with the business interests of a Dubbo trucking company. People with conspiracy theories will be disappointed to learn that two attempts were made to get such a story published in the media based on private correspondence between me and the Minister for Roads. I was representing constituents, not Mr Fletcher, who were concerned about the overloading of trucks. At the request of the Chief of Staff of the Minister for Roads I sent correspondence to the Minister on behalf of those constituents, but my private correspondence was hawked to the media. I give full credit to Simon Benson for publishing in the apology that I have a 20-year unblemished record. I want my record to remain unblemished and I ask members to support my motion to correct a wrong that was wrought upon me in base political terms. I do not know whether this matter was raised to get the Treasurer out of trouble because nothing will get him out of trouble; he gets himself into trouble every day.

The Hon. Eric Roozendaal: Point of order: I believe in giving members a fair go. The Deputy Leader of the Opposition was heartfelt in his comments, but he cannot help himself. Despite the façade of heartfelt concern about his integrity and how he will be recorded in history, he tried to have a go at me. I want to listen carefully to his comments, yet these cheap shots at me demonstrate that he should be judged not by what he says, but by how he acts.

The PRESIDENT: Order! That is not a point of order. Members should give due cognisance to this important debate. The Deputy Leader of the Opposition will bear that advice in mind as he proceeds.

The Hon. DUNCAN GAY: I certainly take that advice and will not pursue that line. The name used to value-add the comments for which the *Daily Telegraph* apologised was Nathan Rees, the then Minister for Water Utilities who is now the Premier of New South Wales. Those same comments were used in a Dorothy Dix question in the lower House to the former Minister for Police, David Campbell. As Minister for Police he would not have allowed any police constable to take that sort of attitude. The present Minister for Police, who sits opposite, appreciates that that is the integrity expected. I will not prolong this debate: the facts speak for themselves.

The Hon. Amanda Fazio, the Deputy-President of this Parliament, has moved an irresponsible and wrong motion. On numerous occasions I have requested that she remove it from the *Notice Paper*, but she has declined to do so. I have been left with no resort other than to move this motion that she be instructed to remove it and apologise to me. I apologise to people when I make mistakes on occasions—I do not make many, but I may say the wrong thing. I have apologised more than once to the Leader of the Government or the Deputy Leader of the Government for something I have said in the heat of the moment. That is the proper way decent people behave in this country. The *Daily Telegraph* was decent enough to apologise to me for its unfortunate mistake based on information provided to it. I ask for the same courtesy in this House.

The Hon. AMANDA FAZIO [11.26 a.m.]: First, I will not withdraw the motion. Second, I will not issue an apology to the Deputy Leader of the Opposition. In the past in this Chamber I have apologised to the Deputy Leader of the Opposition for making some intemperate remarks during debate. Private member's business item No. 104 outside the Order of Precedence was not placed on the *Notice Paper* to be treated lightly. I placed it before this House because I was very concerned about what appeared to be a pattern of behaviour. I will now make a few comments about this matter.

The Deputy Leader of the Opposition has not explained the substantive facts about these issues. In fact, I believe his comments raise further questions. Three donors who contributed more than \$82,000 to The Nationals had questions asked in this place regarding their business interests by the Deputy Leader of the Opposition. Businessman Roger Fletcher of Dubbo donated \$30,400 to The Nationals and its candidates for the seat of Dubbo between 2003 and 2007. The Deputy Leader of the Opposition used question time on two occasions to ask questions about matters relating to Mr Fletcher's business interests. On 10 November he directed a question to the Minister for Primary Industries criticising a government policy on Ovine Johne's disease that was not supported by Mr Fletcher. On 5 June 2007 the Deputy Leader of the Opposition directed a question to the Minister for Roads, criticising Roads and Traffic Authority prosecutions of overloaded grain trucks, including trucks owned by Mr Fletcher. Trucks owned by Fletcher International Exports Pty Ltd, a company owned by Mr Fletcher, were prosecuted by the Roads and Traffic Authority for 10 serious breaches of grain overloading, including one instance of a truck being 44 tonnes overweight, carrying 55 per cent more than its legal payload. I do not know whether the Deputy Leader of the Opposition takes that issue seriously, but I believe it is a very serious matter.

The Deputy Leader of the Opposition misled Parliament on 6 May 2008 when he stated he had never asked a question that related to trucking interests owned by Mr Fletcher when, in fact, his question to the Minister for Roads on 5 June 2007 referred to an issue directly involving trucks owned by Mr Fletcher. The Deputy Leader of the Opposition misled the public also in his explanation of these matters. He concocted a story and then misled the House when he said he could find only one Fletcher trucking company after doing a Google search, such company being based in South Australia, and that he had not asked any questions about that South Australian company. I do not know whether he was trying to be cute or smart on that occasion, but it was clearly a case of misleading the House.

On 9 November 2004 the Hon. Duncan Gay directed a question to the Minister for Primary Industries regarding Dubbo business Ramiens Timber. On 16 November 2004, just one week after the question asked by the Hon. Duncan Gay, Ramiens Timber donated \$1,000 to the National Party candidate in the 2004 Dubbo by-election. Between 2002 and 2007, grain handling company GrainCorp donated \$51,000 to the National and Liberal parties. The Roads and Traffic Authority has been involved in a court action against GrainCorp in relation to accepting deliveries from overloaded trucks, including trucks owned by Mr Fletcher. The Hon. Duncan Gay sought to prejudice those proceedings and have the Roads and Traffic Authority prosecutions in relation to those matters withdrawn. On 6 May, in Parliament, in relation to an article in the *Daily Telegraph*, the Hon. Duncan Gay said:

I had asked two questions on behalf of a Dubbo trucking company called Fletchers Trucking, said to be owned by Roger Fletcher. Firstly, Roger Fletcher owns a livestock export company in Dubbo called Fletchers International Exports, not a trucking will company called Fletchers Transport. A simple Google search will reveal Fletchers Trucking Company to be a completely unrelated trucking company based in South Australia.

That was clearly misleading the House. That statement was wrong, and in making it the Hon. Duncan Gay has misled the House. Roger Fletcher does own trucks: two of his trucks were involved in 10 prosecutions for overloading. And Roger Fletcher would have been a direct beneficiary if those charges had been dropped, as the Hon. Duncan Gay was pushing the Government to do. The Hon. Duncan Gay has not addressed this issue in any of his comments on this matter to date. It is very clear that he has misled Parliament.

I now address the comments of the Hon. Duncan Gay in asking members to support his motion. He said this was a matter of the integrity of the House. I believe that misleading the House goes directly to the integrity of the House, and that is what the Hon. Duncan Gay is guilty of. He said that an untrue item was placed on the *Notice Paper*. If the issue of truth was to be applied to every single item on the *Notice Paper*, all 140 or more of them, that would result in a very truncated *Notice Paper*; it would be very short if a kangaroo court decided what was true and what was not, and what was allowed to be placed on the *Notice Paper* and what was not. It would set a very dangerous precedent to have motions knocked off the *Notice Paper* by a majority vote in this House. It would be different if the matter was brought on and debated, because it is the right of the House to determine whether the matter is to be supported. But to have censorship of the *Notice Paper* in that way would set a very dangerous precedent.

The motion moved by the Hon. Duncan Gay states that he has not received money from Roger Fletcher or Ramiens Timber. I did not say that the Hon. Duncan Gay received money from Fletchers and Ramiens; my motion states that the National Party was the beneficiary of those donations, which I believe were in response to questions raised by the Hon. Duncan Gay in the House. The wording of the motion moved today by the Hon. Duncan Gay is a bit like the Google search on Fletchers Trucking. He is trying to be a little bit too smart and not very clear about the way in which he addresses these issues. He is playing around with words to try to make out that he is an injured party. In fact, he has not directly responded to the key issues that I raised in my motion.

The Hon. Duncan Gay also said that we should agree to his motion because of the apology that appeared in the *Daily Telegraph* yesterday. The apology deals only with the issue of Fletchers, it does not deal with the issues raised in my motion about donations from GrainCorp or Ramiens Timber. None of that is covered by the apology in yesterday's *Daily Telegraph*, because the article dealt only with Fletchers. Of the three issues that I have raised about donations, plus the very important issue of misleading the House, the apology from the *Daily Telegraph* deals with only one. It does not deal at all with misleading the House. To say that it is a blanket apology and a clean bill of health to the Hon. Duncan Gay in relation to this issue is not true—and I do not accept that it is true.

The Hon. Duncan Gay also stated that I misled people with the information contained in my motion. I do not accept that, because we have never had a clear answer to a lot of these issues from the Hon. Duncan Gay. He said also that he asked me on numerous occasions to withdraw. Since I put that item on the *Notice Paper* in May this year, I have often received a chorus of interjections from the other side saying "Withdraw! Withdraw!" when I have spoken in the House. But I have not had a formal approach to withdraw my motion by the Hon. Duncan Gay, the Leader of the Opposition, the Opposition Whip or the Deputy Opposition Whip. All I have had are interjections slung at me across the Chamber. Yet again the Hon. Duncan Gay has misled this House, because I have not had a formal approach to withdraw my motion from the *Notice Paper*. Yet again, what do we have? The Hon. Duncan Gay and his little puppet master are interjecting, trying—

The PRESIDENT: Order! This is an important debate. I will not stop members from interjecting when they believe it is appropriate to do so. However, members must respect the importance of this debate and allow all members to put their positions.

The Hon. AMANDA FAZIO: I can honestly say that that is a typical example of what happens if you do something that displeases members on the Opposition benches. They will shout members down, and try to intimidate and bully members into following their position. That is absolutely typical behaviour. Today the Hon. Duncan Gay came into the House and pretended that he is completely without guilt. He said that he has no problems, that he is Mr Clean of Heart and told us how dreadful it is that people make allegations against other members in this Chamber; how dreadful to say misleading things about people. The Hon. Duncan Gay quite regularly makes the most awful and dreadful allegations against people, queries other people's motives and seems to have a particular grudge against certain members.

Today the Hon. Duncan Gay pretended that he is as pure as the driven snow, that he is not guilty of any behaviour like that. He said that I put this motion on the *Notice Paper* for some bizarre reason. I will tell him what the bizarre reason is: I expect members of this place to be honest, to tell the truth. I do not expect members to come in here and ask questions in return for financial gain for their party. Scandals like that have happened in England, and we know of cash for questions elsewhere, and we know of cash for comments in this State's radio industry. And today in this House the Hon. Duncan Gay pretends that he is as pure as the driven snow. Quite frankly I do not accept that. My motion asks that the conduct of the Hon. Duncan Gay in relation to these matters be referred to the Privileges Committee for inquiry and report. I believe that that is the appropriate course of action.

I am a member of the Privileges Committee, and if this matter came before that committee I would stand aside, because that would be the appropriate thing to do in the interests of making sure that the truth came out. If the Hon. Duncan Gay had any decency, and a reputation that could be salvaged, he would agree to go before the Privileges Committee and put his case clearly and to answer the three different areas where questions have been asked about his conduct in this House concerning Fletchers Trucking, Ramiens Timber and GrainCorp. He would also explain his smart attempt to pretend, by Googling a South Australian trucking company, that he had had nothing to do with this matter. If the Hon. Duncan Gay believes that my motion has impugned him, he should attempt to have it dealt with in the proper way. It should go to the Privileges Committee.

The matter should be dealt with thoroughly. The Hon. Duncan Gay should have the chance to answer questions about the various issues involved rather than making assertions in this place that address only one-third of the allegations. I am quite happy for the matter to be investigated properly. In the past the Hon. Duncan Gay has made the most appalling allegations in this place about other members. Yet when a well-constructed and well-researched position is put about his behaviour and benefits to his party, the Hon. Duncan Gay bellows like a wounded bull. If the Hon. Duncan Gay wants to clear his name he should follow decent processes and answer all the questions raised, not just those that suit him. He has used smart wording in his motion to skirt around the real issues. I urge members to oppose the Hon. Duncan Gay's motion and to support a process that allows us to discover once and for all whether questions were asked during question time in this place to benefit a political party financially rather than to benefit the people of New South Wales.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.40 a.m.]: What a remarkable and deceitful contribution from the Hon. Amanda Fazio! She has produced not one piece of evidence to substantiate any of her claims. She has merely tried to link some donations to The Nationals, with the Hon. Duncan Gay as a beneficiary. The Hon. Amanda Fazio claims to be pure of heart. She claims to seek truth, justice and the Amanda Fazio way in this Parliament. But the Hon. Amanda Fazio supplied this information to Parliament on 8 May—almost five months ago. What did she do with the concerns that she has poured out on the floor of House today and declared are vital to maintaining the integrity of this place? She did absolutely nothing. As usual, the Hon. Amanda Fazio spreads dirt in the public arena, gets it into the newspapers and then does absolutely nothing. The allegations then hang like an albatross around the neck of the member concerned until the Hon. Amanda Fazio is forced to take action.

On this occasion an independent umpire—the *Daily Telegraph*—has scrutinised her allegations. It followed the dirt and the poison that got the story into the newspaper in the first place. The Hon. Amanda Fazio did not simply make some casual comments in the House; she made sure that her allegations appeared in print. She wanted to have a go at the Hon. Duncan Gay's credibility and to make tenuous links. The *Daily Telegraph*, which is not a newspaper that backs down readily, examined those allegations and published yesterday on page 4—not page 64 or page 164—its apology to the Hon. Duncan Gay because it knows that it was misled. Who misled the *Daily Telegraph*? It was the woman who made these scurrilous allegations on 8 May. The Hon. Amanda Fazio does not give up easily. She is like the little cartoon frog who clings to the bird's neck and says, "Never give up; admit nothing".

Today the Hon. Amanda Fazio is attempting to take this issue to the next level. She claims to be telling the truth. She says that she is merely the person who has brought to Parliament information that should now be referred to the Privileges Committee. In other words, the Hon. Amanda Fazio wants to keep the dream alive. She wants to keep the focus on the Hon. Duncan Gay, who the *Daily Telegraph* says has done nothing wrong. Meanwhile the Hon. Amanda Fazio sits in the Chamber, quietly plotting whom her next victim will be. Black-hearted Amanda Fazio makes up allegations, brings them to the House and expects members to vote and merrily determine that the issue is somehow deserving of a reference to the Privileges Committee for further examination. She has produced not one piece of evidence to substantiate her scurrilous claims. She simply made very loose links and then suggested that we refer the matter to the Privileges Committee.

If the Hon. Amanda Fazio was so concerned about this issue why did she not write to the President about it in May? Why did she not move a motion in the House urging members to examine this extremely important matter in context? No, the Hon. Amanda Fazio allowed her motion to sit on the *Notice Paper* because she knew that it was nothing more than a nasty, evil attempt to besmirch the reputation of a fine member of the Legislative Council. Of course, the Hon. Amanda Fazio is no ordinary member. She may well be ordinary in terms of her performance on behalf of the people of New South Wales, but she is no ordinary member. The Hon. Amanda Fazio is the Chair of Committees—a position that carries with it—

The Hon. Amanda Fazio: Point of order: The Leader of the Opposition, given his lengthy service in this Chamber, should know that if he wants to denigrate me he should do so by way of substantive motion. I ask you to remind the Leader of the Opposition of that. This debate is about a motion moved by the Hon. Duncan Gay in response to my substantive motion. The Hon. Duncan Gay's motion does not refer to me in a derogatory manner; it simply asks that I withdraw my motion and apologise. Therefore, I argue that the comments of the Leader of the Opposition are well and truly out of order.

The Hon. MICHAEL GALLACHER: To the point of order: I said that the Hon. Amanda Fazio is an ordinary member of this place. The public view her, like many other members, as an ordinary member of Parliament.

The PRESIDENT: Order! I can do no more than keep reminding members of the importance of such debates and rulings of the Chair in relation to them. Deputy-President Gay ruled on 19 November 1997:

Imputations of improper motives to and personal reflections on members are deemed to be disorderly.

Other Presiding Officers have adopted that most appropriate ruling, which I ask members to bear in mind when contributing to this debate.

The Hon. MICHAEL GALLACHER: I certainly will, Mr President. I pick up my train of thought. The Hon. Amanda Fazio is no ordinary member of the House. She is the Chair of Committees—a position that carries with it the responsibility of upholding the standing orders of this place with regard to the conduct of members both in debate and in their behaviour in the House. The Hon. Amanda Fazio's approach of crash or crash through is typical of that of so many Labor members. They never admit they have done anything wrong and never admit that they have nothing to substantiate their allegations. They simply rely heavily on their numbers in the House and do what they can to muddy the waters sufficiently so that, irrespective of the facts, the Hon. Amanda Fazio and her ilk can continue to refer to the Hon. Duncan Gay as a person who was referred to the Privileges Committee for investigation. The result of such an investigation is irrelevant. This is nothing more than a grubby attempt to compile a very loose, circumstantial brief of evidence to get the Hon. Duncan Gay before the Privileges Committee.

If the Hon. Amanda Fazio had any information of substance she should have produced it on 8 May, when she first made the scurrilous allegations. But since then the Chair of Committees has sat in the Chamber, mute, knowing that the motion is on the *Notice Paper* and happy that it is there. What we are witnessing today is exactly what I expect from the Hon. Amanda Fazio and her ilk: crash or crash through, admit nothing and try as hard as you can to muddy the waters sufficiently to suggest that there are fresh allegations. She claimed that the Hon. Duncan Gay has not answered the allegations and can do so only if the matter is referred to the Privileges Committee—a reference that, if it were to be made, should have been made in May. But the Hon. Amanda Fazio had no intention of doing that because she had nothing to back up her allegations. Her intention today is to muddy the waters sufficiently and to create a degree of confusion so that members of the crossbench will vote to clear up the matter by sending it to the Privileges Committee.

That is the game that the Hon. Amanda Fazio is playing. She simply wants to put on the record that the Deputy Leader of the Opposition will be called before the Privileges Committee without putting forward a skerrick of evidence. I would have expected more from the Chair of Committees—someone whose duty it is to uphold standing orders and to control the behaviour of members in this Chamber. If she had any evidence she would have acted on it. The reason she did not act is that she had no evidence.

Today the question that we should be debating does not relate to the Deputy Leader of the Opposition; it relates to the suitability of the Hon. Amanda Fazio to continue in her position as Chair of Committees. We would expect more from somebody who has the role of a presiding official in this Chamber. In making these allegations she should have had the decency to put up or shut up. Instead, her attitude is to admit to nothing, to push for it, to crash or crash through, and to see whether the Deputy Leader of the Opposition is called before the Privileges Committee. The Hon. Amanda Fazio should stand on her reputation and say, "I have nothing to put forward other than the allegation I made. I withdraw it." Today we should be debating the Parliament's rationale for keeping her in her position of Chair of Committees. In my view, she is unsuitable to continue in that position and that is the matter that we should be debating today.

The Hon. Eric Roozendaal: Point of order. The Leader of the Opposition knows that he is well and truly outside the realms of the standing orders in attacking a member in that way. He knows that to make imputations about another member he must do so by way of a substantive motion. He should be asked to withdraw the comments that he made about the Hon. Amanda Fazio.

The PRESIDENT: Has the Leader of the Opposition concluded his address?

The Hon. MICHAEL GALLACHER: No.

The PRESIDENT: Order! Again I remind members of my earlier ruling and rulings of other occupants of the chair on this matter. A member wishing to cast aspersions or make imputations about another member can do so only by way of substantive motion. Usually a request for the withdrawal of remarks regarded as offensive is made by the member against whom the remarks are levelled. However, that is not a requirement of the standing orders. If the Hon. Amanda Fazio indicates that she is offended by the remark and seeks its withdrawal, I will rule on that request. If not, the Leader of the Opposition may continue.

The Hon. Amanda Fazio: I indicate that I do not require the Leader of the Opposition to withdraw those remarks because I think he speaks only for himself. I am not particularly offended by the remarks that he made today. I think it is a typical attitude of "shoot the messenger".

The Hon. MICHAEL GALLACHER: The allegations that have been made today and the allegations that were made in May are amongst the most serious allegations that can be made against a member of this House—that is, that a member misled the House. Members know that misleading the House leaves the member so accused, the member who might be found guilty of such an offence, in an untenable position. The Hon. Amanda Fazio made the strongest of allegations. I draw to the attention of members the fact that the member who makes the allegations sits in the Chamber today on her own. She has no support around her in the form of support from her colleagues. This member, who is out on her own and who does not have the support of her colleagues, has been caught playing fast and loose with the rules of the House. I humbly ask her to reconsider her position and to withdraw the allegations that she made, as she has nothing to back them up.

The Hon. LYNDIA VOLTZ [11.54 a.m.]: I speak in debate on this issue to support the Hon. Amanda Fazio. I resent the implication that she is sitting in the Chamber on her own because of her incantations. What questions has the Deputy Leader of the Opposition asked in this House over the past four years? Let me give members some examples of the questions that he has been asking. I refer to the first and deeply disturbing example. One week after the Deputy Leader of the Opposition asked a question in this place on behalf of Ramiens Timber Company in Dubbo, a donation of \$1,000 was made to The Nationals candidate for the Dubbo by-election campaign in 2004. One week is all it took for the cash to follow that question. On 9 November 2004 the Deputy Leader of the Opposition asked the Minister for Primary Industries:

Did the Minister threaten to cancel a meeting with the Dubbo cypress pine industry last Friday if the Opposition spokesman for Forestry, Andrew Fraser, toured Ramiens Timber Company's Dubbo timber mill on the day before the Minister's visit?

According to the 2004 Election Funding Authority statement for the Dubbo by-election, one week later—on 16 November 2004—a donation was made into the account of the Dubbo Nationals candidate.

The Hon. Michael Gallacher: Who wrote your speech, Lynda?

The Hon. LYNDIA VOLTZ: Is the Leader of the Opposition implying that I am incapable of writing my own speeches?

The Hon. Michael Gallacher: I have never seen you read a speech before. Normally you speak from the heart.

The Hon. LYNDIA VOLTZ: I will be speaking from the heart; I have a lot more to come. The second troubling example relates to GrainCorp. These are the facts. According to electoral returns, GrainCorp donated \$51,000 to the Coalition. GrainCorp has been involved in a court action with the Roads and Traffic Authority, but the Deputy Leader of the Opposition sought to prejudice those proceedings and to defend the dangerous practice of overloading trucks, some by up to 59 per cent, by asking questions on its behalf in the Parliament. On 5 June 2007 the Deputy Leader of the Opposition asked:

Is the Minister aware that the Roads and Traffic Authority has searched through GrainCorp records dating back to November 2005 and has just issued court attendance notices to several drivers for overloading breaches? Why is the Minister pursuing these breaches more than 18 months on?

That is appalling behaviour! The Deputy Leader of the Opposition also lobbied the Minister for Roads and demanded that he interfere in the court case and instruct the Roads and Traffic Authority to withdraw the matters. I quote from a letter to the Minister for Roads—

The Hon. Duncan Gay: Point of order: There is no evidence anywhere to show that I phoned the Minister and asked him to interfere in Roger Fletcher's court case. Where is the evidence to support that?

The Hon. Amanda Fazio: That is a debating point.

The Hon. Michael Gallacher: No, this is a serious allegation. Now you have him making phone calls.

The Hon. Duncan Gay: This is unbelievable!

The PRESIDENT: Order!

The Hon. Duncan Gay: The record will show what you said.

The PRESIDENT: Order! The Hansard staff are very capable and will record whatever is being said. However, it is obvious to the Chair that the Deputy Leader of the Opposition is making a debating point. There is no point of order.

The Hon. LYNDIA VOLTZ: The Deputy Leader of the Opposition also lobbied the Minister for Roads and demanded that he interfere in the court case and instruct the Roads and Traffic Authority to withdraw the matters. I quote from a letter to the Minister for Roads written by the Deputy Leader of the Opposition on 27 June 2007, which might clear up the issue for him. It states:

I would ask that you consider instructing the Roads and Traffic Authority in this instance to withdraw the attached matters from the court.

These trucks, which were dangerously overloaded, were a major threat to other road users. For example, a truck allowed to carry 79 tonnes was caught carrying 125.6 tonnes, which is 59 per cent overloaded. That was not a minor breach of a few extra kilograms; the truck was overloaded by 46 tonnes. The Deputy Leader of the Opposition defended this in a second letter to the Minister for Roads in which he said:

The highest level was a 59 per cent overload percentage and there were only five matters over the 50 per cent mark.

A truck with these weights takes an extra 73 metres to stop and is 30 per cent more likely to roll over. Road safety is a priority for the State Government. We always have to be vigilant. I am convinced, knowing John Robertson and how important occupational health and safety is to the New South Wales Labor Council, that he would agree with me that trucks should not be overloaded on our roads.

The PRESIDENT: Order! Members must address the Chair, not the gallery.

The Hon. LYNDIA VOLTZ: I know that John Robertson would not write to the Roads and Traffic Authority asking that overloaded trucks be allowed on the roads. It is not a minor breach of a few extra kilos but 46 tonnes overloaded. The Deputy Leader of the Opposition defended this in a second letter to the Minister for Roads, to which I have already referred but it is worth saying it again. He said the highest level was a 59 per cent overload percentage and there were only five matters above the 50 per cent mark. We always have to be vigilant even though in 2007 New South Wales recorded the lowest road toll since World War II.

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

QUESTIONS WITHOUT NOTICE

MINISTER FOR POLICE PRIORITY INITIATIVE

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Police. Is the new Minister for Police aware of the multitude of challenges facing New South Wales police, including: the failure of the police media to inform the public in a timely manner of the numerous attempted abductions of schoolchildren; actual police numbers have increased by only 62 since the State election; the dramatic loss of 884 police officers from the Sydney basin since December 2003; police prosecutors threatening industrial action; one in four officers are considering leaving the force in the next five years, with morale plummeting; calls by the Police Association for 3,000 additional police and that it warned two years ago that 2,400 officers would leave between 2006 and 2009; and the expiry of the police wage agreement and their calls for a substantial real wage increase? Given all these challenges that the Minister faces, can he tell the House and all the police who are listening to his response what is his number one priority for New South Wales police?

The Hon. TONY KELLY: The Leader of the Opposition was at a police function with me on Friday night and heard the commitment made by Nathan Rees to the New South Wales Police Force that he would ensure that the Government continued to support the police in whatever way it possibly can. I am really disappointed that in the first few days of my being Minister for Police I heard the Leader of the Opposition criticising the methods of the police in relation to the new PEAT system, which is the police encrypted radio

system. The New South Wales Police Force is probably the last police force in Australia to have an encrypted radio system. I believe it is terribly important that the New South Wales police are able to use their radio system—

The Hon. Michael Gallacher: So that is your number one priority?

The Hon. TONY KELLY: The Leader of the Opposition has asked me about seven questions and I am answering them in the order that he asked them. The police encryption system is important so that the police can use their radio system without the criminals of the State also being able to use it. The PEAT system will allow the media to get advice. I am advised the PEAT system is a New South Wales Police Force initiative designed to make the police radio network more secure and to enhance officer safety whilst also providing appropriate access for media organisations for operational information. It was implemented several months ago after consultation with major media organisations, although I understand that one organisation, even though it was invited, did not turn up. Any new system will have teething issues, but I am sure that any difficulties with the new system can be ironed out. I would be concerned if information that the media was promised had not been provided. I believe the public has a right to know about serious criminal matters, especially where an offender may be at large or where other welfare concerns exist, provided police operations are not compromised as a result. Police issue media releases regularly—

The Hon. Michael Gallacher: Point of order: I have been listening carefully. The question asked what the Minister's number one priority was for the New South Wales police, it did not ask him to address what occurred over the past week. This is his chance.

The PRESIDENT: Order! The Minister will be generally relevant to the question.

The Hon. TONY KELLY: To the point of order: The Leader of the Opposition asked me about seven or eight matters, one of which was the major priority. I gave him that priority by confirming what the Premier said at a function that the Leader of the Opposition attended last Friday night.

The PRESIDENT: Order! Both the point of order and the Minister's response are out of order. I ask the Minister to be generally relevant.

The Hon. TONY KELLY: In that series of questions he also asked me about police numbers. The New South Wales Police Force has a record \$2.63 billion in this budget. We also have a record number of police. I am advised that at August 2008 the authorised strength was 15,236, but the actual strength was 15,489. Nearly 250 more police in New South Wales are out there working for the community— [*Time expired.*]

NEW SOUTH WALES TRIPLE-A CREDIT RATING

The Hon. PENNY SHARPE: My question is addressed to the Treasurer. Will the Treasurer update the House on the New South Wales Government's commitment to maintaining the State's triple-A credit rating?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for her question and her interest in this matter. I am not going to mince my words. New South Wales is not immune from the global economic downturn. We do not live in isolation from the events that are unfolding internationally. As I advised the House yesterday, the Government is seeing downturns in key areas of revenue. Property transfer duties were \$90 million dollars below forecasts in July and \$103 million below forecasts in August. Families across New South Wales are tightening their belts and we are seeing consumption slowing. This also means the risk of a fall in our Commonwealth grants that depend on GST revenue. This is an important point that the House should carefully consider. It is clear that times have changed since the budget revenue estimates were finalised in April. That is exactly why a mini-budget is needed.

The top priority of the mini-budget is to maintain the State's triple-A credit rating. I said it in the House yesterday and I restate it today: My top focus, my main priority in the upcoming mini-budget process will be to do everything we can to maintain the State's triple-A credit rating. That is the message the Premier and I will be giving to Standard and Poor's when we meet with them on Friday. As honourable members will be well aware, the agency has revised its outlook for New South Wales. That means a one-in-three chance of a rating downgrade. The fact is that New South Wales currently holds a triple-A domestic credit rating with both Standard and Poor's and Moody's.

New South Wales has held this rating since July 1987 and the Government remains committed to its fiscal strategy and to keeping this top credit rating, unlike the Coalition, which has no concept of how our economy works. It is worth reminding the House of what the "trillion dollar man" said in this place yesterday, the man who shows a complete lack of understanding of what State and Federal Governments do. I am talking about the shadow Treasurer, the man who does not know the difference between fiscal and monetary policy and how that is applied. The Hon. Greg Pearce, the trillion-dollar man, wants New South Wales to launch some kind of George W. Bush inspired trillion-dollar manoeuvre that will send New South Wales broke in a heartbeat.

Dr John Kaye: Oh, come on, Eric!

The Hon. ERIC ROOZENDAAL: "A trillion-dollar manoeuvre"—that is what he said. The stability of the Australian financial system is a Federal, not a State, responsibility.

The Hon. Greg Pearce: Point of order: I thought the Treasurer was making a real attempt to be responsible as a Treasurer, but he could not help himself.

The PRESIDENT: Order! The Hon. Greg Pearce will resume his seat. Any member who seeks to make a debating point while speaking to a point of order will be placed on a first call to order. The difference between a point of order and a debating point is well known to members.

The Hon. ERIC ROOZENDAAL: The Government takes revisions by Standard and Poor's seriously. That is why the Premier and I will be travelling to Melbourne to meet with key representatives of the agency and it is why we are currently reviewing our forward capital program and the rate of growth of government expenditure—to ensure that the State Government can maintain a sustainable rate of growth and service delivery. The 11 November mini-budget will respond to the concerns raised by Standard and Poor's and to the new realities confronting the State's finances. The mini-budget will address whatever is necessary to ensure and preserve our triple-A credit rating. Fiscal responsibility will be the key principle and driving focus of the mini-budget.

ELECTRICITY INDUSTRY PRIVATISATION

The Hon. DUNCAN GAY: I direct my question to the Treasurer. Given that the Premier stated on *Stateline* that he was only 48 per cent persuaded by the Government's plan to sell New South Wales's electricity assets and is thereby in agreement with the Opposition's action to oppose the flawed privatisation proposal, how does the Treasurer justify his statement yesterday that it was the Coalition rather than the Government that was responsible for New South Wales being placed on credit watch?

The Hon. ERIC ROOZENDAAL: These are difficult financial times. There are a number of impacts.

The Hon. Michael Gallacher: Self-inflicted.

The Hon. ERIC ROOZENDAAL: The Opposition asked the question but will not stay silent for one moment to hear the answer. A number of impacts need to be taken into account in assessing a credit rating. Obviously there is a reduction in revenues, but the real issue is net financial liabilities. That is the issue that has been raised by the credit agencies. I ask members to refer to various publications, particularly those produced by Standard and Poor's, in relation to our net financial liabilities.

The Hon. Duncan Gay: Point of order: It was not a difficult question. It was a specific question about the Premier's comment that he was in favour of the Opposition's point of view. I request you to direct the Minister to address the question.

The PRESIDENT: Order! The Treasurer will be generally relevant.

The Hon. ERIC ROOZENDAAL: Standard and Poor's clearly outlined that the major trigger for placing the New South Wales Government on credit watch was the failure of the Opposition to support power industry reform. The Opposition has been condemned by every business community and infrastructure group in New South Wales.

The Hon. Michael Gallacher: There was no vote. No-one voted on a thing.

The Hon. ERIC ROOZENDAAL: Therein lies the essence of what the Opposition is worried about—the votes. They want to score cheap political points. They stand condemned by the infrastructure and business communities. The Opposition has been completely discredited. The political party that champions privatisation and the private sector stands completely discredited for its failure to support important power industry reform, and that led to the New South Wales Government being placed on credit watch. The taxpayers of the State now face the challenge of how to fund future power generation in New South Wales. There is no question about that. It was outlined in the Owen report, of which members would be well aware, and it was outlined in the report by Standard and Poor's. It is the major challenge that we face going forward.

APEC 2007 POLICE EXCLUDED PERSONS LIST

Ms SYLVIA HALE: I address my question to the Minister for Police. Was membership or attendance at a meeting of Greenpeace or Mutiny the sole criterion used by police to list an individual without previous convictions as an excluded person during the APEC period? If so, what was the justification for the Commissioner of Police acting beyond the scope of section 26 of the APEC Meeting (Police Powers) Act? Was the APEC policing exercise more about intimidating people who wanted to demonstrate about issues, such as the United States invasion of Iraq or Australia's failure to sign the Kyoto Protocol, than about protecting visiting heads of state? As the newly appointed Minister of Police, will he continue to condone the repressive attitude of his predecessor and the Commissioner of Police towards protests as well as the surveillance and listing of activists?

The Hon. TONY KELLY: I thank Ms Sylvia Hale for her question. I have to say that I will continue to support the New South Wales Police in the very difficult job they do. They often have to control some demonstrations that put at risk not only the lives and property of the police but also other members of the community. The police do a very difficult job, often under pressure from people who do not take their responsibilities as a citizen of the State seriously, and I will continue to support the police in carrying out that role.

OUT-OF-HOSPITAL PATIENT CARE

The Hon. IAN WEST: My question is addressed to the Minister for Health. Will he outline to the House the benefits of out-of-hospital patient care?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Ian West for his very important question about out-of-hospital care for all citizens because it highlights an important change in the way we go about providing health care. Today the New South Wales Audit Office reported on its investigation into four out-of-hospital care programs coordinated by New South Wales Health. I am pleased to report to the House that this area of healthcare delivery is being recognised by an independent body as part of the way forward for developing quality health care for residents of New South Wales. The Auditor-General found:

International evidence shows that these programs provide good outcomes for patients, reducing the number of times they need to go to hospital and the number of days they need to stay there.

Further, the Auditor-General went on to say:

These programs help reduce the need for patients to attend emergency departments or occupy hospital beds. Treating suitable patients at home can thus save beds for seriously ill patients who can only be treated in hospital.

The Audit Office confirmed that treating patients in their home could deliver significant benefits for patients in the community. While recognising that these programs are clearly beneficial, the Audit Office has identified areas for improvement. One of the four programs still at a pilot stage is not achieving its planned objectives.

The audit also recommended that New South Wales Health needs to demonstrate that out-of-hospital care is an effective way to respond to growing demand and that it represents better value for money. Page 2 of the Auditor-General's report provides some indication of the cost effectiveness of the programs. The audit found that the pilot programs operate at about half the cost of providing care in hospital, thereby saving taxpayers \$55 million a year, and delivers outcomes as good as does in-hospital care. As the Auditor-General recognised, the programs currently represent only about 3 per cent of inpatient admissions.

New South Wales Health has indicated already its intention to increase its capacity in this area, but that will be done carefully, with the patient's needs and interests being the primary factor taken into consideration.

The Auditor-General found that New South Wales is on the right track in developing a broader range of services that will allow people to receive high-quality care in their own home. Area health services are to be congratulated for developing out-of-hospital programs that provide excellent clinical outcomes—and at a lower cost.

The benefit I have outlined is just one of the ways the Government is responding to the increase in demand identified by the Auditor-General. The programs are an extension of treatments we have come to accept as deliverable in the home, such as dialysis, chemotherapy and palliative care. Compared with conventional treatment, this approach can reduce the number of times that patients will have to attend hospital and will reduce the time they would otherwise spend in hospital. Out-of-hospital care also reduces the need for patients to attend emergency departments, thereby freeing departments and expert staff to respond to urgent cases.

Today's Audit Office report states that nearly 45,000 patients a year are currently being treated out of hospital in the four New South Wales programs that were investigated: Community Acute/Post Acute Care, ComPacks, Rehabilitation for Chronic Disease, and Healthy At Home. The Audit Office made four key recommendations: that New South Wales Health establish a team to monitor and implement the expansion of out-of-hospital programs; that the community be informed of what a shift to out-of-hospital services will mean; development of systems to monitor the numbers of patients; and the continuation of the Healthy At Home pilot programs until they can clearly demonstrate that the program is achieving its objectives. *[Time expired.]*

ELECTRICITY INDUSTRY PRIVATISATION

Dr JOHN KAYE: My question without notice is addressed to the Treasurer. What studies have been conducted to examine the financial, environmental and social implications of the sale of the electricity retailers in the absence of long-term leasing or privatisation of the generators? Does the Minister agree with the proposition put forward by former Premier Morris Iemma that the sale of the retailers will inevitably lead to privatisation of the generators?

The Hon. Greg Donnelly: Point of order: The standing orders clearly set out the style, type and form of questions that can be asked. The second part of the member's question asked for an opinion, and at least that aspect of the question is out of order.

The PRESIDENT: Order! I rule the second part of the question out of order. The first part of the question is in order and the Minister may respond to it.

The Hon. ERIC ROOZENDAAL: The question was convoluted. We accept that the people and the Parliament have spoken on this issue. We are currently assessing our options and developing a revised reform package that will ensure New South Wales has reliable and secure electricity supply while minimising the risk for the Government in future investments. The Government remains committed to withdrawing from the retail electricity market, where the three State-owned retailers already compete against numerous private companies. As we have always said, the distribution and transmission network businesses that are responsible for maintaining and upgrading the poles and wires will remain 100 per cent in Government ownership.

NEW SOUTH WALES TRIPLE-A CREDIT RATING

The Hon. GREG PEARCE: My question is directed to the Treasurer. Is the Treasurer aware of the comments of Standard and Poor's that "NSW has regularly had difficulty with cost control", that "it is a weakness that the State forecast an accrual operating deficit in its previous budget and is not meeting its fiscal targets" and that "the biggest risk to the rating on NSW is the State's operating performance"? What is the current view on the impact of the State's operating performance on the triple-A rating?

The Hon. ERIC ROOZENDAAL: I am well aware of Standard and Poor's comments, however, I am not sure which comments the honourable member is referring to because Standard and Poor's does regular publications. I draw the honourable member's attention to the Standard and Poor's *RatingsDirect* publication—I believe it was released yesterday—which explains the negative outlook for the State of New South Wales in some detail. That makes it clear that the activation of the negative outlook was the failure to achieve reforms in power, and we all know that that is directly the responsibility of the Coalition.

VIRGIN BLUE SYDNEY EXPANSION

The Hon. MICHAEL VEITCH: My question is addressed to the Minister for State Development. Will the Minister inform the House about Virgin Blue's expansion in Sydney?

The Hon. IAN MACDONALD: I am pleased to inform the House that Virgin Blue has selected Sydney as the location for its new domestic hub. This is a massive economic injection into our State and will create 1,000 new jobs—top-quality, skilled jobs—for Sydney. The new positions will be for pilots, aircraft maintenance engineers and cabin crew. It is a win for Sydney and a vote of confidence in the State and our highly skilled workforce. It is also another example of the New South Wales Government continuing to deliver more jobs and investment to our State. These jobs are on top of the 1,000 jobs announced by the Government in March, when Virgin Blue selected Sydney as the location of the operational headquarters of its new international airline V Australia. So Sydney has cemented its position as Australia's most attractive city for business with Virgin Blue.

As part of the airline's domestic expansion, 20 new Embraer aircraft have been ordered. These planes are the latest in world-class aerospace technology. The expansion also includes a major new base for flight and cabin crew, with training simulators and a line maintenance facility. The airline intends to have 450 team members working from the Sydney base by the end of this year, building up to 1,000 jobs in the next five years. The New South Wales Government played a major role in encouraging Virgin Blue to base itself in Sydney. We worked closely with the company to promote the benefits of establishing its base here. Sydney was the logical choice; it is home to Australia's largest airport. Sydney airport has the capacity for more domestic flights, and New South Wales has the highest market share of domestic passengers.

As well as creating 1,000 jobs over five years, Virgin Blue's expansion will result in investment of \$10.25 million in New South Wales. Virgin Blue recently opened its B777-300ER simulator at Silverwater for training V Australia pilots. A new crew training facility will also be established with Embraer and Boeing 737 training devices. The new jet crew base follows Virgin Blue's launch of new regional flights from Sydney to Port Macquarie and Albury. Earlier this year Virgin Blue decided to locate the operational headquarters of its new international airline V Australia in Sydney, which will result in an investment of \$44 million.

V Australia's presence here is expected to bring more than 50,000 additional visitors from America to Sydney each year. This will provide a huge boost to the New South Wales tourism industry. Virgin's two projects will result in a much higher percentage of the airline's workforce being based in New South Wales. The projects also further consolidate Sydney airport as Australia's international air hub. Last year a record 31 million domestic and international passengers travelled through Sydney airport. Sydney and Virgin Blue are a natural fit. Sydney is Australia's global city that is consistently ranked as the world's premier tourist destination, plus it is the Australian home of many multinational companies.

The majority of international visitors to Australia come to New South Wales. About 55 per cent of international holidaymakers visit the State. And despite the general downturn in the global economy, spending by international visitors to New South Wales has increased. International visitors spent nearly \$6 billion in New South Wales in the 12 months to June. The New South Wales Government will continue to support the tourism industry, which makes an enormous contribution to our economy, injecting more than \$23 billion a year. The tourism industry also accounts for 185,000 jobs or 6 per cent of the workforce. When indirect jobs are added, it is 8 per cent of the workforce. Finally, the Government is committed to ensuring that Sydney and New South Wales continue to be the clear choice as the best location for business. I am sure everyone will welcome Virgin Blue to New South Wales.

CATHOLIC SCHOOLS FUNDING

Reverend the Hon. Dr GORDON MOYES: My question is directed to the Attorney General, on behalf of the Minister for Education and Training. Is the Minister aware that one in five New South Wales students is being educated in a Roman Catholic school, that most schools charge very low fees and continue to experience long waiting lists in student enrolments, and that two-thirds of Roman Catholic schools established since 1996 are concentrated in low socioeconomic areas? In particular, is the Minister aware that in the 2006-07 financial year New South Wales government schools received an average of \$9,548 per student from the Federal and State governments combined but, in contrast, New South Wales Roman Catholic systemic schools received an average of \$6,994 per student—roughly only two-thirds of what government schools received? Given the valued contribution of Catholic schools to our local communities, will the Minister indicate what further arrangements will be established so that Catholic school students receive the same level of funding as government school students to ensure that no children in the State, irrespective of their faith or that of their parents, are left behind?

The Hon. JOHN HATZISTERGOS: I can answer some parts of the question. I recognise the valuable role that the Catholic systemic system in particular plays in educating young people from low

socioeconomic backgrounds, but there is a false premise to the honourable member's question. That is, it fails to take into account the combination of State and Federal funding. The reality is that, for students in public schools, 90 per cent of funding comes from the State Government and 10 per cent comes from the Federal Government. In relation to the independence of systemic schools, the lion's share of the funding comes from the Federal Government as opposed to the State Government. I think the State contribution is about 25 per cent. It is important for the honourable member to look at the total contribution across both levels of government rather than focus on the contribution of the State Government.

PORT MACQUARIE BASE HOSPITAL UPGRADE

The Hon. MELINDA PAVEY: My question is directed to the Minister for Health. Given that I have a leaked document indicating that the former Minister for Health received a submission from Port Macquarie Base Hospital detailing the urgent need for an upgrade to the emergency department more than six months ago, when will the Minister get on with the job and commit to necessary funding? Given also that the plan for the accident, medical and emergency extension and medical assessment unit were both approved in principle some time ago—that is before the Hon. John Della Bosca became Minister for Health—and that phone calls from local professionals have been ignored by the capital works department, when will the \$1.8 million project commence? Will the Minister guarantee that both those projects will be completed by winter 2009 when the hospital operates at its highest capacity?

The Hon. JOHN DELLA BOSCA: I am pleased that The Nationals are at last over the trauma of the crazy things they did in the health system during the Greiner era. I am pleased also that the member has finally asked a question about Port Macquarie hospital.

The Hon. Marie Ficarra: It has taken a while for the Minister to get over the trauma he suffered!

The Hon. JOHN DELLA BOSCA: That may be so, but it has taken the Opposition a long time to get over its self-imposed foolishness. Members of the Opposition can react in whatever way they like to what the Government is doing, but they can be assured that it will not be as silly as the Port Macquarie hospital exercise. We had to build it and then buy it back three times. The Government is facing a challenge ahead of it to strengthen the New South Wales budget. NSW Health has a range of capital works projects in various stages of planning. I have asked the department to examine capital works options to determine the best way it can deliver first-class medical services in New South Wales.

The Hon. Melinda Pavey: They have been sitting on the desk for months.

The Hon. JOHN DELLA BOSCA: I just answered that part of the question. The department is reviewing its capital works planning, as well as budgets and procurement strategies to ensure best value for money. Most importantly, the department is continuing to consult with community members, clinicians and other stakeholders, not only in Port Macquarie but also right throughout New South Wales to ensure that services provided meet local requirements. The Government is committed to delivering state-of-the-art medical facilities across the State, responsibly and effectively. As the member knows, at this stage the Government has not ruled out anything. The Premier has made it very clear that everything will be considered. Of course, as Minister for Health I strongly support the idea that the very substantial amount of money—more than \$9 billion—the Government invests every year in our public health system is spent with absolute value for money in mind. It is not my money, nor is it the money of the Prime Minister, the Premier or even the Treasurer. The taxpayers of New South Wales make that substantial investment and they are entitled to know that they get the best possible services for that investment. I am happy to respond to the specifics of Port Macquarie hospital separately as soon as I can.

YASMAR RESERVE SITE

The Hon. GREG DONNELLY: My question is addressed to the Minister for Lands. Will the Minister update the House on the recent efforts of the Government to secure the future of the historic Yasmarr Reserve at Haberfield?

The Hon. TONY KELLY: The Rees Government is committed to restoring the historic Yasmarr House and gardens to its former glory. During the past month the Government has affirmed its intentions for Yasmarr with a draft plan of management released for community consultation and it has commissioned an update of the conservation management plan. Both actions demonstrate our desire to preserve Yasmarr's past

and, at the same time, we are looking forward to future uses of this important reserve in the inner west. The plan of management provides the community with another opportunity to have input into the future of the site in its entirety. The plan also explores opportunities for restoring the wonderful Yasmar House as a great heritage icon of inner Western Sydney. Centred around the restoration of the house and the garden—I understand that the garden is the only historic garden left between the Royal Botanic Gardens and Parramatta—the plan aims to ensure the whole site retains its environmental aesthetic, cultural and social values.

The Hon. John Della Bosca: What about the garden of the Hon. Amanda Fazio?

The Hon. TONY KELLY: That is not a heritage garden. The plan of management has just come off public exhibition, and feedback from that process is currently being evaluated by the Department of Lands. The department presented the Government's plans for Yasmar to the Heritage Council last month, and I am advised that it was a very positive meeting. As an outcome of that meeting, the Department of Lands agreed to update the existing conservation management plan for the Yasmar complex. Work on the updated plans is underway at present. Once the plan of management and the conservation management plan are updated the Department of Lands will issue an expression of interest to determine the future use of the house and the gardens of Yasmar. But the future of Yasmar very much involves the community, heritage groups and others with an interest in the site.

Members will recall that the Government's commitment to restore Yasmar and give it a new lease of life withstood a concerted effort by the unholy alliance of the Liberal Party and the Greens. During the last State election campaign the Liberal Party candidate and the Greens candidate sang from the same song sheet in relation to Yasmar—and a scary score it was. Members will hardly be surprised when they realise that the same candidate cosying up to the Greens last year—the failed candidate for Balmain; the candidate who was trying to out-extreme the Greens—is now the chief of staff to the Leader of the Opposition. The stunts and the short-term agenda that we saw last year over Yasmar now seem to have taken hold in the office of the Leader of the Opposition. Let us forgo clear articulated policies, forsake anything resembling policy substance, forget the long-term future of the staff, and just focus on stunts, scare campaigns and lazy political posturing!

The Rees Government continues the Labor tradition of having policies and programs that charter sensible, people-first ways forward for New South Wales. Yasmar again demonstrates the Government's resolve in moving beyond stunts and gimmicks and pursuing strategies that will ensure that Yasmar is preserved and that it continues to play an important role for the people of the inner west and beyond.

CHILD SEX OFFENDERS REGISTER

Reverend the Hon. FRED NILE: My question is addressed to the Minister for Police. Has the number of child sex offenders on the Child Protection Register who have failed to fulfil their reporting obligations nearly doubled in the past year? In 2007 were 68—up from 38 in 2006—registered persons prosecuted for breaking register conditions, an increase of charges from 62 in 2006 to 92 in 2007? What action has the Government taken to ensure registered child sex offenders completely fulfil their legal obligations or reconsider their freedom in the community?

The Hon. TONY KELLY: The data in yesterday's paper shows that the NSW Police Force is ramping up its surveillance and prosecution of convicted child sex offenders who step out of line. New South Wales was not only the first State to institute a child protection register; it has the strictest conditions and greatest resources applied to keeping our kids safe. When child sex offenders are released from prison they are placed on the register. Once on the register they have to let police know where they live and work and even what car they drive. If they do not, police will look for them. Today's data shows that officers in New South Wales are taking that task very seriously and are getting the job done.

If offenders do not comply, they can go to jail. The Government has increased the penalty for offending in this regard from two years to five years imprisonment. If any sentence for failing to comply with restrictions is not considered adequate, police can lodge an appeal in the District Court. Whilst any increase in offending is a concern, the community should be assured that the register and the NSW Police Force are doing their job. The Government continues to update the rules that apply to the register to ensure that offenders cannot use new technologies or new ways to find victims to escape the register's reach. For instance, new rules for paedophiles to hand over their email addresses and other electronic tags to police will commence next month. Police will also have the power to take DNA samples from those on the register, giving police a much better shot at solving crimes they may have committed.

Penalties for breaches are being increased from two years to five years imprisonment. The NSW Police Force is proactive in relation to child sex offenders. This type of offence relating to the number of convictions demonstrates the level of police activity—the higher the number of arrests and convictions, the greater the level of monitoring and surveillance. On that basis, on anyone's count, a ten-fold increase in convictions since the register was introduced in 2002 is a good result.

Child sex offenders are archetypal recidivists. That is why they are on a register, and that is why we have a squad devoted to catching them—and local police take their obligations in monitoring them very seriously. I am pleased that this data has been reported today because it shows how well the police are doing. It also sends a clear message to child sex offenders that if they do the wrong thing, police not only are watching them; they will also be caught. If they are caught, on the basis of today's data, more than likely they will have another conviction recorded against them and, hopefully, they will spend more time in jail.

PORT MACQUARIE BASE HOSPITAL FOURTH POD PROJECT

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Health, and Leader of the Government. Given that the most recent emergency department figures from NSW Health revealed that Port Macquarie Base Hospital is the lowest performing hospital out of all the rural base hospitals in New South Wales in treating patients categorised as having a "potentially life-threatening" condition—that it is operating at more than double its capacity—and that there is a clear need to alleviate the stress on the hospital, will the Minister inform the House of the revised cost of the hospital's long-awaited fourth pod project? Further, given that earlier today the Minister said he would consult with stakeholders on such matters as those raised by my colleague the Hon. Melinda Pavey, will he agree to meet the Port Macquarie Base Hospital community and clinical advocates during his mooted upcoming visit to the North Coast Area Health Service?

The Hon. JOHN DELLA BOSCA: I again congratulate The Nationals on overcoming their trauma in relation to Port Macquarie hospitals. There are now two of them!

[Interruption]

Yes, the Hon. Jennifer Gardiner was the State director of the National Party at the time that decision was made. I remember it well, and I am sure she does too.

The Hon. Michael Gallacher: You are misleading the House. You should withdraw that.

The Hon. JOHN DELLA BOSCA: She is not denying it. I am happy to withdraw it, if it is not true. My memory is that it is true. The last part of her question was whether I would be happy to meet with the Port Macquarie Base Hospital clinicians and community. Of course I will be. I will meet with clinicians, nursing staff, hospital workers and paramedics and a whole range—

The Hon. Michael Gallacher: Not at Gosford.

The Hon. JOHN DELLA BOSCA: I have met them at Gosford. The Leader of the Opposition is wrong; he should withdraw that remark. He needs a new street directory; he is going to the wrong hospital. The most import part of the question asked whether I intend to listen to what clinicians have to say about this matter, and of course I will. I have had a briefing about the fourth pod. The easiest way for me to answer that part of her question is to refer to the answer I gave to the Hon. Melinda Pavey concerning the capital program in Health, and to underline, again, that the issues are the value for taxpayer dollars and patient-care priorities. The Hon. Jennifer Gardiner has pointed out some statistics in relation to Port Macquarie Base Hospital. I do not intend to cavil with those statistics, but I do not want it to be said that my lack of an immediate response is an acceptance of the way in which she has interpreted those statistics. The community and clinical needs in particular areas need to be taken into account when assessing capital investment requirements. Of course, that is one matter that will be considered.

The Hon. Melinda Pavey: During the briefing, how much was the fourth pod? You said you had a briefing on the fourth pod.

The Hon. JOHN DELLA BOSCA: I had a briefing about it. I will not disclose every element of every briefing I have.

The Hon. Michael Gallacher: What happened to transparency?

The Hon. JOHN DELLA BOSCA: I am very transparent. The Leader of the Opposition knows full well that I am transparent in all matters. As I said to the Hon. Melinda Pavey in response to her question before she started distracting me from answering the question asked by the Hon. Jennifer Gardiner, I am very happy to provide her with all the information she asks for. I will do that as soon as I can, and that will be very soon. The most important aspect of priorities for Port Macquarie—and they are the same priorities that apply to a number of other regional hospitals—is how to address the capital needs. Clearly there are two drivers: the needs of the community and the particular demand stress on that hospital.

That is a sufficient answer to the question. The Hon. Jennifer Gardiner knows, as every member knows, that there has been a surge in emergency department activity across a range of facilities. Of course, that includes the North Coast area. As the member has suggested in previous interjections, of course there are ways in which we can plan for some of those surges. However, some of them occur in ways that even the most experienced health professionals will indicate are not a predictable part of the way in which demand for health services rise and fall. The solution is careful planning and response as needs arise, and that is what we will be doing in Port Macquarie.

LOCAL COURT APPEALS

The Hon. EDDIE OBEID: My question is addressed to the Attorney General. Will the Attorney general update the House on appeals from the Local Court?

The Hon. JOHN HATZISTERGOS: The Local Court is a vital part of the New South Wales court system. Currently 98 per cent of all criminal and civil cases are finalised in the Local Court. In 2007, 272,436 criminal matters were finalised in the Local Court including 19,788 defended trials. The efficiency of the Local Court is remarkable. For the fifth year in a row, the latest report on government services found that the New South Wales Local Court achieved the lowest backlog of criminal matters older than six months and the lowest backlog older than 12 months. The New South Wales Local Court was also the only court to achieve the national standard set by the Productivity Commission for local courts, which requires that no more than 10 per cent of matters are more than six months old.

The Crimes (Appeal and Review) Act 2001 provides a legislative framework for aggrieved parties to seek a review of a decision of a magistrate in criminal proceedings. The Act applies to any court constituted by a magistrate exercising criminal jurisdiction. The Act applies also to apprehended violence proceedings and other general applications to the Local Court under specific statutory provisions. My department has conducted a statutory review of the Act to determine whether its policy objectives remain valid, and whether the Act is fulfilling those objectives. Thirteen submissions to the review were received from the judiciary, legal agencies such as the Director of Public Prosecutions, Legal Aid, the Law Society and the Bar Association, and other interested parties. The report on the statutory review makes 17 recommendations.

Most of the recommendations for legislative change relate to procedural issues. However, two substantive changes have been proposed: firstly, the suggestion that appellants should be able to introduce fresh evidence or call witnesses in a sentence appeal from the Local Court only with the leave of the court. That will allow the Director of Public Prosecutions to oppose defendants calling victims to give evidence in an appeal, without good reason. Such a proposal is based on the view that all matters relevant to sentencing should be presented by the prosecution and the defence to the Local Court, and that additional evidence should be allowed only with the leave of the District Court. Secondly, it was suggested that an appeal to the District Court from the Local Court on a sentence should be dismissed unless it was satisfied that the sentence was manifestly excessive or manifestly inadequate.

The report recommends that these two proposals made in the course of consultation should be further examined. They will be, as they propose, alterations to the rights of defendants in criminal proceedings. Accordingly, further consultation is to be undertaken by the Attorney General's Department to ensure that stakeholders have an opportunity to comment on the proposals. So before any decision is made on changes in these two areas, further consultation with the judiciary, the legal profession and other interested parties will be undertaken to seek their views. The other 15 recommendations on minor improvements to the Act will be included in a bill to go before Parliament this session. Although many of them are small changes, they will help protect apprehended violence order applicants and ensure the more effective operation of the courts and the appeal process.

These changes include: when an apprehended violence order is dismissed in the absence of the applicant, to enable the applicant to apply to have the dismissal annulled; when an apprehended violence order is annulled by the District Court and returned to the Local Court, to require the District Court to consider the issue of an interim order to protect the applicant; and to clarify that all the material before the Local Court may be considered in an appeal to the District Court or the Land and Environment Court. This review has found that the Crimes (Appeal and Review) Act 2001 is working well and fulfilling its objectives. Of course, there is always room for further improvement so our courts can maintain their premier position amongst Australian courts. These changes will aid the courts, legal practitioners, defendants and AVO applicants. [*Time expired.*]

POST-MINISTERIAL EMPLOYMENT

Ms LEE RHIANNON: I direct my question to the Hon. John Della Bosca, in his capacity as Minister representing the Premier. In view of the recent resignation of Morris Iemma, John Watkins, Michael Costa, Matt Brown and Ms Reba Meagher, will the Government commit urgently to introducing legislation that better regulates post-ministerial employment, as recommended by the 2004 report of the Independent Commission Against Corruption into the conduct of Richard Face, including a "cooling-off" period for former Ministers that excludes them from employment in sectors directly related to their former portfolio areas and introduces sanctions for breach of this cooling-off period, as occurs in the United States of America?

The Hon. JOHN DELLA BOSCA: Ms Lee Rhiannon referred to Matt Brown, who has not resigned from Parliament. I am not sure why she mentioned Matt Brown in this context. Nonetheless, I am familiar with this issue, as obviously we all are. I am familiar also with the fact that the Independent Commission Against Corruption has made several comments about this issue, and I am sure the Premier will have more to say about it in the near future. Clearly, any system that is put in place relies upon the application of common sense and ethical behaviour on the part of the persons involved. I think it is a bit unfair to refer pejoratively to the Richard Face case. The relevant authorities obviously made some findings about Richard Face. The public record shows that some existing guidelines were not observed and that guidelines could have been clarified in relation to his case. So I think it is probably not appropriate for Ms Lee Rhiannon to imply that Mr Face somehow behaved unethically or illegally.

A code of conduct governs the ethical responsibilities of Ministers of the Crown while they continue to hold their commission, and the Government has put in place a number of measures to deal with post-separation issues. The code that governs our conduct while we are Ministers also indicates that there are continuing obligations on former Ministers in relation to confidentiality and post-separation employment issues. Former Ministers must generally maintain the secrecy of information, for example. This means that any Cabinet-in-confidence information that former Ministers are party to that may confer some commercial advantage, or could be argued would confer such advantage, obviously cannot be disclosed by them as they remain under the obligations that applied to them as Ministers.

The Hon. John Hatzistergos: What about Peter Costello?

The Hon. JOHN DELLA BOSCA: I acknowledge the Attorney General's interjection.

The Hon. John Hatzistergos: He's made a book out of it.

The Hon. JOHN DELLA BOSCA: Indeed.

The Hon. Amanda Fazio: And he wrote the book on taxpayers' time.

The Hon. JOHN DELLA BOSCA: I am getting a lot of help—thank you. Is there any more? Costello's book has already been remaindered, which I think is embarrassing. He is a yesterday's man who has become yesterday's yesterday's man. The Government amended the code in September 2006 to require former Ministers within the first 12 months of leaving office to obtain advice from the Parliamentary Ethics Adviser before entering into any employment arrangement or employment engagement. This obligation applies when the proposed employment engagement relates to the portfolio responsibilities held by the former Minister in the past two years of ministerial office. That is quite an extended period. The Parliamentary Ethics Adviser is required to provide written advice to the former Minister, expressing a view on whether acceptance of the position could give rise to ethical concerns. The Parliamentary Ethics Adviser may propose conditions on the terms of acceptance of the proposed employment or engagement, and his advice is then forwarded to the Speaker or the President in the House relevant to the former Minister's position.

In other words, there are already measures in place that require Ministers to seek advice about the way in which they manage post-separation employment issues. I know that Ms Lee Rhiannon always has the best intentions and demonstrates goodwill in bringing these matters to the attention of the House, but she cannot have it both ways. The Hon. Michael Costa is resigning and he will not be able to claim a parliamentary pension for five years. [*Time expired.*]

Ms LEE RHIANNON: I ask a supplementary question. Does the Minister's reference to a "common sense" approach mean that the Government does not support sanctions for a breach of the cooling-off period under any circumstances?

The Hon. JOHN DELLA BOSCA: No. I usually like to use the expression "uncommon sense" as it seems to me that uncommon sense is more important and more relevant than common sense, which often is not common. But the common-sense answer is that my view on the matter is not separate from that of the Premier or the Government. Ms Lee Rhiannon is asking for a policy change announcement now. As she knows, even if there were about to be a policy change, I would not be in a position to make that announcement. The Premier will make any further statements about this matter and any new developments in this area. I have given Ms Lee Rhiannon and the House information about the Government's current policy on the matter. It so happens that I believe that policy essentially is more than adequate for the purpose. By referring to common sense—or uncommon sense, as the case may be—I was simply making the point that, regardless of what system is in place and whether it involves sanctions, it depends on the ethical behaviour of the person who has separated himself or herself from public office.

Without being provocative, I intended to make the very innocent point that, under the new pension and superannuation arrangements that apply to members of Parliament, someone like Michael Costa will be unable to claim any kind of superannuation benefit for three, four or five years. Of course, Mr Costa will need to seek employment during that time because he has other obligations. As one of the many people named by Ms Lee Rhiannon, Mr Costa will apply himself very ethically to that task. I do not think we will see anything—

The Hon. Greg Pearce: There are some vacancies for train drivers.

The Hon. JOHN DELLA BOSCA: Mr Costa could choose any number of vocations; he is a talented guy. But I must point out that we cannot have it both ways. I appreciate that people must apply a high standard of ethics and maintain confidence in public office in relation to these matters. But of course those who have retired from Parliament have to earn a living, like anybody else in the community, and they are entitled to do so.

HEALTH BUDGET

The Hon. DON HARWIN: My question is directed to the Minister for Health. Given that Health recurrent expenditure has blown out by approximately \$300 million this year and that the Royal Hospital for Women has been told to axe 70 staff in order to meet its budget, will the Minister rule out the staff cuts at Ryde Hospital that were proposed as a money-saving strategy just 18 months ago?

The Hon. JOHN DELLA BOSCA: The Hon. Don Harwin is mixing up a lot of points. The Opposition Whip, as a very experienced member of this place and a person very experienced in public affairs—

The Hon. Don Harwin: Point of order: The Minister is clearly debating the question.

The Hon. JOHN DELLA BOSCA: I am debating you!

The PRESIDENT: Order! I ask the Minister to be relevant to the question.

The Hon. JOHN DELLA BOSCA: Thank you, Mr President. I was trying to praise the Hon. Don Harwin. Delivering high-quality health services to the people of New South Wales is a major priority of the Rees Government. That is why we direct more than one-quarter of the State's budget to health spending. The 2008-09 annual recurrent budget for the New South Wales health system is a record \$13.2 billion, which is an increase of \$632 million compared with the previous year's budget. That is a huge investment in the public hospital system, and obviously in the health of the people of New South Wales.

The Hon. Don Harwin—I hope he will not pull me up for debating the question; I am simply answering it—cited the well-canvassed and public number of \$300 million. Interestingly, that figure was cited by the

former Treasurer, and has become not notorious but the source of considerable speculation as a result. It refers to last year's Health budget. Of course continuing recurrent effects remain, but it is something that the health system dealt with last year. Heading into the next fiscal year, we must deal with this year's problems. As I said before, getting good value for taxpayers' dollars and ensuring good patient care and effective support for clinicians, nurses and other staff in our hospitals remain the top priorities of this Government. That is the case at the Royal Hospital for Women. The Hon. Don Harwin referred to some actions taken 18 months ago, and then in the same question cited matters that have come to the attention of the Government and the public in the past couple of weeks. So it is a false comparison.

The specifics of the Hon. Don Harwin's question related to Ryde Hospital. I am happy to provide him with information about that hospital, and I will do so when I give a more detailed response to his question. I simply make the point that the same important priorities attach to Ryde Hospital as apply to the rest of the health system. The Hon. Don Harwin knows the answer in relation to the mini-budget.

Until such time as the whole of Government takes a different view, capital projects and other matters will not be ruled in or out. A budget comes down when it comes down, whether it is a mini-budget or the annual budget, and that is when the Treasurer announces the measures to the Parliament in this place or in the other place, as it should be. That is what will happen when the Government brings down its mini-budget. With regard to what can or cannot be ruled in or out, the Premier will make those announcements at his discretion and after all members of the Government have been consulted. I will be making any remarks about Ryde Hospital in the context of overall government health policy. I am happy to make available to the member any details about that.

INDUSTRIAL AND COMMERCIAL BANK OF CHINA, SYDNEY BRANCH

The Hon. HENRY TSANG: My question is directed to the Minister for State Development. Can the Minister inform the House about the latest foreign bank to open in Sydney?

The Hon. IAN MACDONALD: The member has had a continuing interest in this important issue. I am pleased to be able to tell members that this week China's largest bank—the Industrial and Commercial Bank of China [ICBC]—opened its first in branch in Sydney. The bank's choice of Sydney shows, once again, that New South Wales is the leading financial centre in the Asia-Pacific region. It is an important endorsement of our city's prominent position in global finance. The Industrial and Commercial Bank of China is not only a leading financial player in China; it is one of the world's most profitable banks and also one of the world's largest banks by market capitalisation.

The establishment in Sydney of a branch of the Industrial and Commercial Bank of China will bring with it further Chinese investment into New South Wales. The new branch will create more than 20 financial services jobs, which is good news for the growing finance sector in New South Wales. The bank operates in more than 35 provinces, regions and municipalities in China, as well as Hong Kong, Macau, Singapore, Frankfurt, Luxembourg, Seoul, Tokyo, London and Kazakhstan. Sydney is the financial capital of Australia, ranked tenth worldwide and fourth in Asia. Sydney's position is underlined by the fact that it is host to 53 of the 55 authorised deposit-taking banks in Australia, plus all the 10 foreign subsidiary banks and all the 31 local branches of foreign banks in Australia.

In 2006-07 the finance and insurance sector, a major contributor to the New South Wales economy, contributed about \$33 billion a year to the State. Sydney also has world-renowned capabilities in asset management, infrastructure financing and property financing. It is also a major location for high-end middle-office processing capabilities. We are all aware of the current volatilities in the global market. Australia is not immune to these problems but, as the Prime Minister said, we are well placed to withstand the worst of it. Australia's banking system has minimal risk due to well-managed interest and foreign exchange risks by all four major banks.

The International Monetary Fund [IMF] has highlighted high earnings, strong asset growth and low levels of problem assets as characteristics of the Australian banking system. The International Monetary Fund has rated Australia as having one of the world's soundest regulatory and supervisory structures in the world. The Industrial and Commercial Bank of China joins other Chinese banks that have recognised the benefits of having a presence in Sydney. The China Construction Bank, another of the world's largest banks, also chose Sydney for its Australian representative office, and the People's Bank of China set up its South Pacific representative office in Sydney. This is a good step forward. I wish the company well. We will be working hard to bring other international financial institutions into Australia.

The Hon. JOHN DELLA BOSCA: If members have further questions, I suggest that they place them on notice.

Questions without notice concluded.

[The President left the chair at 1.03 p.m. The House resumed at 2.30 p.m.]

WATER (COMMONWEALTH POWERS) BILL 2008

WATER MANAGEMENT AMENDMENT BILL 2008

MINING AMENDMENT (IMPROVEMENTS ON LAND) 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:

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

Bills read a first time and ordered to be printed.

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

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Membership

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

Mr PRESIDENT

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

Pursuant to section 1 of Schedule 1 of the Commission for Children and Young People Act 1998, Geoffrey Corrigan and Robert Darcy Coombs be appointed to serve on the Committee on Children and Young People in place of Andrew Dominic McDonald and Carmel Mary Tebbutt.

Legislative Assembly
24 September 2008

RICHARD TORBAY
Speaker

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Membership

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

Mr PRESIDENT

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

- (1) Pursuant to section 66 of the Independent Commission Against Corruption Act 1988, Diane Beamer and Ninos Khoshaba be appointed to serve on the Committee on the Independent Commission Against Corruption in place of Jodi Leyanne McKay and Lylea Anne McMahon.
- (2) Gregory Eugene Smith be appointed to serve on the Committee on the Independent Commission Against Corruption in place of John Harcourt Turner, discharged.

Legislative Assembly
24 September 2008

RICHARD TORBAY
Speaker

LEGISLATION REVIEW COMMITTEE**Membership**

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

Mr PRESIDENT

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

Pursuant to section 6 of the Legislation Review Act 1987, Noreen Hay be appointed to serve on the Legislation Review Committee in place of Lylea Anne McMahon.

Legislative Assembly
24 September 2008

RICHARD TORBAY
Speaker

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION**Membership**

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

Mr PRESIDENT

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

Pursuant to section 68 of the Health Care Complaints Act 1993, Matthew James Brown be appointed to serve on the Committee on the Health Care Complaints Commission in place of Andrew Dominic McDonald.

Legislative Assembly
24 September 2008

RICHARD TORBAY
Speaker

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

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

Mr PRESIDENT

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

Pursuant to section 31D of the Ombudsman Act 1974, Kerry Arthur Hickey be appointed to serve on the Committee on the Office of the Ombudsman and the Police Integrity Commission in place of Angela D'Amore.

Legislative Assembly
24 September 2008

RICHARD TORBAY
Speaker

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION**Report: Review of the 2005-2006 Annual Report of the Inspector of the Independent Commission Against Corruption**

Debate resumed from 18 June 2008.

Reverend the Hon. FRED NILE [2.33 p.m.]: I wish to conclude the debate on this report of the Independent Commission Against Corruption No. 2/54 entitled "Review of the 2005-06 Annual Report of the Inspector of the Independent Commission Against Corruption, incorporating transcripts of evidence, answers to questions on notice and minutes of proceedings". I thank all members of the House who have taken part in this debate. I will summarise the main recommendations of the report. During 2005-06, the Inspector commenced an audit of the commission's compliance with section 12A of the Independent Commission Against Corruption Act. This particular provision specifies that the Commission is to direct its attention to serious and systematic corrupt conduct. The report of the review was tabled in the 2006-07 reporting year and the inspector advised the committee that the interpretation of section 12A had been the subject of subsequent correspondence between him and the ICAC Commissioner. The commissioner confirmed that the commission interpreted the section flexibly as referring to conduct that was either serious or systematic, or possibly both. It did not take the

interpretation that corrupt conduct must be both serious and systematic. I understand that the Cabinet Office concurred with this interpretation but the committee is still concerned about the interpretation of section 12A and has recommended that consideration be given to amending it to put the meaning of the provision beyond doubt.

As members will recall, the report made two recommendations. The first concerned the actual operation of the inspector and his office and recommended that the inspector discuss with the Premier, as relevant Minister, the feasibility of funding the relocation of the office of the Inspector of the Independent Commission Against Corruption to a more appropriate centrally located office space. The current location is not suitable and, as a new inspector will be appointed in due course, the current inspector's term having concluded, that would be a good opportunity for the new inspector to have a role in selecting the new location, assuming that the new Premier agrees to that happening. It may involve some additional expenditure but perhaps a new office can be provided within the same budget, which is what we hope.

The second recommendation was that the Premier, who is responsible for the administration of the Independent Commission Against Corruption Act 1988, consider bringing forward an amendment to the Act to put beyond doubt the reference to "serious and systematic corrupt conduct" in section 12A so that it is interpreted as a reference to serious and/or systematic corrupt conduct.

In conclusion, I believe the role of the inspector has been proven during this first period to be both necessary and desirable and I am pleased that in due course a new inspector will be appointed. This House should give its full support to the inspector in carrying out his role. It is a very important one. The Independent Commission Against Corruption has powers—I do not call them excessive, but they are certainly wide—and the inspector's role, with the oversight he gives and the audits he conducts, provides that restraining force, one might say, on ICAC in case it moved into areas that might cause concern to members of Parliament. I think there is a good balance with the inspector, ICAC itself and the parliamentary oversight committee working as a team to ensure that the Independent Commission Against Corruption, which I fully support and which is performing a very important role, is given all the support it needs to carry out the role. They are not there to be a hindrance but to assist the commission in carrying out its role. I believe the inspector is a positive force for good in that relationship. I thank members of the House who have participated in this debate and offer the incoming inspector, when the appointment is announced, our best wishes and support in his important role.

Question—That the House take note of the report—put and resolved in the affirmative.

Motion agreed to.

STANDING COMMITTEE ON LAW AND JUSTICE

Report: The Prohibition on the Publication of Names of Children Involved in Criminal Proceedings.

Debate resumed from 18 June 2008.

Ms SYLVIA HALE [2.40 p.m.]: I must say this was a very interesting and harmonious committee of which to be a member. The recommendations of the committee were supported unanimously. The inquiry originated from a number of cases last year involving juvenile offenders. The offenders were under the age of 16 and could not be named because of their age. That resulted in the media applying heat to the Government to change the law and permit offenders to be named and shamed.

Of course, the media is ever eager to promote moral panic, to play on both Government and Opposition law and order proclivities and to pander to the voyeuristic tendencies of members of the public. To divert heat and to get a fairly reasoned and calm-headed assessment of the issues, the Attorney General referred the issue to the Standing Committee on Law and Justice for a report on the prohibition applied to the publication of names of children involved in criminal proceedings, particularly regarding the ongoing validity of the Children (Criminal Proceedings) Act 1987, the Act's policy objectives, and the extent to which section 11 of the Act was achieving those objectives. The committee Chair's foreword states:

... the weight of evidence presented to the Committee clearly indicates support for the current prohibition, and in fact warrants its extension to cover the period prior to the official commencement of criminal proceedings and the inclusion of any child with a reasonable likelihood of becoming involved in criminal proceedings.

The committee's Recommendation 7 suggests that the Government examine the feasibility of extending the prohibition not only to children involved in criminal proceedings but also to those involved in civil proceedings. I will focus on the recommendation that the prohibition be extended to the period prior to the commencement of criminal proceedings, but before doing so I will make several other observations.

The committee comprised: from the Labor Party, the Hon. Christine Robertson, who is the Chair, the Hon. Greg Donnelly and the Hon. Amanda Fazio; from the Liberal Party, the Hon. David Clarke, who is the Deputy Chair, and the Hon. John Ajaka; and me, from the Greens. Members of the House will concede that the political spectrum from Right to Left was represented and that, with one or two honourable exceptions, it was not a collection of bleeding hearts. What I found particularly telling and an indication of the worth of the committee process was the comment made by one member that he had gone into the inquiry assuming that justification for lifting the prohibition was self-evident, and had emerged supporting retention, and even extension, of the prohibition.

The committee was unanimous in recommending retention and even extension of the prohibition, although the reasons for doing so varied. Some clearly were convinced that the prohibition was inherently reasonable and provided a valuable protection for both perpetrators and victims of crime, whereas others were reassured that there was judicial discretion to agree to the naming of a child if, in the opinion of the court, the circumstances warranted it. I believe that the unanimous view of the committee expressed in its recommendations should cause the Attorney General to give serious consideration to implementing the recommendations at the earliest opportunity.

I turn now to the issue of whether the prohibition on naming a suspected juvenile offender or even a potential child witness should extend to the period prior to the offender being charged or a court attendance notice being issued. Among the numerous inquiry participants who supported this proposal were the Youth Justice Coalition; Andrew Haesler, SC, Deputy Senior Public Defender with the New South Wales Public Defenders Office; Professor Duncan Chappell from the Centre for Transnational Crime Prevention; Gillian Calvert, the New South Wales Commissioner for Children and Young People; Helen Syme, a Deputy Chief Magistrate; the Shopfront Youth Legal Centre; Nicholas Cowdrey, the New South Wales Director of Public Prosecutions; and Brett Collins, the coordinator of Justice Action.

Even the New South Wales police force was not opposed to extension, provided that the wording of the relevant provision was very carefully undertaken so that it did not, for example, prevent broadcasting a child's name over the police network or inquiries being made about a child's whereabouts. Professor Duncan Chappell commented that, "I think it is a weakness in the present legislation and by the time that charges are laid the damage is overwhelmingly done." Deputy Chief Magistrate Helen Syme indicated her support for the extension of the period to prior to the laying of charges and said, "... especially if it encourages youth conferencing to occur prior to charging." The Shopfront Youth Legal Centre argued against naming children who, in the course of the investigation, become suspects—a view that was endorsed by the Director of Public Prosecutions, who noted that investigations may commence before a child is even interviewed and who urged that, "Where the investigation involves a child, there should be a prohibition."

Clearly there was a range of arguments in support of extending the prohibition, but a common thread was that it would be wrong to publicly name a child, with all the potentially adverse consequences that might result, when that child had not even been charged, let alone found guilty of an offence. An additional concern was raised by Peter Breen, who is a former member of the House. His concern was that there is currently no prohibition applying to the naming of children accused of civil, rather than criminal, wrongs. He questioned the morality of the mass media naming and shaming a child as a bully and cited an instance of a child's photograph being widely distributed through the newspaper, regardless of the long or short-term impacts upon that child, which may include the child's ability to be counselled, to improve behaviourally, and the long-term impacts on adulthood if the newspaper coverage subsequently comes to light. Andrew Haesler, who is the State's Deputy Senior Public Defender, gave another graphic example:

Let us assume that it is someone suing for a horrible brain injury with all sorts of detrimental effects, and psychologists are giving evidence in court about the psychosexual problems of a young child, which are compensable. It would be horrendous if that were reported and it would cause inestimable damage ... If the legislation could be drafted in such a way as to cover civil proceedings where those sorts of things are revealed, I would not be opposed to it.

I find that to be a particularly compelling argument. Much of the report deals with the impact of naming, the stigma that can attach not only to the person named but to the child's family or even extended family, and its impact upon the person named being able to integrate into the community. The report provides very substantial grounds for supporting extension of the prohibition to civil matters as well as to the period before charges are laid in criminal matters.

I note that great concern was expressed in the committee about young children. There was a lot of evidence that young children will often act without premeditation during a period when their brains have not matured sufficiently and that, in particular, this affects young men up to the age of 25. Therefore I am concerned that even last week, while we had this concern about young children, in practice the Government seemed not to follow through. Three juveniles, who had been transferred to an adult prison, were the subject of an order by a justice of the Supreme Court for transfer back to a juvenile detention facility. The Department of Juvenile Justice had requested that they be given 10 days to organise the transfer, but the court gave them approximately three days.

Clearly, the court was concerned about the detrimental effect on the juveniles of incarcerating them in adult institutions. I am utterly convinced that if the focus on the care of and concern for the welfare of young adults and juveniles transferred into adult facilities were the same as the focus placed by the committee on the naming of juveniles, we would have a very different outcome. [*Time expired.*]

Debate adjourned on motion by the Hon. Greg Donnelly.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Report: Administration of the 2007 NSW Election and Related Matters

Debate resumed from 18 June 2008.

Ms LEE RHIANNON [2.51 p.m.]: One issue we dealt with related to postal vote applications and pre-poll voting. I put a recommendation to the committee that stated:

That it be made illegal for parties and candidates to encourage voters to send a completed postal vote application to anyone other than the District Returning Officer.

I was disappointed that none of the other committee members supported my recommendation. I shall outline the background to why the Greens raised this matter. Currently, many parties and candidates encourage voters to send applications for a postal vote to the candidate's campaign address. While it is appropriate that parties encourage voters to legitimately apply for a postal vote, the completed application form should only be returned to the local returning officer. It should be illegal for parties and candidates to encourage voters to send a completed application to anyone other than the District Returning Officer.

The current system causes delay for the voter and an extra administrative burden for the State Electoral Office [SEO] when parties arrive with large bundles of accumulated applications close to the deadline for the receipt of postal vote applications. We also believe that the current system is open to various kinds of fraud or unwarranted advantage, especially when information distributed to voters encouraging a postal vote is designed to appear as if it is official SEO material. I think we all know that that is how the current system operates when the big parties distribute forms for a postal vote application.

Another matter that I raised related to the need to strengthen the legislation to stop false statements. It is a common feature of many elections that some media outlets and political candidates spread false or misleading information. That is a difficult matter to deal with but we need to work on the problem. I was pleased that a Greens recommendation on this issue was accepted by the committee. That recommendation states that a future inquiry should be held to consider what measures could be undertaken to deal with this problem.

The Hon. DON HARWIN [2.53 p.m.]: Following its inquiry into the administration of the 2007 election, the Joint Standing Committee on Electoral Matters tabled its report in May. This report makes recommendations pertaining to election posters, electronic billboards, disabled electors and homeless electors, as well as a range of other matters. I shall simply make a few remarks about some of the specific recommendations and raise two further issues that the committee has chosen to omit from its report and recommendations, despite substantial evidence being taken on the issue. During the passage of the Parliamentary Electorates and Elections Amendment Bill in September 2006 amendments were moved in order to retain appropriate and consistent restrictions with regard to election posters and canvassing for votes. Regrettably, the interpretation of the clauses as drafted and adopted did not reflect the approach intended by the mover. As a consequence, there was some confusion on election day.

Currently, the Act allows for election posters not exceeding 8,000 square centimetres to be placed within five metres of the entrance to the polling place, while canvassing of votes or soliciting the votes of

electors is prohibited within six metres of a polling place. The Electoral Commission reported that the different exclusion zones for posters and canvassing created practical difficulties for election officials on polling day. The Liberal Party also told the committee that there was "substantial confusion and different interpretations and rulings, both centrally and locally, about whether posters were allowed to be tied to school fences and where posters were able to be located at a polling booth". The commission expressed the view that a six-metre restriction should be applicable in both instances, consistent with Commonwealth legislation. The committee adopted this suggestion and it forms the substance of the second recommendation made in the report.

Recommendations 4b and 6b propose amendments to the principal Act to extend the qualification for a postal vote certificate or a pre-poll vote to include electors who fear for their personal safety. These recommendations arise out of a submission from Homelessness New South Wales and evidence given by Digby Hughes, a policy officer for that organisation. Homelessness New South Wales explained that women escaping domestic violence are often unwilling to attend polling booths on election day and would prefer the opportunity to cast a postal vote. This is particularly pertinent for affected women in regional and rural areas, where there are often only one or two polling places in their community. By extending the qualifications for a postal vote or pre-poll to include electors who fear for their personal safety, women escaping domestic violence will not have to feel that they are risking their safety in order to exercise their right to vote. The eighth recommendation in the report states that election results posted on the Electoral Commission's websites should include:

- a) the percentage of the total formal vote received by registered political parties in the Legislative Assembly; and,
- b) the progressive count for the Legislative Council expressed in terms of the percentage of the formal vote for registered political parties and candidates.

There were several expressions of dissatisfaction from the media and stakeholders regarding the counts and other election information posted on the commission's website in the period following the election. Issues regarding the counts and tallies for both the lower and upper Houses were raised. With regard to the Legislative Assembly results, the absence of a statewide vote for political parties was noted by both the Greens and The Nationals. The lack of such a tally was regarded as inconvenient for both political parties and the media, and it was suggested that more comprehensive statewide and party results would enhance the value of the website.

Of greater concern were the tallies for the Legislative Council posted on the website. The progressive count in the weeks following the poll included the informal vote, which accounted for more than 6 per cent of the total. The inclusion of informal votes in the total resulted in an inaccurate account of the actual vote of parties and groups as quotas are determined in relation to the total formal vote rather than the total vote. As a result, the figures cited on the website were misleading for candidates trying to assess their prospects for election. The provision of timely and accurate statistical information relating to election results should be regarded by the New South Wales Electoral Commission as part of its core business. Regrettably, this has not always been its practice, unlike the Australian Electoral Commission. However, I must say that, in the local government elections that have just taken place, there has been a fairly substantial improvement.

Finally, I place on record my disappointment that the committee has chosen to make no reference to two other matters raised in the submissions and at the public hearings. Antony Green explained in his submission that remarks he made about public access to registered how-to-vote material during the committee's inquiry into the conduct of the 2003 election were misunderstood and that, rather than improving access to such material, the Government has substantially tightened the restrictions. The Parliamentary Electorates and Elections Amendment Bill 2006 provided that such material "must be available for inspection, at the office of the returning officer for the district during the hours of polling on polling day, at the request of any persons enrolled for the district or of any scrutineer". Mr Green explained:

Under this provision, the 2007 election was the first occasion on which I was prevented from having access to how-to-vote material. At previous elections I had been able to view all registered how-to-vote material in the head office of the Electoral Commission on election day.

As Mr Green contends, the changes implemented ahead of the 2007 election have reduced the level of transparency, hindered access to registered material and put New South Wales out of step with the practices in Victoria, Queensland and the Commonwealth. Despite the undesirable impact the changes have had on both the media and party workers, the committee has neglected to mention the matter. The report contains no recommendations that the situation be remedied. Regrettably, that was a fault in the process and something that we on the committee should have featured prominently in the report.

Similarly, the report is silent as to the timing of the issuing of writs. Currently, the Act provides that writs "shall be issued within four clear days after the publication in the Gazette of the proclamation dissolving

the Assembly, or after the Assembly has been allowed to expire by the effluxion of time". This provision is an outdated remnant of the arrangements that applied prior to the switch to fixed parliamentary terms. The lack of certainty as to when the Government will issue the writs causes difficulties for the Electoral Office and can restrict the time available for electors to cast postal votes.

During the committee's inquiry into the administration of the 2003 election, Antony Green argued that under a system of fixed term Parliaments it would be more appropriate for the writs to be issued on the same day as the expiration of the Parliament. He noted that "in every other State and federally the writ and the dissolution are on the same day". The committee's draft report into the 2003 election included a recommendation, numbered two in that version and appearing between points 2.15 and 2.16, which read:

That section 68 of the Parliamentary Electorates and Elections Act 1912 be amended to provide for the writs for the general election to be issued on the day that the Parliament expires.

Regrettably, this draft recommendation was excised from the final version tabled in September 2005. Antony Green raised the matter again during the most recent inquiry. In his submission he wrote:

In a system of fixed parliamentary terms, I see no reason why the Parliamentary Electorates and Elections Act should not specify that the writ should be issued on the same day as the Legislative Assembly is dissolved. It seems ridiculous that in a system of fixed term parliaments, the Electoral Commission cannot know when to call for nominations.

Frustratingly, on this occasion the Chair's draft report did not canvass this evidence. No comments were made on this issue and a recommendation to amend the Act with regard to the timing of the issuing of the writs did not even make the draft. At least in 2003, the then Chair, Marianne Saliba, allowed the expert evidence to speak for itself. Sadly, on that occasion the Hon. Amanda Fazio moved to delete all reference to it in the final report. On this occasion, it seems the Chair just excluded it from the draft. It remains unclear why the Government is unwilling to adopt this sensible change. One can only presume that it sees some sort of electoral advantage. This is not how we should approach electoral legislation or the spirit in which elections in our State should be conducted.

Finally, I note that this report was tabled four months ago. The committee can only consider references provided to it by the Government. It has no references before it at the moment and it has done no work on anything related to our electoral system for the past four months—and that is not satisfactory. I hope the committee gets a reference soon. In particular, it is appropriate that the committee examines the local government elections that were held earlier this month. I hope that the committee is given such a reference by the Minister very shortly.

The Hon. JENNIFER GARDINER [3.03 p.m.]: I have pleasure contributing to this take-note debate on the report of the Joint Standing Committee on Electoral Matters into the administration of the 2007 New South Wales general election and related matters. As did my colleague the Hon. Don Harwin, I too wish to draw attention to a number of matters. I am happy to report that I was successful in gaining the support of all members of the committee that the committee request a reference in the life of the fifty-fourth Parliament to further comprehensively review the Parliamentary Electorates and Elections Act 1912, including examining future options for voting using new technologies. I have repeatedly referred in the House and in committee meetings to access to timely voting, in particular for rural and remote communities. I am happy that the committee recommended that the New South Wales Electoral Commission trial mobile pre-poll voting for rural and remote communities, and that the commission seek legal advice as to whether such trials can take place under the current provisions of the Parliamentary Electorates and Elections Act 1912 or whether the Act will have to be amended to enable such a trial.

The committee further recommended that if the advice obtained by the New South Wales Electoral Commission suggests that under the existing provisions mobile pre-poll voting cannot be trialled, then an appropriate amendment should be introduced to enable a trial to proceed. I hope that the committee receives a further reference to again review the Act, particularly in relation to the use of new technologies that might help to expedite the long-running discussion with the Electoral Commission about appropriate access to timely voting by people who live in the more remote parts of this State and who have, for many years, been effectively disenfranchised because of their inability to get their voting papers back in time, given the narrow window of opportunity presented by legislation that sets the timetable for various parts of the electoral process and very limited postal services. I hope that matter will be re-examined and that the committee will be given an update on any legal advice that is received by the Government in relation to trialling mobile pre-poll voting in rural and remote communities, and whether any amendments need to be made to the Act. I believe that the committee would be happy to consider such amendments.

In this review of the administration of the 2007 election the committee looked at issues affecting electors with disabilities and, as my colleague mentioned, those who fear for their personal safety—for example, women who may be the subject of domestic violence or who fear that they may be the subject of violent acts in a domestic context. The committee was happy to devote a lot of time examining issues confronting people with disability and those who fear for their personal safety, and it has made a number of recommendations aimed at addressing the inequities that have applied in the past. For example, the committee asked that legislation be amended so that electors with a disability and also those who fear for their personal safety qualify for a postal vote certificate and a postal ballot paper.

The committee also recommended that electors with a disability qualify for registration as a general postal voter so that, in effect, ballot papers are given to them automatically once their names are entered in the register, thus giving them more equal access to the democratic processes than is presently the case. Further, the committee asked that the Act be amended to allow electors with a disability and those who fear for their personal safety to qualify for pre-poll voting.

The committee engaged in discussion with the New South Wales Electoral Commission on the subject of local government elections that were then being planned. The Electoral Commission is the contractor to conduct local government elections across the State. Those elections were held on 13 September 2008. I am very aware of the anguish among councils about the cost of those elections now compared to when they were conducted by the councils. That concern was debated during the committee hearings, and is continuing after the elections. Various councils—for example Orange and Tamworth—expressed concern about the time taken for the count to be finalised. I agree that there is some room for improvement in that regard.

Inevitably the committee will receive submissions on such matters if the Government asks the committee to review the legislation and local government elections processes. The committee considered a future review of the legislation to examine ways to prohibit intentionally false or misleading statements about a candidate or a party by an individual or media outlet. That review would certainly be very interesting and may bring into question one's right of freedom of speech. I certainly look forward to such a reference.

The committee considered how the legislation could respond to the needs of people with a disability. It recommended that the Electoral Commission stipulate one wheelchair accessible polling booth be provided in each electorate, as part of its plan for equal access to democracy. It recommended further that the commission ensure that the constituency is advised as far ahead of election day as possible which booths are wheelchair accessible. In relation to declared institutions, the committee recommended that the Act be amended to allow electors enrolled in the same district in which the institution is located to cast an ordinary vote. That would make things simpler. As my colleague mentioned, some very good recommendations were made in an effort to once again include homeless electors in our democratic processes. It was recommended also that vision-impaired electors be provided with eye voting facilities. The report is very constructive and I am happy to be associated with it.

The Hon. AMANDA FAZIO [3.13 p.m.], in reply: I thank members who have participated in the take-note debate on report 154 of the Joint Standing Committee on Electoral Matters for highlighting the key issues that were dealt with in this most interesting inquiry. One issue raised was whether it was necessary for public servants who are contesting elections to resign from their public service positions. The committee supported the current arrangements in that regard. It was thought to be inappropriate that people who put their name forward as a candidate for a political party should stay employed in the public service, where they could be perceived to have some influence over the local community, and also that schoolteachers who contest such elections should be seen to promote their political party policies during school lessons. Consideration was given to the level of commitment of those who nominate as a candidate. Most people vote for a candidate in the hope that that candidate will be successful. The intending candidate, when deciding whether to stand or not, must determine whether their level of commitment sits well with their having to resign or to take temporary leave from their employment.

In response to comments by the Hon. Don Harwin and the Hon. Jennifer Gardiner about a potential future reference into local government elections, I advise that the committee does not know what the future references will be. I acknowledge that an interesting reference would be to determine how effective the elections were and to get a breakdown of the costs to determine if the complaints about costs were reasonable. I am sure a report from the New South Wales Electoral Commission on those issues is forthcoming. Currently the committee does not have a reference before it. That was also the case with the previous incarnation of the committee. There are always gaps between committees; that is the nature of the committee set-up. I do not

necessarily support the idea of having a reference before a committee for the sake of conducting an inquiry. That is not to say that the committee is doing nothing between references. At the moment it is arranging for its members to inspect the electronic voting system that will be used in the Australian Capital Territory for its forthcoming Assembly election. At the request of the Australian Capital Territory Electoral Commission that visit will be undertaken two or three weeks after the election, when the system will still be up and operating. The commission is happy to provide time and explanations to our committee when it is not busy dealing with voters. The committee is still active, regardless of the fact that it has no reference before it. It is correct that the draft report contained no reference to the issuing of writs, but neither was there any attempt to add such a reference to the report during the deliberative meetings.

Some media comment on the committee's recommendation to ban electronic billboards fails to recognise the existing legislative requirement that all material must be authorised. A printed billboard can be authorised, but a digital roadside sign cannot be authorised; there is no capacity to capture what has been screened on digital billboards during the course of the day, week or month preceding an election. Virtually anything could be displayed on such billboards without any comeback. If they displayed defamatory or misleading material, there would be no way for the appropriate electoral authority to pursue those responsible.

During the final days of the recent local government election campaigns anonymous leaflets making allegations about local candidates were found in letterboxes. We all know that that happens. It is very inappropriate and it should not happen. This week's edition of the *Inner Western Suburbs Courier* reported a deluge, almost a blizzard, of anonymous smear sheets in the last week of the Burwood Council election campaign. That really did nothing to enhance our electoral processes.

If the committee did not make a recommendation about electronic billboards at this stage I am sure that those billboards and the new electronic digital advertising displays that are appearing around the place would be used in the future for those sorts of purposes. It goes to the integrity of our electoral system. This recommendation is important in ensuring that displayed material that attempts to influence people's votes is authorised appropriately. I commend the report to the House, and again thank those committee members who spoke during the debate.

Question—That the House take note of the report—put and resolved in the affirmative.

Motion agreed to.

SELECT COMMITTEE ON ELECTORAL AND POLITICAL PARTY FUNDING

Report: Electoral and Political Party Funding in New South Wales

Debate resumed from 19 June 2008.

Reverend the Hon. FRED NILE [3.19 p.m.]: I gave a brief introduction to this report of the Select Committee on Electoral and Political Party Funding, which is entitled "Electoral and Political Party Funding in New South Wales", when I tabled it on 19 June 2008. The committee's inquiry revealed strong community concerns about the influence of political donations on parties, groups and candidates. Many inquiry participants told the committee that political donations undermine the integrity of the political process. Inquiry participants were particularly worried that property developers could attempt to use political donations to influence planning decisions at State and local government levels. There was significant movement on the issue of electoral funding reform while the inquiry was underway. Members will recall that former Premier Iemma foreshadowed changes to the New South Wales election funding scheme. A number of those changes addressed corruption risks at the local government level, and other changes addressed loopholes in the current disclosure scheme. At a later date former Premier Iemma was also reported as advocating a ban on all donations. His announcements were followed by statements from the Special Minister of State, Senator John Faulkner, that the Commonwealth would likewise seek to reform its system of electoral funding.

The committee's report sets out a proposed model for reform of the New South Wales electoral funding scheme. The proposed model seeks to ensure that the scheme fulfils two aims that have been the underlying objectives of the scheme since its inception in 1981: first, prevent corruption and undue influence; and, second, level the playing field by reducing the disparity in financial resources available to parties, groups and candidates. The committee believed both these aims to be of equal weight, and our recommendations were therefore designed to address both objectives. In crafting a proposed model for electoral funding reform, the

committee took care to learn from the experiences of other jurisdictions. The committee not only looked to the States and Territories but also examined four key international schemes—namely, those of Canada, New Zealand, the United Kingdom and the United States. The committee's proposed model is similar in many ways to the Canadian scheme, which has been widely praised.

The committee considered a number of key issues in its report, and I will address each of them in turn. The first key issue was public funding for parties, groups and candidates contesting State government elections. At present, public funding is not provided for local government elections. Later in my speech I will outline the committee's findings on local government. The committee considered whether public funding for State elections is provided in a fair, equitable and effective way. In regard to the 4 per cent eligibility threshold for public funding, the committee recommended that the threshold be retained as one of a number of measures to deter frivolous candidates. In addition to funding for contesting elections, some parties represented in Parliament are also eligible for annual payments from the Political Education Fund. The committee found that, rather than being used to improve political literacy, these payments appeared to be used to support the costs of party administration.

The committee therefore recommended that funding for administration costs be made available to all parties with members elected to either the Legislative Assembly or the Legislative Council. The committee also recommended that a new Political Education Fund be established to improve political literacy, and that it be administered by the New South Wales Electoral Commission. The committee found that public funding for State government elections would need to be increased to implement the committee's proposed model for electoral reform. The committee recommended community consultation to determine a reasonable increase in public funding.

The second and most contentious issue examined by the committee was that of political donations. Politicians and their parties rely on political donations as a major source of financial support. Some inquiry participants believed donations are having a negative impact on the political system. On the other hand, others argued that in a democratic society political donations are a legitimate means of participating in the political process and thereby expressing support for particular parties or candidates. While inquiry participants supported tighter regulation of political donations, they did not agree on the best means of regulation. The committee considered in detail evidence on the advantages and disadvantages of banning political donations, and the merits of imposing targeted restrictions on certain sources of donations, such as property developers.

The evidence revealed a number of reasons why it would be unworkable to impose targeted restrictions. First, it would be difficult to define restricted sources. Secondly, donations from restricted sources could be funnelled through donors not subject to restrictions. Lastly, many sources of donations could be subject to targeted restrictions, leading to subjective decisions about who should be singled out for higher standards of regulation. Given the barriers to imposing targeted restrictions, the committee found that the most effective means of regulation would be to implement a wide-ranging prohibition on all political donations. The committee concluded that donations by individual persons must be exempt from such a ban in order to free individuals to participate in the political process. The committee hoped that if all but individual donations were banned, parties and candidates might become more responsive to their grassroots support bases. Importantly, through their exemption, individual donations could become a means of financial support for new and minor parties and independent candidates.

The committee therefore recommended that political donations from corporations and other organisations be banned but that donations of up to \$1,000 made by individuals be exempt from this prohibition. The committee recognised that this ban could give rise to legal and constitutional issues, and that these issues would need to be investigated. The committee also called for liaison with the Federal Government to ensure national consistency of electoral donation and disclosure laws. However, the committee felt that New South Wales should not delay reform until the Federal Government and the other States made moves in this area. The committee considered whether other sources of financial support should also be exempt from a ban on political donations. It found that certain sources, such as membership and affiliation fees, should be exempt if they were to be used to support the costs of party administration. The committee noted the importance of volunteer labour during election campaigns, and the importance of volunteering as a means of participating in the political process. The committee urged that the reforms be crafted carefully to ensure that genuine volunteering is exempt from the ban on all but small, individual donations.

During the inquiry the New South Wales Greens introduced the Environmental Planning and Assessment Amendment (Restoration of Community Participation) Bill 2008 in the Legislative Council. The

bill was referred to the committee for consideration as it pertained to political donations. The committee considered the provisions of the bill to be relevant to its terms of reference. First, the bill proposed to make it an offence for a property developer to make a political donation; and, secondly, it proposed to ban donors from lodging a development application for one year after making a donation, and to ban applicants from making a political donation for one year after their development application was determined. While the committee agreed that political donations from property developers needed to be regulated, it did not believe a ban on developer donations was an appropriate means of achieving this end. Rather, the committee supported a comprehensive ban on all political donations, with the exception of small individual donations, that is, to include bans on developer donations.

The third key issue considered by the committee was campaign spending. Spending on election campaigns has increased markedly since the Election Funding Scheme was introduced in 1981. This is due to the increased use of political advertising. Spending caps are one means to reduce current levels of campaign expenditure. The committee report discusses the arguments for and against spending caps and examines the difficulties associated with the introduction of such caps. Some inquiry participants argued that the spending caps should not be introduced because they would be circumvented by third party spending, and because it may be difficult to penalise those who breach the spending caps.

On the other hand, the committee heard that the impediments to imposing spending caps had been overstated and that spending caps were an important means to ensure greater parity in electoral competition. The committee concluded that it would not be effective to introduce supply-side restrictions on political donations without also introducing demand-side restrictions on the level of campaign spending. To do one without the other would not achieve the twin aims of the Election Funding Scheme. Therefore, the committee recommended that spending caps be introduced. Again the committee proposed investigation of any legal and constitutional issues arising from the introduction of spending caps.

The evidence showed that a number of factors need to be taken into account in setting spending caps. Spending caps must be high enough to allow parties, groups and candidates to conduct a reasonable election campaign but not so high as to impose an excessive demand on the public purse. An important consideration is whether there should be the same spending cap for all candidates or whether the cap should be adjusted for candidates in rural and regional areas or independent candidates. The committee concluded that the Auditor-General should set the spending caps.

The fourth key issue examined by the committee was disclosure of donations and spending. The Election Funding Scheme, which has been in place since 1981, was based on the following premise: that transparent disclosure of political donations and election spending would deter corruption and undue influence. Inquiry participants described a number of deficiencies that impeded the transparency of the disclosure scheme. The committee therefore considered ways to strengthen provisions of the disclosure scheme. Evidence to the committee described the myriad disclosure thresholds and time frames at local, State and Federal levels.

The committee concluded that, as far as possible, there should be consistency between the disclosure requirements at Federal, State and local government levels. The committee also made a number of recommendations to ensure that the information disclosed is as accurate, timely and accessible as possible. The committee recommended that political donations over \$500, and all spending, be disclosed every six months. The committee also recommended greater use of the Internet to submit and publish disclosure returns. A number of inquiry participants said that the website of the Election Funding Authority was difficult to use and did not provide information in a timely manner.

The committee recommended making compulsory online lodgement of disclosure returns. This would allow for real-time entry of donations and spending data. To improve donor identification the committee recommended that individual donations be linked to the New South Wales electoral roll. This would also have the effect of limiting political donations to persons eligible to vote in New South Wales. Inquiry participants were concerned also about fundraising events, in particular, large fundraising dinners that facilitated personal contact between donors and politicians. The committee recommended that political donations made at fundraising events be clearly labelled as such.

The committee also considered the distinct issues raised by local government in comparison to State government. One of the difficulties encountered by the committee was that the Election Funding Scheme was not designed with local government in mind. This was problematic because the complexities of designing an election funding scheme for local government had never been considered in their own right. Inquiry participants

described the importance of decisions made by local governments and, in particular, the far-reaching implications of planning decisions. The committee concluded that corruption-proofing local government was vital, and therefore recommended that consideration be given to introducing public funding for local government elections. [*Time expired.*]

The Hon. MICHAEL VEITCH [3.32 p.m.]: This is the first occasion on which I appeared as a member of the Select Committee on Electoral and Political Party Funding. I place on record that the members of this committee operated in a way that the public often do not see. There were a few tense moments but, in the main, people who gave evidence to the committee had a genuine commitment to reforming the process.

Pursuant to standing orders business interrupted and set down as an order of the day for a future day.

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 2008-09

Debate resumed from 18 June 2008.

The Hon. MELINDA PAVEY [3.35 p.m.]: In my contribution to the take-note debate for the 2008-09 State budget I must state that the budget has again left my duty electorates of Port Macquarie and Monaro wanting. It has deprived the people and those communities of important infrastructure and facilities. Today I shall highlight some of the concerns relating to Port Macquarie—a major centre on the mid North Coast of New South Wales, and a growing centre with real infrastructure demands. Today those infrastructure demands were referred to in question time. Opposition members asked the Minister for Health, the Hon. John Della Bosca, several questions and he gave a commitment to provide answers as soon as possible. I take his commitment in good faith.

The many pressures on our hospitals are evident throughout the State, particularly in Port Macquarie. No kidney dialysis treatment is available locally for the people of Cooma and the Monaro Plains because of poor management and poor representation in that part of the world. Hundreds of thousands of dollars are being spent annually to transport people via ambulance from Cooma to Canberra rather than making those facilities available in Cooma. We have more of the same in the 2008-09 budget, which reflects a shortfall in funding for country and coastal New South Wales. It is interesting to note that this budget allocated \$886 million for a Sydney desalination plant.

I acknowledge the election by caucus of Nathan Rees as Premier of New South Wales, but I am disturbed that his greatest public administration feat thus far is the desalination plant. The proposed desalination plant has all sections of the community up in arms—from those who are concerned about good and proper financial economic management to those who are concerned about the environmental issues that this white elephant will create for the people of Sydney and the impact that it will have on the capital works budget of the State. No doubt more will be said about that issue, as it will be Nathan Rees' first legacy to the people of New South Wales. I am sure that that legacy will go down in history as one of the poorest and most terrible decisions that this State has made.

Today we talked about a leaked document that was made available to Opposition members through the good work of Port Macquarie resident Leslie Williams. It shows that the health Minister received a submission from Port Macquarie Base Hospital more than six months ago detailing the urgent need for an upgrade to the emergency department. It is simply unconscionable that \$1 million was not allocated to an essential service that saves lives. Staff, nurses and doctors at Port Macquarie Base Hospital have just gone through one of the toughest winters that they have ever faced. An understanding of the demographics of Port Macquarie would reveal that during winter its large retiree and pensioner population places incredibly high demands on the public health system. Clinicians and nurses are working in what are regarded as unsafe circumstances. I refer to the comments of former health Minister Reba Meagher who said:

We certainly do not rush the construction of our hospitals.

That is right. When they rush they make mistakes, as we have seen in Bathurst. However, holding up things when the money is available is just negligent and appalling. An amount of \$1.8 million already had been announced for the accident and medical emergency unit at Port Macquarie, but there still has been no action on that front.

The 2008-09 Health capital infrastructure funding allocation reports revealed in a comparison of all the New South Wales country seats that Port Macquarie is underfunded by a massive 81 percent. Leslie Williams, a local nurse, has said that this raises serious implications and the effects of severe underfunding on the region are being felt daily in the increasing pressures and demands being forced on the health staff at the hospital. As a nurse Leslie has seen first hand the effects of the exponentially increasing demand and she believes the system is at crisis point. Furthermore, the most recent statistics show capital expenditure in health infrastructure at Port Macquarie at eighteenth out of 25 country seats. This is the shocking consequence of Labor's continuing mismanagement and the underfunding of the North Coast region as a whole. The funding shortfall of \$54.5 million to Port Macquarie and the broader region is due to the Labor Government not adhering to its own resource distribution formula to allocate resources fairly. This failure to adequately fund health infrastructure is having a serious impact on hospitals, with 50 per cent of triage 3 patients not being treated in time at Port Macquarie Base Hospital, making it the lowest performer in this category out of every hospital on the North Coast. The State Labor Government has failed also to match the demand for hospital services resulting from population growth, meaning the service gap is becoming more urgent.

The budget also revealed that the Oxley Highway project has blown out by a massive \$78 million since 2002 when Carl Scully first announced the project with great fanfare. The independent State candidate and Carl Scully stood side by side to announce an estimated project cost of \$80 million to be finished before 2007. Nine years later the project has almost doubled to become a massive \$158 million. An inquiry ought to be launched into the Oxley Highway upgrade project as a blow-out of this magnitude simply does not add up. The doubling of the project costs reflects Labor's sheer financial mismanagement. It has taken nine years for the State Labor Government to provide a completion date for the Oxley Highway project and it simply is not acceptable for it now to be put forward to 2011. Who knows how much further that will blow out after the crisis mini-budget? Since the project's announcement in 2002, only \$13 million has been spent, which means that \$129 million will have to be spent over the next two financial years for the Government to meet its 2011 completion date. Furthermore, the current state of New South Wales public finances is in such disarray that the Oxley Highway upgrade may be further delayed, as I have said. This Labor Government recently has made serious threats to cut funding from local projects and I fear the local health system and the Oxley Highway will be put on the backburner yet again.

The budget simply does not provide rural and regional New South Wales with its fair share. Further evidence of that is the decision to close the business enterprise centre [BEC] in Cooma. The BEC provides important strategic and business advice to small businesses in the Monaro region and people have been working hard to try to get the decision overturned. The local members are quite happy for a satellite service to be available from Queanbeyan. However, I have been advised also that the Queanbeyan BEC would prefer not to be involved in this type of outreach service to other parts of the Monaro. They want to concentrate on their patch, which is understandable. This stopgap measure does not have the support of local people.

I mentioned earlier the issue of providing kidney dialysis in the Monaro. The figures show a lack of management, planning and strategic direction from this Government in health spending. For example, in 2002-03, the Government paid the Australian Capital Territory Government \$1.89 million for kidney dialysis procedures. However, four years later, in 2005-06, this cost had blown out to \$3.2 million, almost double the previous costing. That reflects how New South Wales Health infrastructure inadequacies have continued to spiral downwards. The Government refuses to provide information on how many dialysis patients are coming from Cooma and surrounding areas, and admits that the figures do not represent the true number as New South Wales veterans and compensable patients are in fact paid for by Australian Capital Territory Health. The substantial increase in taxpayers' money being paid to the Australian Capital Territory for such basic services is the result of poor local representation to negotiate a better deal in cross-border arrangements between New South Wales and the Australian Capital Territory. In 2006 the Greater Southern Area Health Service had the lowest number of dialysis facilities in New South Wales. [*Time expired.*]

The Hon. JENNIFER GARDINER [3.45 p.m.]: I have pleasure in participating in the budget estimates take-note debate. I take this opportunity to place on record my concern at a number of issues relating to the budget, particularly the New South Wales Health budget. I refer to the extraordinary backlog of hospital projects and health issues that need addressing across New South Wales and in country areas in particular. These issues have built up over the time that the Carr-Lemma governments have been in office and the nascent Rees Labor Government needs to address them.

We have now seen a mini busload of Labor Health Ministers in New South Wales come and go. First there was Dr Andrew Refshauge, but after some years in that portfolio and then as Minister for Planning he

eventually resigned from Parliament. Then Mr Craig Knowles was Minister for Health and, interestingly, he also became planning Minister. That proved to be too much for him so he resigned from Parliament. We then had the Hon. John Hatzistergos, who was probably more interested in being Attorney General than becoming Minister for Health. It has to be said that he still is in the Parliament, unlike so many others with whom he served in the Cabinet. He was succeeded by the Hon. Morris Iemma as Minister for Health immediately before he was drafted to the office of Premier. Mr Iemma now has resigned as Premier and from the Parliament. When he was Premier he appointed Reba Meagher as Minister for Health, perhaps the most unlamented health Minister ever to have gone from the New South Wales Parliament. Like Dr Refshauge, Mr Knowles and Mr Iemma, Reba Meagher also has quit the Parliament.

The latest Minister for Health, the Hon. John Della Bosca, therefore has a lot on his plate. In the current economic environment where the New South Wales budget is under great pressure no doubt he is being briefed on the extraordinary backlog of a multitude of projects that have built up around hospitals and other health projects needing to be delivered across New South Wales. I do not envy Minister Della Bosca his task of trying to work out the priorities for each of those much-needed projects and the time lines for seeing them delivered in either an economic or a political framework. The Nationals today have highlighted issues, as we have in the past, related to the Port Macquarie Base Hospital. A couple of weeks ago I visited the hospital with my colleague the Hon. Melinda Pavey. We received a briefing on a number of issues relating to the hospital, including the existence of the master plan for the fourth pod, which is a further physical expansion of the hospital aimed at meeting the obvious demand that has built up through a continuing population growth.

The North Coast region has been the centre of strong population increases not just in the past 10 years but for several decades. That nothing has staunched the flow of population to the area during Labor's 13-year term of office makes all the more sad the Government's inability to plan and keep pace with population expansion, the need for which should have been obvious to a government that was on the ball. I have referred to the stresses and strains being experienced in the Port Macquarie Base Hospital's emergency department and to New South Wales Health statistics showing that even people with potentially life-threatening conditions have not been receiving timely treatment that meets triage benchmarks. We await the Minister for Health's assessment of the briefing he received on the fourth pod and other aspects of the Port Macquarie Base Hospital and his advice on its position in the Government's list of priorities. The Opposition hopes that the Minister will give that matter his urgent attention.

Last week I attended the Tamworth hospital precinct with my colleagues the Hon. Trevor Khan and the Leader of The Nationals, Mr Andrew Stoner, where we launched an online petition to the Premier, www.helpourhospital.com.au. The initiative is aimed at ensuring that the Tamworth hospital and its need for redevelopment receive the top-of-mind attention from the latest in a long line of Ministers for Health who have not delivered on the hospital's redevelopment. The initiative taken by The Nationals seems to have put the lackadaisical member for Tamworth into some type of self-propelled vortex. He does not seem to think that the rest of the community is entitled to campaign on behalf of their hospital.

I point out that Tamworth hospital is a referral hospital for the whole of New England and the north west of the State, and it is certainly overdue for redevelopment. For many good reasons, the people from north and north-western New South Wales are entitled to a state-of-the-art hospital. The existing hospital is dated and the New South Wales Government has acknowledged that it is due for redevelopment. Our quest is to ensure that that is achieved in a timely manner. We believe that redevelopment of the Tamworth hospital should be an issue that is above the radar, not just one that falls by the wayside as the Government tries to deal with the implications of having mismanaged the New South Wales budget over many years.

The time line for completion of the redevelopment of the Tamworth hospital has been vague, to say the least. The member for Tamworth seems to have a "she'll be right, mate" mentality or approach to the subject—an attitude with which I certainly do not agree. The Tamworth hospital is crucial to optimising benefits to inland New South Wales in particular—benefits that will surely flow as the University of New England's new medical school begins to turn out its graduates. Our student doctors should have access to the best possible array of clinical settings in which to train. This will help to attract and retain the next generation of clinicians, including specialists, to country and coastal communities. The now departed and not missed previous Minister for Health, Reba Meagher, failed to provide the rural medical school campuses at Armidale and Tamworth with a commitment to a number of clinical placements. Placements must be funded by the State Government. There is no plan for placements in the future, and that is a cause of great concern.

The failure to mesh such a welcome initiative as the new rural medical school, which is aimed at addressing the long-term shortage of doctors in rural areas, with the operations of New South Wales Health to

address work force shortages among health professionals in non-metropolitan areas is confounding, given that those rural health work force issues are so well understood and have been so well promulgated over a number of years. People with vision, including the likes of the former Federal Leader of The Nationals, John Anderson, and the current Deputy Leader of the Federal Opposition, Julie Bishop, who is a former Federal Minister for Education, as well as the whole of the New South Wales Nationals support the establishment of the new rural medical school. It is a project that we want to see brought to fruition. It is a project that synergises the initiatives of the University of Newcastle and the University of New South Wales. It is a fantastic initiative. Redevelopment of the Tamworth hospital is critical to the project reaching its full potential. I urge communities right across the north of the State to log onto www.helpourhospital.com.au and register support. There are many other hospital issues I would like to discuss. I will be delighted to report to the House on those at another time.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Duncan Gay agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 137 outside the Order of Precedence, relating to questions asked by him regarding Roger Fletcher and Ramiens Timber, be called on forthwith.

Order of Business

Motion by the Hon. Duncan Gay agreed to:

That Private Member's Business item No.137 outside the Order of Precedence be called on forthwith.

THE HON. DUNCAN GAY: APOLOGY BY *DAILY TELEGRAPH*

Debate resumed from an earlier hour.

Reverend the Hon. FRED NILE [3.57 p.m.]: I have given a great deal of thought to seeing a way forward from the present stage in relation to a matter concerning members on opposite sides of the House, particularly the Deputy Leader of the Opposition, who moved the motion to call the matter on for debate. I therefore move the following amendment:

That the question be amended by omitting paragraphs 3 and 4 and inserting instead:

3. That in view of Mr Gay's statements concerning questions asked in the House in relation to Roger Fletcher and Ramiens Timber, this House directs the Clerk to remove Private Member's Business Item No. 104, relating to Mr Gay, from the *Notice Paper*.

I move the amendment in a spirit of engendering cooperation and goodwill on both sides of the House, particularly between the two members of the House concerned, the Hon. Amanda Fazio, and the aggrieved member, the Hon. Duncan Gay. I call on the House to give the amendment unanimous support.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.58 p.m.], in reply: This period has been wholly unsatisfactory for the Parliament. Not only did the Hon. Amanda Fazio make unfounded comments, but also she reinforced them during today's debate. She went to the extent of saying that I had never refuted the allegations. A cursory examination of *Hansard* will show that at 7.15 p.m. on 6 May I made a detailed response to each allegation. I did so during the adjournment debate, and I took the whole of the time allotted to me to refute the allegations. That is not the only occasion on which I refuted the allegations. On 8 May I took the exceptional step of making a statement at 5.12 p.m. to answer the questions put by the Hon. Amanda Fazio on that day. The honourable member also said that at no stage had I taken a formal position. That is a blatant misuse of this House and a misuse of the truth, because I gave notice of motion No. 114 on 15 May. Honourable members will remember that yesterday I withdrew a notice of motion, which stated:

- (1) That this House notes that the Honourable Duncan Gay MLC has informed the House that:
 - (a) he has not been asked by Roger Fletcher or by Ramiens Timber to ask questions on their behalf,

- (b) he has not received money from Roger Fletcher or Ramiens Timber for this or any other purpose, and
 - (c) he has not at any time requested money from Roger Fletcher or Ramiens Timber for this or any other purpose.
- (2) That this House calls on the Honourable Amanda Fazio MLC to withdraw the notice of motion given by her on 8 May 2008.

For the Hon. Amanda Fazio, who is the Deputy President of the Legislation Council, to stand in the House today and say that on no occasion before today had I formally asked for this to happen is an absolute and utter lie. She has simply added to the mistruths that have already been put in this House. Yesterday I gave notice of a motion to be moved on the next sitting day. That means that the Hon. Amanda Fazio had the opportunity to withdraw her motion—a motion that is a blatant and total misrepresentation of the truth. What annoys me more than anything else is that the honourable member's motion is based in great part on a letter that the Chief of Staff in the office of the Minister for Roads asked me to write on behalf of constituents who felt they had been wronged by this Government. When I started asking questions I was asked to put them in writing and to provide a list of the people concerned.

That letter became the basis of articles in the press. This was private correspondence from a member of Parliament on behalf of constituents. A list of the people affected was attached to the letter, and Roger Fletcher's name was not on that list. I knew nothing about Roger Fletcher's problems with his truck. Indeed, as everyone in regional New South Wales knows—that includes Country Labor—Roger Fletcher does not have a trucking company; he has an abattoir at Dubbo. He is one of the most respected people in regional New South Wales by all sides of Parliament. What he did have was a chain of responsibility. He bought a farm. The company he bought the farm from cultivated and harvested a wheat crop. One contractor who harvested the wheat crop was caught overloading his truck, and Roger Fletcher was responsible under the chain of responsibility.

When Roger Fletcher told me about that a couple of weeks ago—I was not aware of this—he said, "Mate, that was my worry. I fought it in the court and I fight my own fights." That is the sort of bloke Roger Fletcher is. Yes, I did ask a question on ovine Johne's disease. I was the shadow Minister for Primary Industries and Roger Fletcher is one of the major people representing the merino industry in New South Wales. I will not allow the Hon. Amanda Fazio, the Hon. Eric Roozendaal or anyone in the Labor Party to stop me from representing the people of regional New South Wales. That is what members opposite are trying to do by making slurs against me. Yes, I did ask a question about Ramiens Timber. I asked that question because I was the shadow Minister for Primary Industries at that time and because Ramiens Timber was concerned that the loss of jobs in Gungahroo Forest would destroy its business. I represented Ramiens Timber. And so I should! And I would do it again tomorrow. I will stick up for those who were caught in that situation with the trucks. It is clear in the letter I sent to the Minister that I did not ask him to interfere in the process. The letter stated:

I do not condone overloading but feel the issue needs to be addressed and a policy position arrived at that recognises the difficulties of grain carriers.

I seek leave to table the letter so that all members of Parliament can read what I wrote to the Minister and what has been misconstrued.

Leave granted.

This situation is unfortunate. It is appalling that during this debate the Hon. Amanda Fazio refused to apologise and continued to slur, join unrelated matters and claim that I had received cash for comments, and that this was done in collusion with the Minister's office, which had asked me to fix something. Frankly, the fact that that behaviour is still happening today should be of concern to the new Premier, who said that he is "drawing a line under the practices of the past" and wants to strengthen his Government's administration. He wants to rebuild the confidence of the people after he received a briefing from the corruption watchdogs in this State. The new Premier is saying one thing, but the same old dog-whistle message is coming from Labor members of this House. They have been caught lying; they have been caught out with a fabric of lies that they tried to perpetrate while I was representing the people of this State. I will not fall over on that fabric of lies, and neither will people like Roger Fletcher.

As a former Deputy President of the Legislation Council—the Hon. Amanda Fazio currently holds the position of Deputy President—I am appalled that the honourable member is totally unrepentant, will not apologise and will not accept that she has done the wrong thing. Not only that; she continued to mislead the House today. Her allegations that I had not said anything and had not corrected the record are totally untrue. The *Hansard* record has been corrected. Not one of the allegations has a skerrick of truth. As I pointed out in my

initial contribution, the fact that the *Daily Telegraph* printed not a correction but an apology should indicate to those who run the bad news stories, the people who run the misinformation from this Government—Bob Carr used to call them the Stasi—that the people of this State are sick and tired of this filth. It is a sorry day, but I will accept the compromise amendment moved by Reverend the Hon. Fred Nile. I will not get an apology from Hon. Amanda Fazio, and that is a sad thing for this House.

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

Amendment agreed to.

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

Motion as amended agreed to.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. DON HARWIN [4.20 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 138 outside the Order of Precedence, relating to general purpose standing committee portfolio allocations, be called on forthwith.

This motion will put in place portfolio allocations to committees arising out of the ministerial reshuffle. It is the necessary first step for establishing a Budget Estimates schedule, which, by consensus, has now been agreed upon. It is therefore urgent as there is only one opportunity other than today before the estimates are due to start. I commend my motion to the House.

Motion agreed to.

Order of Business

Motion by the Hon. Don Harwin agreed to:

That Private Members' Business item No. 138 outside the Order of Precedence be called on forthwith.

GENERAL PURPOSE STANDING COMMITTEES

Budget Estimates 2008-2009: Portfolio Responsibilities

The Hon. DON HARWIN [4.10 p.m.]: I move:

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
 - Roads
 - Ports and Waterways
 - Finance
 - Infrastructure
 - Regulatory Reform
 - The Legislature
 - Treasury
 - Premier
 - Arts
- (b) General Purpose Standing Committee No. 2
 - Health
 - Central Coast
 - Ageing
 - Disability Services
 - Aboriginal Affairs
 - Education and Training
 - Women
 - Community Services

- (c) General Purpose Standing Committee No. 3
 - Police
 - Emergency Services
 - Lands
 - Local Government
 - Mental Health
 - Attorney General
 - Justice
 - Industrial Relations
 - Gaming and Racing
 - Sport and Recreation
 - Juvenile Justice
 - Volunteering
 - Youth
- (d) General Purpose Standing Committee No. 4
 - Transport
 - Illawarra
 - Planning
 - Redfern Waterloo
 - Fair Trading
 - Citizenship
 - Small Business
 - Science and Medical Research
 - Tourism
 - Hunter
- (e) General Purpose Standing Committee No. 5
 - Energy
 - Mineral Resources
 - Primary Industries
 - State Development
 - Climate Change and the Environment
 - Commerce
 - Water
 - Rural Affairs
 - Regional Development
 - Housing
 - Western Sydney.

I do not intend to detain the House but I thank all honourable members for their cooperation in arriving at consensus on this motion.

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

Motion agreed to.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. DON HARWIN [4.20 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 142 outside the Order of Precedence, relating to general purpose standing committee budget estimates schedule, be called on forthwith.

In speaking briefly to this motion, as I mentioned earlier, this is the last opportunity but one to put in place an estimates schedule necessitated by the ministerial reshuffle. The estimates are due to start within the next recess of the House and it is urgent.

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

Motion agreed to.

Order of Business

Motion by the Hon. Don Harwin agreed to:

That Private Members' Business No. 142 outside the Order of Precedence be called on forthwith.

GENERAL PURPOSE STANDING COMMITTEES

Budget Estimates 2008-2009: Portfolios and Hearing Dates

The Hon. DON HARWIN [4.13 p.m.]: I seek the leave of the House to amend Private Members' Business item No. 142 outside the Order of Precedence, standing in my name, in relation to the Budget Estimates schedule, by:

No. 1. Omitting all words after "instead" and inserting instead:

3. That the initial hearings be scheduled as follows:

Day One: Monday 13 October 2008

GPSC1 Roads	9.15am-11.00 am
GPSC2 Health, Central Coast	9.15 am-1.00 pm
GPSC1 Ports and Waterways	11.15 am-1.00 pm
GPSC1 Finance, Infrastructure, Regulatory Reform	2.00 pm-4.30 pm
GPSC2 Ageing, Disability Services	2.00 pm-4.30 pm
GPSC1 The Legislature	4.45 pm-6.00 pm
GPSC2 Aboriginal Affairs	4.45 pm-6.00 pm

Day Two: Tuesday 14 October 2008

GPSC1 Treasury	9.15 am-1.00 pm
GPSC3 Local Government	9.15 am-11.45 am
GPSC3 Mental Health	12.00 pm-1.00 pm
GPSC1 Premier	2.00 pm-5.00 pm
GPSC3 Police	2.00 pm-4.00 pm
GPSC3 Lands	4.15 pm-5.00 pm
GPSC3 Emergency Services	5.15 pm-6.00 pm
GPSC1 Arts	5.15 pm-6.00 pm

Day Three: Wednesday 15 October 2008

GPSC2 Education and Training	9.15 am-1.00 pm
GPSC4 Transport, Illawarra	9.15 am-1.00 pm
GPSC2 Women	2.00 pm-2.45 pm
GPSC2 Community Services	3.00 pm-6.00 pm
GPSC4 Planning, Redfern Waterloo	2.00 pm-6.00 pm

Day Four: Thursday 16 October 2008

GPSC5 Climate Change and the Environment	9.15 am-11.45 am
GPSC4 Fair Trading, Citizenship	9.15 am-1.00 pm
GPSC5 Commerce	12.00 pm-1.00 pm
GPSC4 Small Business, Science and Medical Research	2.00 pm-3.45 pm
GPSC5 Primary Industries, Mineral Resources	2.00 pm-6.30 pm
GPSC4 Tourism, Hunter	4.00 pm-6.00 pm

Day Five: Friday 17 October 2008

GPSC5 Energy	9.15 am-11.15 am
GPSC3 Attorney General, Justice, Industrial Relations	9.15 am-1.00 pm
GPSC5 State Development	11.30 am-1.00 pm
GPSC3 Gaming and Racing, Sport and Recreation	2.00 pm-4.00 pm
GPSC5 Water, Rural Affairs, Regional Development	2.00 pm-4.15 pm
GPSC5 Housing, Western Sydney	4.30 pm-6.00 pm
GPSC3 Juvenile Justice, Volunteering, Youth	4.15 pm-6.00 pm

No. 2. Paragraph 6: insert after "6.00 pm" the words "except on Thursday 16 October 2008 on which day hearings may conclude by 6.30 pm"

By way of background, these two amendments to my substantive motion were discussed and agreed upon by myself and members of the crossbench and the Leader of the House prior to the commencement of today's sittings. They make two changes in relation to the portfolio hearings of the Hon. Ian Macdonald and the Hon. Tony Kelly. The one consequential amendment which follows extends from 6.00 p.m. to 6.30 p.m. the hours for which a committee may sit for one day only, Thursday 16 October 2008. For the information of the House that was at the request of the Hon. Ian Macdonald for the convenience of officers from the Department of Primary Industries, who will therefore be able to return to Orange a day earlier and not incur the expenses of another overnight stay in Sydney, which is sensible. I am sure I speak on behalf of the Opposition and all members of the crossbench and say we were happy to accommodate that. Those are the amendments to my substantive motion that I propose to move by leave.

Leave granted.

Accordingly, I move:

That the resolution referring the budget Estimates and related papers to the general purpose standing committees, adopted by this House on 5 December 2007, and as amended, be further amended as follows:

1. Omit paragraph 3 and insert instead:

3. That the initial hearings be scheduled as follows:

Day One: Monday 13 October 2008

GPSCI Roads	9.15am-11.00 am
GPSC2 Health, Central Coast	9.15 am-1.00 pm
GPSCI Ports and Waterways	11.15 am-1.00 pm
GPSC I Finance, Infrastructure, Regulatory Reform	2.00 pm-4.30 pm
GPSC2 Ageing, Disability Services	2.00 pm-4.30 pm
GPSC I The Legislature	4.45 pm-6.00 pm
GPSC2 Aboriginal Affairs	4.45 pm-6.00 pm

Day Two: Tuesday 14 October 2008

GPSC I Treasury	9.15 am-1.00 pm
GPSC3 Local Government	9.15 am-11.45 am
GPSC3 Mental Health	12.00 pm-1.00 pm
GPSCI Premier	2.00 pm-5.00 pm
GPSC3 Police	2.00 pm-4.00 pm
GPSC3 Lands	4.15 pm-5.00 pm
GPSC3 Emergency Services	5.15 pm-6.00 pm
GPSCI Arts	5.15 pm-6.00 pm

Day Three: Wednesday 15 October 2008

GPSC2 Education and Training	9.15 am-1.00 pm
GPSC4 Transport, Illawarra	9.15 am-1.00 pm
GPSC2 Women	2.00 pm-2.45 pm
GPSC2 Community Services	3.00 pm-6.00 pm
GPSC4 Planning, Redfern Waterloo	2.00 pm-6.00 pm

Day Four: Thursday 16 October 2008

GPSC5 Climate Change and the Environment	9.15 am-11.45 am
GPSC4 Fair Trading, Citizenship	9.15 am-1.00 pm
GPSC5 Commerce	12.00 pm-1.00 pm
GPSC4 Small Business, Science and Medical Research	2.00 pm-3.45 pm
GPSC5 Primary Industries, Mineral Resources	2.00 pm-6.30 pm
GPSC4 Tourism, Hunter	4.00 pm-6.00 pm

Day Five: Friday 17 October 2008

GPSC5 Energy	9.15 am-11.15 am
GPSC3 Attorney General, Justice, Industrial Relations	9.15 am-1.00 pm
GPSC5 State Development	11.30 am-1.00 pm
GPSC3 Gaming and Racing, Sport and Recreation	2.00 pm-4.00 pm
GPSC5 Water, Rural Affairs, Regional Development	2.00 pm-4.15 pm
GPSC5 Housing, Western Sydney	4.30 pm-6.00 pm
GPSC3 Juvenile Justice, Volunteering, Youth	4.15 pm-6.00 pm

2. Paragraph 6: insert after "6.00 pm" the words "except on Thursday 16 October 2008 on which day hearings may conclude by 6.30 pm".

I thank the House for its willingness to consider all these matters at great speed this morning so that we could reach consensus. It is always great when the House comes together and agrees on an important procedural matter such as this, which will enhance our status as a House of review and it is good that all honourable members are in agreement on this matter. I thank those members of the Opposition team who have supported me during several months bringing us to this day and, hopefully, towards a successful round of estimates hearings in a couple of weeks' time. I thank the House.

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

Motion agreed to.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Ms LEE RHIANNON [4.16 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 149 outside the Order of Precedence, relating to a V8 Supercar racing event, be called on forthwith.

I speak to the urgency of the Greens' motion calling on the Government: to reverse any decision taken to date on the V8 Supercar racing event being held at Sydney Olympic Park at Homebush; to justify the Government's commitment to underwrite the event to the tune of \$84 million—\$32 million in the first year and \$18 million for the next three years—so the event can run at a loss for four years; and to instead allocate sufficient funds to an upgrade of Eastern Creek raceway so that it can continue to host the V8 Supercar series and also remain Sydney's premier international motor sports racing venue.

This motion is clearly urgent because of reports today by the ABC indicating that the announcement of a favourable decision on the proposal to stage a V8 Supercar racing series at Sydney Olympic Park is imminent, and confirming that in-principle agreement for the proposal has been given by the Minister for State Development, Ian Macdonald. This matter is urgent for a number of reasons. A key reason is that a large section of the racing car fraternity do not support this race being held at the Homebush venue. Mr Geoff Arnold, Secretary of the Australian Drivers Club, has set out some excellent material to show why it is not wise to hold this race at Homebush instead of Eastern Creek. Clearly it is urgent to consider this matter and Mr Arnold points out the huge amount of time that will be taken up if Homebush is the venue. It is not just the time of the race but it is the set-up and take-down time for the event. A comparison drawn by Mr Arnold helps to inform us about this matter.

In Singapore the set-up takes two months, and take-down six weeks, in Adelaide the set-up is six weeks, the take-down four weeks, and in Albert Park the set-up is six weeks and the take-down is three weeks. This would have a huge impact on the Homebush Olympic Park venue. The Sydney Olympic Park Authority does not support this race going ahead at that venue, in an iconic and wise environmental development that has been carried out with forward thinking. When the plan was first mooted nobody dreamt that the successors of a former Premier, Mr Carr, who was so closely associated with the very fine development of Sydney Olympic Park, would be responsible for ripping apart the place once a year.

We need to debate this matter urgently because of the enormous environmental impact of the event being staged at Olympic Park. The Government and Minister Macdonald either do not understand or have not considered fully or have chosen to disregard these impacts. It is urgent that we debate the social and environmental factors that make the V8 Supercar event so inappropriate for the Olympic Park site. Surely this House should have that opportunity. We know that the public is locked out of the process at the moment as there has been no public consultation process, no opportunity for the public to review the feasibility study and make public submissions, and no environmental assessment of the noise pollution or disruption from the event.

Members should remember that 10 weeks of remodelling will occur at Sydney Olympic Park each year. That will involve the movement of about 1,200 trucks that are required to construct and dismantle the kilometres of track fencing, all for a car race that could be held at Eastern Creek. This is not a question of the V8 Supercar race not going ahead. Eastern Creek is a venue that would encourage safer driving, whereas at Olympic Park the race would effectively be held on the streets of suburban Sydney. Clearly it is urgent that this House be given the chance to debate the merits of wasting \$84 million of taxpayers' money to underwrite the V8 Supercar race at Olympic Park. Or do we look at how much money can be injected into Eastern Creek so that it becomes a permanent home for this race? I urge members to support this motion so we can have some public consideration of this matter. [*Time expired.*]

The Hon. LYNDIA VOLTZ [4.21 p.m.]: Although I appreciate that Ms Lee Rhiannon has concerns about any proposed V8 Supercar race at Sydney Olympic Park, the motion is about whether the debate is urgent. Proposals about V8 Supercar races have been before the Government previously, but a lot of research needs to be done on whether those cars will stack up at a venue, what is the economic benefit to the State and a range of matters need to be decided before we consider whether V8 Supercars should race at Sydney Olympic Park. That is a long way down the track. That is not an urgent matter for this House to consider today. We have a considerable way to go before we can say that V8 Supercars are going to race at Sydney Olympic Park. We should wait until the proposal is finalised, the economic benefits are determined, and we know whether the event will go to that site before we make a decision about whether this is an urgent matter for the House to debate.

The Hon. DON HARWIN [4.22 p.m.]: The Opposition supports urgency for discussion on this motion. I take up the comments by the Hon. Lynda Voltz, who has effectively said that we should wait and see the announced proposal before we have a discussion. It appears that there has been very little consultation and there is a great deal of community concern about this matter, so much so that three local government authorities have already discussed this issue and come to a decision. To suggest that, therefore, this matter is not urgent and that the Legislative Council should not debate this issue is absolute nonsense. I confirm that the Opposition supports urgency for this debate.

Dr JOHN KAYE [4.23 p.m.]: I support urgency on this motion. I acknowledge that the Minister for State Development has said that the Government will not oppose the motion, and will not speak further on this matter.

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

Motion agreed to.

Order of Business

Motion by Ms Lee Rhiannon agreed to:

That Private Member's Business Item No. 149 outside the Order of Precedence be called on forthwith.

SYDNEY OLYMPIC PARK V8 SUPERCAR RACES

Ms LEE RHIANNON [4.24 p.m.]: I move:

That this House notes:

1.
 - (a) that it appears that a Government announcement of a final decision on the proposal to stage a V8 Supercar racing series at Sydney Olympic Park is imminent, despite the fact that there has been no consultation with the community, and no social or environmental impact statement or cost benefit analysis has been produced,
 - (b) that after numerous previous unsuccessful proposals to the Government, the current proposal by V8 Supercars Australia is being supported by the Minister for State Development, Ian Macdonald, whose department has given in principle support for the event to incur State supported losses of \$32 million in the first year and over \$18 million annually for the next three years, a total of \$86 million,
 - (c) that the negative impacts on Sydney Olympic Park and its environs include:
 - (i) the cutting down of approximately 700 trees to accommodate the track,
 - (ii) approximately 7km of concrete blocks and steel capping fencing will have to be transported, assembled and dismantled each time the event is staged, as well as up to 4km of spectator fencing,
 - (iii) some 1,200 truck movements of 25 tonne semi trailers will be required each time the event is staged to assemble and dismantle the track,
 - (iv) loss of amenity for the patrons of Sydney Olympic Park due to the closure and disruption of the park for up to ten weeks each year for track works,
 - (v) excessive noise pollution impacts on the residents of Homebush Bay and Newington during construction and dismantling of the track and during the event, as well as other pollution such as exhaust and oil spills,
 - (vi) an adverse environmental impact on local fauna species, particularly birds,
 - (d) that this proposal represents the hijacking of an iconic community trophy for short term narrow commercial interests, and is totally at odds with the whole of Government sustainability guidelines and the design aims and function of Olympic Park as a world class example of sustainable urban renewal and development,
 - (e) that the proposal has been unanimously rejected by Auburn, Parramatta and Ryde councils and the Sydney Olympic Park Authority, and there is a groundswell of public opposition from nearby residents and patrons of the Park, who have signed petitions and held public meetings, and
 - (f) that there is a more feasible alternative site at Eastern Creek, which has already been used for V8 Supercar racing and where minimal track works would be required.
2. That this House calls on the Government to:
 - (a) detail which departments are involved in the assessment and approval process for the Sydney Olympic Park V8 Supercar event proposal, what plans each department has in place and what stage the proposal has reached,
 - (b) make public any reports prepared or received by government in relation to the event,
 - (c) explain how it can justify the expense and inconvenience of staging this event at Homebush when there is a ready alternative venue at Eastern Creek, and
 - (d) reverse any decisions of support taken to date, and instead allocate sufficient funds to upgrade Eastern Creek raceway so it can continue to host a variety of motor racing sports.

I appreciate that the House has supported debating this matter now and has recognised that this is a matter of urgency. I have brought it on in response to a report on the ABC that seems to have come from the Minister for State Development, the Hon. Ian Macdonald, in which he said that he finds it hard to understand some of the opposition to the supercar race on environmental grounds. The Minister suggested that a decision on this matter is imminent. I look forward to hearing his contribution to the debate. When I was explaining why this matter is urgent I said that this is not a debate about not having V8 Supercar races; that is not the issue. It is about the venue. An alternative venue is available in the western suburbs. I have been in contact with Geoff Arnold, President of the Australian Racing Drivers Club. He has set out a very clear case for why it would be wiser to hold the V8 Supercar race events at Eastern Creek. Some issues are financial and one big issue is of creating a permanent home. Wider benefits could follow from using wisely the money raised at the events and locating the race at Eastern Creek. Referring to the Australian Racing Drivers Club, Mr Arnold said:

The ARDC calls on the State Government to make Eastern Creek a priority in its feasibility study regarding V8 Supercar racing. A \$30million investment each year in a street race would be far better directed to a permanent complex where the benefit can be felt year round.

Eastern Creek is owned by the State Government. It is in the government's best interest to invest in it, before spending funds elsewhere.

The benefits of Eastern Creek to NSW tourism can arguably be as great as those if a race were held at the Olympic Park complex. Eastern Creek's greater benefit is in driver training, and looking after the youth of the region. Its benefits extend substantially past a once-a-year event.

The cost of a street race would be \$30 million in the first year and around \$30 million every year after for setup and teardown.

Mr Arnold has made a number of important points, particularly about the benefit in driver training. I have had a couple of radio debates with Minister Macdonald about this matter and I was surprised that he tried to make out that holding the race at Homebush would be a way to educate young drivers. That is actually the exact opposite of how it works. I have read about this and heard from my colleagues in Adelaide, and people in the racing industry have since underlined it. When streetcar races are held, such as the one held in Adelaide some time ago and the one held in Melbourne, the number of deaths of young men leaving the event and driving home increases because they are revved up. They race away and are involved in tragic accidents.

The facility at Eastern Creek can be used year round for safe driving practice. I cannot emphasise that point enough! Other material supplied by Mr Arnold underlines the huge waste that will occur if the race is held at Homebush. That would result in a whole host of environmental issues, particularly as it was supposed to be a world-class ecologically sustainable precinct. For a supercar race, large sections of roadway would need to be ripped up and many trees removed, and we have all heard about that. A large amount of equipment would have to be trucked in and trucked out every time a race is held. The material from Mr Arnold operates on the assumption that a 3.5 kilometre circuit requires barriers on both sides of the track and a pit entry and exit. That is the standard practice used on the Gold Coast and elsewhere.

Also, seven kilometres of concrete barriers would be required, and each barrier would be approximately four metres in length and weigh at least four tonnes. That equates to 1,750 barriers or 7,000 tonnes of cast concrete. That will result in a huge number of truck movements. The waste would be excessive. Mr Arnold calculated that there would be a total of 303 loaded semitrailer movements onto the site and everything would be repeated in reverse to get the equipment onto the site. It is not just the concrete barriers that are needed as steel fabrication is needed for the big fences. The venture is excessive and wasteful. A huge amount of money would have to be pumped into the event, year in, year out. Remember that no profit will be made in the first few years. I hope that the Minister for Primary Industries will inform the House of his association with the people behind this push to hold the race at Homebush. During a radio interview he acknowledged that a principal player was a friend of his—

The Hon. Duncan Gay: No, he is a decent fellow.

Ms LEE RHIANNON: The Minister acknowledged that he was very close to this person and, when I challenged him about that association, he asked, "Well, what's wrong with that?" Everybody is entitled to have friends, and we develop our friendships—

The Hon. Ian Macdonald: You have some people mixed up.

Ms LEE RHIANNON: No, I have not. I look forward to the Minister clarifying the situation and explaining honestly how the process will work. The public deserves the right to scrutinise and debate the cost

benefit analysis of holding this race at Sydney Olympic Park before a final decision is made. The Greens are extremely concerned about the way in which the Government is handling this proposal. The public has been locked out yet again, which is why we have brought on this debate today. News that the Sydney Olympic Park Authority found the proponent's budget figures were inaccurate and underestimated the true cost of the event underlines why the project deserves careful scrutiny. I understand that not one member of the authority supports holding the race at Homebush. That speaks volumes. Authority members were working on future uses for the park when suddenly they heard about the Minister's proposal. We must ensure that this debate is brought to the attention of the new Premier, Mr Rees. He makes out that this is a new government and that he is using a new broom to sweep it clean. This should be the first project that falls off the table and into the rubbish bin. The Government claims it has financial problems—although that assertion has been challenged—and we need more money for public transport and a range of other public services. Therefore, this project should certainly not go ahead.

It is also interesting to recall that the former Premier was not totally supportive of the proposal. He seemed to come on board only in the latter days of his leadership, when he was running into problems. In September 2006 former Premier Iemma rejected the V8 Supercars Australia proposal, saying that the event was too expensive at a time when spending was necessary on essential infrastructure. I ask members on both sides of the House: What has changed? The only difference is that spending on essential infrastructure has become more urgent. The public deserves to know what has changed other than the Government's increased thirst for a story to divert attention from its woes. I put it to the Premier and his other Ministers—I have no faith that the Minister for Primary Industries will change his mind because he has locked onto this project—that the project will not divert attention from the Government's woes but will focus more attention on them.

It is wasteful to spend millions of dollars on infrastructure that will be ripped down every year when the event could be held a few kilometres away at Eastern Creek. That world-class facility benefits not just the racing car fraternity but young people who clearly need to learn safe driving practices. We must remember, too, that the costs will spiral higher and the benefits will be minimal. Many overseas precincts have stopped holding V8 Supercars races on street venues. I understand that big V8 Supercars events are held currently at Bathurst, Melbourne, the Gold Coast and Adelaide. In December 2007 the Queensland Government knocked back a V8 Supercars pitch to hold a street race in Townsville. The Canberra experience is very interesting. The staging of the V8 event in Canberra from 1999 was expected to produce significant economic benefits for the Australian Capital Territory, but instead it led to a net loss of more than \$11 million over three years, which resulted in the event's abandonment.

[Interruption]

The Minister interjects to say that the event in Townsville is going ahead. Perhaps Queenslanders are not as bright as we had hoped and are still making the same fundamental mistakes as the Minister. There is no justification for holding the event at Homebush. Research and experience reveal that V8 Supercars events can be a financial drain on the host city, with costs spiralling out of control and recurrent funding required. I note that the Minister is scowling.

The Hon. Ian Macdonald: That is not the experience. Look at the economic model in South Australia.

The Hon. Duncan Gay: Why did they move it in Surfers?

Ms LEE RHIANNON: Thank you, Mr Gay. The Canberra experience speaks volumes. A sizeable section of the racing fraternity want the event to be held at Eastern Creek. That would save money and deliver a better project. How can the Minister argue against that? Research into these events reveals that the costs are more than the economic and tourism benefits gained. I expect the Minister will produce figures to show that the event will boost the economy by millions of dollars. Similar claims were made about the Asia-Pacific Economic Cooperation conference and World Youth Day. But where is the proof? Where is the analysis to show that the economy will benefit and that the Minister has not simply plucked a figure out of the air to justify continuing with a project that is clearly in trouble? Experience also shows that these events can result in less than expected job creation and smaller attendance figures.

Furthermore, media coverage is usually focused on the track, not the city. That is important because one of the selling points often advanced by people who, like the Minister, get hooked on big projects is that it is a way to sell our city to the world—think of all the wonderful media coverage and priceless television footage. But consider how similar events are often promoted overseas. The camera work focuses on the track, the race,

the drivers and the spectators; there are no views of the beautiful city or the venue. As I said before, research reveals that street racing promotes drink driving and speeding around the time of the event. I challenge the Minister to make a link with the terrible, tragic deaths of young people in illegal street races. There was another accident last night. This is a complex issue. Young people in particular like to race cars and, as a society, we must determine how this can be done safely. An event such as this is bad news financially and environmentally, and encourages bad driving practices. I urge members to support the motion.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.38 p.m.]: The Opposition supports the motion. I come to this debate from a different perspective from that of Ms Lee Rhiannon, who is not concerned about motor racing. I am a motor racing supporter to my bootstraps.

Dr John Kaye: That is a bit unfair.

The Hon. DUNCAN GAY: She spoke about the venue and her concerns about the effects of motor racing. She certainly did not wholeheartedly support motor racing.

Dr John Kaye: This is about street racing.

The Hon. DUNCAN GAY: Do the Greens want our support on this motion? Opposition members support the move to Eastern Creek, but that venue needs a great deal of work. Eastern Creek was developed to host the 500cc Motorcycle Grand Prix. The bigger bikes do not race in the Motorcycle Grand Prix, just as the bigger cars do not race in Formula One race events. Members would be aware of the Indy street race that is currently held at Surfers Paradise.

Some of the problems that I see many of the teams have with street circuits are the tightness of the courses and the cost of repairs. The Indy street race at Surfers Paradise no longer counts towards the V8 Supercar championship. The V8 Supercar race, an outstanding formula-based race, has been developed on the rivalry between Holden and Ford. It is a handicap event—a bit like the Melbourne Cup really. Australians do not like people to have an edge over other competitors in any of our sporting events. Organisers of the V8 Supercar race have been careful to ensure that the performance capabilities of all vehicles are equal, so that it becomes a test of one's driving ability. Over the years we have had some outstanding drivers in this series—Dick Johnson, Craig Lowndes, the Kelly boys, the "Enforcer" and Craig Baird. There has been a good mix of drivers.

It is important that the event be moved from Homebush Bay to Eastern Creek, as we do not need another street circuit; there are more than enough street circuits as it is. Sydney once had numerous race circuits, for example, Oran Park, Catalina Park and Warwick Farm. In the late 1960s I remember going to Warwick Farm to watch Leo Geoghegan, Stormin' Norman Beechey and other boys slipping through Creek Corner. I remember the Phantom Bugler. That was car racing at its purest.

The best thing for the people of New South Wales would be not to waste money each year putting yet another street circuit in place but to spend that money on Eastern Creek. As I indicated earlier, the Eastern Creek circuit was developed basically for motorbike racing. It is not an ideal spectator circuit for the "tin tops", in particular the V8s, and I concede that it needs some work done to it. I am sure that the Minister will say that the circuit is not ticking over as it should, and he will probably try to shift the blame to the Coalition because we established it when we were in government. I supported it then and I still support it.

The Hon. Ian Macdonald: It is a bike track.

The Hon. DUNCAN GAY: It is a bike track, and that is why it needs money spent on it to make it a proper car track. At the moment Formula 1 is looking for a new home, but I realise that this venue is not ideal. I do not know whether the Minister is brave enough to negotiate with Formula 1 about that. I would not recommend that he do so, because he would have to pay an arm and a leg to get anything from Bernie Ecclestone. The key issue relating to Eastern Creek is its development. We require a permanent solution and money must be spent to develop that circuit.

An enhanced track would facilitate the training of young drivers. Today we were reminded of this Government's tough stance on L-plate drivers. Our young people need proper training. They do not need advanced driving courses; rather they need to be trained to drive defensively and they need proper training in the handling of a car. Rather than making them and their parents criminals by making them drive hundreds of hours

on our already clogged roads during holiday breaks, the Government should be developing venues such as Eastern Creek to facilitate that learning. Money would be better spent on enhancing an asset we already have rather than blowing it on additional circuits. This Minister likes circuses and the chardonnay set. I know he does not like drinking chardonnay—he has moved on from that—but he likes the odd circus. Having the V8 Supercars and Mr Cochrane's mob at Homebush Bay is too much for him to resist. However, it is the wrong move for the community and for motor sport.

The right move would be to provide money for an enhanced raceway at Eastern Creek and remove the problems confronted by the Confederation of Australian Motor Sport Limited [CAMS] and the Australian Racing Drivers Club [ARDC] at Eastern Creek. People like Colin Bond, who had to adjudicate on all these issues last year, do not need such hassles. The Opposition supports the motion moved by the Greens.

As I indicated earlier, we have a slightly different view on motor racing than that espoused by the Greens, although Dr John Kaye has assured me that he is a great fan of motor racing. I have been led to believe that the Greens are the greatest petrol heads in this House! In situations like this one's enemies become one's friends. This important racetrack must be improved. Frankly, the Government has pulled the wrong rein in relation to this issue, and that is wrong for the sport, for the community, and for the training of our future drivers. I indicated earlier that we had lost all our car racetracks. Catalina Park and Warwick Farm have gone and Oran Park is about to be sold off for housing. The only venue that is left has to be enhanced. Such a multimillion dollar investment would convey an important safety message if it were done properly.

The Hon IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [4.46 p.m.]: That was an interesting approach by the Deputy Leader of the Opposition, given that the greatest advocate for this proposal has been the Opposition. On 13 December 2006 the Opposition released a statement pledging that a Coalition government would hold a V8 Supercar street race at Sydney Olympic Park. The then Leader of the Opposition said that, if elected, he would contribute around \$14 million in startup costs for the race and around \$3 million in annual funding. He went on to say that he would inject at least \$100 million of new income into the New South Wales economy over the next five years and create 260 jobs. He said:

I want the V8 Supercar race at Sydney Olympic Park to become as big as the Bathurst 1000 and the Indy 300 on the Gold Coast. The Bathurst 1000 race adds \$40 million to New South Wales economy and I would hope to replicate that over time.

It was interesting to hear the Opposition's changed approach. I propose to deal with the motion—something the Deputy Leader of the Opposition did not do. It seems he is happy to support it, regardless of what is in it. He has not dealt with the matters on which we are being asked to vote, which are distinct from his sentiments about whether the Homebush Bay site is appropriate for street car racing. On 19 July the V8 Supercar organisation wrote to the management of Eastern Creek and made it clear that it would not again be going to Eastern Creek. Its reasons for that were numerous—not just the fact that as a motorcycle designed track Eastern Creek is completely inappropriate for car racing. Promoters of all racing forms have had enormous difficulties at Eastern Creek because of inadequate transport services to the site. Anyone who has attended a significant event at Eastern Creek would know the difficulties associated with that.

The Hon. Duncan Gay: It is the same at Homebush Bay as it is at Eastern Creek. Come on!

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition should let me make my contribution without interruption. I did not interrupt him.

The Hon. Duncan Gay: You are talking to the shadow Roads minister.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition is showing his ignorance as a shadow Roads minister; I think he should be quiet. One of the great virtues of Homebush Bay is that it has a railway station servicing the site. There is also the bus network and ample car parking. Its very central location has meant that crowds of up to 100,000 and more attend events there, particularly during the Olympics—I think even recently there were double events that attracted those sorts of numbers.

The Hon. Rick Colless: The Swans only got 20,000 to their last game.

The Hon. IAN MACDONALD: Yes. It was a pretty sad, wintry, wet night, unfortunately, but the Swans won the game. On one evening around that time the area was able to cope with both a Bledisloe Cup match and a major function at Acer Arena, attracting a combined crowd of around 100,000, we believe. That

crowd dispersed very quickly, precisely because of the magnificent transport advantages of this site, which enable people to get away efficiently and effectively, mostly on public transport. That is part of the reason why this Homebush Bay proposal is before us. Eastern Creek has clearly failed to attract significant crowds—people know what a disaster area it is—and there are significant difficulties in getting to and from that site.

I now refer to paragraph 1 (f) of the motion. The point about Eastern Creek is that if we are to bring it up to scratch for this type of event, we will have to spend, it is believed, in the order of \$125 million. If we were to be a little more fanciful, and do as the Hon. Duncan Gay did and bring Formula 1 racing into calculations, it would require a spend in the order of \$400 million—because one of the core requirements of Ecclestone and Co. is an embedded track, not a street track, and they would require a stadium that seats about 50,000 people. The track works would be massive to make it suitable for that type of vehicle. In addition to that, Victoria has just signed a new five-year agreement with F1 for a total of \$250 million. So to get Eastern Creek up and running for that event, we would have to think in terms of spending \$650 million, and that is the figure in today's dollars. It would require outbidding Victoria in 2015 after the end of its next five-year agreement plus bringing that track up to scratch.

Homebush is not suitable for a grand prix at F1 level either, in my view. It would require a massive spend on the track alone, let alone the moneys to successfully bid on what organisers call their fees for service, that is, supplying the event to the State. Paragraph 1 (f) of the motion is completely inappropriate given the fact that the group has indicated they are not going there anymore and because there will not be such an event in Sydney as Oran Park is closing, as the Hon. Duncan Gay mentioned. It is the final race this year and there will not be an event next year unless it is at Homebush Bay. It is all done and finished.

I will just run through some aspects of the resolution. There has been significant consultation, particularly with the affected businesses. The Sydney Olympic Park Business Council has supported this proposal and has made that clear. The major organisations—the stadium, Acer, the RAS, Accor—

[Interruption]

I am talking about the businesses that operate there and have to survive there, not the land management group. They have all supported it. That deals with paragraph 1 (a). In paragraph 1 (b) a series of statements are made about the event incurring State-supported losses of \$32 million in the first year and over \$18 million annually for three years, a total of \$86 million. Where these figures have been dragged from is beyond my imagination. I cannot work out where those figures have been grabbed from because the capped figure the Government was talking about was in the order of \$25 million over five years, and that included the initial capital outlay and a provision for the services each year.

The Hon. Duncan Gay: In the order of \$25 million? You are joking! That is rubbish.

The Hon. IAN MACDONALD: That is the capped figure. Paragraph 1 (c) refers to the cutting down of approximately 700 trees to accommodate the track. That is not the case. The proposal has been amended and only 120 trees will be affected. In the main they will be relocated. They consist mainly of Manchurian apple trees—a North Asian species, not a native. Where possible they will be relocated. In relation to the concrete blocks and steel fencing and capping, yes, some infrastructure will have to be brought in—as is the case with all street races, whether Clipsal or Indy or some other street venue. Street venues seem to be very popular indeed in the world of racing. That is why F1 has stayed in Melbourne, apart from the incentive of \$250 million, because they have got a street race. They want it.

There will be no road closures, although there will be partial road closures during the initial construction in the first year. There will be very little disruption in the future in the bump-in and bump-out periods. That has been dealt with at great length. In relation to the noise impact on residents, I point out there are 6,000 residents living in sight of the Indy track at Surfers Paradise and each year the residents who want to be there because they love the event remain there, and those who do not want to stay make quite an amount of money by renting out their properties.

Homebush is an events site; it was purpose built for events. We already have various types of activities conducted there: Hilux cars and trucks belt around the RAS track. Motorbike sports are held there and it is proposed to bring motocross there next year. The site needs further significant activity to take advantage of the fantastic infrastructure to which I have referred, such as the transport facilities. I do not believe that car racing has requirements that are different in reality from those of other sports that use the site. The event can extend over three days once a year at this wonderful site, and its amenities can be used in diverse ways. The motion contains many inaccuracies and misleading statements.

I make it very clear that this sport has massive public support. It is the third most watched sport on Australian television. On average, on a Sunday the events attract an audience of about 2.2 million people across the nation. Surveys that have been conducted in Sydney show that something like 25 per cent of the population actually follow this type of sport and can, when asked, name most of the key participants and relate something about the history of the sport. I am sure it would enjoy incredible popularity west of the inner city and would have great support in the western areas of New South Wales. It is quite appropriate that the Government support sporting events that capture the interest—

The Hon. Duncan Gay: No-one is criticising your support of the sport. It is the location.

The Hon. IAN MACDONALD: The location is perfectly appropriate. A number of interstate people think it is an absolutely ideal site for the race. On the issue of whether or not such an event makes money, I cite reports on events over the past two years for which figures are available. The economic benefit of the Clipsal was \$26 million in 2005 and \$26.9 million in 2006, and the total Indy benefit in 2003 was \$50 million. These events attract substantial support that in turn translates to government support. A new track is being built in Townsville, Queensland, for an event that will be held in the middle of next year. It is a partially street-based track. The Federal Government has contributed \$25 million and the Queensland State Government also has contributed \$25 million. The Queensland State Government is investing substantially in that track in Townsville.

The Hon. Duncan Gay: How come it is costing them \$50 million and you can do it for \$5 million? They are rubbery figures.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition makes a good point. I am glad he is present in the Chamber because his comments give me the opportunity to further develop the argument. A large part of the additional cost of the Townsville circuit is attributable to the permanent pit-stop-cum-function centre. The costs escalated because both governments required the proponents to ensure that the circuit's buildings could be used as permanent training centres throughout the year. The circuit will involve permanent structures, but the New South Wales proposal does not encompass having permanent structures in place, other than alterations to the track.

The Hon. Duncan Gay: That means you will have to rebuild it every year.

The Hon. IAN MACDONALD: But that is easy. We rebuild stands and regularly put them up and take them down. We weave in and out of temporary barriers in one form or another everywhere throughout Sydney.

Pursuant to resolution debate interrupted.

Leave granted on the request of Ms Lee Rhiannon that debate on the interrupted business continue.

Debate resumed.

The Hon. IAN MACDONALD: The other States have been not so coy about this. As I have illustrated amply, they support and in some cases own the event in their State. The Clipsal and the Indy require very little in the way of permanent structures whereas other circuits, such as at Bathurst and Townsville, will have permanent structures. I find the Deputy Leader of the Opposition's attitude on this topic amazing. The proponents have made it clear that they will establish a substantial program of driver training that will involve their main drivers. That will be conducted in and around Sydney at appropriate schools.

The Hon. Duncan Gay: It is for one day a year. You are talking about every day of the year.

The Hon. IAN MACDONALD: There will be a longer lead-in time than one day. Let me examine the success of these events. Early in the first quarter of the year, the first race was held in New Zealand at Hamilton. The Auckland burghers knocked it back because they could not make a decision to support it. Obviously, Hamilton grasped the nettle. Hamilton is a city with a population of 100,000. The race was attended by 176,000 people over three days and was a great success. The Auckland authorities copped a shellacking from the media throughout the country for not attracting the event to Auckland.

This document contains a lot of exaggeration, is very unfair in its approach to this event, and does not take into account its value to Sydney. Economic benefit analysis reveals that the gross State product will increase by approximately \$110 million over five years, that there will be 30,000 additional hotel visitor nights in Sydney each year, that \$1.1 million will be received directly from payroll taxes, and that the equivalent of 110 full-time jobs will be created. The current proposal is much more rigorous and tighter than previous proposals. Objections by a number of unsupportive organisations have been examined in great detail. The Government and I believe that this event will be a powerful attraction on the events calendar and will attract tens of thousands of people. The Homebush site is ideal and has all the advantages of public transport. I believe the proposal represents an event that will be enjoyed by hundreds of thousands of people in the State who are enthusiastic supporters of motor sport. I reject the motion and call on members to join me in voting against it.

Dr JOHN KAYE [5.05 p.m.]: I support the motion, but before outlining my reasons I make it clear that I am not a fan of V8 Supercar racing or any other form of motorcar racing. However, I do not deny people the right to enjoy sport. The key motivation behind the debate is not about whether V8 Supercar racing is good or bad. That is not the issue. The issue is whether or not it is sensible to have supercar street racing at Homebush when, with medium investment, the event could be held appropriately at Eastern Creek.

[Interruption]

That was very unparliamentary language.

The Hon. Robert Brown: I apologise. I was carried away.

Dr JOHN KAYE: It does not worry me. The State is at the point of making a major error. A bad decision not only will cost real money but also will inflict unnecessary damage on Eastern Creek. We have a purpose-built facility at Eastern Creek for motorbike racing. Investment in the Homebush site is estimated by the Minister to be \$125 million—although I challenge the Minister to produce the documents proving that it will be \$125 million. With an investment of \$30 million in improvements to Eastern Creek, it would become a perfectly acceptable facility for V8 Supercar racing. More importantly, we will have a permanent facility involving no dismantling or setting up.

The major problem associated with V8 Supercar street racing is the set-up cost. A 3.5 kilometre track involves 7 kilometres of security fencing, 7 kilometres of concrete blocks and 7 kilometres of steel fencing caps on top of the blocks that will require 1,212 25-tonne semitrailer movements in and out of Homebush. That estimate does not take into account marquees, amenities for spectators and so on. But if the event were held at Eastern Creek, there will be no heavy vehicle movements to and from the site. However, assessing the suitability of a site goes beyond those considerations.

Eastern Creek already has stadiums. With further investment in modifications, it would be an appropriate facility for large crowds. With the right type of stadium design, 60 per cent of the raceway will be visible from the stadiums at any given time, whereas with street racing spectators are lucky to see 6 per cent of the raceway or one-tenth of the race that they would otherwise be able to see from a purpose-built stadium. It is totally unfair to spectators to force them to go to Homebush Bay when all they will see is 6 per cent of the race whereas, if the event is held at Eastern Creek, they will see 60 per cent of the race.

The Minister first estimated a cost of \$125 million to reconfigure Eastern Creek but then, in a high-speed flight of fancy, his estimate of the cost of holding Formula 1 races at Eastern Creek was \$400 million. If we wanted to land a space shuttle at Eastern Creek, that would probably cost \$4 billion! The point made by the Minister is simply not relevant. No-one is talking about Formula 1 racing. We are debating V8 Supercar racing. We challenge the figure of \$125 million. The Australian Racing Drivers Club says that the cost is about \$30 million. Interestingly, that \$30 million is more or less the cost of one set-up and take down of the race at Homebush Bay. Street racing does not have a great track record.

The Hon. Robert Brown: That was a good pun.

Dr JOHN KAYE: A good point, thank you. I urge honourable members to look at the report of the Australian Capital Territory's Auditor General on street racing in that territory. It lost about \$11 million in the last year it ran street racing. New South Wales stands to lose about \$32 million in the first year street racing is held at Homebush Bay, and about \$18 million each year thereafter. At a time when the Government claims that the budget is in crisis, why on earth are we wasting \$32 million on a set-up and take down that we simply do not

need to inflict on ourselves every year? The Minister needs to pay careful attention to the voices of members of his own party. I understand that prior to the last election Barbara Perry, the local member—she is also a Cabinet colleague of Minister Macdonald—distributed a leaflet stating that she was opposed to street racing at Homebush Bay.

I understand that the putative next member for Ryde, Nicole Campbell—she is a Ryde councillor and the environment manager at the Sydney Olympic Park Authority—has expressed opposition to V8 Supercar racing. The Ryde by-election will be interesting when it comes to V8 Supercar racing. The Minister has described those opposed to V8 Supercar racing as having some kind of religious bent or commitment against V8 Supercar racing at Homebush Bay; yet the putative Labor candidate for the seat of Ryde is on the record as being a member of that religious affiliation. It will be interesting to see what role the Minister plays in the Ryde by-election. Will he turn up and stand side-by-side with Nicole Campbell and Barbara Perry, and have the courage to have a public debate?

The Hon. Marie Ficarra: That's never going to happen.

Dr JOHN KAYE: I do not think it will happen, either. It is an act of grotesque dishonesty on the Government's behalf. On one hand it is rushing this legislation through; on the other hand the Government has preselected a candidate for the seat of Ryde who rightly opposes this proposal. It is alarming that we are committing the State to one-off expenditure of \$32 million and ongoing expenditure of about \$18 million each year after a deal was done behind closed doors without any public debate. The Minister's public statements show that he is completely committed to this, regardless of the evidence. There has been no public documentation and no public discussion of the costs or the benefits of hosting this race elsewhere, particularly at Eastern Creek.

The Australian Racing Drivers Club, which runs Eastern Creek for and on behalf of the State Government, is extremely enthusiastic to have the money spent to reconfigure Eastern Creek to host V8 Supercar racing on an ongoing basis. This would be a massive saving to the State in the long term: the investment would provide ongoing benefits to the State, increase the capital value of the State and in the end provide a much better spectator experience for V8 Supercar racing. There can be no arguments, other than those conducted behind closed doors in secret deals between the V8 Supercar racing club and the Government, that V8 Supercar racing should not be hosted at Eastern Creek.

Ms LEE RHIANNON [5.14 p.m.], in reply: I thank members for contributing to this debate. It was interesting to hear the Minister's arguments and omissions, but I shall deal with some of the points he made. He said that driver training and safety would work well at the Homebush Bay venue. Let us remember that Eastern Creek is a year-round venue, which means that driver training and safety issues in terms of how young people handle cars could be dealt with year-round. Clearly, there is a much greater opportunity for driver training, particularly for young people of the region, if V8 Supercar racing is held at Eastern Creek.

It is interesting that the Minister did not talk about the jobs that would be generated by this project. Is it not a standard argument by Labor that the project will bring more and more jobs to this area? The Minister failed to say that; he is starting to learn that he must be careful about how much he fudges an issue because he is being exposed for doing that. Eastern Creek would be a much better investment in creating jobs for the region. The employment opportunities during reconstruction and with permanent staffing at an Eastern Creek enhanced venue would be considerable. That is another good reason that Eastern Creek should host the V8 Supercar racing.

The Minister argued about public transport—how to get hundreds of thousands of people to Homebush. It is true that at present Homebush is more suitable than Eastern Creek, but that can be turned around. It would be easy to provide greater bus access to bring people from the Blacktown transport interchange and, as members know, the M7 ring-road is close to Eastern Creek. So the argument that public transport to Homebush is better can be easily demolished. Eastern Creek currently hosts the V8 Supercar racing and should continue to do so, with Government support. Eastern Creek is owned by the State Government, and it is in the best interests of the State Government and the people of New South Wales for the Government to invest in that centre.

Eastern Creek is already profitable and makes a strong contribution to Sydney and its immediate precinct. I understand that in 2009 the Australian Racing Drivers Club will pay the New South Wales Government more than \$600,000 in rent for that venue. I understand, from everything I have been told, that Eastern Creek is well managed. Investment in Eastern Creek, as the Greens are urging, is not speculative, which is what investment in the Homebush venue is. Investment in Homebush is a complete unknown in how any public money would come back to benefit the people of New South Wales. Therefore, I argue that the benefits of Eastern Creek to New South Wales tourism are much greater because it is a year-round venue.

It is important to remember what is happening at Eastern Creek at present. The Australian Racing Drivers Club [ARDC] has commissioned Apex Circuit Design, one of the world's leading race circuit designers, to develop a master plan for Eastern Creek to move it into the future. The ARDC has provided \$350,000 for that project. On one hand the ARDC is investing money to develop Eastern Creek so that it can become a world leading circuit; on the other hand the Government is turning its back on a government-owned centre and investing in a temporary speculative project at Homebush. So much of this simply does not add up. Members should remember that the Sydney Olympic Park Authority board has twice rejected the proposal, and three neighbouring councils have voiced concerns. One must ask: how silly is the Government to proceed with this project and vote against this motion on the eve of the Ryde by-election? Is the Government on a kamikaze mission? It is difficult to understand what is happening. Is the Minister following in Mr Costa's footsteps? At times he has modelled himself on the former Treasurer. When he puts forward these ludicrous schemes he is failing to be loyal to his Government.

In the debate the Minister also failed to explain his relationship with Tony Cochrane, which I imagine will come forward in time. It is interesting to read some of the remarks of Mr Cochrane, Chairman of V8 Supercars Australia. When he talked up this event I was reminded of the many conversations I have had with the Minister during the years when he pulled figures out of the hat to try to win an argument. When one knows the reality he often can be caught out. Perhaps that is what he has in common with Mr Cochrane. Extraordinarily, Mr Cochrane said that a record 22 million Australians tune into the V8 Supercar championship series. That is a fair number and makes one wonder when the Australian population is 20 million how he arrived at that figure.

The Hon. Robert Brown: There is more than one race.

Ms LEE RHIANNON: Yes, precisely. Mr Cochrane has seriously misrepresented Australia's official source of television audience measurement, OzTAM, by using it as the cumulative total of the people watching the event. One person may watch V8 Supercar races 20 or 30 times during the weeks they are held, and each time it is counted as an individual hit to portray a huge following of V8 Supercar street races. V8 Supercars Australia actually boasted "a 25 per cent hike in total viewers across Australian metropolitan and regional markets ... with a return of touring car racing to the 7 network last year after its decade on the 10 network". Mr Cochrane claims a 20 per cent increase in the number of people who watch supercar races on television. Motor Sport has analysed the figures and found that after eight rounds of V8 Supercar racing in year two on channel 7 the audience actually retreated by about 14.2 per cent, based on reports from the media agency Mitchell, the same agency V8 Supercars Australia quoted when making its 22 million viewers announcement in 2007. Those seriously dodgy figures should not be relied on. I query a lot of Mr Cochrane's statements.

It must be remembered that holding street racing at Olympic Park is at odds with the original vision for the site of the Olympic Games in its post-development period. It was certainly not what Mr Carr promised at the time. The current master plan and the new draft plan promote the site as an environmentally sustainable town centre for residents, businesses and local workers. That would not be possible with this V8 Supercar event. Who does the Minister for Primary Industries consult? He does not get past the business community, which should be consulted, but so should a lot of other stakeholders, particularly the residents and the community in surrounding areas. I urge members to support my motion as it will send an important message to Premier Rees to do the right thing for the people of the Homebush area, his own party and to manage the budget wisely. He should not go on a suicide mission with such a ridiculous project.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 18

Mr Ajaka
Mr Clarke
Mr Cohen
Ms Cusack
Ms Ficarra
Mr Gallacher
Miss Gardiner

Mr Gay
Ms Hale
Dr Kaye
Mr Khan
Mr Lynn
Mr Mason-Cox
Mrs Pavey

Mr Pearce
Ms Rhiannon

Tellers,
Mr Colless
Mr Harwin

Noes, 20

Mr Brown
Mr Catanzariti
Mr Della Bosca
Ms Fazio
Ms Griffin
Mr Hatzistergos
Mr Kelly

Mr Macdonald
Reverend Dr Moyes
Reverend Nile
Mr Obeid
Ms Robertson
Ms Sharpe
Mr Smith

Mr Tsang
Ms Voltz
Mr West
Ms Westwood
Tellers,
Mr Donnelly
Mr Veitch

Pair

Ms Parker

Mr Roozendaal

Question resolved in the negative.

Motion negatived.

HOME BUILDING AMENDMENT BILL 2008**CHILD PROTECTION (OFFENDERS REGISTRATION) AMENDMENT 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. John Hatzistergos agreed to:

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

Bills read a first time and ordered to be printed.

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

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Notice of Motion No. 1 postponed on motion by the Hon. John Hatzistergos.

**CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ENFORCEMENT
AMENDMENT (ADVERTISING) BILL 2008**

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

Second Reading

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [5.33 p.m.]: I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Classification (Publications, Films and Computer Games) Enforcement Act 1995, to ensure that future requirements imposed on the advertising of unclassified films and unclassified computer games will be enforceable in New South Wales. These are technical amendments that are necessary to complement amendments to the Commonwealth classification legislation. Before I address the provisions of the bill, it is appropriate for me to provide some background regarding the National Classification Scheme, and the recent Commonwealth amendments. The scheme for the classification of films, publications and computer

games in New South Wales is part of a national, cooperative scheme, which commenced operation in 1996 with the support of all Australian jurisdictions. The Commonwealth Classification (Publications, Films and Computer Games) Act 1995 establishes the classification authorities—the Classification Board and the Review Board—and provides the framework for the administration and making of classification decisions.

All Australian States and Territories have enacted legislation that sets out offence provisions to enforce the classifications of products under the Commonwealth Act, and to place appropriate restrictions on the sale, exhibition and advertising of films, publications and computer games. The New South Wales legislation is the Classification (Publications, Films and Computer Games) Enforcement Act 1995. New South Wales Police are responsible for enforcing this legislation. I move now to the recent amendments to Commonwealth classification legislation.

Currently, Australian State and Territory enforcement legislation makes it an offence to advertise an unclassified film or computer game. However, some limited exceptions do exist for cinema release films. Due to increasing concerns about piracy, and rapid advances in technology, films and computer games are now often available for classification only very close to their release date. As such, the current classification laws place significant regulatory limitations on marketing these films and computer games prior to their classification. To address this concern, while ensuring that advertising continues to be done appropriately, Commonwealth, State and Territory classification Ministers agreed in April 2007 to implement a new way of regulating the advertisement of films and computer games which have yet to be classified. This new advertising scheme was developed following nation-wide public consultation in late 2006.

The first step in implementing this new advertising scheme was the recent amendments to the Commonwealth legislation, made by the Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Act 2008. When the Commonwealth Act comes into force on or before 1 July 2009, it will allow the Commonwealth Minister for Home Affairs to make a statutory instrument that sets conditions for the advertising of films and computer games before they are classified. The Commonwealth and all State and Territory classification Ministers have already agreed on the conditions which will be imposed by this statutory instrument, with the final text of the Commonwealth instrument to be developed in consultation with States and Territories. This consultation is guaranteed by section 31 of the Commonwealth Act, as amended.

The conditions contained in the new scheme will relate to the display of a message to check the classification, similar to that which currently appears on some cinema-release films, and strict time periods in which industry must add classification information to advertisements once the product is classified. The scheme will also place strong limitations on advertising where advertisements for unclassified material accompany a classified product. Currently in New South Wales, it is an offence to advertise a film that has been classified PG or M during a screening of a G-rated film. The new advertising scheme will introduce this strict commensurate audience rule for the advertising of unclassified products. It will be prohibited to advertise a film likely to be classified PG with a film which has already been classified G.

In order to apply this rule, the Commonwealth instrument will establish an assessment scheme for unclassified films and computer games, whereby the likely classification of the product can be determined either by the Classification Board, or by an assessor who has undertaken training approved by the director of the Classification Board and is authorised by the director to make such assessments. This assessment will ensure that where unclassified material is advertised together with classified material—for example, a trailer at the start of a film or DVD—the advertisements for unclassified material are always appropriately matched to the audience of the classified material. Mandatory initial training will be provided for individual assessors in courses approved by the Classification Board, including mandatory annual refresher training. Also, there will be disciplinary provisions for assessors. The director of the Classification Board will have the power to revoke or suspend a person's authorisation to assess materials, if, for example, that person seriously or repeatedly misrepresents the likely classification of materials.

The bill provides a number of safeguards to ensure the integrity of the new advertising scheme. First and foremost, the scheme will not apply to material that falls into, or is likely to fall into, the X18+ or RC categories. Advertising of this material is currently prohibited, and will continue to be prohibited. Other safeguards include the following: Currently, under the Commonwealth legislation, the board must refuse to approve offensive advertisements or advertisements which deal with topics in a way that offend reasonable standards of morality and decency. This provision will be retained under the new advertising scheme, and it will remain an offence to publish, screen or otherwise distribute an advertisement that has been refused approval by the Classification Board, or, importantly, which would be refused approval by the Classification Board if it were submitted for approval.

The director of the Classification Board currently has the power to call in an advertisement for classification. If the director does so, the advertisement has to be submitted to the Classification Board within three business days. The board then determines whether the advertisement should be approved for distribution. This power will also be retained for advertisements for unclassified material. Similarly, the director of the Classification Board will have the power to bar a distributor from using authorised assessors for unclassified material. In those circumstances, the distributor will be required to apply to the Classification Board for assessment of the likely classification of any unclassified films or computer games they wish to advertise. Those offences and powers will deter assessors, distributors and advertisers from making lax or inadequate assessments.

Having outlined the new advertising scheme and its various safeguards, I move now to the contents of the New South Wales bill. As I noted earlier, the purpose of this bill is to make the technical amendments necessary to complement the new advertising scheme when it comes into force. This bill amends the NSW Classification (Publications, Films and Computer Games) Enforcement Act 1995, to ensure that the scheme's requirements on the advertising of unclassified films and computer games will be enforceable in New South Wales.

The bill makes amendments to remove the offence of advertising an unclassified film or computer game and replaces this with an offence of advertising an unclassified film or computer game otherwise than in accordance with the new advertising scheme. The bill also inserts new offences of advertising an unclassified film or an unclassified computer game together with classified material if the advertisement does not comply with the advertising scheme. I note that to ensure the amendments in this bill come into force only when the text of the Commonwealth instrument is agreed to by New South Wales, the amendments made by this bill are to commence by proclamation. Tasmania and the Northern Territory have already introduced bills to make similar amendments to their classification enforcement legislation, and such amendments will need to be made to classification legislation in all other States and Territories prior to 1 July 2009. By allowing the new advertising requirements to be enforced in New South Wales, these amendments will ensure the continued efficacy of the National Classification Scheme. I commend the bill to the House.

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

ADMINISTRATIVE DECISIONS TRIBUNAL AMENDMENT BILL 2008

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

Second Reading

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [5.41 p.m.]: I move:

That this bill be now read a second time.

In less than one month the Administrative Decisions Tribunal [ADT] will celebrate 10 years of operation. The ADT is integral to the Government's commitment to ensuring open and accessible government for the people of New South Wales, so this anniversary is a very welcome one. The ADT was established as an independent, accessible and cost-effective forum to review the decisions of public administrators. While its role also incorporates the making of original decisions in some circumstances, the primary reason for its existence is to afford citizens the right to challenge administrative decisions. By reviewing decisions of public administrators, the tribunal provides a positive institutional tool to give guidance to government decision makers in making the correct decision in the first instance.

Members will be aware of the recently tabled statutory review of the Administrative Decisions Tribunal Act. The review concluded that the policy objectives of the Act remain valid. The review also made recommendations for amendments to the Act with the intention of improving the tribunal's operational efficiency. This bill gives effect to the recommended legislative changes in the statutory review as well as making other amendments to enhance the operational efficiency of the tribunal. I will refer to these reforms in more detail shortly. First, I draw the attention of members to a number of other amendments that are contained in the bill.

The bill gives effect to the Government's decision to increase the amount of compensation that can be awarded by the tribunal in its Equal Opportunity Division from \$40,000 to \$100,000. This increase will make sure the ADT is able to make compensation awards that reflect the seriousness of the consequences of discrimination and the importance of the jurisdiction in ensuring that discriminatory conduct will not be tolerated in public life in New South Wales. The bill also makes some changes to the Anti-Discrimination Act to modernise the operation of the Act's exemption process. At present, the Attorney General has responsibility for the granting of exemption orders, which can be made only in accordance with the recommendations of the Anti-Discrimination Board. There is no right to a merits review of the Minister's decision.

Exemption powers exist in the anti-discrimination legislation of other States and Territories. The common feature of the legislation of other States and Territories is the right of review by a tribunal or court. This right of review results in consistent and transparent decision making and reflects modern administrative law practice. The bill amends the Anti-Discrimination Act to vest the power to grant exemptions in the president of the Anti-Discrimination Board rather than the Attorney General. The president's decision will be reviewable by the Administrative Decisions Tribunal. The amendments implement recommendations made in the New South Wales Law Reform Commission review of the Anti-Discrimination Act 1977 and more closely reflect exemption regimes in other Australian jurisdictions.

I will now address a number of amendments affecting the tribunal's procedure, functions and constitution. Firstly, the bill clarifies, in section 8 of the Act, that the tribunal can review the conduct of an administrator. This amendment puts beyond doubt that the tribunal's review jurisdiction includes the review of the conduct of administrators. An example of such reviewable conduct can be found in the Privacy and Personal Information Protection Act 1998. Secondly, the bill requires agents who are not legal practitioners to obtain leave from the tribunal to represent a party. This amendment seeks to redress concerns that some classes of agent who are appearing in the tribunal are not necessarily able to act in the professionally detached manner that is required in order to represent another's interests effectively.

By giving the tribunal a clear right to revoke the agent's leave to appear, it will be in a better position to protect litigants from any conduct by their agent that undermines the relevant and timely presentation of their case. It is proposed that the tribunal will establish a protocol to assist agents seeking to appear on behalf of litigants in the tribunal to apply for leave to do so. The bill also addresses a recommendation of the statutory review that concerns costs. It amends section 88 to confirm that the parties in the tribunal are to bear their own costs unless the tribunal orders otherwise, and incorporates an expanded range of matters to be considered in the making of an award of costs. The provision is modelled on the provision contained in the Victorian Civil and Administrative Tribunal Act 1997.

The bill also ends the cumbersome and unworkable process set out in the Administrative Decisions Tribunal Act for the making of rules in the tribunal. The statutory review found that the process of rule subcommittees and lengthy exhibition and consultation requirements prescribed in the current Act has proved to be so complex that the tribunal has been unable to use the provisions, preferring instead to rely on the making of practice notes to set out the tribunal's procedures in some of the more common areas of practice. Amendments made by this bill will enable a rule committee to make rules for any division of the tribunal and remove the exhibition and consultation requirements so that the tribunal is in the same position with respect to its rule-making functions as other tribunals.

The existing Administrative Decisions Tribunal Rules (Transitional) Regulation 1998 will be repealed and the rules contained in that regulation will become the Administrative Decisions Tribunal Rules 1998. These rules will be statutory rules for the purpose of part 6 of the Interpretation Act 1987 and consequently subject to the tabling and disallowance provisions of the part. Finally, before I turn to the more procedural amendments, members will be familiar with the innovation in government decision making that the ADT Act has effected. Before a reviewable decision may be considered by the tribunal, administrators are usually obliged to provide a statement of reasons for the decision and to conduct an internal review of the initial decision. In order to provide greater clarity concerning the decision-making timeframes, this bill makes a number of amendments to the relevant provisions of the Act.

Firstly, section 53 is amended to require an administrator to notify a person of the result of an internal review within 21 days after the application for internal review is lodged, or such other period as is agreed. Section 55 is reworked so that the period within which an application for a review in the tribunal is to be made—having regard to whether or not reasons have been requested and provided, and whether or not an internal review has been conducted—is clear. Finally, section 58 is also amended to make it clear that a copy of any statement of reasons provided on internal review must be provided to the tribunal.

The bill makes other procedural amendments to the Administrative Decisions Tribunal Act as follows. It amends section 24A so that it is clear that the tribunal is to be constituted by a single member for interlocutory proceedings without the president needing to effect a formal assignment in each case. It also provides for the president, or relevant divisional head, to be able to give directions as to the members who may constitute the tribunal for interlocutory purposes. This amendment should relieve the tribunal of the administrative burden of formally assigning a member to each interlocutory matter. The bill amends section 26 of the Act so that the tribunal's annual report is able to be tabled when Parliament is not sitting. Sections 44 and 57 are amended so that the tribunal may dispense with the need for a late application to be in writing. This will avoid the need for the tribunal to insist on applications in writing when they are made during the hearing of a matter.

Section 67 (4) will be amended to give the tribunal a broader power to join a person as a party to the proceedings if necessary. It expands the circumstances where proceedings can be dismissed to include dismissal for want of prosecution or where an applicant fails to appear, and includes a concomitant right to reinstate proceedings where the applicant who failed to appear provides a reasonable excuse. It ensures that the tribunal takes into account the best interests of certain defined vulnerable people when giving effect to an agreed settlement. It provides that the member or assessor who was involved in the conduct of a preliminary conference in proceedings before the tribunal can go on to hear the substantive matter, unless it is proved that to do so would prejudice an objecting party's case.

It provides that the tribunal at first instance can, like the appeal panel, refer questions of law to the Supreme Court, and that these referrals will always, regardless of the status of the presiding tribunal member, be assigned to the Court of Appeal. The bill provides clarification that the registrar has discretion as to whether or not to issue a summons, and that the tribunal may pay for the costs of a mediator or neutral evaluator. It clarifies that the 28 days within which an appeal from a first instance decision of the tribunal is to be lodged may run from the provision of either oral or written reasons, whichever is the later. It clarifies that part of a case can be remitted to the tribunal in first instance on internal review, or the other person or body in the case of an external appeal. It expands the power to make a regulation for fees to be charged by the tribunal.

It makes amendments to the provisions concerning the constitution of the Legal Services Division to ensure sufficient eminently qualified people are available to constitute the tribunal for the purpose of hearing serious disciplinary matters against legal practitioners. It ensures that both former members and members of the tribunal who cease to have certain qualifications may, nevertheless, complete unfinished matters, notwithstanding the expiry of their membership of the tribunal or qualification. It provides that, like other professional discipline matters, appeals from disciplinary proceedings against accredited certifiers are to go straight to the Supreme Court. Other amendments by way of statute law revision bringing references to other Acts up to date and repealing superfluous provisions in other Acts are also made. I commend the bill to the House.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. GREG PEARCE [5.54 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 140 outside the Order of Precedence, relating to Treasury projections, be called on forthwith.

This matter is urgent because it is essential for the committees of this House to have up-to-date material and data from Treasury relating to the budget. It is urgent because the budget estimates hearings are scheduled to begin on 13 October. In order for members of the House to be fully informed and to be able to perform their duties in properly scrutinising the budget at those hearings in these uncertain economic times, it is essential for these up-to-date documents and data to be provided. It must be done in time to enable members to inspect the documents before the commencement of estimates hearings.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 21

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

Noes, 16

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

Pair

Ms Parker

Ms Fazio

Question resolved in the affirmative.**Motion agreed to.****Order of Business****Motion by the Hon. Greg Pearce agreed to:**

That Private Member's Business item No. 140 outside the Order of Precedence be called on forthwith.

TREASURY PROJECTIONS AND BUDGET DOCUMENTS**The Hon. GREG PEARCE** [6.01 p.m.]: I move:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution all documents in the possession, custody or control of NSW Treasury relating to:

- (a) Treasury projections generated after 1 March 2008 for growth in the New South Wales economy or Gross State Product,
- (b) projections generated after 1 March 2008 for State revenues,
- (c) communications with ratings agencies, Standard and Poor's or Moody's, since 1 March 2008,
- (d) General Government Monthly Financial Statements for the 12 months to 30 June 2008 and the month to 31 July 2008 or the data used to prepare the statements if the statements have not been completed,
- (e) the results of the annual Infrastructure Review for 2007/08 referred to in section 2.3 of Budget Paper No. 4, 2008/09, and
- (f) the latest complete agency Total Asset Management data submitted by each agency to Treasury.

In order for this House to properly perform its role as a House of review and to scrutinise the budget papers, we believe it is very important that we have up-to-date data and the most recent figures. Clearly, in these uncertain economic times it is even more important that we are able to properly discharge our role as members of this House. I note that there has been selective use of these figures in briefing journalists and so on, so there certainly should not be any reason for not providing them to members of this House. The motion has been carefully drafted to limit the amount of material, certainly since March in most cases. This House has well-recognised procedures to ensure confidentiality of any material that the Government believes should be kept confidential, and procedures to look at the later release of the material if necessary. Members of this House have diligently respected those provisions, and no-one should have any concern about the provision to members of the relevant information. I commend the motion to the House.

The Hon. ERIC ROOZENDAAL (Treasurer) [6.03 p.m.]: It is very important when dealing with these matters to understand their full extent. It is worth noting that budget estimates hearings will begin in 2½ half weeks. This motion places a large impost on Treasury to acquire and find all this information. We are in a unique circumstance, whereby Treasury is preparing all the information and carrying out required research to deliver a mini-budget in seven weeks. This State has not had a mini-budget since 2004 and the honourable member will be well aware that it is a huge impost on the facilities and resources of Treasury to do this.

The Hon. Trevor Khan: It is called transparency in government.

The Hon. ERIC ROOZENDAAL: We have budget estimates for that actually. This motion is about deliberately interfering with the processes of government in preparing a mini-budget. Members opposite know there are only seven weeks until the mini-budget is to be brought down. The need for the mini-budget has been well and truly articulated by the rating agencies. The honourable member will be well aware that a number of media releases and publications, particularly from Standard and Poor's, have outlined the reasons we are now placed on negative outlook and the need—

The Hon. Trevor Khan: That is called incompetent government.

The Hon. ERIC ROOZENDAAL: It is not. If the honourable member knew what he was talking about, which clearly he does not, he would understand that the decision by his side not to support power reform triggered the credit watch. That is fact. His leader ruled out supporting power reform despite agreeing to support power reform and despite every business group and organisation in this State condemning that decision. The point is that this is a deliberate attempt to frustrate the normal processes of Treasury to get on with the important job of delivering the mini-budget. It is fact that the mini-budget will be delivered on 11 November. That is seven weeks away. This call for papers will absolutely distract Treasury in its important job of preparing for the mini-budget—without question. Opposition members know that in two and a bit weeks they get their favourite time of the year—the estimates process—to grill me, all the directors of Treasury and the Secretary of Treasury. They know that. The Premier and I have already articulated the issues facing the State. I am more than happy to offer the shadow Treasurer a briefing from Treasury if he thinks that will help to illuminate him, and if he is prepared to withdraw this motion in the spirit of a bipartisan approach to the challenge that is facing New South Wales.

The Hon. Greg Pearce: By convention, you should offer me such a briefing anyway, but you do not follow convention, do you?

The Hon. ERIC ROOZENDAAL: I have put it out there. I am trying to work this out because the issues that face this State are serious. The mini-budget is a serious process and I think it is unreasonable of members of this House to place this impost on Treasury and public servants who produce this important information when they well know that in two and a bit weeks the budget estimates process will be upon us. They know that.

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

The Hon. ERIC ROOZENDAAL: Therefore, I urge honourable members not to support this motion and to let the Government and the Treasury get on with their important job. I am happy to test the decisions that are made in the mini-budget right through the process. I am happy to go to budget estimates of course, and I am happy to provide the briefing to the shadow Treasurer. He has not sought such a briefing, but I put that offer on the table. I am happy to do all of those things. But let us be very clear: this will impede the mini-budget process without question. Honourable members should understand that this will interfere with the mini-budget process. Members opposite can dispute the issues around the mini-budget if they like. I know the Greens have decided New South Wales should spend its way out of the present challenge it faces. I read that in *Hansard* today. That is a fine perspective, if that is your belief. But the point is that the mini-budget is a vital document that will chart the future of this State: the mini-budget will deal with a lot of important aspects. This motion would stop Treasury in its tracks to search for the documents sought to be produced. All of the material from the agencies is on the public record and has been well and truly ventilated. I am happy to provide a briefing to the shadow Treasurer, should he desire it. That is a better way to go and it will not impair the Government's preparations for the mini-budget.

Dr JOHN KAYE [6.08 p.m.]: On behalf of the Greens I support Mr Pearce's motion. The Treasurer tells us that this is an impost on Treasury and it will impede the process of the mini-budget. That claim would

have more credibility if we were asking for detailed documents that ought not to be available in the ordinary course of events. But all that this motion asks for are documents, many of which ought to have been on the Treasury website anyway and all of which should be available to members of this House. We are going to be asked to engage in a mini-budget process. It is an important process. It has to be an informed process with informed debate. Without this data being available it is almost impossible to make a rational decision about the mini-budget. The Treasurer and Treasury are trying to conduct budgeting processes behind closed doors. That is totally inappropriate, particularly when we have a relationship developing between the Government and the two ratings agencies, Standard and Poor's, and Moody's, requiring investigation. After all, it must be remembered that Standard and Poor's, and Moody's are both fee-for-service organisations and that the State pays for the documents it receives from them. Therefore it is appropriate for us to see the documents.

Reverend the Hon. Dr Gordon Moyes: Will those two companies see the documents in question?

Dr JOHN KAYE: I imagine they have already seen them.

Reverend the Hon. Dr Gordon Moyes: That is my point. If so, why not us?

Dr JOHN KAYE: Why should the New South Wales upper House not see the documents? That is a very good point, and I thank you for that.

The PRESIDENT: Order! Dr John Kaye will address his remarks through the Chair.

Dr JOHN KAYE: Reverend Dr Gordon Moyes makes an important point. Why should the New South Wales upper House be provided with less information than that provided to the rating agencies? The suggestion that the mini-budget process suddenly will come to an end because of the production of largely routine documents that ought to be available at the flick of a switch is totally outrageous. If the documents are not available, there is clearly something wrong with Treasury's record keeping.

The Hon. Greg Pearce: These are the base documents for the review that he is undertaking for the mini-budget.

Dr JOHN KAYE: I acknowledge the interjection. Those documents should be together already. If they are not, there is something wrong with document management within Treasury, and there is something wrong with the way in which Treasury is preparing for the presentation of the mini-budget. The arguments advanced by the Treasurer simply are not persuasive in any way. If we intend to seriously debate the finances and economic future of the State, it cannot be a debate conducted in a vacuum, based on some of the say-sos of the Treasurer and his departmental secretary but, rather, based on facts and reasoning.

The Hon. CHRISTINE ROBERTSON [6.11 p.m.]: I will speak very slowly because yesterday and today honourable members heard several times the words I am about to say. The motion is quite simply a stunt. Nothing in the motion moved by the Hon. Greg Pearce is urgent. The Premier has been quite clear about the strategy moving forward. The Treasurer will hand down a mini-budget in November. The mini-budget will respond to the current economic downturn that is having a particular impact on the State's revenues. The mini-budget process will incorporate a systematic review of government departments' operating expenses and capital programs, as well as State revenues.

The Hon. GREG PEARCE [6.12 p.m.], in reply: I thank Dr John Kaye for his support and acknowledge the contributions to the debate made by other honourable members. In response to what has been said by the Treasurer, I point out that production of the documents will not stop anything happening in Treasury because they are base documents and are up-to-date material that Treasury officials examine in putting options to the Treasurer. I invite the Treasurer to refer to his own words explaining the process of the mini-budget as involving a review of the very documents we require and going back through the data.

The reason the Opposition had to move the motion is that the Treasurer already has failed transparency test No. 1. In this context also, I invite the Treasurer to refer to yesterday's *Hansard*. The Treasurer had the option of complying with the Public Finance and Audit Act and of producing the June-July figures, but he made the decision to invoke the exemption under the Act and did not produce those figures. When faced with transparency test No. 1, he made the deliberate decision to hide behind the Act.

The Hon. Eric Roozendaal: That has been done for the last four years.

The Hon. GREG PEARCE: He failed transparency test No. 1. I do not wish to take up too much more of the time of the House, but it is time to put aside the nonsensical practice of resorting to spin, which already has been adopted by the Treasurer. The RatingsDirect report issued yesterday by Standard and Poor's states, "The outlook revisions were taken following the failure"—I emphasise the term failure—"of the New South Wales State Government to get legislation." The reason cited is the failure of the New South Wales State Government, not anybody else's. It is clearly stated in black and white in the report that the reason for the review was the failure of the New South Wales State Government. While I am examining the report I also point out that Standard and Poor's states that one of the most significant matters that all members of the House should be concerned about is:

... the potential upside risk to the State's expenditure projections reflecting the negative impact on the operating position of a weakening economy; the historical difficulty in containing operating costs within budget ...

Members of the House have heard me refer to that quite often, yet the Treasurer does not seem to be doing things differently. I will conclude my remarks on Standard and Poor's by citing what they say is required action:

The return of the rating will depend on the government adequately addressing all of the identified risks.

Standard and Poor's say that that matter should be covered in the mini-budget, so we look to the Treasurer to address that. Standard and Poor's goes on to say:

It is also dependent on the government executing the strategy. The mini-budget is not in itself a sufficient condition to return the outlook to stable. We will need to believe that the government has the political willingness and ability to execute.

Standard and Poor's is saying it is worried about whether this Government has the political will or the ability to execute, so let us have the documents and let us see the real state of the budget.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 21

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

Noes, 14

Mr Catanzariti	Ms Robertson	Mr West
Ms Griffin	Mr Roozendaal	Ms Westwood
Mr Kelly	Ms Sharpe	<i>Tellers,</i>
Mr Macdonald	Mr Tsang	Mr Donnelly
Mr Obeid	Ms Voltz	Mr Veitch

Pairs

Ms Cusack	Mr Della Bosca
Ms Parker	Ms Fazio

Question resolved in the affirmative.

Motion agreed to.

SUCCESSION AMENDMENT (FAMILY PROVISION) BILL 2008

Second Reading

Debate resumed from 26 June 2008.

The Hon. JOHN AJAKA [6.24 p.m.]: The Succession Amendment (Family Provision) Bill 2008 has four principal objects: first, to amend the Succession Act 2006 to enact, with some modifications, the model

provisions as a new Chapter 3 of that Act; second, to enable the making of regulations to control costs and advertising of legal services in relation to such applications; third, to repeal the Family Provision Act 1982; and, fourth, to make relevant savings and transitional provisions accordingly. The Opposition does not oppose the bill. Development of the law of succession has been neither smooth nor uniform. Tension between the testator's perceived right to freedom of testation and the perceived right of the testator's family to share in the testator's estate, questions of the extent to which the courts should intervene in the balance between these rights, and the determination of where the costs of litigation should lie, all exert conflicting impetuses on the development of the law of succession in Australia.

In recent years the focus of criticism in this area of law has been on the importance of achieving a higher level of consistency across Australia. The objective of uniformity, however, represents a significant challenge for the profession due to the competing imperatives for each jurisdiction and the importance each places on it. The bill is perhaps a good starting point in addressing these challenges. The bill has its origins in reports produced by the National Committee for Uniform Succession Laws and endorsed by the Standing Committee of Attorneys-General in 1997 and 2004. Those reports provided a direction for much-needed reform, to bring uniformity to the family provision aspect of succession law. The national committee took the New South Wales Family Provision Act 1982 as the basis for its proposed model legislation.

Report No. 110 of the New South Wales Law Reform Commission, entitled "Uniform Succession Laws: Family Provision" of May 2005, sets out draft model provisions to implement the earlier reports of the national committee. Under this model, a court would be empowered to override the terms of a deceased person's will or the distribution of a deceased person's estate on intestacy if it determines it is necessary to do so to ensure that the family and other dependants of a deceased person are adequately provided for. This bill implements, to a significant extent, the model set out in the New South Wales Law Reform Commission's report. The Attorney General has previously outlined to the House the particular aspects of the New South Wales bill that differ from the provisions of the model bill. I find it useful to give a brief overview of the main provisions that will come within the new Part 3, concerning family provision.

Under proposed section 59, a person in a de facto relationship will be entitled to apply as of right for a family provision order, but a person in a close personal relationship will be able to apply only if the court is satisfied that the circumstances warrant the application. However, a child of such a relationship will be able to apply as of right. Proposed section 59 also empowers the court to make a family provision order for the maintenance, education or advancement in life of a person who the court is satisfied is an eligible person. The court must also be satisfied that at the time the order is made adequate provision is not made by the will or the operation of the rules of intestacy. Proposed section 59 (4) provides the court with the power to make a family provision order in favour of a person who was unsuccessful in his or her application for provision only if it can be demonstrated that the court is satisfied that when the family provision was made there was substantial property in the estate that was not disclosed to the court.

Proposed section 58 (1) encompasses situations in which it is not necessary to seek a grant of administration to administer a deceased estate. Under new section 58 (2) the time limit for making a family provision application has been reduced from 18 months to 12 months after the date of the death of the deceased.

Proposed section 61 clarifies that the interests of existing beneficiaries must be taken into account, even if they have not made an application for a family provision order. Proposed section 63 identifies the property that may be subject to a family provision order, whilst division 4 of the bill outlines the general provisions relating to family provision orders, such as the matters that the court must specify in a family provision order.

Part 3.3 enables the court in limited circumstances to make an order designating property that is not included in the estate, or has been distributed from the estate as a notional estate of the deceased person for the purposes of making a family provision order. Proposed sections 102 (2) (e)-(g) and subsection (4) gives the court specific rulemaking powers in relation to costs and deals with costs in relation to estates worth less than \$750,000 as well as rules relating to the use of expert witnesses, and other means of proof of medical reports and valuations. Further, the court is empowered to make rules relating to applications that can be dealt with on the papers, which will allow the court to cut costs by determining simple cases without a hearing.

Section 98 (2) requires the court to refer all matters to mediation before making an order unless there are special reasons why the matter should not be mediated. There will be a regulation power to fix the maximum costs that can be paid out of the estate or notional estate. The bill also contains the power to make regulations regarding advertising of legal services in connection with proceedings for family provision. Proposed section

100 sets out the circumstances in which evidence can be adduced about statements made by the deceased during his or her lifetime. The bill provides for consistent succession laws across jurisdictions. It seeks to address potentially disproportionate legal costs, and the possible erosion of the value of the deceased estate to fund legal proceedings. The Opposition, as I indicated earlier, does not oppose the bill.

[The President left the chair at 6.33 p.m. The House resumed at 8.00 p.m.]

Reverend the Hon. Dr GORDON MOYES [8.00 p.m.]: The bill amends the Succession Act 2006 to ensure that adequate provision is made from the estate of the deceased person for members of the family of the deceased person and certain other persons, to repeal the Family Provision Act 1982, and for other purposes. The National Committee for Uniform Succession Laws submitted reports on proposed national uniform laws on family provisions to the Standing Committee of Attorneys-General in December 1997 and July 2004. The New South Wales Law Reform Commission's report No. 110, "Uniform Succession Laws: Family Provision", was published in May 2005 and set out draft model provisions to implement the earlier reports.

These provisions enable a court to override the terms of the deceased persons will or the distribution of a deceased person's estate on intestacy if it determines it is necessary to do so to ensure that the family and other dependants of the deceased person are adequately provided for. The New South Wales Family Provision Act 1982 was used as a basis for model provisions. It is just a simple matter of fact that arguments over family wills are some of the most distressing cases to ever come before a court or mediators. They involve one of the rare situations in which a person who mediates inevitably, regardless of which side is supported, is regarded as being wrong by the other side. Very rarely are family wills and estates issues resolved satisfactorily, so if the introduction of the bill by the Government assists in resolving those issues, it will well deserve the community's appreciation.

The key aspects of the bill that depart from the model include the following. The model did not adopt the eligibility requirements attached to an application for family provision that are currently in place in New South Wales. Currently the Family Provision Act provides that the following people are automatically entitled to apply for provision: the spouse of the deceased, a person with whom the deceased was living in a domestic relationship, such as a de facto relationship, and the adult or non-adult child of the deceased. Former spouses of the deceased and other dependants, including grandchildren, are also entitled to apply, but the Act requires the court to determine whether there are factors warranting the application being made before proceeding to consider it. However, the model bill restricts those who are automatically entitled to make an application for provision to spouses, de facto partners and non-adult children of the deceased. It contains a catch-all category of claimant, allowing anyone to whom the deceased owed a responsibility to provide maintenance, education or advance on in life to apply to the court for a family provision order.

Such a change has the potential to lead to a flood of new claims being made on the estates by people who currently are not entitled to apply in New South Wales. Adult children also would be forced to demonstrate the requirement of the deceased's responsibility to them. This may lead to more lengthy and expensive litigation as adult children seek to prove that they meet the requirement. The bill does not adopt the model bill's eligibility provisions. It retains the approach taken in the current Act, with one modification: the current Act provides that those living in a domestic relationship with the deceased are automatically entitled to eligibility. The bill replaces domestic relationship with de facto relationship based on the model bill's restriction of this entitlement to de facto relationships.

The bill also creates a new category of applicant—a person who is in a close personal relationship with the deceased. This applicant has to meet the same requirements imposed on former spouses and other dependants before being entitled to have the application considered by the court. It seeks to prevent people from making unmeritorious claims and accessing money from a deceased estate to fund their legal costs without any restriction. It gives the court specific powers to make rulings in relation to costs, including the costs payable out of the estate and the cost in relation to estates worth less than \$750,000, and to make rulings relating to the use of expert witnesses and other means of proof, such as medical reports, valuations and the like. Such items are sometimes the most expensive components of the cost of a case. The court also will have power to make rulings relating to applications that can be dealt with on the papers. That will allow the court to cut costs by determining simple cases without a hearing and without calling expert witnesses.

The bill provides a regulation-making power that enables regulations to be made with respect to costs in family provision proceedings, including the fixing of maximum costs that can be paid out of the estate or the notional estate. It also provides power to make regulations regarding the advertising of legal services in

connection with the proceedings for family provision to prevent the exploitation of vulnerable people. Proposed section 98 makes it clear that the Government's objective is to encourage settlement of family provision matters before they go to a hearing, if possible. This is a measure that we all applaud. The court will be required to refer all matters to mediation before making an order, unless there are special reasons why the matter should not be mediated. Mediation would not be advisable in circumstances in which there is a threat of violence against a family member or a power imbalance between the parties.

Proposed section 59 (3) reflects the model bill by providing that the court may order additional provision for a previously successful family provision order applicant when it can be demonstrated that there has been a substantial detrimental change in that eligible person's circumstances since a family provision order was last made in that eligible person's favour. Proposed section 59 (3) (b) covers the situation when evidence about the nature and extent of the deceased person's estate did not reveal the existence of certain property when the family provision order was made, and when the court would have considered the estate to be of substantially greater value if the existence of the property had been known. As to evidence of statements made by the deceased, the model bill does not include a provision based on section 32 of the current Act.

Proposed section 32 clarifies the circumstances in which evidence can be adduced about statements that were made by the deceased during his or her lifetime. For example, the deceased might have stated that a child was being left less in the deceased's will because the child already had been given his or her share of the estate. This evidence could be useful in ascertaining the testator's reasons for making a will in the manner in which it was made. Finally, the bill incorporates the provisions of section 32 into proposed section 101. The court will continue to be able to make interim family provision orders if there is a pressing need for financial support.

In conclusion, the bill modernises the law of family provision in New South Wales. It makes a number of changes to protect family estates from being whittled away by unmeritorious litigation and encourages settlement in a timely and positive manner. It is another step towards enhanced consistency for succession laws across Australia. As I said, the problems of wills and successions in families and gaining benefit on behalf of the deceased or claiming that more should be owed to certain members than others within the family is always a difficult situation, leading to long terms of disagreement and disharmony within families. As this bill makes some of these things more clear and provides an opportunity particularly for those who have less power or fewer resources than others, I commend the bill to the House.

Ms LEE RHIANNON [8.10 p.m.]: The Greens support the Succession Amendment (Family Provision) Bill 2008. There is enormous advantage in having consistency in succession laws across the country, and we can see a real advantage in the Standing Committee of Attorneys-General. Importantly, this legislation will provide certainty with respect to determining wills. The measures adopted in this bill will show the real value in the Attorney Generals working together because replication of the system across the States will make the process much easier for people. The Greens are pleased that aspects of the bill are reasonable, for example, providing a time limit of 12 months for family provision applications and empowering the court to make notional estate orders in appropriate circumstances. The Greens are pleased to support this bill, particularly as wills that are unclear can ensure that the family and other dependents of a deceased person will be provided for if the deceased person's will did not provide for them. As we know, not everyone gets the paperwork done or there can be tragedies and people die before their will is properly formulated. We are pleased to support this bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [8.12 p.m.], in reply: I thank honourable members for their thoughtful contributions to this debate. This bill marks the next step for New South Wales in implementing the recommendations of the Uniform Succession Laws Project, initiated by the Standing Committee of Attorneys-General. This bill reforms and modernises the law of family provision in New South Wales, and includes a number of initiatives to reduce the cost and complexity currently associated with family provision proceedings. It is also a step closer to achieving consistency of succession laws across Australia. 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 6 agreed to.**

The Hon. HENRY TSANG (Parliamentary Secretary) [8.14 p.m.], by leave: I move Government amendments Nos 1 to 3 in globo:

No. 1 Page 13, schedule 1, proposed section 66 (2), lines 34–37. Omit all words on those lines. Insert instead:

- (2) The Court may make such additional orders as it considers necessary to adjust the interests of any person affected by a family provision order and to be just and equitable to all persons affected by the order.

No. 2 Page 38, schedule 2.1, proposed section 36B, line 6. Omit "**immediate**". Insert instead "**intermediate**".

No. 3 Page 38, schedule 2.1, proposed section 36B, line 13. Omit "immediate". Insert instead "intermediate".

Amendment No. 1 clarifies the court's power to make additional orders in a family provision application in proposed section 66 of the bill. The amendment makes it clear that additional orders may be made to adjust the interests of eligible persons under the Act and those whose interests in the estate or notional estate are affected by a family provision order or consequential orders. The court will continue to be bound by the requirement that such orders are to be just and equitable to all affected. The amendment is necessary to clarify the operation of the section.

The current wording of proposed section 66 could be read restrictively and the proposed amendments more accurately reflect the Government's intentions. Amendments Nos 2 and 3 correct an inadvertent typographical error, changing the word "immediate" to "intermediate" in lines 6 and 13 of schedule 2.1 so that schedule 2.1 operates to restore the operation of section 36B of the Conveyancing Act 1919 in its original form. I commend the amendments to the Committee.

The Hon. JOHN AJAKA [8.16 p.m.]: The Opposition does not oppose any of the three amendments.

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

Government amendments Nos 1 to 3 agreed to.

Schedule 1 as amended agreed to.

Schedule 2 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendment.

Adoption of Report

Motion by the Hon. Henry Tsang agreed to:

That the report be 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 transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

WATER (COMMONWEALTH POWERS) BILL 2008**Second Reading**

The Hon. HENRY TSANG (Parliamentary Secretary) [8.20 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

The Water (Commonwealth Powers) Bill 2008 seeks to refer certain matters relating to the Murray-Darling Basin and other water management matters to the Commonwealth Parliament so as to enable the Commonwealth Parliament to make laws about those matters. The Water Management Act 2000 is the primary legislation for the management of the State's water resources. The Act was introduced in 2000 by the Carr Government. I seek leave to have the remainder of my second reading speech incorporated in *Hansard*.

Leave granted.

The Act provides for an integrated approach to water management by recognising that water is both a valuable resource for industry as well as being vital for the health of our river systems and the environment.

It fundamentally overhauled water rights in the State of New South Wales. It created a new system of property rights in water that greatly increased the security and value of water rights in this State.

The Act remains the pivotal legislative mechanism for the protection and sustainable management of our State's water resources, and the key instruments empowered by the legislation, water sharing plans, remain the key water management tool in New South Wales.

Under the Act, 40 Water Sharing Plans have now been commenced. These plans detail the rules for water use, allocation and trading for roughly 90 per cent of water used in New South Wales.

These are great achievements and these reforms have led Australia and the world in water management.

- New South Wales was the first State to separate land and water rights, to allow water to be traded to higher value uses.
- New South Wales was the first State to corporatise our irrigation districts.
- New South Wales was the first State to allocate a share of water to the environment.

Today is the first step on that journey by introducing to the House, as cognate bills, the Water (Commonwealth Powers) Bill 2008, known as the Referral Bill, and the Water Management Act Amendment Bill 2008.

The Referral Bill establishes the arrangements needed to implement the historic 3 July 2008 Intergovernmental Agreement on Murray-Darling Basin (Murray-Darling Basin) Reforms, known as the July IGA.

The Water Management Act Amendment bill, introduces tougher penalties, stronger offences and better investigation and evidence provisions. The aim of the bill is to improve compliance with the Water Management Act 2000. In plain language that means—catch water thieves.

I am introducing these bills as cognate because they both go to the same issue—safeguarding the future of our rivers and our river communities.

WATER (COMMONWEALTH POWERS) BILL 2008

Firstly I turn to the Referral Bill.

The July IGA was an historic occasion. All Basin jurisdictions came together, and agreed on a way forward for the Murray-Darling Basin.

The Murray-Darling Basin extends over four States—Queensland, New South Wales, Victoria and South Australia—and the ACT, as a result intergovernmental arrangements for the management of the resource have been in place since 1915.

The Basin is critical to New South Wales as fifty seven percent of the Basin is within New South Wales, irrigated agriculture across the Basin is valued at nine billion dollars a year, and nearly all of inland New South Wales is within the Murray-Darling Basin.

For these reasons, the New South Wales Government has not only led the other States in innovative reform of our own water resource management systems, we have also led in cooperation on the Murray-Darling Basin.

Unfortunately the former Federal Government was unable to produce a proposal that satisfied all States, and instead enacted the Water Act 2007 based solely on its own powers.

This was unfortunate as it increased the complexity of the regulatory arrangements applying to water by laying a new administrative structure over the top of existing structures. This was unsatisfactory, it lacked clarity about State and Commonwealth roles, and duplicated responsibilities.

Thankfully, on 26 March 2008 COAG agreed in principle to develop an Intergovernmental Agreement (IGA) on Murray-Darling Basin reform to resolve these issues, and that historic agreement was signed at the 3 July COAG meeting.

New South Wales was cooperative but tough throughout these negotiations. It was critical to ensure New South Wales was not disadvantaged. We achieved this by articulating preconditions for New South Wales signing the IGA.

Most importantly New South Wales demanded that:

- river operations and maintenance functions should continue to be undertaken in New South Wales by State Water unless New South Wales agrees otherwise;

- The States will not be exposed to any net increase in costs as a result of the IGA; and
- The IGA should expressly provide that the Commonwealth is responsible for any compensation payments resulting from cuts to water imposed by the Commonwealth.

The new Rudd Government met our conditions and New South Wales therefore agreed to sign the IGA. As part of that Agreement New South Wales agreed to:

transfer the current powers and functions of existing Murray-Darling Basin institutions such as the Commission and the Ministerial Council to the new institutions set out in the new Murray-Darling Basin Agreement, such as the Authority, the new Ministerial Council, the Basin Officials Committee and the Basin Community Committee;

- refer powers to cover issues associated with critical human needs, while retaining our responsibility for managing our share of available water; and
- expand the application of water market and charge rules to cover all entities within the Basin. This means there will be only one price regulator within the Basin.

To meet these obligations, and fully comply with our part of the bargain embodied in the July IGA, two things are required;

- a new Murray-Darling Basin Agreement; and
- legislation to refer powers to the Commonwealth.

Today I am putting the second step in place by introducing into the House the Water (Commonwealth Powers) bill 2008. This Referral Bill fulfils New South Wales obligations under the July IGA by referring powers to the Commonwealth in relation to:

- the transfer of powers from institutions created by the 1992 Murray-Darling Basin agreement to those created by the new Agreement;
- water market rules and water charge rules; and
- critical human water needs.

The bill is necessary under section 51 (xxxvii) of the Constitution to enable the Commonwealth to legislate on these three matters, because they are not mentioned in section 51 of the Constitution.

Firstly, in relation to the transfer of powers to the new Murray-Darling Basin institutions.

The bill implements the arrangements set out in the new Murray-Darling Basin Agreement by enabling the Commonwealth to confer the powers and functions set out in the Agreement on the institutions set out in the Agreement.

To ensure that there is only one version of the Agreement and Referral bill the package is only being formally tabled in one State Parliament. The package was tabled in the South Australian Parliament earlier today. Secondly, in relation to water charge and water market rules.

The existing Commonwealth Water Act gives the Commonwealth power to either make rules or determinations in relation to water charges, and to regulate water trading by making "market rules".

However, as a result of Commonwealth constitutional limits, Commonwealth rules under existing arrangements cannot be applied uniformly throughout the Basin. For example, in the case of water charge rules this has created the potential for overlap and duplication between the role of the Independent Pricing and Regulatory Tribunal (IPART) in New South Wales and the role of the ACCC across the Basin as a whole.

It was therefore agreed in paragraph 6.8 of the July IGA to extend the application of the water market rules and water charge rules to cover, respectively, all irrigation infrastructure operators and all bodies within the Basin that charge regulated water charges.

The Referral Bill now makes this possible. This means the ACCC will be responsible for all water charge rules within the Basin.

In order to avoid the potential inefficiencies and inequities arising from two charging systems applying in the State, the IGA allows New South Wales to opt in and extend the powers of the ACCC to areas outside of the basin if we are happy with the Commonwealth framework.

These new arrangements will avoid the risk of increased administrative costs that would have occurred if DWE and State Water had been required to make pricing applications to both IPART and the ACCC.

As with the water charge rules, the IGA proposes that market rules be set by the ACCC within the Basin and possibly extended across the State (excluding urban supply), and as with water charge rules the Referral bill now makes this possible.

This is a significant reform because the Irrigation Corporations account for approximately 60 per cent of the high security entitlements in the regulated Murrumbidgee and New South Wales Murray Rivers, and 70 per cent of the general security entitlement.

While increased trade has benefits I also recognise that uncontrolled trade out of irrigation corporations has the potential to undermine the viability of the infrastructure on which the irrigation communities depend. My Department will work closely with the ACCC and the irrigation corporations to ensure that the rules are fair to all parties.

Thirdly, critical water needs.

Under Part 7 of the July IGA, the States agreed to refer powers to enable planning for critical human water needs within the River Murray System to occur through the Commonwealth Water Act.

In summary the proposal in the July IGA was to enable the Basin Plan to:

- specify circumstances when departure from the normal water sharing arrangements between the States will be necessary;
- specify the amount of conveyance water required to deliver these requirements along the Murray River;
- provide for South Australia to store water in New South Wales and Victoria's upstream storages; and
- set trigger points for Ministerial Council intervention.

The States will continue to be responsible for jointly meeting the conveyance requirements necessary to deliver critical human needs along the Murray River, but each State will be responsible for managing their share of available water to meet their respective critical human needs.

The Referral bill provides for this and defines critical human needs as core human consumption requirements in rural and urban areas, and those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs.

I now turn to the Water Management Act Amendment Bill 2008.

The bill will contribute to the further evolution of the water management system in New South Wales by significantly improving arrangements for enforcement and compliance under the Act.

These improvements are being made to prevent water theft. They will ensure our farmers, and our precious riverine environments, get the water they are legally entitled to.

These improvements are particularly timely as the record drought continues across much of the State. At this time the Government and the community are focussed as never before on doing everything possible to sustain our inland rivers, and the communities they support.

Combating water theft is one of the keys to getting our rivers, and our river communities, through this difficult time and the bill will be welcomed for that reason.

The bill also introduces further improvements for water sharing and planning during drought.

The key changes contained in the bill include:

- Improved enforcement arrangements including improved powers for investigators, and improved arrangements for presenting evidence;
- Increased fines for offences under the Act;
- Strengthening of offences under the Act and new alternatives for sentencing;
- Improved options for water sharing planning during drought; and
- Amendments to ensure Irrigation Corporation licences are consistent with the National Water Initiative, basic landholder rights to stock and domestic water are exercised reasonably, and the announcement of water restrictions can be made more easily.

I will now outline each of these in turn.

The bill contains provisions providing Departmental authorised officers with the ability to properly, comprehensively and efficiently investigate potential breaches of the provisions of the Act such as water theft.

The ability to properly investigate potential breaches of the Act is critical to providing the community certainty that breaches will be detected, and successfully prosecuted.

The bill standardises and consolidates the powers of authorised officers in checking compliance with the provisions of the Act and investigating suspected non-compliance. These powers are analogous to other New South Wales legislation, such as the Protection of the Environment Operations Act 1997, that aim to protect important natural resources such as water.

This bill introduces a number of changes that will assist the Department to successfully take action against people suspected of breaking the rules.

For example, the bill allows for the use of evidentiary certificates that can be used in legal proceedings to prove matters of an administrative nature. Evidentiary certificates will remove the need for a licensing officer to appear in court to State that a person does in fact hold a licence. The use of evidentiary certificates is a tool that is common to other environmental legislation. They are used to streamline cases where the matters seeking to be proved are simple and technical matters.

Another example relates to matters that are reasonably believed to be solely within the defendant's knowledge and control. For these matters, the common sense evidentiary provisions contained in the current Act have been retained and some minor loopholes have been closed.

For example, it is reasonable to presume that the construction and use of a water pump located on a person's land has been constructed and is being used by the landholder to pump water. This presumption already exists and is being retained. Similar presumptions already exist in relation to drainage works and use of water on land.

However prior to this bill, there was a gap in relation to controlled activities (such as excavating a river bed) and aquifer interference activities. Unlike the other activities regulated by the Act, for these activities the prosecution had to prove the specific identity of the person who did the work. This was a major barrier to effective enforcement because it was not always possible, due to the vast geographical area of the State, to catch someone actually carrying out an activity.

The bill adopts a more common sense approach. This is consistent with accepted legal practice, and it is fair as it enables those presumptions to be rebutted if evidence exists to the contrary. For example, if a pump was not constructed by a defendant on his or her property, the defendant could provide evidence to rebut the presumption that he or she constructed the pump.

It is clear why this is a common legal approach—because it is a common sense approach.

These presumptions make no change to the existing requirement that the prosecution must prove beyond reasonable doubt that an offence has occurred. The Water Management Act 2000 already contains 8 provisions concerning evidentiary presumptions, the bill refines these to bring them into line with other similar New South Wales legislation.

With New South Wales suffering from the worst drought on record, it is critical that water is used by those lawfully entitled, and extracted according to licence conditions. Water theft directly reduces the water available to users and the environment.

To put it simply—water theft is not a victimless crime.

That is why I am proposing to introduce new maximum penalties for offences under the Act. This will send a strong message that stealing water is now regarded as a serious crime against property and a serious crime against the environment.

Stock theft has traditionally been regarded as a low act in the bush, these new penalties send the message that taking water illegally should be regarded the same way.

Under the bill maximum penalties for individuals found guilty of offences under the Act, including for water theft, are up to \$1.1 million for individuals with up to two years in prison. A further maximum penalty of \$132,000 will apply for each additional day the offence continues.

Corporations will also be subject to new maximum penalties. Under the bill the maximum penalty that may be imposed on a corporation is \$2.2 million and \$264,000 for each day the offence continues.

The new maximum penalties are a genuine attempt by the Government to crack down on water thieves and ensure that those members of the community who are using water lawfully are not unfairly disadvantaged.

In short, the new maximum penalties send a strong message to offenders and the courts that illegal behaviour under the Act, including water theft, will not be tolerated.

The Act currently contains various offence provisions that began in the Water Act 1912.

The bill seeks to update these provisions to improve the ability of the State's water watchdog, the Department of Water and Energy, to police the use of water in New South Wales.

The bill contains provisions dealing with intentional and negligent behaviour. The bill also contains provisions addressing behaviour such as water meter tampering and harming aquifers. This demonstrates the commitment of this Government to addressing the concerns of individuals, farmers, environmentalists and industry that water must be shared fairly and equitably.

The bill also contains new provisions setting out the matters courts are required to take into account when imposing penalties for breaches of the Act.

This is intended to assist the Courts to determine an appropriate penalty. Water is now a high value tradeable asset for individuals, farmers and industry, penalties for theft of valuable property should reflect the value of that property.

The bill creates flexibility by giving the courts a wider range of sentencing options than is currently the case.

Courts will now be able to require a guilty party to:

- carry out or contribute to specified environmental projects to restore water sources; or
- publicise the facts of their offence in the media.

The bill also contains notice provisions. This will ensure there is adequate power within the Act to direct a person to do, or not do, certain things, including: to cease actions that are in contravention of the Act or that have an adverse impact on water sources; and to remediate waterfront land where actions have been carried out unlawfully. The bill also makes improvements to matters other than compliance issues, including changes relating to water planning, irrigation corporations, water access licences and publicising orders under the Act.

Water sharing plans set the rules for the sharing and distribution of water between users and the environment. The severe drought conditions in the State have resulted in the need to suspend a number of these plans to properly manage the impacts of the drought on critical industry and town water supplies as well as the environment.

The effect of suspending a plan at the moment is to suspend all the rules in the plan, which can adversely affect some water users.

The bill will allow parts of a plan to be suspended during a severe water shortage, but avoid the need to suspend the whole plan. This will allow improved water management during drought.

Importantly the bill also ensures that the suspension of a plan is for a limited time and that the plan cannot remain suspended indefinitely.

The other water planning matter addressed by the bill is provisions relating to local areas where groundwater extraction has had adverse impacts, for example subsidence. This bill gives these provisions statutory force and will enable water restrictions to be imposed when it is necessary to protect groundwater sources in certain cases.

The State is now subject to a clear obligation to implement key aspects of the National Water Initiative. One of the most urgent is the need to ensure compliance with national metering obligations and standards.

Irrigation Corporations operate in large parts of New South Wales. In some valleys, their entitlements to water can represent the majority of the water in the valley.

This bill will allow an Irrigation Corporation's operating licence to be amended to bring it into line with any requirements necessary to give effect to the National Water Initiative. To ensure that Irrigation Corporations are properly engaged in this process, the bill provides that an amendment to the operating licence can only occur following consultation with the Irrigation Corporation.

The bill addresses two issues concerning water access licences.

Firstly the bill makes it clear that a person's basic rights under the Act must be exercised in accordance with any guidelines released on the reasonable use of water. This step will not affect a person's existing rights to water. However, it will promote equity amongst users and ensure that water is used responsibly—something that is particularly important in times of increasing water scarcity.

This bill also introduces special provisions relating to co-holdings in water licences. These changes will allow a holder of a licence to nominate a person to act on their behalf in relation to their holding in the licence. This will create efficiencies in the system and further facilitate trading by reducing red tape.

This bill simplifies the publication requirements for temporary water restriction orders by providing a mechanism to communicate restrictions quickly through radio or television.

If the restrictions are not urgent, the bill allows for the restrictions to be communicated in print. These changes will help to reduce red tape associated with publication requirements and will allow the Department to communicate water restrictions to members of the public in the most effective manner.

In addition, the bill will streamline the publication requirements in relation to newspapers for other orders and notices under the Act to ensure that they can be effectively communicated to all people affected.

These bills are both critical for the ongoing reform of water management in New South Wales and for safeguarding the future of our rivers and river communities. In order to support our irrigation industries and our riverine environments I commend this bill to the House.

The Hon. MELINDA PAVEY [8.27 p.m.]: What we have just witnessed is part of the problem and demonstrates the current chaos of the Government, in which one hand does not know what the other is doing. The speech that was read in the lower House, and has now been incorporated in *Hansard* in this House by the Hon. Henry Tsang, dealt with both the Water (Commonwealth Powers) Bill 2008 and the Water Management Amendment Bill 2008. There was clearly a lot of discussion and input, particularly by the member for Barwon, Kevin Humphries, and the member for Murray-Darling, John Williams, to ensure that the Water Management Amendment Bill was pulped because of insufficient consultation with stakeholders by this Government. The chaos that we just witnessed in this Chamber is the result of government on the run. It is important to point out that the speech delivered in the lower House by the Minister for Water Utilities, Mr Phillip Costa, included aspects of the Water Management Amendment Bill 2008. I felt it was appropriate for that to be discussed but I accept the guidance of the Chamber in that regard. That has illustrated the issues and incompetence that the people of New South Wales are facing.

The Water (Commonwealth Powers) Bill 2008 is a very important bill and needs to pass through both Chambers. It was introduced very hastily late last night. The bill refers powers to the Commonwealth under the

Intergovernmental Agreement to manage the Murray-Darling Basin from a Commonwealth perspective. The agreement has been signed by Queensland, South Australia, Victoria, New South Wales and the Australian Capital Territory. The bill defines the role of the authority, powers, duties, asset management, management access rights, including the living Murray, environmental outcomes, managing critical human water needs, basin planning, managing quality and quantity of flows, water-sharing arrangements, pricing, water market rules, emergency procedures and transitional arrangements. Those are huge issues that the Opposition is supporting across the basin. Part of the very reason the Opposition is so supportive of this bill is that its genesis originated with the former Federal Leader of The Nationals, John Anderson.

The National Water Initiative this is the next step in the process. The foundations were laid by the former Federal Leader of The Nationals, John Anderson. As Deputy Prime Minister he could see the impact on regional communities—the breadbasket of our nation. He could see that the States working independently and uncooperatively was having an adverse effect on regional communities. He set up the national framework to ensure certainty for irrigators and rural communities, the towns that rely so heavily on western New South Wales, in particular on our farming activities and irrigation. He could see the impact that decisions made in cities without proper consultation with regional communities and stakeholders, and sometimes for short-term political outcomes, could have on regional communities in New South Wales and Australia that he and many in his party represented.

Over many years John Anderson did the hard policy work, the hard grunt, to create a national framework for management of our nation's water. His basic premise was always that water belonged to Australians and needed to be managed far removed from political short-term pressures. He was always of the view—and this was the basic tenet of his belief, and that of so many of The Nationals—that water as a resource should always be used properly. If one is to use water properly as a resource one has to attach an appropriate value to it. That was the founding principle of the National Water Initiative. John Anderson pointed out that sometimes Western civilisations get a bit removed from the basics of life. It is important to remember that we can do nothing without water. We have a vested interest in using our water wisely, because as most schoolkids know Australia is the driest inhabited continent, and it also has the most unreliable rainfall.

The National Water Initiative has funded water tanks and run-off infrastructure for Kororo Public School, a primary school in Coffs Harbour that my children attend. Coffs Harbour has one of the highest rainfalls of any city in New South Wales. From a very young age children are learning about the value of water. Australia comprises 5 per cent of the world's land mass, but provides only 1 per cent of river and water basin run-off. Notwithstanding those restrictions, Australians are among the heaviest users of water per head of population in the OECD. Just over a quarter of the land in Australia accounts for about 80 per cent of Australia's total run-off. Most of that occurs in Tasmania and the northern parts of Queensland, Western Australia and the Northern Territory. By contrast the most intensively irrigated river basin, the Murray-Darling Basin, comprises nearly 14 per cent of Australia's area but accounts for only 6 per cent of the run-off.

The Snowy Hydro Scheme has the support of many in this House. Opinions formed recently by many members were based on the success of that scheme. I acknowledge that the Minister for Primary Industries, Ian Macdonald, said recently on the radio program *Country Hour* that but for the Snowy Hydro Scheme, and because of the 10 years of drought that we have endured, much of the Murray River would not have been running for the past few years.

The Hon. Tony Kelly: That is right.

The Hon. MELINDA PAVEY: I acknowledge the supportive interjection from the Minister for Lands. Sometimes we forget that although our dams are at their lowest level in the history of the Snowy Hydro Scheme, they still contain some water. We are all praying for rain because, as we know, that region is the nation's food bowl and it sustains, as well as the Australian economy, some magnificent, strong communities and towns that farm and irrigate in the region.

While agriculture uses about 70 per cent of all water consumed in Australia, it is important to understand that farmers are not the end users of that water. We all wear wool or cotton outfits—the natural fibres—and we consume the food that is produced in regional areas. Australian farmers use 70 per cent of consumed water but produce enough food and fibre for between 70 million and 90 million people, including the 20 million who reside in Australia. We are supplying millions of people outside Australia with materials produced by our farmers. The exports are a very important part of our economy.

The National Water Initiative is also important in an economic sense, because many of Australia's jobs and much of our economic wellbeing derive from these enterprises. On top of the 70 per cent of the water use to which I referred, there is domestic consumption and industrial activity. As we well understand, that is important for people's wellbeing and for jobs retention. Australians are water lovers despite our bush heritage. It is important to remember also that considerable water is consumed in our capital cities—enormous amounts in Brisbane, Melbourne, Sydney and Perth as those cities grow rapidly. We should remind those in the cities who suggest that it is okay to take water from cotton farmers and that we should not grow rice in the Riverina, that more should be done by city communities to preserve water. I refer particularly to Sydney. Every day in Sydney the equivalent of 1,000 Olympic-sized swimming pools of primary treated sewage is pumped into the ocean off Sydney.

Mr Ian Cohen: Through the ocean outfalls.

The Hon. MELINDA PAVEY: Yes, the ocean outfalls. For many it is a case of out of sight, out of mind, because pipelines take toxic primary treated sewage two to three kilometres out to sea. It might be out of sight, but it is still there, and the irony is that some of that material will be sucked up in the pipes of the desalination plant that is costing this State about \$2 billion to build.

Mr Ian Cohen: That is recycling water.

The Hon. MELINDA PAVEY: I acknowledge the interjection.

Mr Ian Cohen: ALP style.

The Hon. MELINDA PAVEY: I like that interjection even better. We all have a responsibility to protect our water resource. The more we understand what we do in all communities the better we are able to make the right decisions. The most important part of the National Water Initiative and the policy established by John Anderson is to put value on water, to ensure that bankers and planners can decide that there is certainty for the investor and financial institutions, and to allow farmers to borrow to install far more efficient irrigation systems. That is happening all over New South Wales and Australia.

The Hon. Tony Catanzariti: It was happening before: they are putting drip irrigation into the Riverina.

The Hon. MELINDA PAVEY: I acknowledge the interjection of the Hon. Tony Catanzariti. Yes, they are putting drip irrigation into the Riverina because they have the resources.

The Hon. Tony Catanzariti: That was 35 years ago.

The Hon. MELINDA PAVEY: Yes, it started 35 years ago and it is happening more and more. The Opposition recognises that in supporting the intergovernmental agreement we need to manage our water resources as a whole. We also recognise that water underpins many of our local communities and is vital to river health and environmental outcomes. Water security is vital to industry and investment stability. The Murray-Darling Basin holds a \$10 billion irrigation industry, supplying food and fibre domestically and internationally. We acknowledge the water-sharing plans and security, but want much more consultation with regards the provisions of the Water Management Amendment Bill 2008.

In closing, I acknowledge the presence in the President's Gallery of the new Minister for Water, Minister for Rural Affairs, and Minister for Regional Development, Phillip Costa. I acknowledge that he has pulled the Water Management Amendment Bill 2008, and understand that in that regard there was much consultation with John Williams and Kevin Humphries. I appreciate the fact that he has done that. It probably should not have happened in this way, but given the present state of affairs in New South Wales it is perhaps understandable. I note that the shadow water spokesperson, Adrian Piccoli, was involved in that process as well. The Opposition will not oppose the Water (Commonwealth Powers) Bill 2008.

Mr Ian Cohen: Why don't you support it?

The Hon. MELINDA PAVEY: We will support it. We look forward to working with the new Minister in our communities to ensure that there is proper consultation with local people about the Water Management Amendment Bill 2008. I am sure that Adrian Piccoli, Kevin Humphries and John Williams will be paramount in that process.

Mr IAN COHEN [8.40 p.m.]: On behalf of the Greens, I state our clear support—not opposition—for the Water (Commonwealth Powers) Bill 2008.

[*Interruption*]

I would like to think it is about approaching the debate with a degree of integrity. It is important to recognise the terrible problems we have with water in Australia, the driest continent on earth. The inadequacy of resource management over a long period—in fact, for many generations—has been clearly documented. For hundreds of years this country's scarce water resources have been misused profligately. The blame lies not just with rural areas. As the Hon. Melinda Pavey pointed out, the profligate misuse in the urban environment of an extremely rare and valuable resource has been curbed only recently.

The Hon. Melinda Pavey: Rare?

Mr IAN COHEN: Yes, water is very rare in an environmental context. That is what I would call it. In many areas of New South Wales and across Australia water is a bit of a rarity.

The Hon. Rick Colless: It's not rare.

Mr IAN COHEN: I take the members' point: perhaps "rare" is the wrong word to use, but it describes what many people think about water.

The Hon. Greg Pearce: It's in short supply.

Mr IAN COHEN: I accept that. The Murray-Darling Basin, which covers 1.06 million square kilometres and contains 65 per cent of irrigated land in Australia, presents a water resource management challenge in a highly variable management environment. Below what on the surface seems like a deceptively simple issue is an acute challenge to provide a resource to satisfy rapidly intensifying demand. Some 90 per cent of water diverted from the Murray-Darling Basin system is used for irrigation, and in 2005-06 the gross value of irrigated agricultural production was \$4.6 billion. The basin system is cemented in our collective psyche as the foundation of Australia's food production system and the lifeblood of key components of Australia's biodiversity, such as the river red gums.

Members will be familiar with my push to protect the State's red gum forests, a continental-scale biodiversity corridor that extends from Kosciuszko to the Coorong along the Murray. Increased environmental flows, in conjunction with the Federal Government's intervention in the illegal destruction of internationally significant river red gum wetlands under the Environment Protection and Biodiversity Conservation Act 1999, will be the first steps in securing a key ecosystem of the basin for future generations. As climate change impacts intensify—and water becomes rarer—and ecosystem pressures further extend the growing lists of threatened species, a viable Murray-Darling Basin will become an important haven for species such as the spotted-tailed quoll, the swift parrot and the regent honeyeater. Environmental, agricultural, indigenous and extractive industry water needs are locked in a tug of war, and we need a unified governance framework to provide adaptive and flexible management. Interconnectivity of the basin and the undeniable nexus between river system health and the delivery of ecosystem services mean that the tug of war must transform into an intelligent and balanced approach to resource management.

We often hear the adage that ecosystems and river systems do not respect borders. They are not aware of our man-made demarcations and jurisdictional lines in the sand. History is littered with examples of failures and successes in the cross-border management of watersheds, catchment areas and ecosystems. The Danube, the Columbia River and the Nile are international examples of how, through negotiations, treaties and International Court of Justice litigation, cross-border management issues concerning significant river systems can be addressed. It is interesting that the states of one federation, Australia, have so much difficulty managing the Murray-Darling Basin, when different countries throughout the world have had major successes in this regard. Australia is now at its own critical crossroads. The Murray-Darling Basin, which extends across four States and one Territory, has suffered at the hands of segmented rather than integrated and adaptive natural resource management. But these challenges were anticipated more than 100 years ago. On 5 February 1898—not 1998—an unidentified journalist prophetically stated in the *Bulletin*:

No one knows at present how far irrigation may yet go, but in all probability it will one day be conducted on so vast a scale that, in dry or even moderately dry years, practically all of the waters of the Murray system will be used up ... South Australia would then be wholly at the mercy of the other provinces, which could mop up all the available waters and leave their barren neighbour nothing but a streak of sand.

That was written in 1898.

The Hon. Rick Colless: It was before the barrages went up in Lake Alexandrina.

Mr IAN COHEN: Way before that, I would say.

The Hon. Rick Colless: It's where most of the water goes now.

Mr IAN COHEN: I acknowledge the member's interjection and thank him for rousing me from the usual somnambulance of my existence in this place. It is clear—and has been since 1898—that there is a dire need to implement a governance framework. Gross mismanagement by the States over a long period is to blame. I also acknowledge—and I do not blame them for this—that those involved in farming and other practices in dry areas did not always act in the most responsible manner. It is easy to say that with the wisdom of hindsight; we understand the issues better these days. But our rare—I use that word again—and very valuable resources have been used and misused to the point where the systems have been run down significantly. Man-made structures may assist in some circumstances. In other circumstances the regulation of river systems and their industrial use is extremely detrimental to their health, vigour and flow.

I will mention later not only environmental issues but also the opportunity for agricultural extraction, the viability of land, rising salinity and the many other problems associated with intensive irrigation activities along the river systems. We cannot continue to use this resource and expect it to be business as usual. On behalf of the Greens I welcome this legislation because it is recognition that regulation of the systems must be more unified and scientifically driven. We must certainly move away from the mentality of "our State will survive and bugger the rest downstream". It has reached the point where South Australia is suffering immeasurably as a result of the profligate misuse of the resource upstream.

As I said, it has been clear since 1898 that there is a dire need to implement a governance framework that secures the viability of the Murray-Darling Basin system. We need to elevate responsibility beyond the self-interest of any one State, ensuring equality between upstream and downstream users. For us to move forward and to address climate change impacts and water scarcity, we require a unified response. The current predicament for the Ramsar-listed Lower Murray Lakes is a glaring indictment of the States and their failure to rise swiftly above parochial self-interest. Failing to address the need for accountability and river system equity will allow the dangerous and irreversible ramifications of a parched basin to march on. Without integrated resource management—regardless of instrument selection—we face an escalating tragedy of natural resource destruction, and more buck-passing and shirked responsibilities by the States. The CSIRO sustainable yield project will provide comprehensive scientific data—in what some call an information vacuum—on the future availability of water resources and will establish parameters for our assessment of what sustainable management of the Murray-Darling Basin constitutes.

The divergent State and regional interpretations of what constitutes sustainable levels of water extraction across jurisdictions should be minimised with the centralising of administration and CSIRO data. When the Federal Government enacted the Water Act 2007 it did not have the full ambit of powers required to centralise management of the Murray-Darling Basin and it relied upon various constitutional heads of power, including external affairs and corporations power, to assume the Murray-Darling Basin responsibilities. In doing so, the Commonwealth created considerable legislative complexity that undermined consistent basin management to the detriment of environmental and rural economies. During the last meeting of the Council of Australian Governments in July, State and Federal parties signed the intergovernmental agreement [IGA] on the Murray-Darling Basin reform.

In a nutshell the intergovernmental agreement removes the conflicting parallel basin administration by transferring powers to the Murray-Darling Basin Authority and the Ministerial Council and Basin Officials Committee, it expands Australian Competition and Consumer Commission [ACCC] pricing controls and charges, and it alters the compensation framework initially set out in the national water initiative to reflect Commonwealth control over extraction limits. The Water (Commonwealth Powers) Bill 2008 is necessary to give effect to the intergovernmental agreement. The bill will enable the Commonwealth to make more comprehensive laws about matters relating to the Murray-Darling Basin and it is necessary under section 51 (37) of the Constitution to refer State powers to the Commonwealth.

Specifically, the referring bill creates administrative harmony and refers the power issues associated with critical human needs. The bill also makes amendments to water charges and water market rules. Currently,

the constitutional and regulatory overlay caused by the Water Act 2007 created a dual role for the Australian Competition and Consumer Commission and the New South Wales Independent Pricing and Regulatory Tribunal [IPART]. The bill will extend Australian Competition and Consumer Commission regulatory coverage for water charge rules across the entire basin. In 1994 the first moves were made towards a market of tradeable water rights and the separation of riparian rights and water entitlements from land titles. However, both the community and industry continue to have concerns about the operation of a tradeable market for water rights. Page 6 of the National Water Commission report to the Council of Australian Governments entitled "Update of Progress in Water Reform 2008" states:

While water trading is being shown to provide numerous benefits to individuals, communities, the environment and the economy, there remain a range of community and industry concerns associated with trading water and governments' participation in water markets. Better monitoring and communication of the impact of water trade on all stakeholders across regional economies and communities are required to ensure support for this critical area of reform.

When preparing my speech on this legislation I kept thinking that a while ago the Government sold off these water rights and now it has to buy them back. A reading of the history of development in this State indicates that we are going around in circles—an extensive and expensive exercise. Hopefully, centralising these bodies will result in real reform. Some of the concerns canvassed in that report relate to the 4 per cent interim threshold limit on trade out of irrigation areas that may limit the scope for environmental water purchases. If governments make further strategic purchases, as outlined by the Australian Conservation Foundation in a similar manner to the purchase of Toorale Station, barriers to interstate water trading will need to be addressed, and section 92 of the Constitution will be an appropriate guiding light.

I noted that members in the other place were concerned in debate in that House this morning about the structural adjustment and change that these new management strategies will pose to rural and regional areas. I noted also calls for increasing assistance with irrigation productivity and deployment of technology and process that will enable existing agricultural operations to adapt to increasing water scarcity. I acknowledge the difficulties occurring in rural communities and I note community concern about Toorale Station and the acquisition of water resources for its protection, and the perceived impact on the productivity of rural activities and economies in that area.

The Hon. Trevor Khan: There is nothing perceived about it.

Mr IAN COHEN: I acknowledge the complaints that have been made by people in those communities. I do not expect Opposition members to take much note of what I have done in this regard, but I advise that in a recent press release I agreed that some areas of acquisition might be beyond the interest of some national parks. However, there could be a continuum.

[Interruption]

Before the Hon. Rick Colless jumps the gun he should give me an opportunity to explain. Some areas of acquisition could go beyond the interests of some national parks. Some of my friends in the Greens strongly support the idea of having some sort of research station on site that would employ people and develop creative industries in those areas. That would result in a degree of continued productivity, employment and conservation. At the same time our balanced agricultural and environmental areas would act as an attraction for people.

The Hon. Rick Colless: That is a big step for the Greens.

Mr IAN COHEN: No, it is not at all. It is a big step for National Party prejudice. Opposition members have not recognised what the Greens have been saying for a long period. I recently issued a press release relating to that issue. There is much prejudice and a lack of recognition by National Party members. However, the Greens are open to many of these issues. They recognise what needs to be done in the country and that might be reflected in recent local government election results.

The Hon. Henry Tsang: Point of order: Members should address the Chair rather than have private conversations across the Chamber.

The PRESIDENT: Order! I am sorry to interrupt the member's conversation. I ask him to return to the bill.

Mr IAN COHEN: Thank you for your ruling. I was getting carried away by the intellectual stimulation I receive from members of The Nationals.

The PRESIDENT: Order! The member should ignore interjections and confine his remarks to the bill before the House.

Mr IAN COHEN: Where was I?

The Hon. Greg Pearce: That is what Eric said yesterday.

Mr IAN COHEN: And there the similarity ends. I noted the calls for increasing assistance with irrigation productivity and the deployment of technology and process that allow existing agricultural operations to adapt to increasing water scarcity. I also noted the positions and visions of the Murray Lower Darling Rivers Indigenous Nations [MLDRIN] for managing the Murray-Darling Basin. In its "Indigenous Response to the Living Murray Initiative 2003" it points out the interconnectedness of the health of the river to the cultural economy. The report states:

Human rights to maintain a "cultural economy" relate to Indigenous Nations being able to undertake activities that secure sustainable capital from the natural resources that traditional and historically belong to each nation.

It states further:

There was a widely held view that a water allocation should be available to each Indigenous Nation to enable them to exercise their custodial responsibilities to care for the river system. Each Nation would decide whether its allocation should be used to increase environmental flows or to help generate a more independent economic base for their people. The decision would be taken in the context of the health of the river system and their custodial responsibilities.

From a cultural and environmental perspective the input of indigenous nations in the Murray-Darling Basin system is extremely important. I have sat with indigenous people who have described to me their feelings about the river system as being part of the human body. The wetlands are the kidneys and the flowing rivers and smaller streams make up the arterial system. It is important that the riverine system be in a healthy state.

It is interesting to look beyond the cultural aspect, beyond the recognition that they need an economic base to work from, and beyond the fact that indigenous people are able to look at sustainable practice in these ecosystems. Social harmony also is created from a healthy river system. It gets to the point where they say, well when the rivers are flowing the kids are out swimming, fishing and recreating and there is some balance in society. They are not out going to other areas and making a nuisance of themselves or getting into trouble with the law as they would when the ecosystem is trashed. It is as simple as that: healthy river, healthy culture and healthy activity in this case for young, indigenous people in the community. It all ties in together and it is worthwhile for this House to note the many other dependent activities, cultures, people and livelihoods beyond some of the much-debated issues of industry, agriculture and suchlike.

Obviously, those industries have rights and that has been well established both by other speakers and me in recognising the value of their contribution to the economy. There is also an intrinsic value to people who live by the waterways and rivers. If they are going to exist in a healthy and productive environment the health of the river is important. We must do more than just make a token gesture and say that we need to earn money from it. It has been part of the culture of indigenous people for many generations and it is important to recognise that when we are making an assessment. It is as important as making assessments on the environmental viability of the river systems and how we treat them.

I am listening and will continue to listen to all stakeholders. Before I forget, the Hon. Rick Colless asked whether I had been to Toorale. I have not been to that site but just because someone has not been there does not mean he or she does not have a legitimate position on the matter. It does not mean that you have not seen other areas that allow you to express a valid opinion. It was interesting to see on the ABC tonight a program in which people are taking trips to every town mentioned in the song *I've Been Everywhere*. We could try that, but there are other ways of approaching the issue that have equal validity.

The Hon. Charlie Lynn: It would be good to try that.

Mr IAN COHEN: If the Hon. Charlie Lynn wants to come with me on the bike, I reckon I could do it with him.

The Hon. Charlie Lynn: No, no. It would take at least three years to get back, and we would get a few things done.

Mr IAN COHEN: I would suggest that for the amount of time that I spend speaking in the House, it hardly would be considered a waste of time. The interjections of the Hon. Charlie Lynn take up a little bit of time as well.

The Hon. Greg Pearce: The last 10 minutes have been constant waffle.

Mr IAN COHEN: That is your opinion.

The PRESIDENT: Order! The member should address his remarks through the Chair and ignore interjections.

Mr IAN COHEN: Thank you, Mr President. It is interesting to note that what is of great importance to a few members of this House and tolerated by many members—I acknowledge their generosity in that tolerance—is also derided by others. I will say no more about it. I am listening and will listen to all stakeholders. There are some rough seas ahead and environmentalists, farmers, indigenous nations, regional communities, scientists and agricultural industries need to engage in renewed discussion and cooperation to address the multidimensional challenges of water management. Too much is on the line for us to retreat to the shelter of ideologies. I thank the Minister for Water and the Department of Water representatives for discussing this bill with me. It has been a wise move to split the originally cognate bills to allow a deeper discussion on the Water Management Amendment Bill. I commend the Water (Commonwealth Powers) Bill to the House.

The Hon. TONY CATANZARITI [9.03 p.m.]: I support the Water (Commonwealth Powers) Bill 2008. The July intergovernmental agreement on Murray-Darling Basin reform represents another important milestone in the ongoing cooperation between State governments and the Commonwealth to achieve better outcomes for water users and the environment. The New South Wales Government has a proven track record of working cooperatively with other jurisdictions to pursue optimal policy outcomes, both for New South Wales and Australia as a whole. Cooperative agreements between the States and the Commonwealth on the management of the water resources of the Murray River date back to 1915. The New South Wales Government's leadership and cooperation in the Murray-Darling Basin reform process is evidence of its commitment to achieving long-term, workable solutions to a problem that has significant impact on the lives of everyday citizens of New South Wales.

As with other environmental resources, the Murray-Darling Basin affects numerous interests, including farmers and wider rural communities, extending across New South Wales, Victoria, South Australia, Queensland and the Australian Capital Territory. The Murray-Darling Basin covers over one million square kilometres, or 14 per cent of Australia's total area. It represents the country's agricultural food bowl, accounting for 41 per cent of the nation's gross value of agricultural production and over \$10 billion in manufacturing. The basin also contains Australia's three longest rivers: the Darling, Murray and Murrumbidgee. The basin has a population of two million people and is home to 35 endangered bird species, 16 endangered animals species and numerous wetlands, many of international significance.

From a State perspective, practically all of inland New South Wales west of the Great Dividing Range, some 600,000 square kilometres, is in the Murray-Darling Basin. Given the wide-ranging importance of the basin to New South Wales environmentally, socially and economically, it is important to develop comprehensive policies that will produce outcomes that are beneficial to all interests instead of piecemeal solutions that may result in unintended and detrimental outcomes for particular groups or communities. New South Wales was the first State to agree in principle to the Commonwealth taking a greater role in the management of the water resources of the basin. The agreement represents a negotiated and streamlined approach to addressing the challenges presented by the Murray-Darling Basin both to New South Wales and other affected jurisdictions.

The referral bill is an essential step in implementing the agreement, and signals the New South Wales Government's commitment to ongoing cooperation and reform. The implementation of the agreement will result in improved management of the fragile Murray-Darling Basin, a resource that is vital to the prosperity of New South Wales. In order to reduce costs and improve outcomes for water users and the environment it is important that a complex shared resource like the Murray-Darling Basin is governed by a central, overarching body. The New South Wales Government will retain an active role in the management and governance of the Murray-Darling Basin but under a new structure made up of the Murray-Darling Basin Authority, the new Basin Officials Committee and the new Ministerial Council. New South Wales water users and interested stakeholders also will have a role through the Basin Community Committee.

The authority is expected to begin operation in November. Its main function is to develop a strategic basin plan by 2011. This plan will set sustainable diversion limits on surface and groundwater extractions across New South Wales. It will set an important baseline ensuring that all river and groundwater systems across the different jurisdictions are subject to consistent and sustainable limits on extraction. However, the States will still be responsible for the management and sharing of the water resources within their catchments subject to these limits. These new arrangements will also remove existing areas of duplication by transitioning the Murray-Darling Basin Commission to the new Murray-Darling Basin Authority. The streamlining of governance arrangements not only will reduce costs associated with managing the Murray-Darling Basin, but also will lead to improvements in efficiency. The agreement is therefore a balanced approach to governance of the Murray-Darling Basin as it provides for streamlined and efficient decision-making bodies and more consistent decisions while still allowing State governments to exercise appropriate discretion and control. As a result of the Commonwealth Water Act 2007, regulatory responsibility for water charge rules and water market rules in New South Wales currently is shared between the Independent Pricing and Regulatory Tribunal and the Australian Competition and Consumer Commission.

The current situation is unacceptable. It has increased complexity for stakeholders and has resulted in the duplication of regulatory functions. The new arrangements provided in the bill will streamline the regulatory framework for water charge and water market rules. This framework will involve a single independent body being responsible for the regulation of water charge and market rules. This centralised regulatory body will reduce the regulatory burden on water users and others who are required to comply with water charge and market rules.

The New South Wales Government is providing in this bill a regulatory framework that will reduce regulatory costs for water users and eliminate the existing inefficient duplication and overlap between regulatory bodies. There will also be greater consistency between the different States in their water charges and trading rules, thereby ensuring that trade between water users and the States can occur as freely as possible but also on a level playing field. Particularly during current drought conditions, the ability to trade water licences and water allocations has been a lifesaver for many water users.

Last year, record water trading occurred in New South Wales, with more than 710,000 megalitres in allocations of water being temporarily traded and 420,000 megalitres in water licences being permanently traded. Trade allows those who do not want to use their water to sell water to those who need it. This is essential for survival of permanent plantings of trees and vines. For the reasons I have stated, I commend the bill to the House as an important step forward in ensuring the long-term sustainability of the basin, which in turn is essential for the survival of many New South Wales rural communities, farmers and businesses.

The Hon. RICK COLLESS [9.10 p.m.]: Given that my colleague the Hon. Melinda Pavey extensively canvassed the issues when she led during this debate on behalf of the Opposition, I will not take up too much time of the House except to say that many people in the community and many members of the Parliament were extremely disappointed when the Water (Commonwealth Powers) Bill and its cognate bill were introduced without any consultation having taken place with the community. At the stage at which it was introduced in the other place yesterday, not one stakeholder group had been consulted. That is a very sad indictment on the Government's approach to legislation and the Parliament.

While all members would agree that the Water (Commonwealth Powers) Bill is necessary legislation, the Government persists in rushing through complex legislation, which is in very bad taste and reflects very poor form on the part of the Government. The Government absolutely did the right thing by withdrawing the Water Management Amendment Bill to provide stakeholders with an opportunity to examine its provisions in detail. I will provide the House with some examples to illustrate the concern I felt when I quickly read the Water Management Amendment Bill. The bill provided for an offence under new section 60 of taking water without having an access licence. The scope of that new section was not clear and did not provide a clear idea of the limits applying to the use of water for stock and domestic use. I could find no information in the bill relating to quantitative limits and there was no indication of how much water was involved.

Mr Ian Cohen referred to the purchase of Toorale Station. It was interesting to hear the Federal Minister for Climate Change and Water, Penny Wong, say that 20 billion litres of water would be returned to "the river" each year. I can only assume that she was referring to water being returned to the Darling River. Toorale Station is on the Warrego River, which is a tributary of the Darling River. I asked Mr Ian Cohen if he had visited the area because anyone who has seen the Warrego River knows that it is not a deep or defined channel where it meets the Darling River. Anyone who has visited Fords Bridge, which is the village upstream

of Toorale Station, would know that the bridge at Fords Bridge is a very small timber structure across what is not much more than a ditch as wide as the centre table in this place. In fact, the area is a floodplain. Water that flows down the Warrego River rarely reaches the Darling River. I acknowledge that 20 billion litres sounds like a lot of water, but in the big picture of the capacity of these rivers, it is 20 gegalitres and is a very small volume of water.

When people refer to 20 gegalitres of water being released into the Darling River, they must also realise that continuous environmental flows of that magnitude will not be possible every year. In 9 years out of 10, no extra water will go into the Darling River. It will only be in high rainfall seasons when a huge wet weather system covers the whole of central Queensland and northern New South Wales that the Warrego River will reach levels high enough to enable flows to reach the Darling River. The sale of Toorale Station also raises concerns because the Federal Government contributed \$20 million and the New South Wales Government contributed \$5 million to the purchase price. Suddenly that was touted as a major step forward in improving water resources, but we should bear in mind that Toorale Station comprises approximately 93,000 hectares of which approximately 2,000 hectares is irrigated land.

Although the purchase of Toorale Station will not make a huge difference to the volume of water in the river system, it will have a big impact on Bourke. Toorale Station formerly paid approximately \$5,000 in annual rates to the Bourke Shire Council that the council no longer will receive. That will have a huge economic impact on Bourke and the surrounding shire. Toorale Station also had huge expenditure on animal health and farm management, but that money no longer will be spent in Bourke. Many experts, such as CSIRO expert, Tom Hatton, say that the lower lakes and the Coorong in the Murray River mouth area—

The Hon. Greg Donnelly: Point of order: I am endeavouring to listen to the contribution being made by the member, but the background conversations are quite loud. I ask you to remind members to listen in silence while a contribution is made to the debate.

The PRESIDENT: Order! It is a fair request, and I ask members to accede to it.

The Hon. RICK COLLESS: That is a very good point of order. The problems in the Coorong have been attributed to irrigation higher in the catchment area of the Murray River, but Tom Hatton points out that the return of 20 gegalitres of water from Toorale Station to the river system will not benefit the Coorong because that relatively small volume of water simply will not reach the mouth of the Murray River. The sale of the station will not have the great effect that is intended. If the condition of the lower lakes is to be improved, perhaps the Federal Government and the new Murray-Darling Basin Authority should examine the barrages that were constructed in the 1920s in Lake Alexandrina and Lake Albert. Those lakes are the site of huge quantities of freshwater evaporation each year.

That real issue needs to be addressed, but no-one has been game enough to raise it. The barrages should be removed and Lake Alexandrina and Lake Albert should be returned to being tidal lakes, as they were naturally. That would fix the problem of the Murray River mouth silting up because there would be a tidal flow going through daily. It would save also not tens of gegalitres but literally hundreds of gegalitres of evaporation water every year. No-one has been game enough to take that issue on board because it is too difficult. For example, the South Australians have a nice freshwater lake. Plenty of workable options have been suggested, such as the two lakes scheme, but Penny Wong and her people have not been game to address that issue.

The Hon. Trevor Khan: Where's she from?

The Hon. RICK COLLESS: Penny Wong, who is the Federal Minister for Climate Change and Water, has not been game to take on that issue.

The Hon. Trevor Khan: Why? Because she's from South Australia?

The Hon. RICK COLLESS: Because she does not know anything about it, for a start. That is part of the problem.

The Hon. Lynda Voltz: Point of order: I ask the member to address his remarks through the Chair.

The PRESIDENT: Order! I remind members of the importance of this debate. Members should address their remarks through the Chair and resist the temptation to be distracted by interjections. Contributions must address the subject matter of the bill.

The Hon. RICK COLLESS: One problem I have with the referral bill, as it is being called, is that it states that it intends to define "critical human needs as core human consumption requirements in rural and urban areas". However, the bill does not define that at all. Indeed, it only relates the words "defines critical human needs as core human consumption requirements in rural and urban areas". What are those critical needs? Are they stock and domestic needs? Are they town water needs? Are they the needs of individuals travelling through the bush who are dying of thirst? Those needs are not defined in the bill. We need to know where the stock and domestic water requirements fit into the legislation.

The "riparian water rights" provided in the Water Act 1912 made it clear that everybody had the right to access water for their domestic and stock needs wherever they could get it. I am afraid that those rights are being removed from the process. I am afraid that stock and domestic requirements will be subject to the same licensed requirements, and people who step outside those licensed requirements will be hit with the need for compliance and so on. The Government seems to be more focused on compliance needs, rather than working with landowners and others to help them access the water they need.

Given the emphasis on compliance and catching water thieves, as the Government has referred to them, I am concerned that—as has happened with a lot of environmental legislation brought forward by this Government over the years—if people step outside the guidelines because their stock or families are thirsty, they will be charged for thieving water and they will be guilty until they can prove their innocence. That flies in the face of our legal system, where everybody is innocent until those charging them prove that they are guilty.

The Hon. ROBERT BROWN [9.24 p.m.]: The Shooters Party will reluctantly support the Water (Commonwealth Powers) Bill. I say reluctantly because in previous debates we have made it clear that we believe in State's rights. We do not necessarily believe in State rights for South Australia, but we believe in State rights for New South Wales. I listened to the debate, especially the contributions of Mr Ian Cohen and the Hon. Rick Colless. Not only did the debate centre on the substance of the bill, which effectively enables New South Wales to deliver its part of the deal with the Commonwealth to manage our waters; members talked about whether the purchase of Toorale Station was a smart move. Clearly the Shooters Party agrees with the Hon. Rick Colless that it was not a smart move.

Our reticence in supporting this bill clearly comes down to enabling New South Wales to do the right thing by allowing Commonwealth powers to be formulated. The people of New South Wales are placing their trust in the same Minister who still believes in anthropogenic climate change. The former Treasurer is a well-known climate sceptic, as am I. If we make a mess of water management in Australia, it will make the stupidity of the carbon scam tax look like a little pimple on a camel's rear end. Australia has a lot of water but it is not evenly distributed. I probably make myself unpopular with the irrigators on the Murray, the Murrumbidgee and the Ord rivers, but maybe the answer is the acronym SANOWS—send agriculture north or water south. We do not have water where soil fertility shows we should have and need it.

The intent to do the right thing by having the Murray-Darling Basin, the Darling River and the Murray River flow into a set of man-made lakes created in the 1920s—the Hon. Rick Colless was correct—is laudable. The States and the Commonwealth agree that they must do something as a group for water management. I simply hope that the Federal Minister for Climate Change and Water does not make any mistakes with the legislation because New South Wales is caught in the middle. We are not at the headwaters in Queensland, where there are massive water storages. We are not at the tail end in South Australia, where freshwater is necessary to keep the artificial lakes full, when there would probably be tidal flows if nature ran its course.

The loss of employment by the people of Bourke from a 92,000 hectare working station like Toorale may seem like a little sacrifice to make. However, as the Hon. Rick Colless said, such sacrifices are being made for a lousy few gigalitres of water that will not, in all probability, reach the conjunction of the Darling River. That water will go into the sand or evaporate. Certainly, that water would make for a healthy flood plain, as happened in past years with massive rains in south-west Queensland. But let us not let the people of New South Wales believe that, in co-joining with the Commonwealth to do something for the Murray-Darling Basin, we are absolutely sure that what we are doing is right, because we are not. That is certainly the case for members of this House who do not have experience with such matters.

I do not believe that the scientists who necessarily are advising the Commonwealth have much data on which to base such decisions. The global warming debate seems to be based on computer models. One can run out of computer models, but one is in real trouble if one runs out of water. I hope that the Federal Government, with the cooperation of New South Wales, does not make a humungous mistake in supporting this legislation.

I hope also that the health of the Murray-Darling Basin, not only the lakes at the end of the Murray, is achieved. The Murray-Darling Basin is a huge area of land, so the people of Bourke should be treated equally to the people living near the freshwater lakes in the Coorong and at the mouth of the Murray. The Shooters Party supports the legislation, congratulates the Government on splitting the two bills, and agrees with The Nationals that it would have been messy to consider both bills together.

Reverend the Hon. Dr GORDON MOYES [9.30 p.m.]: Recently in western Riverina I visited farmers in Berrigan, Finley, Walla Walla and many other places much further west. At a dinner at Finley RSL I addressed 153 farmers, all of whom were suffering badly from the drought. I visited a number of farms on what we called the Spirit Lift, a convoy of people who travelled from Sydney at their own expense and stayed in farm stays. They talked to farmers and paid them \$70 per night so that they did not take anything from farming families. We left behind a large amount of goods and gifts for the people, but most importantly we went there to get alongside farmers who were experiencing the drought to say that although we are from the city we really care for them.

On Sunday morning I preached to overflowing congregations when all the combined churches of the area came together for a church service. After church one farmer told me that he was currently spending \$20,000 per week on water and food to keep his breeding stock alive. There is no question that water, rain and purchased licences are absolutely essential to our farmers. The National Water Initiative, which was introduced in the Federal Parliament by a former Deputy Prime Minister, the Hon. John Anderson, is difficult as it covers 300 pages of legislation. I can understand the need for it and for the Water (Commonwealth Powers) Bill 2008. I have visited the stations along the Darling, such as Toorale station, downstream from Bourke. I have travelled down the Murray. I have flown in a light plane the full length of the Darling down to the sea, which allowed a very impressive study of the countryside.

On 3 September 2007 the Commonwealth enacted the Water Act 2007. The key aim of the Act is to provide management of the Murray-Darling Basin, which extends over four States and the Australian Capital Territory, through the development of a comprehensive basin plan by a new independent Murray-Darling Basin Authority. In so doing the Commonwealth used its own constitutional powers, which resulted in legislation that increased legislative complexity and bureaucracy in the basin. Water is our most valuable national resource. Those who live in cities need droughts to remind them, as ordinary citizens, that water does not just come out of a tap. The object of the Water (Commonwealth Powers) Bill 2008 is to provide for the transfer of the current powers and functions of the existing Murray-Darling Basin institutions, such as the commission and the Ministerial Council, to the new institutions set up alongside the Murray-Darling Basin Agreement. Those include the authority, the new Ministerial Council, the Basin Officials Committee and the Basin Community Committee.

The Water (Commonwealth Powers) Bill 2008 also provides for the strengthening of the role of the Australian Competition and Consumer Commission [ACCC] within the basin by extending the application of water market rules and water charging rules to cover all irrigation infrastructure operators and bodies that charge regulated water charges within the definition of section 91 of the Water Act 2007, not just those that fall within the scope of Commonwealth powers. The Water (Commonwealth Powers) Bill 2008 will thus allow the basin plan to provide for critical human water needs. If the Commonwealth breaches the Intergovernmental Agreement on the Murray-Darling Basin reform, a State will be able to suspend its amendment reference, thereby removing the Commonwealth's power to proceed with unapproved amendments. This means that New South Wales will still have authority over water usage and the licensing of irrigators, and have the responsibility of pursuing prosecutions. It might be asked by some of my colleagues why should I as a minister of religion take such an interest in the Water (Commonwealth Powers) Bill 2008. It is because water is central to the religious life of the three greatest religions that grew out of the Middle East. In fact, our Bible starts with the words:

In the beginning when God created the universe, the earth was formless and desolate and ... [waters] covered everything. The earth was covered with water.

It was and it still is. Water is the basic element of life. Our scientific generation can understand water. It is the only substance that comes to us in three totally different forms. It is the only substance on earth that is a liquid we can drink, a solid we can have as ice in our drinks, and a gas as steam. Its molecular structure is so simple that every young student learns it—H₂O. Water consists of only two atoms of hydrogen and one atom of oxygen and yet we cannot make it simply or cheaply.

In 1980 I had the privilege of travelling around Australia with Commander Neil Armstrong, the first man to walk on the moon. On one occasion he privately told me that when he looked over the barren moonscape

at the distant earth, as we watched the moon rise, he watched the earth rise. I asked him, "What could you see?" He said he could see the earth as it rose up over the rim of the moon but it was different to every other planet because it is the only planet in the solar system that is blue. Our earth is blue because it is covered by 1.5 billion kilometres of water. Seventy per cent of the earth's surface is water. It is the ultimate recycled product. We live on earth with all the water that has ever existed and all the water that ever will exist. No more water is being made and none can ever be destroyed. It simply changes its form and it returns to the earth, the air or the sea to be recycled. We sail on it, and our nation is surrounded by it, but we cannot cheaply desalinate it, as members of this House know only too well.

Only 3 per cent of the earth's water is fresh and 75 per cent of it is frozen into the icecaps and glaciers which contain about 1,000 years' supply from all of the rivers and lakes in the world. It is water that primarily shapes our land, provides our fertility and sustains our life. Water controls the temperature of our world; it creates the air currents and, as the Hon. Robert Brown indicated, it is the primary source of climate change. Sometimes Australia is inundated all down the east coast, with water flooding our towns and valleys, with every river spreading out across the countryside, yet right now in the inland of our nation we are experiencing one of the greatest shortages of water for at least two centuries. For the first time in a decade Lake Eyre in South Australia is full but the countryside around it is dying of thirst, for the rain that fills the lake has fallen not there but 1,000 miles away in western Queensland.

Our national life revolves around finding, conserving, using and battling with water. It is our slave and our master. Aborigines living inland centre their whole life on the supply of water, and in our most sophisticated citizens it is the most common topic of conversation. We know there are a number of things we must do, and we must do them all simultaneously. One of the most pressing problems confronting Australian life is the vexed question of water. That is why ultimately the Water (Commonwealth Powers) Bill is so essential. It is no longer a State preserve or a State rights issue; it is a question of national interest. It is about conservation, distribution, use and management of water.

We as a Commonwealth must do a number of things simultaneously. The first is to stop the leaks in the Great Artesian Basin. Our greatest water source is leaking 200 billion litres every year by uncontrolled bores. The Great Artesian Basin is an invaluable source of water in an otherwise mostly dry inland. While it may look like a never-ending supply, this is dinosaur water: it developed over millions of years. It is not quickly recreated. Science shows that we are taking out more than is sustainable. In other words, we are on a one-way track to running the basin dry. Currently, 892 bores run 24-hours-a-day, mostly in New South Wales and Queensland. I commend the State governments of both States for totally capping off many of those uncapped bores.

We must also reduce water losses in irrigation channels. The Hon. Rick Colless made the point that many people do not think about irrigation channels. Previously I lived in the Wimmera area of Victoria. I was interested to learn that the Wimmera Mallee water project in Victoria will replace 17,500 kilometres of open earthen channels with poly pipes. When finished the work will save 93 billion litres of water each year that would otherwise have been lost to evaporation and seepage. In Australia there are more than 70,000 kilometres of open water conduits, the most wasteful form of shifting water from one place to another. Also, 12,000 kilometres of stock and domestic supply systems are in service. That project must be handled nationally, and that involves the Water (Commonwealth Powers) Bill 2008, although it is not included in the detail.

We must improve the way we irrigate, and that will require more national attention. Agriculture uses 70 per cent of Australia's fresh water. In many ways the irrigation systems that are frequently used, such as flood or furrow, are a blank cheque for using water—that is, people use it until it runs out. For 27 years I was chair of one of Australia's greatest citrus orchards at Paringa, South Australia. Throughout those 27 years I was always puzzled by the annual cost of electricity for our massive pumps that pumped salty water out of the Murray River. In the early 1980s, at my instigation, we brought an Israeli hydrologist to Australia to help us introduce a better way of using water on our citrus orchard. We had half a million trees. We introduced the trickle-drip irrigation method and cut off thousands of overhead sprinklers.

At the next annual meeting I was surprised to learn that we had saved more than \$200,000 on electricity, just pumping salty water from the Murray River to spray onto our trees, which in turn caused great crop losses because the salt drying on the leaves caused curly leaf and root rot and the young crop to drop. Less water directed at the roots solved our problems and generated greater profits. I remember that hydrologist teaching me that for one large citrus tree one square foot needs to be watered. That was enough to keep an entire tree and its crop growing.

Farmers are gradually making more efficient use of water by planting crops and farming livestock that are suitable for the Australian environment. They are also learning how to protect their farms from erosion and salinity, to replant riverbanks—which is essential—and reduce water losses from dams. In the last couple of weeks I was out in the far west of New South Wales talking to farmers in the worst drought area in our nation. Everywhere I went I asked them whether they knew about the Goyder Line. I found that very few really understood it. I learnt about the Goyder Line at high school. Those who understood it told me that the real Goyder Line is the Murray River and that beyond north of the Murray it is no longer financially viable to farm crops or operate significant grazing.

We have to have better ways of working north of the River Murray. Last year when I was in Wagga Wagga I visited an exhibition called The River Exhibition, which displayed the amount of water needed to produce different products. The exhibition absolutely staggered me and blew apart many of the myths that I had grown up with. For example, scientists from the CSIRO calculated that one orange requires 75 litres of water from the time it begins to grow on the tree until the time it is sold; a bottle of wine requires 270 litres of water; a loaf of bread requires 630 litres of water; one cotton T-shirt requires 1,060 litres of water; and a kilogram of white rice requires 2,385 litres of water. The statistic that really surprised me is that a kilogram of steak requires in excess of 10,000 litres of water. Those figures take into account the entire amount of water used to produce a kilogram of steak—the water required to irrigate the field to grow the grass for the beast to eat throughout its lifetime until it is slaughtered.

The comparison of those various products is not intended to make farmers feel guilty about the amount of water we use but to make people think about the amount of water required to grow different vegetables and to produce different goods. Another matter that requires national attention, not just State attention, is that we must learn to recycle water. We must not waste our wastewater. Many Australians do not know about the wastewater treatment project in Virginia, South Australia, but it is the market basket-growing area of the southern part of Adelaide. The market gardeners grow vegetables using treated wastewater effluent from Adelaide. It is an outstanding example of good recycling. Last year they used almost 10 billion litres of water, mostly treated sewage, leading farmers in the area to believe that they could double production over the next decade, supporting both the entire South Australian market as well as national and export markets.

In my home we have lived on tank water until just recently, when town water came by our front gate. We were obliged by the Wyong City Council to link up for the first time. However, we use that town water for drinking and cooking only. We collect all of our roof water in a 50,000 litre concrete tank, which waters the flower gardens. That has been our main supply until now. We later added a 1,000 litre tank to collect water from our barn, woodshed and the chook house. That waters all of our animals. We later added a swimming pool and a 5,000-litre tank to collect water from my workshop and that is used to top up and backwash the pool as required. A solar blanket covers the pool to reduce evaporation.

Our entire acreage is covered with hundreds of fruit, nut and native trees and floral shrubs and gardens. Every tree and shrub, every garden and the camellia hedge is watered by trickle drip irrigation, pumped from our dam. The dam is fed by natural run-off, all wastewater from the house, backwash and excess rain from the pool, and overflow from the tanks. The dam, which collects all the water, is covered by lotus, which provides beautiful flows—now just coming up from the surface of the water—and the extremely large lotus leaves, a couple of feet wide, cover the entire surface, which reduces evaporation. The water plants oxygenate the water and in the dam native perch reduce the nutrients. A pump recycles the water through the irrigation system to all trees.

Every leaf and branch that falls is put through the mulcher. The mulch is a foot high and covers every garden and tree root area to the drip line. That conserves water. I carried out these experiments in an endeavour to learn how to not waste rainwater. We have put in rainwater tanks. In 2007 Sydney received 1,084 millimetres of rainwater. According to my gauge more has fallen in the nine months of this year. An average house with five one-kilolitre rainwater tanks, one for each downpipe, can collect enough rainwater from the roof area to yield 100 kilolitres of water, or enough to supply two-thirds of indoor use for the year. It is feasible that rainwater can be the cheapest source of water in Sydney.

The New South Wales Government policy throughout the entire twentieth century was to remove rainwater tanks from urban areas. As a result, 3 per cent of Sydney households now have a rainwater tank. Reduction in mains drinking water consumption is now mandatory for new houses and renovations. That reduction is achieved using rainwater tanks, which are the most effective means of reducing stormwater discharge of the most damaging kind. We should store it underground for later use. For example, large concrete tanks can be built under every sporting field, under every car park.

Every year an estimated five billion litres of stormwater is piped from towns and cities into the sea. Every one of us is utterly dependent upon water. Life cannot exist without water; we need water simply to live. Our bodies comprise about two-thirds water, and so does almost every other living organism. The percentage of water is about the same in a mouse, an elephant, a potato, a grain of wheat and a person. We drink about 60,000 litres of water in a lifetime. Yet if we lose only 20 per cent of our bodily fluids we will die a painful death.

In our home we use an average of 260 litres of water a day, mostly by washing and flushing the toilet. Industry uses hundreds of millions of litres of water daily, which is more than any other material. About 250 litres of water are used in the production of every daily newspaper we read. Every land consumes more water than it did the day before as a result of increasing populations and industries. Yet 90 per cent of the world's water is salty and unsuitable for drinking, industry or farming. We have no cheap way of making water or desalinating it. The Middle East is a dry region. That is why the great religions of the world talk so much about water. The first verse of the *Bible* talks about the water that covers the world, and the final chapter says that heaven is a place where there will be:

... the river of the water of life, sparkling like crystal, and coming from the Throne of God and ... flowing down the middle of the city's street. And on each side of the river was the Tree of Life.

Water management is about a great deal more than amending outdated legislation to help drought proof the entire west of New South Wales. It is a national resource that can only be managed nationally. I approve of the new penalties for violating provisions in the current Act that appear to have been unenforceable. I support both the Water (Commonwealth Powers) Bill 2008 and the Water Management Amendment Bill 2008.

The Hon. TREVOR KHAN [9.51 p.m.]: I am being told to be brief, and I will be. The Water (Commonwealth Powers) Bill 2008 is most important. It is notable that the New South Wales Liberal Party and The Nationals supported the Howard Government's initiative to take greater control of the Murray-Darling Basin.

The Hon. Rick Colless: The National Water Initiative.

The Hon. TREVOR KHAN: That is right. But stakeholder groups should have been given the opportunity to consider the legislation before its introduction in Parliament. It is a common trait of this Government that significant legislative amendments are introduced with little or no consultation. The effect is that stakeholder groups—that is, the community—are left concerned and confused as to the outcome of legislation. Much has been said in this debate about the Bourke region, and plainly the purchase of Toorale Station will have a significant impact on that town. However, it appears that this bill will have implications for other parts of the State. I am thinking particularly of the areas on the slopes and, closer to home, near Tamworth. Tamworth is on the Peel River, which is a tributary of the Namoi that eventually enters the Darling. I hope the Hon. Christine Robertson will listen to this. The water supply in the Tamworth region has been a concern for many years.

For instance, before the last State election the Labor Government promised to assist with the augmentation of the Chaffey Dam, and similar promises were made before the last Federal election. In January this year I wrote to the Federal Minister for Climate Change and Water, Penny Wong, seeking assurances that she would support the augmentation of the Chaffey Dam.

The Hon. Rick Colless: Did you get any?

The Hon. TREVOR KHAN: No. In August this year I inquired of her office how she was going replying to my letter of January. I received an apology, and it seemed that there was to be some reply. But by 15 September I had received no reply, and none has been forthcoming since then. If this same Minister is to assume greater responsibility for the management of the Murray-Darling Basin, we must ask how we can have confidence that anything will be done to advance the interests of the communities along the rivers that form that basin. The inaction on the part of both State and Federal governments with regard to projects such as the Chaffey Dam augmentation leaves the people of Tamworth with no confidence that anything will happen.

There is now a danger that governments will move away from funding the augmentation of Chaffey Dam. Because of events in South Australia, the Government may reclassify that augmentation project and say, "If we allow for an increase in the storage of Chaffey Dam near Tamworth, it will affect the amount of water that South Australia can access." That is clearly an absolutely ridiculous proposition, but it appears that Senator Penny Wong is likely to find it attractive. The purchase of Toorale Station was a stunt; it had nothing to with

improving water supplies in Adelaide or South Australia as a whole. The Federal Government seized the opportunity to issue some media releases, secure some television coverage and appear to have done something to resolve a problem. That is the difficulty we face with the Labor governments. By introducing the Water (Commonwealth Powers) Bill 2008, the State Labor Government can claim it has done something and the Federal Government can issue a media release to say that there have been further developments in this area. But no more water will be available to South Australia and, more importantly from my perspective—

The Hon. Michael Veitch: So you don't support it.

The Hon. TREVOR KHAN: More importantly from my perspective, nothing will be done to assist the people in the Tamworth region with their water supply. Nothing will be done to attract and secure industry in Tamworth and provide the jobs that are so necessary in that area. In short, it appears that this legislation has been introduced in haste, with no attempt to engage in proper consultation with stakeholders.

Reverend the Hon. FRED NILE [9.58 p.m.]: The Christian Democratic Party supports the Water (Commonwealth Powers) Bill 2008. The bill is part of an agreement with the Commonwealth that will allow the State Parliament to refer to the Federal Parliament certain matters relating to the Murray-Darling Basin and other water management issues to enable that Parliament to make laws about those matters. I believe this is a positive development because it is impossible for one State to solve the problems of the Murray-Darling Basin. The agreement brings the States together under the Commonwealth umbrella. The bill is State legislation that is required in order to refer to the Commonwealth powers that it does not have under its constitution. The bill will enable the Commonwealth to legislate on matters upon which it currently cannot legislate under section 51 of the Commonwealth of Australia Constitution Act.

I am sure that all members agree with section 51 of the Constitution, which preserves the powers of the States, but on occasions—as is occurring tonight—the States are willing to transfer certain powers to the Commonwealth. However, the right to use those powers resides with the State governments. This bill will provide for the transfer of current powers and functions of existing Murray-Darling Basin institutions such as the commission and the ministerial council to the new institutions set out in the Murray-Darling Basin Agreement, such as the authority, the new ministerial council, the Basin Officials Committee and the Basin Community Committee. I note that the Howard Government initiated that. However, I understand that there was lack of cooperation by the Victorian Government, and that delayed the progress that should have occurred.

It is to be hoped that the new Federal Government has been able to achieve agreement with all the States, which will make it possible to work quite rapidly. As this matter is urgent the legislation will help to meet that need. The bill will also strengthen the role of the Australian Competition and Consumer Commission within the basin by extending the application of the water market rules and water charge rules to cover, respectively, all irrigation infrastructure operators and all bodies that charge regulated water charges under the definition of section 91 of the Water Act, and not just those that fall within the scope of the Commonwealth powers.

Finally, it will enable the basin plan to provide for critical human water needs. The Federal Government has been talking about a scheme to provide \$150,000—a large amount of money—to get farmers involved in irrigation to move off their properties, which would be an unfortunate development. Sometimes desperate situations might justify such action, but I believe greater assistance should be given to farmers to provide the water that is needed for their irrigation schemes. The bottom line is that we need more rain. This Government should continue as a priority its decentralisation policies to ensure the profitability of these farmers and enable them to stay on the land.

Any plan to buy farmers out and force them to leave the land would be regrettable. That might be necessary but I believe that in the interests of our national development over coming years it should be a last resort. The Government must continue its decentralisation policies and ensure that the farming community has the support of all citizens living in the cities. The Christian Democratic Party supports the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [10.02], in reply: I thank members for their contributions to debate on the Water (Commonwealth Powers) Bill 2008, which is a practical and considered response to an urgent concern and will help to safeguard the future of our rivers and our river communities. The referral bill establishes the arrangements needed to implement the historic 3 July 2008 intergovernmental agreement on Murray-Darling Basin reforms. This agreement establishes new institutions and new processes to manage the water of the basin, in particular, to ensure that critical human needs are met in dry times, and to ensure that water market and charge rules are uniform across the basin.

During debate on this bill members spoke at length about various aspects of it, and I will not seek to delay the House tonight by repeating those aspects. However, I would like to respond to a couple of issues that were raised. The Hon. Rick Colless spoke about the referral of water powers. I advise him that the referral of powers to the Commonwealth is consistent with the framework that was contained in the July intergovernmental agreement signed by the first Ministers at the Council of Australian Governments.

Concern was expressed also about consultations, but I assure the Hon. Rick Colless that the consultations that formed part of this process were extensive, and this bill contains no surprises. The Hon. Rick Colless referred also to the definition of "critical human water needs," which were defined in the July intergovernmental agreement and which will be reflected in the Commonwealth Act as follows:

Part 2A Critical Human Waters Needs

Part 2 critical human water needs are the needs for a minimum amount of water that can only reasonably be provided from basin water resources required to meet:

- (a) core human consumption requirements in urban and rural areas; and
- (b) those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs

The referral of powers is clearly limited in this bill. In this way the bill and the agreement will protect jurisdictional interests but, at the same time, they will provide for more centralised forms of governance, when required. The agreement, therefore, represents a balanced approach to managing various demands that are placed on the basin.

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

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Reference

Reverend the Hon. FRED NILE: I inform the House that in accordance with the resolution of the House relating to the establishment of general purpose standing committees, the General Purpose Standing Committee No. 1 resolved to adopt the following reference:

- (1) That General Purpose Standing Committee No. 1 inquire into and report on the need for a mini-budget.
- (2) That the committee report to the House by Thursday 30 October 2008.

MINING AMENDMENT (IMPROVEMENTS ON LAND) BILL 2008

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [10.07 p.m.]: 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 Mining Amendment (Improvements on Land) Bill 2008 contains important amendments to the Mining Act 1992 needed to help secure the future benefits of mining in this State.

Mining is a significant and important industry in New South Wales.

In 2007-08 it contributed production worth \$14.3 billion.

It provided direct employment for about 20,000 people and indirect employment for at least three times this number.

The Mining Act 1992 establishes the regulatory framework for exploration and production of minerals.

It establishes a system of licences and titles which confer permission to undertake exploration and to mine Crown-owned mineral resources.

The system of licences and titles is particularly important because these "authorities" underpin the investment required for the exploration and production of minerals.

The need for this bill follows a Court of Appeal judgement handed down on 8 August 2008 in the Mining Agreement (Improvements on Land) Bill 2008 case of Ulan Coal Mines and The Minister for Mineral Resources and Moolarben Coal Mines Limited.

The judgement considered the operation of section 62 of the Mining Act.

Section 62 prevents a mining lease from being granted over land on which certain dwellings, gardens and improvements are located without the consent of the landholder.

The bill currently before the House only deals with issues that arise from this Judgement regarding consideration of improvements under the Mining Act.

It is therefore appropriate to explain how the current provisions of the Mining Act have been used to identify improvements.

Before the Court's decision, the Minister relied on the claim and objection process in clauses 23A and 238 of schedule 1 to identify improvements that would prevent a lease from being granted under section 62.

This process operated by requiring the applicant for a mining lease to notify landholders of the application.

Landholders then had 28 days from the date of the notice to make a claim that their land contains valuable works or structures that would trigger the section 62 prohibition.

The mining lease applicant could object to such a claim. In this case the matter was referred to the mining warden for determination.

Claims for improvements where there was no objection by the mining lease applicant or that were determined to be valuable works or structures by the mining warden then triggered the section 62 prohibition.

The Department of Primary Industries, Minister, landholders and lease applicants relied on this process to provide a clear and final determination regarding the existence of improvements.

Mining leases were then granted on this basis.

This interpretation of the Act ensured that once a lease had been granted on the land, work could commence without fear of further objection or litigation.

The Court of Appeal's decision found that the schedule 1 claim process is optional for landholders.

This has the effect that failure to make a claim within the 28 day period does not unequivocally determine the existence of improvements for the purposes of section 62.

A relevant improvement may exist on land over which a lease has been granted even if the improvement has not been identified by the operation of schedule 1 of the Act.

This in turn raises the possibility that additional claims or litigation may be brought with respect to existing leases. Effectively casting doubt over the validity of these titles.

The Court of Appeal's decision also delays the consideration and granting of new leases.

This is because further work is now required to determine the existence of improvements on land affected by mining lease applications.

The benefits that the mining industry provides to New South Wales are clearly placed at risk because of uncertainty about the validity of mining leases or other authorities issued under the Mining Act.

The Mining Amendment (Improvements on Land) Bill 2008 simply amends the Mining Act to ensure the process set out in the legislation to deal with improvements reflects the existing practice in relation to mining lease applications.

This amendment will provide certainty for mineral exploration and mining in this State.

I turn now to the specific amendments in the bill.

Improvements which prevent the granting of a mining lease under section 62 are now defined in the dictionary to the Act.

The new definition of "significant improvement" uses the existing wording from section 62 subsection (1) (c).

The use of the phrase "significant improvement" reflects the fact that works or structures must be both substantial and valuable to qualify as an improvement which can prevent mining.

This definition is consistent with the 2000 Court of Appeal decision in *Kayuga Coal Pty Limited and John Earl Ducey and Others*.

The key feature of this bill is the amendment to section 62 (1) (c).

This amendment now makes a direct link between the schedule 1 claim and objection process and the identification of improvements for the purposes of section 62 (1).

That is, improvements which have the potential to prevent a mining lease from being granted.

The bill does not create any new arrangements or procedures in addition to those that were followed by the Department of Primary Industries, miners and landholders before the Court of Appeal decision.

The bill restores certainty to existing mining titles in New South Wales, which were granted in accordance with the process in place before the Court of Appeal decision and clarifies the way that section 62 (1) applies to pending lease applications.

It provides that where the 28 day period for lodging a claim regarding an improvement expired before the Court of Appeal's decision that is the claim period expired on or before 7 August 2008 then the absence of such a claim is taken to constitute the landholder's consent for the purposes of issuing a mining lease under section 62 of the Act as it existed at that time.

This means all existing leases are deemed to have been granted in compliance with section 62 of the Act and their validity cannot be challenged on this basis.

It also means that pending applications where the claim period was completed before the Ulan decision can be determined on the same basis that is the absence of a claim is taken to constitute the owner's consent to the granting of a lease over the land.

In the case of pending applications where any part of the 28 day claim period falls on or between 8 August 2008 and the commencement of this amendment bill, the full 28 day claim period will start again when the Act amendments commence.

Restarting the claim period in this way avoids unfairly penalising any landholder who elected in good faith not to lodge a claim based on the Court of Appeal's decision.

For all other pending applications, the amendments introduced by the bill will regulate the process for identifying the existence of improvements on land.

The bill does not deal with the issues identified by the Court of Appeal regarding interaction between the Mining Act 1992 and Section 75V of the Environmental Planning and Assessment Act 1979.

On this point I note that the Member for Pittwater has previously raised concerns about the interaction of mining and planning legislation during debate on the Mining Amendment Bill 2008.

Accordingly, I am sure he will be interested to know that the Court of Appeal Judgement means that while section 75V of the Environmental Planning and Assessment Act 1979 overrides certain discretionary provisions in the Mining Act, it does not override non-discretionary provisions such as those in section 62.

I am sure he will also welcome plans by the New South Wales Department of Primary Industries to undertake a comprehensive consultation process with relevant agencies and stakeholders to improve the relationship between mining and planning legislation.

It is intended that the consultation will get underway later this year or early next year.

It will canvass arrangements to resolve conflicting land use issues during the assessment and approval process and to properly compensate those who are affected by the grant of a mining lease.

Mining is clearly a major source of income and jobs for the community and a significant generator of wealth for this State.

The investment needed to secure these benefits will only occur if there is confidence that arrangements and titles which authorise mining remain secure.

This bill contains sensible and practical amendments to address an issue which otherwise erodes confidence in the validity of a mining lease or other authority issued under the Mining Act.

This bill restores certainty which is vital for securing future investment in New South Wales.

It does this without unnecessarily interfering with existing arrangements.

I commend the bill to the House.

The Hon. TREVOR KHAN [10.07 p.m.]: I lead for the Opposition in debate on the Mining Amendment (Improvements on Land) Bill 2008 and indicate that the Opposition does not oppose the bill. The object of this bill is to amend the Mining Act 1992 to clarify the circumstances in which consent is required under section 62 of the Act to a mining lease over land in which an improvement is situated. When considering this amendment, we are best assisted by referring to the judgement of Justice Bell in *Ulan Coal Mines v*

Minister for Mineral Resources & Anor [2008] New South Wales Court of Appeal 174, because that very decision led to the bill that is currently before the House. Justice Bell's decision commences at paragraph 20 of the judgement. For the benefit of members I will read part of that judgement. It states:

This is an appeal from the decision of Smart AJ refusing to grant certain declaratory relief to the appellant Ulan Coal Mines Ltd (Ulan): *Ulan Coal Mines Limited v Minister for Mineral Resources* [2007] NSWSC 1299.

Ulan is a coal mining company that is principally owned by Xstrata Coal Pty Ltd (Xstrata). It owns and operates the Ulan Coal Mine that adjoins the Moolarben coal resource, which is located about 40 kilometres north of Mudgee. It also owns land adjacent to the Ulan Coal Mine, which forms part of the Moolarben coal resource. The second respondent (Moolarben) is a wholly owned subsidiary of Felix Resources Limited (Felix), a company whose principal focus is the development and operation of coal projects.

In March 2004 the Minister for Mineral Resources, now the Minister for Primary Industries (the Minister), invited expressions of interest for an exploration lease in respect of the Moolarben coal resource. The exploration licence, EL6288, covered an area of approximately 110 square kilometres. Some of the land covered by the exploration licence included land owned by Ulan. Xstrata and White Mining Limited, a predecessor of Moolarben, both submitted expressions of interest in EL6288 to the Minister. White Mining/Moolarben was the successful applicant. Moolarben was granted EL6288 on 23 August 2004 for a term of five years. It commenced exploration of the area in November 2004.

On 20 July 2005, Moolarben lodged an application with the Minister for a mining lease covering part of the area encompassed by EL6288 (MLA264). MLA 264 sought the grant of a mining lease to permit the conduct of coal mining by underground methods in an area about three kilometres east of the village of Ulan. The resource covered by MLA 264 is expected to contain 74 million tonnes of thermal quality coal ...

On 16 October 2006, Moolarben lodged an application with the Minister for a mining lease for a further part of the area encompassed by EL6288 (MLA 290). MLA 290 sought the grant of a mining lease to permit the conduct of three open-cut mines in the lease area located south of the proposed underground mine that was the subject of MLA 264. The resource covered by MLA 290 is expected to contain 190 million tonnes of thermal quality coal. MLA 290 also included land owned by Ulan.

Section 62 (1) of the Mining Act 1992 (NSW) provides that a mining lease may not be granted over the surface of any land on which any improvement is situated (other than an improvement constructed or used for mining purposes and for no other purposes) except with the written consent of the owner. An improvement is a substantial and valuable work or structure on the land. It was accepted on the appeal that there are improvements within s 62(1)(c) on the land owned by Ulan that is the subject of MLA 264 and MLA 290. Ulan has not given its written consent to the grant of mining leases over the surface of its land on which the improvements are situated.

Division 4 of Sch 1 of the Mining Act provides a mechanism for a landholder whose land is the subject of an application for a mining lease to make a claim to the Minister that something on the land is a valuable work or structure.

That is clause 23A.

The mechanism is triggered by the service on the landholder of a notice by the mining lease applicant. The notice is required to state that claims with respect to valuable works or structures on the land must be made to the Minister within 28 days after the service of the notice. In the event a claim is made ... the Director-General of the Department is to refer the objection to a warden for inquiry and report.

That is clause 23B.

Anything identified in the claim is taken to be a valuable work or structure unless, as a result of the warden's inquiry, it is declared not to be.

Moolarben purported to serve notices on Ulan of MLA 264 and MLA 290 in accordance with cl 21 of the Schedule. There is an issue about whether the notices were validly served. The notices came to Ulan's attention. Ulan has not made a claim to the Minister with respect to any improvements on the land that is the subject of MLA 264. It did not make a claim with respect to any improvements on the land that is the subject of MLA 290 within the time specified in the Schedule.

On 27 March 2007, Ulan commenced proceedings by summons in the Common Law Division claiming relief including a declaration that by reason of s 64 of the Mining Act and the existence of improvements on the land, the Minister was not entitled to grant or approve MLA 290. Subsequently, Ulan filed an amended summons claiming like relief with respect to MLA 264. Ulan also claimed orders restraining the Minister from granting or approving MLA 264 and MLA 290.

Justice Bell went on and at paragraph 31 said:

Ulan's further amended summons came on for hearing on 20 September 2007. The works and structures that it claimed were substantial and valuable improvements for the purposes of section 62(1)(c) were listed in a schedule that was annexed to the summons. The primary judge considered that there was a question as to whether the Supreme Court should determine this issue or whether it was in the sole province of the warden under s 62(6). Moolarben invited his Honour to make findings, since, in the event that Ulan succeeded on its argument as to the construction of s 62(1) the Minister might nonetheless grant mining leases in respect of the two applications excluding from them the surface of any land on which improvements were located. His Honour determined that in order to obviate a multiplicity of hearings in the Supreme Court he would, "express my views on the improvements".

On 16 November 2007, his Honour dismissed Ulan's summons. He made findings with respect to the works or structures set out in Sch A. In some instances the findings were expressed in provisional terms.

I will not go through those. Justice Bell continued:

Ulan filed its notice of appeal from the whole of the judgment on 22 November 2007 asking this Court to set aside his Honour's orders and to make the orders it claimed in paragraphs 1 - 13 of its further amended summons.

On 20 December 2007, the Minister granted Moolarben mining leases the subject of MLA 264 and MLA 290.

It is important in coming to any decision about any amendment to section 62 of the Mining Act that we consider the relevant sections as they stand. I will briefly quote them. Section 62 deals with dwelling houses, gardens and improvements. The judgement continues:

- (1) A mining lease may not be granted over the surface of any land:
- (a) on which, or within the prescribed distance of which, is situated a dwelling-house that is the principal place of residence of the person occupying it, or
 - (b) on which, or within the prescribed distance of which, is situated any garden, or
 - (c) on which is situated any improvement (being a substantial building, dam, reservoir, contour bank, graded bank, levee, water disposal area, soil conservation work or other valuable work or structure) other than an improvement constructed or used for mining purposes and for no other purposes,

except with the written consent of the owner of the dwelling-house, garden or improvement (and, in the case of the dwelling-house, the written consent of its occupant).

Relevantly also there is subsection (6), which provides that any dispute as to whether or not subsection (1) applies in any particular case is to be referred to a warden for inquiry and report and is to be decided by the Minister on the basis of the warden's report. This bill specifically deals with section 62 of the Mining Act and the relevant part of the court's decision dealing with it is at paragraph 48, and I now turn to that. It states:

The principles to be applied in construing s 62 are those explained in the joint reasons in Project Blue Sky, upon which each of the parties relied. The meaning of a provision is to be determined by reference to the language of the Act viewed as a whole and upon the basis that its provisions are intended to give effect to harmonious goals. Conflict must be alleviated, so far as possible, by adjusting the meaning of the competing provisions so as to give effect to their purpose and meaning while maintaining the unity of the statutory scheme. This may require the court to determine which is the leading and which is the subordinate provision.

The prohibition stated in s 62(1)(c) is not expressed to be subject to the landholder making a claim under cl 23A of the Schedule. The primary judge appears to have approached the matter on the basis that the claim mechanism in the Schedule is in conflict with s 62(1)(c) if the latter is read according to its terms. In an endeavour to give harmonious operation to the two provisions his Honour held that where no claim is made by the landholder within the time specified in cl 23A, the Minister is not precluded by the terms of s 62(1)(c) from granting a lease over the surface of the land. In my opinion it was an error to interpret the provision in this way. My reasons for coming to this conclusion involve substantial acceptance of the submissions made by Ulan. In particular, I have regard to the following:

Section 62(1) prohibits the granting of a mining lease in the stated circumstance. It is recognised in the body of the section that disputes may arise with respect to the application of each of subpars (a), (b) and (c). This is addressed in subs (6). His Honour did not in terms deal with the question of why the legislature is to be taken as intended to make the right under (c) conditional upon a claim being made under cl 23A, while not making other disputes subject to a like condition. It is apparent that his Honour considered that any tension between subs (6) and the claim mechanism in the Schedule is explained by the fact that, as a matter of practical reality, the likely area for dispute will be the existence of improvements. By contrast, it may be thought that the question of whether there is a dwelling house or garden on land is unlikely to be controversial and, furthermore, s 62(2) prescribes the distances within which leases are not to be granted over land on which either is situated.

It remains, as subs (6) contemplates, that disputes may arise concerning the application of subs 1(a) and (b). One area for dispute as to the application of subs 1(a) is whether a dwelling house is to be the occupant's principal place of residence.

As Ulan submitted, there may be cases in which the question of whether a given area of land constitutes a "garden" within subs (1)(b) is more contestable than whether a reservoir is a substantial and valuable improvement within subs (1)(c).

Subsection (6) is significant both because it deals with any dispute as to the application of subs (1) and because it does not refer to the claim mechanism in the Schedule nor impose time limits as a condition of the continued application of the protection in subs (1).

It is not correct to say that the applicant for a mining lease is at the mercy of landholder who chooses not to make a claim under cl 23A of the Schedule. It is reasonable to expect that the applicant for a mining lease will ascertain what is on the land and disclose the existence of any works or structures in the lease application. In a case in which the applicant does not have the landholder's written consent to the grant of a lease over the surface of the land on which are works or structures which the applicant contends are not substantial and valuable improvements ... it is open to invite the Minister to refer the question to the warden under s 62(6).

Section 62(1)(c) confers a right on the landholder not to have a mining lease granted over the surface of any land on which is situated an improvement as defined, except with his or her written consent. It is a considerable step to draw from the provision in the Schedule a mechanism for the landholder to initiate a process to resolve any issue as to whether something amounts to an improvement, the conclusion that the legislature intended to abrogate the right in the event the landholder omitted to do so. In this respect the permissive language of cl 23A(1) is significant.

Notwithstanding what Her Honour may have said, one anticipates that it was the intention of the legislature to limit the rights of the landholder. Essentially the court's decision in this case means that when the original Act lacked sufficient clarity in its operation of section 62 (1) and schedule 1, quite rightly the court had to step in and clarify the situation, although perhaps not in the way the legislature intended. There is potential for considerable uncertainty if the decision of Her Honour and her fellow Justices were applied. In that respect, clearly the bill before the House becomes necessary to avoid great uncertainty being created in the community.

The bill provides clarification of the situation that will be created. For the sake of clarity, one can say that by removing certainty pertaining to the 28-day clause of the Mining Act the court increased uncertainty within the community about the operation of the Act. One is left in the circumstances of perhaps having granted a lease and finding some years later that proceedings have been commenced in the Supreme Court as a result of a legislative gap. Clearly that advantages no-one. The bill seeks to amend the Mining Act to provide the requisite clarity and increase certainty relating to the operation of the Mining Act in the eyes of the community.

The Opposition has consulted both industry and landholder interests in relation to the bill. Provided that this amending legislation goes no further than the original legislation intended and seeks only to clarify, the Opposition will not oppose it. However, it is important to note that the industry had some concerns about provisions in the bill that seek to substitute "substantial improvement" with "significant improvement" in the Mining Act. The Opposition understands that objection to the amending provision has been withdrawn, following an undertaking being given by the department, if not the Minister, to continue to liaise with the industry in relation to that provision. The Opposition welcomes that approach.

As my learned colleague the shadow Minister for Lands and Mineral Resources mentioned in his contribution in the other place, the Opposition has been given very little time to examine the provisions of the bill. While we recognise the necessity of providing certainty to the industry and the community relating to the operation of the Mining Act as well as the necessity of moving swiftly following the New South Wales Court of Appeal's decision on 8 August 2008, the Opposition reserves the right to revisit this amending legislation as well as the Mining Act in the future, should a need arise. As I have stated, the Opposition will not oppose the bill.

Ms LEE RHIANNON [10.24 p.m.]: The Greens strongly oppose the Mining Amendments (Improvements on Land) Bill 2008. In attempting to clarify the rights of landholders regarding mining lease applications, the Government has trampled on their rights. This is greedy legislation. Its purpose is to make the system work more effectively for the mining industry. The Coalition and Labor are absolutely and solidly joining forces to protect the interests of the mining industry. Farming interests and landholders have been forgotten. Unfortunately, that is a common occurrence with Labor, but The Nationals, who pretend that they are doing the job for the farming community, once again have shown that they do nothing of the kind.

As a Greens member of Parliament I must say I am appalled that Liberal and Nationals members of this House have sold out their constituents in the Upper Hunter Valley and in all mining communities in New South Wales by allowing the Government to ram through this legislation. The member who preceded me in this debate, Mr Khan, said that the Opposition has had little time to analyse the bill, yet the Opposition has signed off on a bill that provides for retrospectivity and gives extraordinary certainty to the mining industry while removing any semblance of rights for landholders. That the Greens are the only political party in the Parliament opposing the Mining Amendments (Improvements on Land) Bill and speaking out against the Government sends a loud and clear message about where the major parties stand. With the mining industry boom, the major political parties have given away all sense of decency. They are selling communities down the river when the might of the mining industry beckons—and at the moment it is beckoning regularly.

Mining is king in New South Wales. More and more farmers and country people are realising that the New South Wales Government and the Liberals and The Nationals bow to King Coal. King Coal and mining companies rule, and no objection is being taken. The power of this legislation to turn on the people of New South Wales is extraordinary. No-one in the Government or the Opposition is protecting the agricultural rights of landholders in New South Wales against the mining industry. One need only ask farmers who are blockading their properties against BHP in Gunnedah about the loss of property rights. They are feeling absolutely deserted. They thought they had a political party that would stand up for them. Other sections of the farming community thought that Labor would be there for them occasionally, but they have received no support. On the contrary, they are witnessing the law being turned around to make life tougher for them.

The Leader of the Opposition, Barry O'Farrell, has been caught flat-footed by the bill. One could say he is asleep at the wheel, but I sometimes wonder whether he has just jumped out of the car. He seemed to be on board in recognising the problems that many landholders face, but he now seems to have accepted the spin of the Minister for Mineral Resources. Instead of the Leader of the Opposition and The Nationals consulting their constituents in the Upper Hunter—those who are deeply concerned about this—they have awarded a free kick to the mining industry against agricultural landholders. It is as simple as that. In May this year the New South Wales Leader of the Opposition, Barry O'Farrell, responded to the plight of Mudgee grazier Ken Mayberry by saying that Labor did not stand up for rural interests. He made some interesting statements that are quite relevant because they expose the position adopted by the Opposition.

Ken Mayberry had to face the campaign being run against him by the Minister for Mineral Resources, who made a submission to the New South Wales Court of Appeal asking the court to override protections given to New South Wales farmers under the Mining Act. Mr O'Farrell said that the extension of the State Government's powers to order farmers to make way for mines—which came about by part 3A planning laws that the Coalition also voted for—was "extraordinary and highlights Labor's failure to stand up for rural interests". I could well say the same about the Coalition! The quick and unopposed passing of this bill reflects an extraordinary failure on the part of the Coalition to stand up for rural interests. The Leader of the Opposition said that this legislation is extraordinary and highlights Labor's failure to stand up for rural interests, but he has put the Opposition in the same position.

The Opposition has become part of the equation. We all know that Mr Khan understands the issues, yet the Opposition signed off on this bill. The Government said that the purpose of the Mining Amendment (Improvements on Land) Bill is to clarify the circumstance in which consent is required under section 62 of the Mining Act to a mining lease held over land that has had improvements. This follows the judge's decision in the recent court case between Xstrata's Ulan Coal and Felix Resources over the Moolarben mega coalmine lease.

It seems that the Government, in attempting to clarify the rights of landholders to require consent for a lease to be placed over any land on which they have carried out improvements, has trampled on the rights of landholders and significantly reduced their rights to object to a mining lease being granted over property that has had improvements. This bill could have brought certainty to farmers and mining companies by giving the Government, via the Department of Primary Industries, the responsibility for informing landholders affected by a mining lease application of their right to lodge an appeal within 28 days of the date of confirmation of their notification. We believe the department should be responsible for informing landholders of their rights; that the application has been lodged; that they have 28 days in which to lodge an appeal; and that if they do not make a claim within the time, a mining lease can be granted over improvements on their land without their consent.

The Government should be making it easier for landholders to know their rights regarding the existence of improvements over their land and the process to object to a mining lease application. This would give more certainty to landholders as well as mining companies, which would be better aware of an existing claim on lands over which they are applying for a lease. Instead, as I said, this bill will reduce the rights of landholders. It is a deep betrayal. The situation in Moolarben Valley is extremely serious. We do not know why the Government is rushing this legislation through, but it is obvious that the mining industry is applying pressure to have the matter wrapped up quick smart. It has been suggested that one reason for the rush is that many leases are banked up and the industry needs certainty. Another reason is that many landholders now are aware of their rights, because this is a big issue in a lot of country media, and those landholders are ready to initiate their cases.

I am still getting my head around how all this works, but certainly the intention is to deliver quick smart for the mining industry. Rushing this bill through certainly shows how the Government operates. The bill also applies to all leases already granted. That means that landholders lose their right to object to a lease granted two years ago if it was not objected to at that time; mining can now proceed over improvements on their land without their consent, and landholders no longer have the right to challenge under section 62. That is a clear erosion of the rights of landholders. That is an extreme measure to take, and it is a full-on set of changes. Landholders have lost their right to object, mining can proceed over improvements on their land without their consent, and they no longer have the right to challenge.

The Hon. Trevor Khan: You misunderstand it.

Ms LEE RHIANNON: I acknowledge that Mr Khan says I misunderstand. However, he needs to visit his constituency. When we received the bill last night we emailed copies of it to several people, and many of them contacted us today to complain. I know that people have also contacted members opposite to complain.

The Hon. Trevor Khan: That doesn't mean you understand the legislation.

The Hon. Christine Robertson: Or that you are right.

Ms LEE RHIANNON: I am happy to acknowledge all those interjections. However, Mr Khan did not establish that this bill will provide certainty for landholders when he argued his point earlier. Landholders have gone from having an absolute right not to have a mining lease granted over land with improvements to a right dependent on making a claim and a favourable determination by the mining warden. The Greens would have liked to examine more closely the implications of this retrospective clause in the amendment, but this bill has been rushed through, taking only 24 hours to move from the lower House to this House. Why is the legislation being rushed through? Why have The Nationals gone to ground on the legislation? They still have not explained why they have given in so quickly. They could have held up the legislation; they could have worked to get the numbers to ensure greater examination of the bill in this House. Again, they have not explained why they are not sticking up for farmers.

There are many questions about the hurried passage of this bill, which the Greens have not had time to scrutinise. However, we have had time to realise that the rush must relate to this issue. The mining ministry is making sure that private landholders who have had mining leases granted over their land cannot appeal the decision, as Ulan Coal did. The Greens preliminary legal advice is that in the Ulan case, which triggered this bill, the Court of Appeal found that section 62 of the current Mining Act constituted an absolute right not to have a mining lease granted over any land on which there are improvements, which could therefore be enforced at any time subject to the court's discretion. A consequence of this amendment—whereby section 62 no longer provides an absolute right—is that once the time for making a claim about an improvement has expired the landholder cannot object in a court or otherwise. In that respect the bill will prevent further challenges of the type made by Ulan, which did not lodge a claim for improvements within the allotted time.

Another change is that the word "significant" has been added to the definition of "improvement", presumably to make the test of whether something is an improvement more difficult to satisfy. The whole amendment favours the mining industry. It makes it easier for mining companies to gain approvals. As the Minister so often likes to say, it "provides certainty for mineral exploration and mining in this State". That reminds me of another of the Minister's favourite phrases, "rigorous environmental procedures". Many of the Minister's speeches and answers to questions contain the word "rigorous". It is a total cover for procedures that enable the mining industry to get away with so much; indeed, there is little scrutiny and follow-through when mining companies break their conditions of consent.

It is almost as though the Minister plagiarises himself because many of his speeches repeat the same phrases about certainty, rigorous scrutiny, rigorous application and rigorous procedure. This bill is consistent with other Government legislation, passed with the support of the Opposition, such as part 3A of the Environmental Planning and Assessment Act, which gave mining companies a streamlined mining approval process with weakened environmental assessment requirements. The new water licence embargo placed on the Murray-Darling Basin by the Premier, Mr Rees, before he took the top job—when he was the Minister for Water—was imposed on every industry except the mining industry, which enjoys many exemptions from laws that apply to everyone else.

So often there are special conditions for the mining industry. Once again the Opposition and the Government are delivering for the mining industry, as has been happening for a long time. This is particularly concerning because of the inherent conflict of interest: Mr Macdonald is both the Minister for Primary Industries and the Minister for Mineral Resources. One must ask: when does he ever do work for the farming community in this State? We have seen him readily travel to China, which he does at the drop of a hat. He does deals—we are still waiting to hear the full extent of those deals—with companies such as Shenhua Energy. But across western New South Wales many people in farming communities say that the Minister does not visit them.

The Hon. Tony Catanzariti: How would you know? You don't go out to the western division.

Ms LEE RHIANNON: I acknowledge that—

The Hon. Tony Catanzariti: You don't know that. He's got a good reputation in the bush.

Ms LEE RHIANNON: He most definitely does not. I am pleased that the member made that interjection because only last week—

The PRESIDENT: Order! Members should ignore interjections, which are disorderly at all times, and address their remarks through the Chair.

Ms LEE RHIANNON: Last week I was at Gunnedah. For some of the time Mr Khan was there as well. We spoke together on the same platform. We were there because of a push by BHP Billiton to explore for coal in the Liverpool Plain. I had been there for a couple of days. In the extensive periods when the House is not sitting I am often in western New South Wales. I spent time with George and Tommy Clift on their farm at Caroon and Watermark. They showed me the extent of their property and the expected damage if longwall coalmining occurred. The Duddy family and other members of the Caroon action group said to me that they have invited Mr Macdonald to their area, but he fails to accept their invitation and rarely replies to their request.

The Hon. Trevor Khan: That was my line in the speeches, not yours. That was what I would say.

Ms LEE RHIANNON: I acknowledge that interjection. At Gunnedah I noticed that Mr Khan, who is extremely capable of delivering a good speech, appeared to be nobbled when we spoke at the rally. He put his foot in it at one stage when he said "You shouldn't be putting your triangles in the trees, they should be in Macquarie Street". He was referring to the protest triangles. In this game one quickly learns it is wrong to tell people not to take basic actions. Mr Khan clearly had a problem representing The Nationals.

The Hon. Michael Veitch: That is a problem with Mr Khan.

Ms LEE RHIANNON: Yes there is, and that was evident on this day. It was not the same Mr Khan who normally delivers a detailed and good speech because he seemed to have real problems getting to the heart of the issue. Because of the changes in the legislation some sections of the farming community are doing it tough. The bill tells farmers in the Gunnedah Basin and the Liverpool Plains that they will not get concessions from the Government or from the Opposition who are backing the coal and mining industries 100 per cent at the expense of those farmers' rights. One would have to think that because this bill is being rushed through Felix Industries and White Mining, the proponents of the Moolarben coalmine, have some powerful allies in this Parliament. I do not know the arrangements but it is interesting to note that recently donations from the coal industry to the Australian Labor Party have increased. That is not a huge amount of money for the mining industry considering that in the past financial year BHP Billiton made more than \$17 billion profit, and tens of thousands of dollars would not even be regarded as petty cash by them.

In recent years, donations from coal companies to the head office of the Australian Labor Party New South Wales branch have increased. Of particular interest was an increased donation from the Newcastle Coal Infrastructure Group, a consortium of large coal companies that bid successfully for the third Newcastle coal loader. That group made a donation of \$50,000 in August 2007. I do not know if there is any political connection and I do not know what goes on behind closed doors, but we usually look at timing of donations. The August 2007 donation was just two months before the Newcastle Coal Infrastructure Group won the project from the Government for the new coal loader in Newcastle. The consortium includes BHP Billiton, Centennial Coal, Donaldson Coal, Peabody Energy, Excel Coal, Felix Resources and Whitehaven Coal. Donations from a lot of other coal companies also have increased.

The Hon. Greg Donnelly: Point of order: I draw the attention of Ms Lee Rhiannon to the leave of the bill. She is now giving a lecture on the issue of donations and political donations, which, in my opinion, is outside the leave of the bill. I ask that you remind the member to confine her remarks to the bill.

Ms LEE RHIANNON: To the point of order: It is interesting and useful to take a point of order at this time of night. The activities of mining companies in their diverse range of interactions with political parties in this State clearly is relevant to the bill and useful to members. I often find that members are interested in where donations to their own party come from.

The PRESIDENT: Order! The long title of the bill states:

An Act to amend the *Mining Act 1992* to clarify the circumstances in which consent is required to the granting of a mining lease over land on which an improvement is situated; and for other purposes.

It is tradition in this House for the Chair to allow wide-ranging debate. However, that does not mean that members can speak on any subject. It certainly does not mean that members should respond to every interjection.

Ms LEE RHIANNON: In the four years leading up to the 2007 State election the Labor Party accepted \$91,200 from coal companies compared to the four years leading up to the 2003 election when it received \$27,800. That is a big increase, but it is minimal in light of the profits of coal companies. Maybe for the Labor Party it is significant. Felix Industries and White Mining, the proponents of the Moolarben coalmine, obviously have some good allies in this place. In recent times the industry has strengthened its relationship with the Government, and we know that the Government is paving the way for mining to expand in New South Wales at a time when the rest of the world is adapting to climate change. Despite the Hon. Ian Macdonald regularly boasting about the benefits of royalties to the economy, the tragedy of the expansion of the coal industry is that the point will be reached when the world realises clearly the danger of coal and that fossil fuels need to be attacked head on if we are to be serious about climate change. In Australia 40 per cent of greenhouse gas emissions in this country come from the burning and mining of coal.

The Hon. Duncan Gay: The countries that are scaling back coal are lifting their nuclear energy. Do you suggest we go that way?

Ms LEE RHIANNON: No. It is late in the evening and again the Deputy Leader of the Opposition has got it wrong. With this legislation the Government is locking in the development and expansion of a coal industry for decades to come. This legislation will make it easier for new coalmines to be opened. Meanwhile the country is losing contracts in renewable energy and energy efficiency technology areas because this Government is so hell-bent on working in this old-fashioned way. Lessons should have been learnt by now. In relation to the wider issue of climate change we have heard a lot about personal hardship. For the past three months I spent a lot of time travelling and meeting many people. Ron Roberts came up against the coal industry when he lived near the proposed Anvil Hill coalmine. He was located at Wybong and was part of the Centennial Anvil Hill protest. His story illustrates how ordinary landholders—

The Hon. Duncan Gay: Ron Roberts lives on the North Shore of Sydney.

Ms LEE RHIANNON: Maybe there are many Ron Roberts.

The Hon. Duncan Gay: No, he is the one who fought Anvil.

Ms LEE RHIANNON: You are on dangerous territory.

The Hon. Duncan Gay: You are painting him as a farmer in trouble. He lives on the North Shore of Sydney.

Ms LEE RHIANNON: I did not say he was a farmer in trouble. That was beautiful, Mr Gay. I have been waiting for this opportunity for years. Where do you live? Redfern. You go around boasting—

The Hon. Duncan Gay: I live at Crookwell.

Ms LEE RHIANNON: No, you know you live at Redfern, and many people introduce you as coming from Redfern. Like so many of your colleagues, you are rarely in country areas of New South Wales. You are on such weak territory, Mr Gay.

The PRESIDENT: Order! The member with the call will confine her remarks to the bill.

Ms LEE RHIANNON: Ron Roberts stated:

At all stages we were misinformed and the only means of redressing complaints was through Obeid or later Sartor. Both failed to address the concerns of 8 years of waiting followed by price manipulation and NO valuations of property ...

The Court system costs me 4200,000 and 12 months and proved to be difficult as they put up a team of 7 Barristers and Solicitors ... Our team was too inexperienced and at the end ineffectual.

The current process is very difficult, time consuming and still vastly weighed in favour of Mining at all costs and no fair compensation to the Landowner nor any effective process of dealing with complaints against the system ...

That is what happened to Mr Roberts.

The Hon. Duncan Gay: The North Shore import-export man.

Ms LEE RHIANNON: Again, Mr Gay is on such dangerous territory.

The Hon. Duncan Gay: I am not on dangerous territory at all.

Ms LEE RHIANNON: So many of your colleagues do that.

The Hon. Duncan Gay: No, you have misled the House already tonight over where I live.

Ms LEE RHIANNON: Oh, come on! You are the one who has misled the Parliament. I have been to so many functions where you—

The PRESIDENT: Order! On three occasions I have asked Ms Lee Rhiannon not to respond to interjections, and the Deputy Leader of the Opposition not to interject. I call them both to order for the first time.

Ms LEE RHIANNON: This theme is being expressed by many people who contact our office about the impact of mining on areas to which they have moved to enjoy an idyllic existence for the rest of their lives, only to find that they are slap-bang in the middle of mining operations, open-cut, underground or otherwise. Most of them are not against mining, and again I state that the Greens are not against the mining industry. We are talking about balance.

The Hon. Duncan Gay: Oh, come on!

Ms LEE RHIANNON: I hope that all this guffawing appears in *Hansard*. We need balance, and that is what is not happening because the Coalition does not do its work. The mining industry wants the law changed and that is what happens. The mining industries call in their flash barristers to work things out for them, and everything is signed off. When Mr Roberts moved, he ended up in an area covered by a gold and copper exploration licence. Maybe that operation will work fairly, but we often find that with such operations there is pressure on local water systems, heavy chemical use, particularly in goldmining, and many other problems. Currently in New South Wales the handling of mining is well and truly out of balance, and that is evidenced by the fact that this legislation will be passed tonight.

The Hon. ROBERT BROWN [10.52 p.m.]: The Shooters Party supports the Mining Amendment (Improvements on Land) Bill 2008. I congratulate the Hon. Trevor Khan on his detailed analysis of what the bill will address. I note that Ms Lee Rhiannon said, "I am having trouble getting my head around this."

Ms Lee Rhiannon: So did he.

The Hon. ROBERT BROWN: He knows what he is talking about. I think Ms Lee Rhiannon was wrong. I do not think this is about any of the issues she raised. It really is about correcting anomalies in a piece of legislation—that is all it is. For the Greens to try to claim that they represent rural people is absolute hypocrisy. How many hundreds of thousands of rural workers have been thrown on the scrap heap for trying to feed the insatiable mores of Green extremism? The Greens support this Government and the Federal Government acquiring Toorale Station—that means 40 jobs on the scrap heap. She said that those who will lose their jobs can work for the National Parks and Wildlife Service. Doing what? Cleaning toilets? On matters relating to forestry, fishing and agriculture it is absolute hypocrisy for the Greens to try to run some scam argument when really they do not know what they are talking about. I support the bill, and I congratulate the Opposition on its detailed analysis of it.

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [10.55 p.m.], in reply: I thank honourable members for their contributions to this debate. I listened with interest to the comments of Ms Lee Rhiannon on this bill. I echo the comments of the Hon. Robert Brown that the so-called farmers' friend is out there defending landholders' interests. I have spoken with many farmers who have copped an attack by the Greens on a whole range of issues that impact on farmers in New South Wales. The member has no constructive suggestions for the bill, because she is passionate about a certain issue and runs around stirring up as much trouble as she can.

The bill contains sensible and practical amendments to address an issue that otherwise erodes confidence in the security conferred by a mining lease or other authority issued under the Mining Act. The Mining Amendment (Improvements on Land) Bill 2008 amends the Mining Act 1992 to ensure that the process set out in the legislation reflects the existing practice in relation to mining lease applications. The bill ensures that the process delivers a clear and certain determination regarding the existence of improvements on land that is subject to a mining lease application.

The bill validates existing leases and reinstates the arrangements that were understood by all parties to have existed prior to the Court of Appeal judgement. That applies to all the parties to this case as well. For existing titles and applications that are pending, failure to lodge a claim within the required 28-day period is taken to constitute the landholder's consent for the purposes of issuing a mining lease under section 62. That means that all leases granted up to and including 7 August 2008, and leases granted after that date in relation to which the 28-day claim period expired before 7 August 2008, are deemed to have been granted in compliance with section 62, and their validity cannot be challenged on this basis.

For pending applications where any part of the 28-day claim period fell on or between 8 August 2008 and the commencement of the amended Act, the 28-day claim period will restart when the amended Act commences. This avoids penalising any landholder who elected in good faith not to lodge a claim based on the Court of Appeal judgement. For new and pending applications where the claim period begins after the amended Act begins, the requirement for consent under section 62 will apply only where a claim has been lodged in relation to an improvement.

This is really simple. One has 28 days to list any claims in relation to improvements that one deems to have on a property to enable the process to begin. Ms Lee Rhiannon would rather that the situation remained open ended, which would mean that if the Minister were to grant a mining lease when no application had been lodged, the matter could be overturned in the Court of Appeal and the process would start again. The bill provides definitively that such improvements have to be made within that 28-day period. It is a simple amendment to clarify the situation. All landholders know about the 28-day period provision. However, since the Act was enacted in 1992 it has never been challenged. In the end it was not a landholder or farmer who challenged the provision, but rather a big overseas-owned mining company. I commend the bill to the House.

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

The House divided.

Ayes, 28

Mr Ajaka	Ms Griffin	Mr Smith
Mr Brown	Mr Kelly	Mr Tsang
Mr Catanzariti	Mr Khan	Mr Veitch
Mr Clarke	Mr Lynn	Ms Voltz
Mr Colless	Mr Macdonald	Mr West
Ms Cusack	Mr Mason-Cox	Ms Westwood
Ms Ficarra	Mrs Pavey	
Mr Gallacher	Mr Pearce	<i>Tellers,</i>
Miss Gardiner	Ms Robertson	Mr Donnelly
Mr Gay	Ms Sharpe	Mr Harwin

Noes, 4

Mr Cohen
Ms Hale

Tellers,
Dr Kaye
Ms Rhiannon

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. Ian Macdonald agreed to:

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE**Suspension of Standing Orders: Rescission of Order****Motion, by leave, by the Hon. Penny Sharpe agreed to:**

That standing orders be suspended to allow a motion to be moved forthwith that the resolution of the House adopted earlier this day relating to the adjournment of the second reading debate on the Water (Commonwealth Powers) Bill 2008 to the next sitting day be rescinded.

Rescission of Order**Motion by the Hon. Penny Sharpe agreed to:**

That the resolution of the House adopted earlier this day relating to the adjournment of the second reading debate on the Water (Commonwealth Powers) Bill 2008 to the next sitting day be rescinded.

WATER (COMMONWEALTH POWERS) BILL 2008**Second Reading****Debate resumed from an earlier hour.**

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.07 p.m.], in reply: The Water (Commonwealth Powers) Bill 2008 is the result of extensive negotiations between the States and Territories and the Commonwealth to deal with issues associated with the Murray-Darling Basin. The conditions on New South Wales' support for the historic intergovernmental agreement include that the river operations and maintenance functions should continue to be undertaken in New South Wales by State Water unless New South Wales agrees otherwise; that the States will not be exposed to any net increase in costs as a result of the intergovernmental agreement; and that the intergovernmental agreement should expressly provide that the Commonwealth is responsible for any compensation payments resulting from cuts to water imposed by the Commonwealth. The bill represents a step forward and is of critical importance to the system. It is critical also to the ongoing reform of water management in New South Wales and critical to safeguarding the future of our rivers and river communities. 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.

ADJOURNMENT

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.08 p.m.]: I move:

That this House do now adjourn.

MONARO ELECTORATE SERVICES

The Hon. MATTHEW MASON-COX [11.08 p.m.]: Sadly, the people of New South Wales have come to realise that they cannot rely on what this appalling New South Wales Labor Government says it will do. They can reliably judge this Government only on what it actually does. The Government simply says one thing and then does another—or often it does nothing at all. The people of New South Wales understand this Government's penchant for spin, and have witnessed its daily victories over anything of substance.

In turn the people of New South Wales have also grown tired of the never-ending regal announcements by the conga line of Premiers and Ministers under whom they have had to suffer for the past 13 years. One could examine any government portfolio area to see the same story repeated time and again. Promises to fix the problems spill readily from Labor, but real action rarely follows. When it does, promises are delivered over budget and with unnecessary delays. If we ran a corporation like Labor runs its budget New South Wales would have been out of business years ago. Tonight I draw the attention of the House to the electorate of Monaro and to the veritable grab bag of Labor's broken promises and inaction that are putting the future of this important region at risk.

Over the past seven years New South Wales Labor and Steve Whan have presided over development gridlock in the Queanbeyan region. Labor has commissioned plenty of inquiries and reports into proposed developments, but it continually refuses to make any decisions. In 2006 an independent inquiry was established to assess new developments, a Queanbeyan council 25-year plan, and the long-awaited yet inconclusive cross-border agreements with the Australian Capital Territory on water and settlement. In July this year, after five years of waiting, the Sydney-Canberra corridor regional strategy was finally released, but not the critical joint Australian Capital Territory and New South Wales settlement strategy. Question marks also remain over water security for Queanbeyan, despite the recent Commonwealth Government's 150-year lease of Googong Dam for the Australian Capital Territory.

Tonight I call on Steve Whan and the Australian Capital Territory Chief Minister, Jon Stanhope, to end the uncertainty over Queanbeyan's future by immediately releasing the Australian Capital Territory and New South Wales settlement strategy, together with full details of the 150-year lease of Googong Dam. The Queanbeyan community has a right to know whether the Australian Capital Territory continues to hold any veto over access to water for new developments, given Labor's appalling failure to protect the public interest in the past. Labor has shown that it simply cannot be trusted on this issue. It could be thought that Steve Whan, as Labor's Parliamentary Secretary for Planning, would know better.

Instead of promoting Queanbeyan's future development he keeps holding Queanbeyan back, while over the border record numbers of new land blocks are being released. The result is that Queanbeyan continues to miss out on income from rates as well as much-needed community facilities such as sporting ovals and improved local roads. It is about time that Steve Whan lifted a finger to fix these problems. Another issue of continuing concern for the people of Monaro is the long-awaited redevelopment of Queanbeyan Hospital. This vital facility was meant to be completed in May this year. Construction still continues today and there has been a \$2 million budget blow-out. Hospital sources estimate that the project will not be finalised before March next year—another example of Labor's continuing incompetence.

Of considerable concern is the fact that, as the redevelopment inches towards completion, clinicians and local residents still do not know what services will be offered by the hospital. Despite numerous requests and a parliamentary order issued by this House, the Labor Government still refuses to release a clinical services plan detailing exactly what services will be offered in Queanbeyan and what services will be available only to Canberra Hospital. The hospital's hard-working doctors, nurses and allied health professionals need clarity so that they can work out how they are best able to deliver the health services that Queanbeyan hospital is expected to provide.

A case in point is the provision of renal services at the hospital. That is not possible because we are told that the hospital is too small, yet the Government continues to fail to clarify how that important service will be provided elsewhere on the existing hospital site. Similarly, accommodation for a computerised tomography [CT] scanner is set aside in the hospital design, yet we are still waiting on the Government to approve the business case for this critical service. It is time that these decisions were made so that the community can plan with certainty. The only constant in all these issues and many others affecting the Monaro electorate is the neglect and disinterest displayed by local Labor member Steve Whan. It is time that he woke up and started to focus on delivering what his local community needs, rather than wistfully reflecting on his failed ministerial career. Perhaps he has passed his use by date and he should join his many colleagues and resign from this failed Labor administration.

TAFE: TERTIARY AND FURTHER EDUCATION SYSTEM

Dr JOHN KAYE [11.13 p.m.]: There is no greater cause in the future and no more important component of a successful and socially just future for Australia than its public TAFE system. When one considers the challenges facing Australia, one realises that TAFE is central to them all. Responding to reducing

greenhouse gas emissions and building a strong economy while we do it will require a workforce that is flexible and innovative. Only TAFE can provide such a workforce. Addressing the shortage of skilled labour as demographics of Australia change will require enhanced investment in TAFE. A policy based on importing skilled labour from Third World countries will strip the pool of skilled talent from those countries and also waste opportunities for young Australians facing an increasingly tight labour market for skilled work. TAFE is the only solution to that problem.

The growing tale in Australian society of people for whom formal education is not working can be dealt with only through an improved investment in TAFE. Opportunities for late maturers require a strong TAFE system. Giving working Australians an opportunity to advance themselves and ensuring a strong economic future for rural and regional Australia requires a strong safe TAFE system. TAFE is the answer to all these challenges and it is also highly cost-effective. The Allen Consulting Group estimated that, over the next 20 years, for every dollar we invest in TAFE society will reap a \$6.40 benefit. Part of that benefit is earned from the sweat and labour of TAFE teachers and staff; nonetheless, it is an important investment in the future of Australia.

Beyond the simple dollars argument TAFE is about communities, equity and social justice outcomes. Yet governments, both State and Federal, have neglected and abused TAFE. The New South Wales Government downgraded TAFE teacher qualifications from a university degree to certificate 4 with appalling consequences for TAFE teacher professionalism. The New South Wales Government raised TAFE fees by 9 per cent to the year 2008 and, in some cases, TAFE fees have gone up as much as 37 per cent. Since 1997 the New South Wales Government cut funding to TAFE in real terms by 30.5 per cent for each student in TAFE colleges.

Worst of all, we now have the restructure from hell called "Doing Business in the Twenty-first Century"—a thinly disguised cost-cutting exercise that will end up destroying the delivery of equity, access, outreach, multicultural services, counselling and child care. It will place an ever-increasing burden on low-income, disabled and underrepresented groups and those without the resources to respond. Furthermore, it will destroy curriculum expertise and the specialised knowledge on which teachers rely. In fact, the proposal to take 57 curriculum centre program managers and reduce that number to 35 in the new structures is an appalling outcome for TAFE teaching and highly inefficient way of spending dollars.

The former Federal Government attacked TAFE services. Between 1997 and 2007 the former Howard Government cut funding by 25 per cent in real terms, squandered \$550 million on 25 Australian technological colleges, and increased funding to private providers by 109 per cent over that period to 6.7 per cent of total Australian funding. One would have expected much more from the one-year-old Rudd Government. However, the expected relief never happened. Julia Gillard, a political reincarnation of her conservative predecessors, is driving a highly conservative reform agenda through the Council of Australian Governments. Given that the Federal Government provides 30 per cent of total TAFE funding, that is a highly significant outcome. The Boston Consulting Group, which designed this program for the Federal Government, provided for full competition and access to vocational education and training funding.

In Julia Gillard's world TAFE would have to fight private providers for funding with an inevitable race to the bottom on quality and equity. As TAFE is forced to compete for survival we will see a decline in its ability to deliver important social and equity outcomes. Combined with State Government funding cuts and cost cutting, TAFE and its benefits are at risk. The unthinkable is facing Australia, that is, the end of publicly funded TAFE courses. It is time to rethink our policies on TAFE. Substantial new investment in TAFE would result in the abandonment of the downgrading of TAFE teacher qualifications and the Council of Australian Governments agenda of contracting out TAFE fees. The future of society depends on our action to defend our TAFE institutions.

BLACK GULLY BRIDGE TIMBER BRIDGES PROGRAM

The Hon. CHRISTINE ROBERTSON [11.18 p.m.]: On 26 August this year I was pleased to open the new Black Gully Bridge at Garah which was built under the New South Wales Government's Timber Bridges Partnership Program. The new dual lane reinforced concrete bridge replaces the old single lane timber bridge across Black Gully on the Boomi to Tallwood Road, which was built in 1951. Moree Plains Shire Council, assisted by the Country Women's Association, hosted the event in Garah, some 52 kilometres north of Moree. The new bridge was costed at \$267,750, with the State Government and Moree Plains Shire Council sharing the costs under the Timber Bridges Partnership Program announced by the Premier in October 2006.

The Hon. Rick Colless: Did the member for Barwon go?

The Hon. CHRISTINE ROBERTSON: The member for Barwon did not provide an apology, but I assure Opposition members that he was invited. Replacement of the Black Gully Bridge was a vital infrastructure program for the local area as it secured a major freight and transport link for the region. The new bridge provides a safer passage for buses carrying our kids to and from school every day. The new bridge supports freight connections for transporting wheat from road to rail at Garah, and it supports major industry connections to the State road network for wheat, cotton and other primary producers as well. The construction schedule for the Black Gully Bridge was very efficient, from tenders being let in January 2007 to the new bridge being opened to traffic on 23 April 2008. What was especially pleasing was that the construction tender was awarded to Bridge & General Pty Limited, a local company in Moree. Construction of the six-metre span, two-lane reinforced concrete bridge was finalised and the bridge opened to traffic in a little over a year.

The New South Wales Government continues to work hard for regional New South Wales by improving transport and freight lines into and out of the regional centres and the Timber Bridges Partnership Program is part of this commitment. In fact, on 20 August this year at AgQuip—in Gunnedah Shire, for the benefit of The Nationals—the Hon. Tony Kelly MLC as Minister for Rural Affairs announced the extension of the \$60 million timber bridges program until 2009-10. Minister Kelly said at the time that so far \$53 million has been committed to upgrade 157 targeted timber bridges across New South Wales, which is excellent. The target of \$60 million remains for the program and that is why councils are encouraged to continue to apply for funding towards bridge upgrades in their areas.

Bridges are essential transport links for rural and regional communities, and the replacement program is about improving safety and accessibility of important country roads. Each bridge that is funded under the program is identified on the basis of sound criteria, including safety, bridge condition, level of use by heavy vehicles, and strategic importance to the local economy in freight and tourism. Country Labor lobbied for many years to achieve funding towards timber bridge replacements, because our members understood the issues facing freight, local driver safety and tourism that keep many local communities alive. Contrast that with the hopeless Nationals, who cannot even decide whether or not to merge with their Liberal Party mates.

I draw the attention of the House to interjections in the answer the Hon. Eric Roozendaal gave to a question that I asked regarding the timber bridges program on 18 June this year. To the astonishment of the Minister, my party colleagues, and me, Opposition members showed their ignorance and indifference to the benefits of the timber bridges replacement program. One member of The Nationals perceived the issue as boring.

The Hon. Melinda Pavey: Name him.

The Hon. CHRISTINE ROBERTSON: Ms Jenny Gardiner. Another member of the Nationals, the Hon. Duncan Gay, called a point of order and suggested the Minister was misleading the House. He said, "The new bridge at Nundle is not a timber bridge but a concrete bridge." Obviously he did not understand the timber bridge project at all. The saga continued. The Hon. Matthew Mason-Cox, the Liberal Country member in this place, who seems to have gone away, which is a pity, pulled another point of order on Minister Roozendaal to suggest that the concrete bridge issue was going too far. "Let us go back to timber bridges," he said. The total lack of understanding by The Nationals of this incredibly important project is beyond comprehension and very concerning to the future of the project. [*Time expired.*]

PORT MACQUARIE POLICE COMMUNITY YOUTH CLUB

The Hon. MELINDA PAVEY [11.23 p.m.]: I wish to discuss a very important issue in the electorate of Port Macquarie. As members will be aware, the electorate of Port Macquarie is not represented in the Legislative Assembly at present due to the resignation of the member, but I have to say The Nationals candidate in Port Macquarie is doing an excellent job in representing the needs and concerns of the local community. One of the real concerns that Leslie Williams has come across in the community is the lack of youth facilities. We had a forum in Port Macquarie on Monday that was convened by Leslie Williams and attended by the shadow Minister for Youth, Mike Baird, and the shadow Minister for Community Services, Katrina Hodgkinson. At that forum we had representatives from a number of organisations that deal with youth in Port Macquarie. The overwhelming belief of those at the forum is that community facilities catering for young people in Port Macquarie are seriously lacking.

A lot of the problems started to arise in June following the closure of the Port Macquarie PCYC. It had about 400 young people on its books and was using a facility owned by the Catholic Church. However, the Catholic Church had given considerable notice to the PCYC that it needed the facility back and in lieu of that had allocated \$250,000 to the PCYC to put towards construction of a new facility. Unfortunately nothing was organised in time so Port Macquarie is without a PCYC. Another issue that has arisen during the campaign is that an indoor skating rink also used by 400 youth closes its doors in five weeks' time. Ironically, this private facility operated by one of the local churches has to close its doors because the owners of the property plan to turn it into an aged care facility. So Port Macquarie has suffered a double whammy.

In response to this I was able to meet this week with the chief executive officer of the PCYC movement in Sydney, Chris Gardiner, to discuss the situation in Port Macquarie. I appreciate the time given by Mr Gardiner to explain the situation in Port Macquarie and his thoughts on establishment of a new facility there. He started the conversation by reiterating very strongly that community involvement and participation was the essential ingredient to the ongoing success of PCYC clubs. He highlighted the successful clubs that were operating in the region in Coffs Harbour, Tweed and Lismore in particular. The Tweed PCYC recently made a \$1 million investment in its facilities. As a resident of Coffs Harbour I am fully aware of the wonderful contribution that local PCYC makes.

The Port Macquarie community has some challenges and that has been acknowledged by Leslie Williams. She has made it very clear that she will make youth facilities a top priority in her efforts to become a community leader and the State member. That sort of leadership on the ground will discover solutions. Some of the solutions that have been canvassed but not yet acted upon are to build a purpose-built facility at the basketball courts in Port Macquarie or to renovate one of the rugby clubs to encompass the PCYC. The CEO, Chris Gardiner, has said that there are matching funds available from PCYC to match the commitment from the Catholic Church, but it is clear there will also need to be funding and support from the three levels of government to take the figure up to around the \$1 million mark. We need cooperation and support at local, State and Federal level. I understand that due to budgetary pressure Port Macquarie council has put on the back burner the extension of the basketball court facilities, which has been a disappointment to the local community. Leslie Williams will seek to have local, State and Federal governments work cooperatively to find solutions for this important issue. [*Time expired.*]

MR JOHN BROGDEN, MANCHESTER UNITY CHIEF EXECUTIVE OFFICER

Ms LEE RHIANNON [11.28 p.m.]: After leaving Parliament some politicians turn their energies to supporting major community organisations, often invigorating them to better serve the community. Two years ago the former Leader of the Opposition John Brogden became chief executive officer of one of the community's great friendly societies, the successful 170-year-old Manchester Unity. Now John Brogden is spearheading the \$256 million so-called merger of Manchester Unity with HCF, one of Australia's biggest private health insurers. Mr Brogden states the merger is recognition of the challenges faced by smaller health insurers, but is Manchester Unity economically challenged? Its 2007 annual report boasts a more than doubling in net profit, a 12.5 per cent increase in membership, a reduction in the management expense ratio, an above average age profile and substantial growth in both Victoria and Queensland.

Mr Brogden recently confessed that he has a "bug for business" and is open to offers from other companies when this merger is completed. This begs the question: Is Mr Brogden orchestrating this deal for the good of the community and Manchester Unity members, or to further his own career in business and increase his salary package? Despite the confident message in Manchester Unity's 2007 annual report, Mr Brogden suddenly believes it is in the members' interest to merge with the larger HCF. Mr Brogden no doubt is counting on capitalising on the self-interest of current members, many of whom would be attracted to an unexpected economic windfall.

If the existing 90,000 Manchester Unity members vote in favour of a merger, they will receive cash payments worth thousands of dollars, depending on how long they have been members and their policy. Manchester Unity is an important institution that has been handed from generation to generation as a service to members. Any member of the community is free to join.

The Hon. Duncan Gay: Point of order: I seek clarification. This seems to be an unusually vigorous character assassination on a former member of Parliament. My understanding is that when members wish to pursue such matters, they should do so by way of substantive motion, rather than by using the adjournment of the House to attack someone who is unable to respond.

The PRESIDENT: Order! There is no standing order that relates specifically to former members. However, quite clearly, the standing orders do allow for any citizen of New South Wales to apply for a right of reply. I note that Ms Lee Rhiannon did not make imputations against a group of citizens. Had she done so, other considerations would apply. Ms Lee Rhiannon is making allegations and imputations against a citizen of New South Wales, and the only avenue of redress for that person is to apply for a citizen's right of reply. The member may proceed.

Ms LEE RHIANNON: Manchester Unity's letter to members dated 1 September contains misleading information and is designed to appeal to members' self-interest. It dishonestly described the proposal as a merger when in reality it is a sale. It "sells" the main benefit of the proposed merger as a financial windfall to members, and it dishonestly characterises a future meeting of members at which the results of a postal ballot are due to be announced as a meeting to discuss the proposal. The prioritising of economic interests already has resulted in the demise or impairment of services in other longstanding organisations, such as the NRMA, which is now only a shadow of its former self. There are also parallels in the banking sector. As banks have become more efficient and have pursued profit above all else, they have lost contact with their small customers. As a result the Bendigo Bank and others successfully seized the gap in the market and now provide the service that big banks no longer offer.

It will obviously be much more difficult for a new health fund to emerge and provide the kind of service to its members that Manchester Unity has provided during its 170-year history. John Brogden owes it to the community to properly set out the issues and options associated with the merger so that they can be discussed at a proper public meeting. Only then should a vote be considered. Mr Brogden also owes it to Manchester Unity members to fully disclose what he and the other directors and executives of Manchester Unity are set to gain from the merger. [*Time expired.*]

NEW SOUTH WALES-ASIA BUSINESS COUNCIL VISIT TO WOLLONGONG

The Hon. HENRY TSANG (Parliamentary Secretary) [11.33 p.m.]: On 22 August 2008 I visited Wollongong and the Illawarra with fellow members of the New South Wales-Asia Business Council, the Australian-Asian Business Community, and the Asian media. The purpose of the visit was to discover the potential of the region as a destination for education, innovation, tourism and technology. The delegation visited the University of Wollongong. Vice-Chancellor Professor Gerard Sutton informed the delegation that the university is in the top 2 per cent of the world's leading research universities, is included in the top 500 list, and is ranked as Australia's top university for educational experience and graduate outcomes.

The university has five-star rankings in the categories of research intensity, graduate rating, staff qualifications, getting a job, positive graduate outcomes and graduate starting salaries. The University of Wollongong in Dubai is one of Australia's most successful offshore university operations. The university operates successful transnational education programs in China, Singapore, Hong Kong and Malaysia. The delegation also visited the University of Wollongong's new \$500 million innovation campus, which is a creative community centred on research and development, entrepreneurialism, and business growth. The first building has been opened and will form the central services and administration hub of the research and development campus on a beachside location that is just north of the Wollongong central business district.

The three levels of government—State, Federal and local—worked cooperatively to support the university in establishing the innovation campus. Three other major buildings are under construction on the campus, which eventually will have approximately 25 buildings and employ up to 4,000 people, making the campus one of the Illawarra's most significant developments in years. The delegation was pleased to hear from the Minister for the Illawarra, David Campbell, who said that the visit of the New South Wales-Asia Business Council was an opportunity to show that the region's strong and diverse economy was continuing to grow in traditional industry areas as well as in new sectors, such as tourism and education.

The Minister encouraged friendly cooperation between the University of Wollongong and the local Fo Guang Shan Nan Tien Temple to assist in bringing more international students from Taiwan to the university. The two parties are discussing the establishment of pathways for students from Fo Guang and Nan Hua universities in Taiwan to study at the University of Wollongong. There is also a possibility of similar linkages in programs at the Nan Tien Temple to provide pathways to study at the University of Wollongong. I will be travelling to Taiwan in October to further progress the cooperation.

The Illawarra Regional Information Service informed the delegation of the positive business climate in the region. There has been a sharp rise in the value of commercial investment over the past three years. This

investment has been directed to education and training, shops, health and entertainment. As a result, not only has there been a dramatic jobs increase in the education sector, which accounted for more than 30 per cent of total jobs growth in 2001-2006, but there has also been diversification of the regional economy. Another good news story has been the tourism sector. There has been strong growth in accommodation revenue and in the number of guest rooms.

The delegation was also interested to hear that the Illawarra Regional Development Board employs an Asian business adviser. This is an initiative by the board and the Department of State and Regional Development in conjunction with the Wollongong City Council and the Illawarra Business Chamber to build reciprocal business networks and opportunities for Illawarra businesses in Asia as well as Asian investment in the Illawarra. At Port Kembla, the Port Kembla Port Corporation briefed the delegation on its planned outer harbour expansion. The New South Wales container shipping market is forecast to grow considerably over the next 20 years. Port Botany will not be able to meet all the requirements of this growth.

Port Kembla is well placed to cater for some of that growth and has well-developed road and rail links with Sydney. The delegation also visited the NRE No. 1 Colliery of Gujarat NRE Minerals Limited. The group heard about the company's confidence in the Wollongong region and that it has invested heavily to acquire two more collieries following its initial acquisition of the old South Bulli Colliery in 2004, which was renamed the NRE No. 1 Colliery. The company has a bright future, given India's fast-growing demand for coke and coal.

In conclusion, with the positive publicity of the region being promoted in the Asian media, I have no doubt there will be more tourism, students and investment in the future. I thank the Department of State and Regional Development for organising the visit. I also thank all those who participated, my fellow New South Wales-Asia Business Council members, and the Asian media. I congratulate the New South Wales Government and the Minister for the Illawarra, David Campbell, on their hard work in supporting Wollongong and the Illawarra as an education, innovation, tourism and technology destination.

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 11.38 p.m. until Thursday 25 September 2008 at 11.00 a.m.
