

LEGISLATIVE COUNCIL

Tuesday 21 October 2008

The President (The Hon. Peter Thomas Primrose) took the chair at 2.30 p.m.

The President offered the Prayers.

The PRESIDENT: I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

J. J. Spigelman
LIEUTENANT-GOVERNOR

Office of the Governor
Sydney 2000

The Honourable James Jacob Spigelman, Chief Justice of New South Wales, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, Professor Marie Bashir, being absent from the State, he has this day assumed the administration of the Government of the State.

12 October 2008

LEGISLATIVE COUNCIL VACANCY

Joint Sitting

The PRESIDENT: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

J. J. Spigelman
LIEUTENANT-GOVERNOR

MESSAGE

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, in pursuance of the power and authority vested in me as Lieutenant-Governor of the State of New South Wales, do hereby convene a joint sitting of the Members of the Legislative Council and the Members of the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by Mr Michael Costa, and I do hereby announce and declare that such Members shall assemble for such purpose on Wednesday the twenty-second day of October 2008 at 4pm in the building known as the Legislative Council Chamber situated in Macquarie Street in the City of Sydney; and the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

In order that the Members of both Houses of Parliament may be duly informed of the convening of the joint sitting, I have this day addressed a like message to the Speaker of the Legislative Assembly.

Office of the Governor
Sydney, 15 October 2008

The Honourable the
President of the
Legislative Council

COMMISSION TO ADMINISTER PLEDGE OF LOYALTY

The PRESIDENT: I report the receipt of a Commission from His Excellency the Lieutenant-Governor authorising the Hon. Peter Thomas Primrose, MLC, President of the Legislative Council, as a person before whom the pledge of loyalty, required by law to be taken by every member of the Legislative Council before that member shall be permitted to sit or vote in the Legislative Council, may be taken.

The Clerk of the Parliaments read the Commission.

COMMISSION TO ADMINISTER PLEDGE OF LOYALTY

The PRESIDENT: I report the receipt of a Commission from His Excellency the Lieutenant-Governor authorising the Hon. Amanda Fazio, MLC, Deputy President and Chair of Committees of the Legislative Council, in the absence of the Honourable the President of the Legislative Council, as a person before whom the pledge of loyalty, required by law to be taken by every member of the Legislative Council before that member shall be permitted to sit or vote in the Legislative Council, may be taken.

The Clerk of the Parliaments read the Commission.

DEATH OF THE HONOURABLE MARIE CLAIRE FISHER, A FORMER MEMBER OF THE LEGISLATIVE COUNCIL

The PRESIDENT: I report the death on 17 September 2008 of Mrs Marie Claire Fisher, aged 77 years, a member of this House from 1978 to 1988. On behalf of the House I have extended to her family the deep sympathy of the Legislative Council on the loss sustained.

Members and officers of the House stood in their places as a mark of respect.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, a report entitled "Report on an Investigation into Corruption Allegations Affecting Wollongong City Council—Part Three", dated October 2008, received out of session and authorised to be made public on 8 October 2008.

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

TABLING OF PAPERS NOT ORDERED TO BE PRINTED

The Hon. Ian Macdonald tabled, pursuant to Standing Order 59, a list of all papers tabled in the previous month and not ordered to be printed.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Amanda Fazio tabled the report entitled "Legislation Review Digest No. 11 of 2008", dated 21 October 2008.

Ordered to be printed on motion by the Hon. Amanda Fazio.

GENERAL PURPOSE STANDING COMMITTEE NO. 5

Report: The Former Uranium Smelter Site at Hunters Hill

The Clerk tabled report No. 28, entitled "The Former Uranium Smelter Site at Hunters Hill", dated September 2008, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice, received out of session and authorised to be printed on 30 September 2008.

The Hon. RICK COLLESS [3.41 p.m.]: I move:

That the House take note of the report.

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

GENERAL PURPOSE STANDING COMMITTEE NO. 2**Report: The Management and Operations of the Ambulance Service of NSW**

The Clerk tabled, pursuant to standing orders, report No. 27, entitled "The Management and Operations of the Ambulance Service of NSW" dated October 2008, together with transcripts of evidence, submissions, tabled documents, correspondence and answers to questions taken on notice, received out of session and authorised to be printed on 20 October 2008.

The Hon. ROBYN PARKER [3.42 p.m.]: I move:

That the House take note of the report.

The Ambulance Service of New South Wales has been reviewed numerous times, but this review was specifically in relation to bullying and harassment issues within the organisation. Of significant concern was the way in which management handled, or failed to handle, matters. The committee was distressed by the depths of despair experienced by some paramedics as a result of bullying and harassment. We have made a number of key recommendations designed to address these issues and to shift the focus of management from budgets and performance indicators to its key asset, its people. We made a number of recommendations to strengthen accountability within the service and emphasised that it is the responsibility of the New South Wales Minister for Health and the Director General of Health to ensure that senior executives are fulfilling their tasks.

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

PROGRAM OF APPLIANCES FOR DISABLED PEOPLE**Production of Documents: Return to Order**

The Clerk tabled, pursuant to resolution of 24 September 2008, documents relating to the Oakton audit of the PADP program received on 1 October 2008 from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

TREASURY PROJECTIONS AND BUDGET DOCUMENTS**Production of Documents: Return to Order**

The Clerk tabled, pursuant to resolution of 24 September 2008, documents relating to an order for papers regarding budget projections received on 8 October 2008 from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

CATHERINE HILL BAY RESIDENTIAL DEVELOPMENT**Production of Documents: Return to Order**

The Clerk tabled, pursuant to resolution of 25 September 2008, documents relating to an order for papers regarding Catherine Hill Bay received on 9 October 2008 from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

BUSINESS OF THE HOUSE**Postponement of Business**

Business of the House Notices of Motion Nos 1 and 2 postponed on motion by the Hon. Duncan Gay.

Government Business Orders of the Day Nos 1 to 13 postponed on motion by the Hon. Tony Kelly.

GENERAL PURPOSE STANDING COMMITTEE NO. 2**Reference**

The Hon. ROBYN PARKER: In accordance with paragraph (2) of the resolution of the House establishing general purpose standing committees I inform the House that on 13 October 2008 General Purpose Standing Committee No. 2 resolved to adopt the following terms of reference:

That General Purpose Standing Committee No. 2 inquire into and report on the current state of governance of NSW universities and in particular,

- (a) any apparent lack of clarity in the roles of governing bodies and Vice-Chancellors and the consequential opportunities of conflict,
- (b) any apparent lack of clarity in the delineation of duties of governing bodies and the Chancellors,
- (c) identification of the roles and responsibilities of the Vice-Chancellor, the governing body and the Chancellor in relation to the formation of University policy and grievance procedures, and the communication of such policies to the student body,
- (d) the appropriateness of changes in the duties and responsibilities of governing body members,
- (e) opportunities for governing bodies and chancellors to intervene in the responsibilities that more properly lie with the Vice-Chancellor as Chief Executive Officer,
- (f) current and possible future mechanisms for reviewing the performance of chancellors and governing body members in discharging their responsibilities,
- (g) protocols for addressing poor performance of chancellors and governing body members,
- (h) the representation on governing bodies, and their committees, of staff and students and the current and appropriate balance between external members and elected representatives,
- (i) proposals for changes to the various Acts governing NSW universities and to the National Higher Education Governance Protocols to address any systemic causes found, and
- (j) any other related matter.

GOVERNMENT MONTHLY FINANCIAL STATEMENTS PUBLICATION**Matter of Public Importance**

The Hon. GREG PEARCE [2.53 p.m.]: I move:

That the following matter of public importance should be discussed forthwith:

General Government monthly financial statements and the requirements of the Public Finance and Audit Act 1983.

This matter is of great public importance because the new Treasurer and the new Premier have been put on notice explicitly, and have accepted that they are on notice, to establish that this Government has the political willingness and ability to address the financial and budgetary problems facing New South Wales, problems that are primarily as a result of 13½ years of Labor mismanagement in this State. The new Treasurer and the new Premier have been spruiking their commitment to transparency and reform, but at the very first hurdle the Treasurer has failed in the test of transparency and accountability.

Under the provisions of the Public Finance and Audit Act the Treasurer is required to publicly release statements following each month setting out the budget time projections and year-to-date balances of the major

government financial sector aggregates disclosed in the budget. That provision is quite clear, yet the Treasurer has declined—as did his predecessor—to publish the figures for June 2008, July 2008 and August 2008, and we are rapidly approaching the time when the September 2008 figures should be released. This matter has been addressed on other occasions but it remains important because the response of the Government has been to rely on a partial get-out-of-jail provision in the Act that suggests that it is not obliged to front up to the public to disclose what is going on with the State's accounts.

When the new Premier was asked about the State's accounts he claimed that, under section 8 (2) of the Public Finance and Audit Act, reports may be delayed if they coincide with the release of more detailed and comprehensive reports, such as the budget, the half-yearly review and the State sector accounts. Whilst that is perfectly true, the point is that it is an election of the Treasurer, who may either conform with the spirit of the Act and publish the figures, or hide behind the exemption in the Act and keep the figures secret.

Interestingly, when the Premier was asked about this on 25 September he referred to that exemption and said "the financial statement for June 2008 is delayed pending audit by the Auditor-General". He claimed a delay for June 2008 and, as I say, in strict accordance with the provisions of the Act that is something the Treasurer can choose to do. But what about the July and August figures for this financial year? There is no pending budget for this financial year; we already have a budget for this financial year. The half-yearly review is not due until 31 December, so there is no reason to delay publication of these figures on the basis of that provision. That means that the total State sector accounts for 2008-09 will not be seen until this time next year.

There is no get-out-of-jail clause for the July, August or September figures. When faced with his very first test of transparency and accountability, the Treasurer has chosen to hide behind the exemption for June and, further, has chosen, contrary to the provisions of the Act, to continue to hide the figures for July, August and September. The Treasurer's commitment to secrecy—the reversion to type with this Labor Government—was again demonstrated in the last sitting week when, in an attempt to get the information out, I moved an order for the production of papers. The Treasurer fought like a Kilkenny cat to seek to have the motion rejected by the House. He went on with all sorts of nonsense, suggesting that the production of such papers would hold up Treasury in the preparation of the mini-budget.

When the Government finally complied with the order for papers, it produced just two folders of papers. The folders included draft figures for June and July but, committed as the Government is to secrecy, it claimed privilege on those documents. Despite the House ordering the Government to produce the papers, the Treasurer claimed privilege. What does the Treasurer have to hide? Is it just his inexperience or is he so committed to secrecy that he is not prepared to take the public into his confidence and share his knowledge of the position the Government has left the State's budget in after 13½ years. Notwithstanding that, the Treasurer chose to hide behind an exemption in the Act for one month and decided to ignore the provisions of the Act with regard to the other months. True to type, he is quite happy to use some figures from those reports for his own purposes, for spin and to push the Government's line.

Whilst complying with the legislation is not something that is important to the Treasurer, whilst transparency is not important to him, and whilst accountability to the public is not important to him, he is quite happy to quote the figures that suit him. I could take the House through various of those quotes. We have seen them since the end of August, when the Treasurer and the Premier have been quoting the stamp duties decline in July and August. The Treasurer also quoted recently the budget result for 2007-08. He would not release the monthly statements but, because it suited him to do so, he quoted the result. I think he said it was \$130 million or so. That was later clarified by the Secretary of Treasury in a budget estimates committee hearing when he said that the budget result for 2007-08 is a \$128 million surplus.

Why are the figures not disclosed? What does the Treasurer have to hide? Let us face it, the Treasurer is following in the footsteps of his predecessors in not only ignoring the provisions of the Public Finance and Audit Act but in breaching—and he will continue to breach—the provisions of the Fiscal Responsibility Act, which is his Government's description of its fiscal strategy and fiscal targets. How many times in the past six weeks have we heard the Premier and the Treasurer mouth their commitment to fiscal responsibility? They have a definition of fiscal responsibility. Their definition is in the provisions of the Fiscal Responsibility Act, an Act of this Parliament. That Act sets out the medium-term targets and the principles. The Premier and Treasurer are continuing to breach the targets set out in the Act.

As we go forward I am sure we will have opportunities to have the Treasurer explain a little more about the targets. To date he has been a little short on briefings when he has had to talk about the targets. The

Treasurer, when faced with the first test of transparency, when faced with the first test of his commitment to fiscal responsibility, has continued to breach the letter and spirit of the Public Finance and Audit Act. He has been committed to secrecy, hiding the documents and hiding the figures, and he has been committed to breaching his own Fiscal Responsibility Act targets. What is the public expected to take from that? The public can agree with the ratings agencies: the Government does not have the political willingness or the ability to deal with the issues facing this State. [*Time expired.*]

The Hon. ERIC ROOZENDAAL (Treasurer) [3.03 p.m.]: I, unlike the rest of the House, listened intently to what the Hon. Greg Pearce had to say. Maybe his little cheer squad over there had a few words to say. I will start by taking a little trip down memory lane. Let us look at what happened in 2005. The June, July and August figures were released on 27 October. Those figures were delayed pending completion of the year-end audit and the tabling of the 2004-05 report on the State's finances. Let us go to 2006. The June, July and August figures were delayed and were released on 18 October of that year, again pending completion of the year-end audit. In both 2005 and 2006 the figures were delayed and were released in October.

We will now go to 2007. Guess what? Just as happened in 2005 and 2006, again in 2007 the June, July and August figures were held back pending completion of the year-end audit and were released on 26 October 2007. Here we are in 2008. Just like in 2005, 2006 and 2007, the figures are delayed pending completion of the year-end audit and the tabling of the 2007-08 report on the State's finances, as provided by section 8 (2) of the Public Finance and Audit Act.

The Hon. Greg Pearce knows that this is what happens every single year. He has simply wasted the House's time, and indeed his own breath, in this half-hearted attack. Let us be honest, it has not been a great month for the shadow Treasurer. We had that big call for papers when we "fought it like a Kilkenny cat". We had a debate, the Opposition got the papers, and what happened with those papers? Nothing. Then the Opposition had that deep and probing investigation into our calling it a mini-budget. I believe the debate on that went for two hours. I want to thank the honourable members who participated in that debate. But again the Opposition found nothing. Then we went through the budget estimates hearings. I have to tell members, I have had harder times dealing with my three kids at home than I had in budget estimates hearings this year. I was prepared for a pretty tough effort, but unfortunately it just was not there. I do not know why that was the case. Perhaps it was because the Hon. Greg Pearce was worried about the shadow-shadow Treasurer, Mr Baird, sitting behind him at the time.

Monthly reports on year-to-date budget sector financial performance are released in accordance with the requirements of the Public Finance and Audit Act. These requirements are as follows. Section 8 (1) of the Act stipulates that the Treasurer is required to "publicly release a statement for each month (a monthly statement) by the end of the following month, setting out the budget time projections and year-to-date balances for the major GFS aggregates disclosed in the Budget". However, before members opposite get too excited, they should also take note of section 8 (2)—

The Hon. Marie Ficarra: They're not excited now.

The Hon. ERIC ROOZENDAAL: At least I am getting a bit of attention. I am doing better than the Hon. Greg Pearce did! Members opposite should take note of section 8 (2), which states:

The Treasurer may delay the release of a monthly statement if, at or near the time at which the statement would otherwise be released, other key reporting documents are (or are to be) released, such as the Budget, the half-yearly review and the Total State Sector Accounts.

Monthly financial reports continue to be released in line with these requirements. Generally they are issued by the end of the following month. Consistent with the provisions of the Act, reports are delayed only when they coincide with the release of more detailed and comprehensive reports, such as at the end of each financial year. If members opposite could be bothered doing their homework, they would see that for each of the past few years, certainly for 2005, 2006 and 2007, the release of the June monthly statement has been delayed, owing to the additional reporting requirements that come at the end of each financial year.

As has been the practice in previous years, and in line with this provision, the financial statement for June 2008 has been delayed pending audit by the Auditor-General. It will be part of the 2007-08 audited total State sector accounts, which we expect to table in Parliament later this month. The issuing of July and August 2008 reports will also be delayed, as they depend on the final audited opening balances for 2008-09.

The Hon. Greg Pearce, with his many years of experience, should know that the July and August figures are dependent on the final audited opening balances for the previous year. I am concerned that he does

not understand that basic concept and that today he shows a misunderstanding as to why these reports would be waiting for the Auditor-General to finish his work, which is the way it has been done certainly since 2005. I did not bother to quote the figures for the years before 2005; the pattern is clearly there for all to see. Clearly the Hon. Greg Pearce misunderstands how the accounts work. This is simply a waste of the House's time. I am very disappointed that the Hon. Matthew Mason-Cox did not correct the Hon. Greg Pearce's misunderstanding of this very important matter.

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

Motion to discuss the matter of public importance negatived.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notice of Motion No. 1 postponed on motion by the Hon. Penny Sharpe.

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

Second Reading

Debate resumed from 24 September 2008.

The Hon. JOHN AJAKA [3.10 p.m.]: The bill seeks to amend the Classification (Publications, Films and Computer Games) Enforcement Act 1995 to provide for the enforcement in New South Wales of the proposed Commonwealth scheme relating to the advertising of unclassified films and computer games, following the enactment of the Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Act 2008 of the Commonwealth. The Opposition does not oppose the bill.

The Classification (Publications, Films and Computer Games) Amendment (Assessments and Advertising) Act 2008 of the Commonwealth amended the Classification (Publications, Films and Computer Games) Act 1995 to provide for the establishment of an advertising assessment scheme and a television series assessment scheme. The national classification scheme is a cooperative arrangement between the Commonwealth, States and Territories under which each State and Territory has undertaken to enact classification enforcement legislation that complements the Commonwealth classification Act.

In August 2006, the Commonwealth Attorney-General's Department released a discussion paper concerning a proposal to update, simplify and clarify the advertising provisions for unclassified material within the national classification scheme. The paper stated:

The proposal balances the need to inform and protect consumers and the need to reduce the regulatory burden on industry and improve compliance. The proposal updates the scheme to account for rapid technological advances, changes in user preferences and changes in advertising and marketing practices.

This provided the impetus for the recent amendments to the Commonwealth classification legislation. At present under State and Territory legislation films and computer games cannot legally be advertised prior to classification. The Classification Board may grant exceptions for public exhibition films, for which there is a limit of 110 exemptions per calendar year under the Classification (Advertising for Unclassified Films) Instrument 2005. Where an exemption is granted an advertising message must be displayed which states that the film has advertising approval and instructs viewers to check the classification closer to the release date. However, there are no exemptions for other films, including DVDs, TV series compilations, computer games or videos. The amendments to the Commonwealth legislation removed the prohibition on advertising unclassified films, such as DVDs and videos, and computer games, provided for a new legislative instrument and allowed for the creation of an advertising scheme for unclassified films and computer games. The intention was to make the regulatory scheme consistent across different product types to the greatest extent possible.

The changes to the Commonwealth legislation also removed the requirement that previously allowed for films likely to be classified PG to be advertised during the exhibition of a G-rated film, and to remove the prohibition on advertising unclassified films likely to be classified R18+. These modifications to the classification scheme extend to both public exhibition films and other films, such as DVDs and videos. The

rationale was to prevent viewers from exposure to potentially inappropriate or offensive advertising material. An industry self-assessment scheme for unclassified films and computer games was also introduced under the changes, whereby trained and authorised assessors were given the power to make an assessment of the likely classification of a film or computer game for the purpose of advertising that film or computer game prior to classification.

Concerns were raised by groups such as ACL that these amendments may be perceived as, first, representing an unjustified movement towards a higher level of industry self-regulation and, second, opening the way for classifications that are more reflective of vested interests than of the community's endorsement of advertising content. Conversely, others have argued that the previous classification scheme was cumbersome and unduly restricted advertising, creating a situation where producers and distributors' advertising was forced to lag behind Internet downloads and illegal piracy—particularly as films were often classified only just prior to their release. The proposed amendments are said to represent a sensible response to changing technological developments.

A number of safeguards have been implemented to protect consumers and ensure the consistency and quality of decisions by industry assessors on the likely classification of unclassified advertising material: First, the Classification Board will be authorised to oversee the decisions made by authorised assessors; second, assessors may be barred from using the scheme at the direction of the director of the Classification Board in the instance that they should be found to have acted improperly or beyond their authority; third, trained and authorised persons may provide a report and a recommendation to the Classification Board to assist them in their classification of a TV series boxed set; and, fourth, the Classification Board retains the ultimate authority for the final classification.

The bill before the House, as the Attorney General has previously stated, removes 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 inserts new offences of advertising an unclassified film or computer game together with classified material if the advertisement does not comply with the advertising scheme. The bill is a reasonable response to technological changes and answers industry concerns in relation to new release films and computer games competing with pirated copies. There are adequate safeguards in place to ensure that the advertising of approved, pre-classification materials will accord with the community's value standards. As previously stated, the Opposition does not oppose the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.16 p.m.], in reply: I thank honourable members for their contribution to the debate and I note that it is generally agreed on all sides. Since the introduction of the bill in the Legislative Council in September, the Tasmanian and Queensland Parliaments have passed Acts to make amendments to their classification enforcement legislation. I note that the Northern Territory has now also introduced similar amendments into its Parliament. Such amendments will need to be made to classification legislation in all States and Territories prior to 1 July 2009. The Classification (Publications, Films and Computer Games) Enforcement Act has been operating in New South Wales since 1995. The amendments proposed in the bill will ensure that the national classification scheme remains appropriate to the needs of both the community and industry in years to come. 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 transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

ADMINISTRATIVE DECISIONS TRIBUNAL AMENDMENT BILL 2008**Second Reading****Debate resumed from 24 September 2008.**

The Hon. JOHN AJAKA [3.19 p.m.]: The stated objects of the Administrative Decisions Tribunal Amendment Bill 2008 are, first, to amend the Administrative Decisions Tribunal Act 1997, the principal Act, so as to give effect to certain recommendations that were made as a consequence of a review carried out under section 147 of the principal Act, and to make other amendments in connection with the constitution, functions and procedure of the Administrative Decisions Tribunal and in the nature of statute law revision. Second, the bill makes consequential and other amendments in the nature of law revision to the Administrative Decisions Tribunal (General) Regulation 2004 and the Administrative Decisions Tribunal Rules (Transitional) Regulation 1998. Third, the bill repeals the Administrative Decisions Tribunal Legislation Further Amendment Act 1998 and the Administrative Decisions Tribunal Rules (Transitional) Regulation 1998.

Fourth, the bill amends the Anti-Discrimination Act 1997 to increase the maximum amount that the tribunal may award under that Act as compensatory damages from \$40,000 to \$100,000; to enable the President of the Anti-Discrimination Board, instead of the Minister, to grant exemptions from the operation of that Act and to enable applications to be made to the tribunal for reviews of such exemption decisions; and to omit certain procedural provisions relating to the tribunal that duplicate procedural provisions already contained in the principal Act. Fifth, the bill amends the Building Professionals Act 2005 to remove any right to appeal certain decisions of the tribunal to an appeal panel and to provide instead for such appeals to be made directly to the Supreme Court. Sixth, the bill amends the Anti-Discrimination Regulation 2004 and the Explosives Act 2003 to make amendments that are consequential on the amendment of the Anti-Discrimination Act 1977 and the principal Act. Seventh, the bill amends the Supreme Court Act 1970 to assign to the Court of Appeal any appeals from decisions of an appeal panel of the tribunal and the referral of questions of law by the tribunal for the Supreme Court's opinion.

The amendments to the principal Act that arise from the statutory review deal with: the joinder of persons who are not parties to proceedings in the tribunal; the continued participation of members or assessors of the tribunal who preside over unsuccessful preliminary conferences for proceedings in the formal determination of the proceedings; the powers of the Registrar of the tribunal in relation to a summons to attend and give evidence or produce documents or other things and the granting of access to things produced pursuant to such a summons; the expansion of the circumstances to which the tribunal may have regard in awarding costs in proceedings before it; and the simplification of the process for the making of the rules of the tribunal by its Rules Committee.

The Opposition does not oppose the bill. By way of background, section 147 of the Administrative Decisions Tribunal Act 1997 requires that the Act is reviewed five years from the date of its assent to determine whether the policy objectives of the Act remain valid and whether its terms remain appropriate for securing those objectives. The most recent review 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. The Administrative Decisions Tribunal is an accessible form of our justice system that hears matters relating to the decisions of public administrators. It is one of the most accessible forums for matters to be heard and is designed for individuals to be able to challenge and appeal administrative decisions. As part of the arrangements in the bill, the tribunal's Equal Opportunity Division will be able to award up to \$100,000 in compensation to victims of discrimination. At present, the cap is \$40,000. This change is in line with provisions that exist federally and in other States.

Changes are also made to allow the President of the Anti-Discrimination Board to grant exemptions, rather than vesting the power with the Attorney General. Also, the bill contains amendments to recognise the tribunal's powers to review administrators and requires agents who are not legal practitioners to obtain leave by the tribunal in order to appear as a representative. In cases of appeals from disciplinary proceedings against accredited certifiers, these matters are to go to the Supreme Court under these arrangements. Exhibition and consultation requirements for the making of rulings are removed from the Act. Rather, the Rules Committee will be able to make rules for divisions of the tribunal. This is in line with practices in other divisions throughout Australia and has been motivated by the lengthy process involved in making rulings, which has led to rulings

not being used and the undesirable situation where practice notes are established in their place. The changes to section 24A clarify that in interlocutory matters the tribunal can be constituted by a single member and allow the president or divisional head to give directions as to who may constitute the tribunal.

Section 53 will be amended to ensure that a person is notified of the result of an internal review 21 days after the application is lodged. That is a more stringent standard than currently applies. Section 55 will be amended to clarify the time frame in which a review can be made. Section 58 will be amended to ensure that a statement of reasons provided on internal review will be provided also to the tribunal. Section 67 (4) will be amended to allow for broader powers to join parties in matters where it is appropriate. Also, the bill broadens circumstances where a matter is dismissed and allows for dismissed matters to be reinstated in cases of reasonable excuse. Further amendments will provide that the tribunal can refer questions of law to the Court of Appeal, regardless of the status of the tribunal member. The bill clarifies that the registrar has the discretion to issue a summons or otherwise and for the tribunal to pay for the cost of mediators. Section 88 of the Act will be amended to confirm that parties in cases before the tribunal bear their own costs, unless otherwise specified by the tribunal, as well as to broaden the matters to be considered in awarding costs. These changes are in line with the Victorian Act. As I previously stated, the Opposition does not oppose the bill.

Ms LEE RHIANNON [3.25 p.m.]: The Administrative Decisions Tribunal Amendment Bill 2008 is a mixed bag. I want to put on the record that the Greens recognise that the Administrative Decisions Tribunal is a very important forum for checking on government decision-making. The people turn to the tribunal to challenge administrative decision-making in New South Wales. The tribunal is integral to open and accessible government. The Greens support moves to increase the amount of compensation that the tribunal can award and we recognise that a number of smaller miscellaneous amendments are well overdue. However, we have serious concerns that other amendments may limit access to the tribunal. The Greens support moves in the bill to increase the compensation limit from \$40,000 to \$100,000 for matters heard in the Equal Opportunity Division of the tribunal. Discriminatory conduct must not be tolerated in public life. The compensation that the court can award must reflect the seriousness of the consequences of discrimination.

The Greens are concerned about the proposed amendment that requires agents who are not legal practitioners to obtain leave from the Administrative Decisions Tribunal to represent a party. People should have the freedom to choose their own legal representation, even if the representative is not a lawyer. Indeed, many people cannot choose to be represented by a lawyer for the simple reason that they cannot afford one. What does the Government propose for people who do not have the money to engage a lawyer and do not have the confidence or the English skills to represent themselves? The Attorney General, in his second reading speech, stated that this amendment will redress concerns that some classes of agents 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. Is it not up to individuals to decide who should act for them, not for the tribunal to decide whether a representative is acting in an individual's best interests? The Greens strongly believe that the starting point should be that individuals have a right to choose their own legal representation.

If a number of so-called vexatious agents are abusing the court process and not acting in a party's best interests, then a more reasonable amendment would be that the tribunal has the discretion to disallow an agent if that agent does not meet a set of prescribed standards. The express purpose of tribunals is to be an independent, accessible and cost-effective forum for individuals to seek justice. This amendment appears to take the Administrative Decisions Tribunal in the opposite direction. I want to put the Greens' concerns on the record and indicate that we will continue to monitor this area. Making the tribunal less accessible and potentially less cost-effective will not help the people who turn to this court. An amendment that takes away the presumption that people can choose their own legal representation will not approach being acceptable until the Government coughs up the funding for a community legal service that can meet demand and provide free advice and representation to clients when needed. Clearly, such a service is required in the wider community and would help to ensure the overall effectiveness of this legislation.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.29 p.m.], in reply: I thank honourable members for their contributions to this debate. I note that the bill is broadly supported. The main purpose of the Administrative Decisions Tribunal Amendment Bill 2008 is to make miscellaneous amendments to the Administrative Decisions Tribunal Act 1997 in order to implement recommendations made in the statutory review of the Administrative Decisions Tribunal Act and to facilitate improvements to the constitution, functions and procedure of the Administrative Decisions Tribunal.

The bill also increases the limit for damages in the Administrative Decisions Tribunal for unlawful discrimination from \$40,000 to \$100,000 and transfers the power to grant exemptions from the operation of the

Anti-Discrimination Act 1977 from the Attorney General to the President of the Anti-Discrimination Board. The increase in the limit for damages for unlawful discrimination addresses long-term concerns that the relevance of the State's discrimination laws was being undermined by the fact that the damages available under the New South Wales law were often lower than damages available in other jurisdictions.

The proposed amendments to the exemption process will implement recommendations made in the New South Wales Law Reform Commission review of the Anti-Discrimination Act 1977 and will more closely reflect exemption regimes in other Australian jurisdictions. The changes will ensure a transparent administrative decision-making process, which includes recourse to the Administrative Decisions Tribunal, is available in the context of granting exemptions from the provisions of the Anti-Discrimination Act.

In relation to comments made by the Greens, it should be remembered that a threshold test similar to the one proposed in the bill in relation to agents also exists in the Consumer, Tenancy and Trader Tribunal. This test is based on an assessment of the prospective agent's competence; his or her authority to bind an applicant; whether the applicant will be at a disadvantage; and whether, due to the complexity of the case, representation is required. Section 3 of the Administrative Decisions Tribunal Act requires the tribunal to ensure that its proceedings are efficient and effective and that its decisions are fair, and to determine proceedings before it in an informal and expeditious manner. It is envisaged that the amendments contained in this bill will only enhance its ability to continue to achieve these objectives. 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 transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

STATE ARMS, SYMBOLS AND EMBLEMS AMENDMENT (BLACK OPAL) BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.33 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

The purpose of the State Arms, Symbols and Emblems Amendment (Black Opal) Bill 2008 is to recognise the black opal as the gemstone emblem for New South Wales. While schedule 3 to the State Arms, Symbols and Emblems Act 2004 lists the State's emblems, there is no gemstone emblem for the State. The proposal to recognise the black opal as the gemstone emblem for New South Wales has wide support. This includes support from the Australian Museum and the Lightning Ridge Opal and Fossil Centre.

Black opal is a type of precious opal or opal of gemstone quality. Precious opal is usually classified on the basis of the background colour of the stone and the type of colour pattern. The background for the colour play can be colourless, milky white, pale to dark grey or black. Black opal shows a play of spectral colours in a dark body colour that is usually black, blue, brown or grey. It is the most sought after type of precious opal as the very dark body colour enhances the depth of colour and the colour play is seen to its best advantage. The magnificent black opal ranks with diamond, emerald, ruby and sapphire as one of the most valuable gemstones in the world.

Black opal is a suitable gemstone emblem for the State as it is the only gemstone that is mined in significant amounts in New South Wales. The only other gemstone mined in New South Wales is the sapphire;

however, only a small amount is mined. In addition, sapphire is already recognised as the gemstone emblem for Queensland. Internationally the black opal is strongly associated with New South Wales and, in particular, Lightning Ridge. Opal in general was discovered at Lightning Ridge in the late 1880s, with significant mining starting in the early 1900s. The opal industry in New South Wales is now largely based at Lightning Ridge, which has a population of about 1,200 people. This important regional centre also makes a large contribution to the tourism industry in New South Wales.

The Australian Museum also advises that Lightning Ridge is now the world's major commercial producer of black opal and it is world famous for its high-quality black opal. Specifically, Lightning Ridge supplies 95 per cent of the world's supply of black opal. No other jurisdiction in Australia has the black opal as its gemstone emblem. While opal is already recognised as the gemstone emblem for Australia and South Australia, the black opal can be distinguished from opals generally due to its value. The spectacular black opal is worthy to be declared the State's gemstone emblem as it is a world-famous gemstone and is strongly associated with Lightning Ridge and the State. Declaring the black opal to be the State's gemstone emblem is also likely to benefit the State's opal mining industry and the tourism industry. I commend the bill to the House.

The Hon. RICK COLLESS [3.35 p.m.]: I am very pleased to support the State Arms, Symbols and Emblems Amendment (Black Opal) Bill 2008. I congratulate my lower House colleague Kevin Humphries, the member for Barwon, on bringing this matter to the Government. It is no secret, of course, that Kevin Humphries is a very strong supporter of Lightning Ridge and the black opal. He wrote to the Premier some months ago suggesting that the black opal be established as the gemstone emblem for New South Wales. The principal Act currently recognises that the animal emblem of New South Wales is the platypus, the bird emblem is the kookaburra, the floral emblem is the waratah and the State fish is the blue groper. This amendment to the Act will ensure that the black opal is recognised as the gemstone emblem of New South Wales.

The word "opal" comes from the Greek word "opallios", meaning "to see changes of colour". In May 2007 Kevin Humphries; the Leader of the Opposition, Barry O'Farrell; the Leader of The Nationals, Andrew Stoner; and Andrew Fraser travelled to Lightning Ridge and visited an opal mine. In July 2007 Kevin Humphries approached the Premier's Department with the proposal to introduce the black opal as the State's gemstone emblem. On 10 April 2008 Mr Humphries received a letter from the Premier in relation to his proposal. The Premier wrote:

I am writing to confirm the Government's support for your proposal. The Government considers that the black opal is worthy to be declared the State's gemstone emblem given its value as a world famous gemstone, and its strong association with Lightning Ridge and New South Wales.

Mr Humphries recorded the Premier's letter in *Hansard* in a private member's statement on the same date. Yet it was absolutely amazing that on 11 April, in his agreement in principle speech, the Labor member for Monaro failed to give any credit to the member for Barwon.

The Hon. Trevor Khan: Shame!

The Hon. RICK COLLESS: Shame!

Ms Sylvia Hale: Churlish.

The Hon. RICK COLLESS: Absolutely churlish. The addition of the black opal as our gemstone emblem will see New South Wales joining a small number of States that have an official gemstone emblem. In 1985 Queensland adopted the sapphire as its State gemstone in recognition of the large sapphire deposits that exist in that State. Also in 1985 South Australia adopted the opal as its State gemstone, and the opal is recognised as our national gemstone. Aside from these examples, no other State or Territory has a recognised gemstone emblem and certainly no other State or Territory can lay claim to the highly prized black opal as its official gemstone symbol.

Black opal is the most sought after and most valuable variety of opal. It is so rare that it is found in only two locations on earth—Lightning Ridge and Mexico. Of the two, Lightning Ridge black opal is acknowledged to be of a vastly better quality. Lightning Ridge is already an internationally recognised site of palaeontological significance, with not only unequalled deposits of opal and black opal, but also having been the site of a number of significant fossil finds. The town is home to a thriving tourism industry based on opals, with amateur prospectors, gemstone collectors and ancient history buffs flocking to the town each year to enjoy these unique natural features.

Lightning Ridge is famous for its red on black gems of superlative brilliance in every conceivable pattern: harlequin, rolling flash, flower garden, picture stone and Chinese writing. From the deepest, clearest blues and greens to rippling orange-carmine and fuchsia, all colours of the spectrum are seen at their incandescent best in these stones. Unlike ordinary opals, black opals have carbon and iron oxide trace elements present, resulting in a darker body tone and brilliant, striking rainbow colours that stand out far better than in lighter opals.

The multi-million dollar opal industry is very much at home in Lightning Ridge, set amongst a surreal landscape. Lightning Ridge is on the edge of the outback—semi-desert country, big wide horizons, big sky and plenty of bush. Black opal can be found between three metres and 30 metres deep in fine-grained finch claystones, which are freshwater channel deposits laid down more than 100 million years ago on a coastal floodplain. These ancient sediments are brought to the surface in the form of mullock heaps, creating the characteristic moonscape environment around places such as Lightning Ridge.

Lightning Ridge earned its name in the 1870s when a shepherd, his dog and a flock of sheep were struck by lightning and killed. Opal mining really kicked off in the area in 1901. Early miners were characterised by their tenacity and fearless spirit, only to be matched by the lack of water and relentless heat. My colleague Kevin Humphries has, since entering Parliament as member for Barwon, championed the cause for black opal to be officially declared our State gemstone emblem. It is appropriate to acknowledge his efforts in seeing this issue through to the stage we are at now, despite the interjections from the ranting mob opposite.

The Hon. Marie Ficarra: They don't like to hear the truth.

The Hon. RICK COLLESS: That is right. Australia produces about 97 per cent of the world's precious opal, with around half of that amount coming from New South Wales alone. It is a gemstone with which, in all its varieties, we are internationally associated, and I see this amendment as due recognition of that fact. The adoption of the black opal as the gemstone emblem of New South Wales will not only come as an official acknowledgement of our State's unique claim on this dazzling gemstone but it will also see the black opal complement the waratah, the kookaburra, the platypus and the blue groper as New South Wales' emblems.

Just as Australia is world renowned for its unique flora and fauna, with the kookaburra, platypus, waratah and blue groper all being prime examples, so too are we recognised globally, largely courtesy of the black opal, for our unique mineral deposits and gemstones. This bill presents us with a welcome opportunity to recognise this in an official capacity. As such, I commend the bill to the House and congratulate the member for Barwon on introducing this issue.

Reverend the Hon. Dr GORDON MOYES [3.44 p.m.]: I will make a brief contribution to the debate on the State Arms, Symbols and Emblems Amendment (Black Opal) Bill 2008. The object of this bill is to recognise the black opal as the gemstone emblem of New South Wales. While schedule 3 of the State Arms, Symbols and Emblems Act 2004 lists the State's emblems, there is no gemstone emblem for the State. I commend the member for Barwon for working to bring this bill before the other place and hence to us.

New South Wales already recognises and acknowledges the waratah as our floral symbol. I am pleased to say that after many years of struggling to grow decent waratahs my first waratah is now in full bloom. It is a magnificent flower. The kookaburra is our bird emblem, and I am pleased to say that we have had three hatchings of baby kookaburras at our place. The platypus is our animal emblem, but we have none of them. The blue groper is our fish emblem.

Opal is a mineraloid gel that is deposited at a relatively low temperature and may occur in the fissures of almost any kind of rock, being most commonly found with limonite, sandstone, rhyolite and basalt. The word "opal" comes from the Latin "opalus", which comes from the Greek word "opallios", and is from the same root as Sanskrit "upala" for stone. Opals are Australia's national gemstone and we produce 97 per cent of the world's opal. Of that, 90 per cent is called light opal or white and crystal opal. Crystal opal, or pure hydrated silica, makes up 30 per cent, 8 per cent is black and only 2 per cent is boulder opal.

As the Hon. Rick Colless said, black opal is the rarest and most valuable form of opal. It is found in only two places in the world—Mexico and Lightning Ridge in New South Wales. The Lightning Ridge black opal is considered far superior in quality to Mexico black opal. The only other gemstone mined in New South Wales is the sapphire. However, only a small amount is mined and the sapphire is already recognised as the gemstone emblem of Queensland. The magnificent black opal ranks with diamonds, emeralds, rubies and

sapphires as one of the most valuable gemstones in the world. Black opal is precious opal showing a play of spectral colours in a dark body colour that is usually black, blue, brown or grey. The dark colouring may be caused by impurities such as iron oxide. A very dark background accentuates the flashes of colour.

Internationally, the black opal is strongly associated with New South Wales and, as I said, in particular with Lightning Ridge. Opal was discovered at Lightning Ridge in the late 1880s, with significant mining starting in the early 1900s. Lightning Ridge supplies 95 per cent of the world's black opal. No other jurisdiction in Australia has the black opal as its gemstone emblem. While opal is already recognised as the gemstone emblem of Australia and South Australia, the black opal can be distinguished from opals generally due to its value. Declaring the black opal to be the State's gemstone emblem will benefit the State's opal-mining industry and the tourism industry. I commend the bill to the House.

Ms LEE RHIANNON [3.48 p.m.]: The Greens support the State Arms, Symbols and Emblems Amendment (Black Opal) Bill 2008. I acknowledge and congratulate the people of Lightning Ridge on their hard work in winning the support of the New South Wales Government in adopting the black opal as our gemstone symbol. However, a responsible government should look at all aspects of any issue, and that should include this State's symbols.

The black opal is a beautiful stone, but at times the way it is produced is ugly. It is disappointing, but not surprising, that speakers for the other parties represented in this House have failed to recognise the challenges this State is facing in managing opal mining. The occasion of adopting this symbol should have been used by the Government to announce a tightening up of opal-mining operations. Too often the impact of this industry on the history and culture of local Aboriginal communities, the local environment and local farming practices has been simply unacceptable. Mining practices need to change.

Unfortunately, the Government's handling of this bill is another example of its failure to acknowledge a major problem. I will outline some of the topical issues as we debate this bill. Opal mining could soon be allowed in OPA 4 in north-western New South Wales. I was recently a guest of the Dharriwaa Elders Group based in Walgett. Many members of the group informed me of their concerns about local mining practices and I had the opportunity to visit opal-mining sites with some of the elders. It was my second visit to an opal-mining area. My previous visit was as a guest of the New South Wales Farmers Association. The elders expressed concerns about the processes the Department of Primary Industries is using to approve claims. If the Department of Environment and Climate Change does not play a role, it will be left up to individual miners to make assessments of threatened species and Aboriginal cultural sites in the areas in which they want to mine. We can all imagine the outcome if that were allowed to happen, but there are solutions that will provide protection and allow mining to continue. Elders are calling for buffer zones to be established around sites of environmental and Aboriginal cultural significance, and for miners not to be given maps of these sites.

I hope members of the Coalition and the Labor Government take this on board and do not try again to distort the Greens' position. We are not saying that opal mining should end. We are saying we need to get the balance right. It is so disappointing that once again when we had the opportunity to make those statements—and this was the perfect opportunity—it was lost. The elders are also calling for more surveys of the areas targeted for mining as there is great ignorance of the environmental and Aboriginal significance of this region. Above all, they want the value of our very special plants, animals and places to be recognised and shared by the Government and the wider community, and not just seen as things to be swept aside in the pursuit of a tiny gemstone.

The Greens share the concerns of locals that it appears the Government is ignoring recommendations of the review undertaken by the Department of Primary Industries of the environmental matters in opal prospecting areas [OPAs] 1, 2 and 3 and of the proposed OPA 4. I understand the Department of Primary Industries commissioned another report from Parsons Brinckerhoff into threatened species on two OPA 4 properties, which came to the extraordinary conclusion that no significant effects on threatened species are likely as a result of opal mining in this area, despite the earlier review of environmental factors [REF] finding that there is a likelihood of significant impact. This second report has many shortcomings, and recently was criticised by scientists. The criticisms included the inadequacy of data collection, survey effort and assessment of the impact on threatened species. For example, Parsons Brinckerhoff's report fails to assess the potential—

The Hon. Rick Colless: Point of order: I understand the honourable member is totally committed to the argument she is presenting but I believe it is well outside the purview of this bill, it being an amendment to the State Arms, Symbols and Emblems Act.

Ms LEE RHIANNON: To the point of order: I have set out why this is most relevant. We are about to bring in the black opal as a symbol of New South Wales, so the circumstances surrounding the obtaining of that opal are most relevant. If my contribution were gagged at this point, I think it would reflect poorly on the House.

The PRESIDENT: Order! At its heart the bill seeks to address issues associated with symbolism, and for that reason I have allowed wide-ranging debate. However, I am constrained to advise members that debate should be confined to the leave of the bill, the long title of which is, "A Bill for an Act to amend the *State Arms, Symbols and Emblems Act 2004* to recognise the black opal as a State emblem."

Ms LEE RHIANNON: I noted in your ruling on the point of order that you spoke about the need to recognise the black opal as a State emblem. It is within that context that I address my remarks. Obviously I will endeavour to follow the ruling you have given. In recognising the black opal as a State emblem, clearly consideration was given to the significance of opals to the State. As I was saying, there have been various reports on how opals are obtained. The Parsons Brinckerhoff report fails to assess the potential impacts on sensitive environments in areas like the Narran Lakes Nature Reserve or Narran Lakes proper. It fails to assess the impact on a number of ecologically endangered communities that may occur in or near the study area. I was disappointed in that. I have visited this area to see where the black opal is mined. Just recently thousands of Ibis chicks were hatched. It was the most successful breeding event in the Murray-Darling—very close to where these opals are mined—in almost a decade. OPA 4 would impact upon that area. I understand black opals will be coming from OPA 4 and that is why I want to provide this information to the House.

Another problem with the 2006 Parsons Brinckerhoff report is that it failed to consider the impacts on the environment of bushfire management required by the Rural Fires Act. Also, why is the Ramsar-listed wetland, Narran Lake, included within part of the OPA 4 boundary? I am really worried about this because black opals—our State's gemstone symbol—could come out of an area that is Ramsar recognised and suddenly it has been included in OPA 4. Is this a way of providing water for miners to be used to process opals from the lake? Where is the considerable water needed to process OPA 4 opals going to come from in this fragile, water-sensitive area of western New South Wales? What about the movement of water from the mining areas into the lake? Why has that not been studied? Perhaps it was studied, but it has not been reported on. We need to know. The Greens are concerned that the 2006 Parsons Brinckerhoff report will be used to justify mining practices that bring further destruction to Aboriginal sites and local ecosystems. That is why we believe this is so important. So many of the symbols members have spoken about clearly come together here. How the black opal is obtained is most significant.

The Government could have used the occasion of the announcement of the plan to adopt the black opal as this State's gemstone symbol to give support to the 2004 REF review into environmental factors undertaken by the Department of Mineral Resources, as it was then called. This report provided an invaluable, but disturbing, insight into the detrimental impact mining has on Aboriginal cultural sites and heritage. The REF noted that no comprehensive survey has been made of such sites. Studies have been undertaken in the past, but the document produced by the Department of Mineral Resources, as it then was, found that the previous work did not explore the intensity of Aboriginal sites. The REF recommended further studies of Aboriginal historic archaeological and cultural sites within OPA 4 and the need for a species impact statement or a referral under the Environment Protection and Biodiversity Conservation Act to be undertaken.

The Greens believe that opal mining should not commence in OPA 4 until the other opal mining areas have been exhausted and until the survey of Aboriginal sites has been carried out and appropriate environmental studies have occurred. That is why this debate is so relevant. We need to have this on the record. How damaging would it be if we passed legislation without acknowledging problems associated with opal mining? I recently received correspondence from Maxine O'Brien, the Secretary Manager of the Lightning Ridge Miners Association. Ms O'Brien notes that Lightning Ridge "exists only because of opal and over time a substantial tourism industry has developed based on opal. We are lucky to have a multicultural society, including a substantial Aboriginal population many of who are opal miners of a relatively non-racist society, which is unusual in this region."

I acknowledge the work undertaken by the association in lobbying for the introduction of a rehabilitation levy. However, let us remember that another impact on Aboriginal communities is that the Rehabilitation Fund only stands at a total of \$230,000. That is an insignificant amount in dealing with the enormous tailings that litter the landscape in the Lightning Ridge opal mining areas, especially the repair necessary for damage to the environment, which we believe cannot be repaired once the damage is done. I share

with the House a letter I received from Mr George Rose, OAM, speaker for and on behalf of the Dharriwaa Elders Group. I had the honour of meeting Mr Rose when I was in Walgett. In a letter to me dated 8 September Mr Rose stated:

We are extremely concerned that Aboriginal cultural heritage assessments will be the responsibility of individual opal miners. Once places and items are destroyed they cannot be replaced, and the NSW Government has few monitoring & compliance resources here on the ground.

He enclosed a letter he sent to the Minister for Primary Industries, also dated 8 September, which stated:

We request the NSW Government undertakes species impact assessments for threatened species listed under NSW and Commonwealth laws.

We also request scientifically reliable assessments are undertaken which examine the likely cumulative impacts of opal mining on the environment in OPA 4 and on the Narran Lakes wetland area, and take into consideration the factors found in our review which were not dealt with by the existing REF [your department commissioned].

The Greens believe that this bill and the significant step of adding the black opal to this State's emblems should have been linked to the far-reaching changes in how the opal mining industry operates.

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

QUESTIONS WITHOUT NOTICE

POLICE NUMBERS

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Police. Does the Minister recall his comments reported in the *Cowra Guardian* on 10 October 2008 that "there are a lot more women in the force these days, but while they are off on maternity leave, they are still counted as being on active duty". Given this comment, will the Minister now consider excluding officers off on maternity leave and long-term sick leave from the official actual strength figures for local area commands, thus ensuring that strength figures accurately reflect actual police officers available for duty?

The Hon. TONY KELLY: The authorised strength of the Canobolas Local Area Command, which includes the major towns of Orange and Cowra, has increased by 30 per cent under the Labor Government. As at 31 August 2008 the authorised strength is 100 and the actual strength is 113, so it is 13 over strength. In relation to Cowra specifically, I have been advised that the station operates 16 to 20 hours a day depending on the need; an after-hours response is provided by a lock-up keeper station at Cowra; the authorised strength of the Cowra sector is 19 officers; and the actual strength is 18 officers.

However, I am further advised that the number fluctuates from day to day. I am advised that a senior officer—a duty officer—has been recently appointed to Cowra. It is a tribute to the local Cowra police that they have stayed on the job after the dreadful events that occurred in the town earlier this year and are getting on with keeping the local community safe. I visited Cowra a couple of weeks ago, on 8 and 9 October, and met with staff at Cowra police station, representatives of the Police Association and representatives of the council. These discussions gave me the opportunity to hear first-hand issues of concern affecting the community. I have also asked the commissioner to continue to work with local police to address those concerns.

It is pleasing to note that in the general Canobolas area, police are doing a fine job in controlling crime. I am advised that in all but one category—sexual assault—all major categories of crime have been stable. Across the State police numbers are at record levels. At the end of August the actual strength of the force was 15,489 compared to the authorised strength of 15,236—that is 250 more police in New South Wales than the authorised strength. My recollection is that when the Coalition came to power it was 11,000. We have gone from 11,000 to 15,500 under this Labor Government and a big percentage of those have gone to country New South Wales.

CENTRAL WEST HEALTH SERVICES

The Hon. EDDIE OBEID: My question is addressed to the Minister for Health. Can the Minister advise the House what action the State Government is taking to improve health services in the Central West of the State?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his question and his ongoing interest in health issues, especially those in regional New South Wales. Last week I travelled to the Central West of the State to meet health staff, including nurses and doctors at Orange Base Hospital, Bathurst Base Hospital and Bloomfield Hospital. While in Orange I inspected the State Government's multimillion-dollar Orange health service redevelopment. During my visit to the worksite I was pleased to announce approval had been given to significantly expand the redevelopment and provide extra services. This follows a detailed planning review and extensive consultation with clinical and health staff in March and April.

The facility will provide greatly enhanced health care services to the people of the Central West. As a result of the review there will be an increase in functional floor space by about 15 per cent for the new general hospital and for the forensic mental health unit. We will be able to provide improved health services for rural communities in surrounding areas, including increased local access to acute health care, mental health and renal and cancer services.

[*Interruption*]

Members opposite do not want to listen; they are not interested. In addition, we are increasing employment opportunities for clinical staff in the Central West. The extra services include six medical-surgical beds, four cardiovascular beds, four renal dialysis chairs and six chemotherapy treatment chairs. Other clinical services to be provided at the facility include emergency, general medical and surgical services including orthopaedics and gynaecology; intensive care and a high-dependency unit; a coronary care unit; maternity, neonatal and paediatric services; breast screening; a cancer care centre, including radiotherapy; and aged care services.

Many of these services will be at a higher level than currently provided and will result in fewer people needing to travel outside the areas for their health needs. As mentioned, I also visited Bathurst Base Hospital, where I inspected the progress of remediation works and spoke with nurses and clinicians. It is important to note that we have excellent clinicians and nurses in the Central West of the State who are delivering high-quality services. New data from NSW Health reveals Bathurst Base Hospital has improved its emergency department admission performance and is continuing to meet benchmarks in medical procedures and surgical waiting lists.

The Hon. Charlie Lynn: I don't believe that.

The Hon. JOHN DELLA BOSCA: You don't believe anything; that's the problem. You are a terrible cynic and it shows. The latest data shows that as at August 2008, 88 per cent of emergency department patients were admitted to a ward within the eight-hour benchmark, a 6 per cent increase on the corresponding period for 2007. The target is 80 per cent. The figures do not lie. There were no patients waiting longer than 12 months for their elective surgery. All patients requiring urgent surgery were treated within the 30-day benchmark. These results are even more outstanding when one considers there was a 7 per cent increase in the number of emergency department admissions in August this year—346 compared to 323 for August 2007. While we are working hard to improve services in the Central West and across the State, members opposite, as we can hear, have no plans to improve health services. Coalition members are distracted by their internal divisions, which were highlighted this week in the Port Macquarie by-election. [*Time expired.*]

GREATER WESTERN AREA HEALTH SERVICE

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Health. Does the Minister recall my question on 25 September 2008 relating to the financial status of the Greater Western Area Health Service, in which I had asked him if the service was in debt to the tune of \$30 million, and that he did not respond? Local reports now indicate that the level of debt has spiralled to \$66 million. Is this correct? If not, what is the exact figure? It was also reported in local media in Dubbo on 16 October that the Minister said \$6 million had been spent paying the bills of the Greater Western Area Health Service in recent weeks and that a further \$5 million would be released on that night. Has this money been paid? If so, would the Greater Western Area Health Service still be in debt to the tune of around \$55 million? If not, what is the exact figure?

The Hon. JOHN DELLA BOSCA: The supposition referred to in the first part of the Deputy Leader of the Opposition's question is clearly wrong, because I always answer his questions. Businesses that provide a product or service have a very reasonable expectation that they will be paid in a fair and timely way. The Government has the same expectation. That is why we have set benchmarks for each area health service that

creditor payment should not exceed 45 days from when an invoice is received. We expect area health services to meet these creditor payment benchmarks. This is consistent with the department's policy that health services will manage their budgets and pay suppliers' invoices in line with contract terms.

NSW Health creditor payments amount to almost \$10 million each day. The timely payment of bills is essential to the maintenance of supplies to our public health facilities; indeed, it is just good business. An audit into unpaid creditors is already underway. Businesses who have queries about their accounts can call the area health service.

The Hon. Duncan Gay: When are you going to pay the bills? We don't need another audit. We just want the bills paid.

The Hon. JOHN DELLA BOSCA: Let me answer your question. That is why you think I do not answer your questions—you interject too much and you do not allow me to give the answers. Why don't you take a leaf out of your Leader's book, and quietly sit there reading Machiavelli's *The Prince*? He is obviously dusting off Barry O'Farrell and Andrew Stoner—

The Hon. Michael Gallacher: They want to know all about John Robertson before he arrives. They want to know what Robbo's going to do when he gets here—

The Hon. JOHN DELLA BOSCA: Well, you're reading the wrong book if you are interested in John Robertson. You should be reading Aristotle if you are interested in John Robertson. Area health services have been ordered to pay their bills, and the Department of Health is working with the area health services to help them. As I was saying, an audit into unpaid creditors is already underway. Businesses who have queries about their accounts can call the area health service, and there is a dedicated line to do so, which all creditors are aware of. I would encourage any creditor who believes they have an outstanding invoice to contact the dedicated telephone number for the relevant area health service to ensure their payment is processed promptly.

With respect to the Deputy Leader of the Opposition's question regarding the Greater Western Area Health Service, all the matters I publicly disclosed have proceeded as per what I have said already. Within the last week 5,000 creditors have had their invoices addressed. I am advised that we are working through—

The Hon. Rick Colless: What about paid?

The Hon. JOHN DELLA BOSCA: That is what it means, doesn't it? Don't be too smart. We are making sure that the area health service gets on top of what is a management systemic issue. The health service has the budget to finance itself; that is made available. Of course, it is one of the Government's top priorities to make sure that payments are made within the 45-day benchmark for all area health services, including the Greater Western Area Health Service.

The Hon. DUNCAN GAY: I ask the Minister a supplementary question. How much money is still outstanding?

The Hon. John Della Bosca: Point of order: That is a new question; it is not the same as the question I was asked.

The Hon. DUNCAN GAY: To the point of order: It reflects upon the question that was asked originally. It seeks to elucidate more information.

The PRESIDENT: Order! I take the point made by the Deputy Leader of the Opposition that effectively he was merely asking part of his original question again. Therefore the question is out of order.

ABORIGINAL CROWN LAND CLAIMS

Mr IAN COHEN: My question is addressed to the Minister for Lands. I refer to the recent High Court decision in *The Minister Administering the Crown Lands Act v the New South Wales Aboriginal Land Council* of 2 October 2008, in which the High Court found that land not being used by the Department of Lands could be lawfully regarded as attainable Crown land under the New South Wales Aboriginal Land Rights Act. Can the Minister indicate in how many other cases applications for land claims by Aboriginal communities were refused on the basis that the land was lawfully used and occupied by the Department of Lands in preparing the land for

sale? Can the Minister also indicate how many land claims are currently before the department, in respect of which the department takes the position that the land subject to the claim is being lawfully used and occupied by the department in preparation for sale?

The Hon. TONY KELLY: On 8 March 2006 I refused an Aboriginal land claim over Crown land known as the former Roads and Traffic Authority site in Wagga Wagga, a site that had a building on it. The Department of Lands was in the final stages of arranging the sale of that property by auction when the claim was lodged. The New South Wales Aboriginal Land Council appealed my decision in the Land and Environment Court, and the court disallowed the appeal. The claimant Land Council then appealed the Land and Environment Court's decision in the Supreme Court, and that Court upheld the appeal.

Given the serious and wide-ranging ramifications this decision has on the Government's Crown land disposal program throughout the State, I sought leave to appeal the Supreme Court's decision in the High Court. The High Court heard the appeal on 6 August 2008. The High Court handed down its decision on 2 October 2008. As with many land claims, the particular facts of the Wagga Wagga case played an important role in determining the outcome. As such, the Wagga Wagga decision is not expected to lead to any immediately noticeable change in the way claims are dealt with at the administrative level.

Nevertheless, the Government welcomes the recent High Court decision for providing clarification on two critical aspects. Firstly, it provides clear guidance on how to apply the tests of lawful use and lawful occupation contained within the Land Rights Act. Secondly, it affirms that the task of interpreting unambiguous provisions of the Aboriginal Land Rights Act is no different in scope and nature from that task when performed in relation to statutes generally.

BATHURST 1000 V8 SUPERCARS RACE POLICING

The Hon. AMANDA FAZIO: I address my question to the Minister for Police. Can the Minister update the House on the results of New South Wales Police Force activities undertaken at the Bathurst 1000 V8 supercars race?

The Hon. TONY KELLY: I am pleased to be able to answer the Hon. Amanda Fazio's question about such an important event. Each year the New South Wales Police Force provides public safety, high visibility policing and crime prevention functions to the Bathurst 1000 V8 supercars race. This year was one of the safest on record, and the success of the planning and implementation of Operation Mountaineer speaks for itself. Police have praised the behaviour of spectators and noted that Operation Mountaineer, involving more than 590 officers, effectively contained all major hooligan behaviour.

Despite the large crowds, the number of people arrested for serious offences was comparatively low, which demonstrates the success of this operation. I am advised that in 2007 arrests numbered in excess of 160 people. By comparison, this year only 44 people were charged with 78 offences. Forty-four people were also issued banning notices from Mount Panorama for the duration of the event. These arrests included 11 for possessing prohibited drugs, offensive conduct and driving offences. One of those arrested for drug offences allegedly had a small quantity of cannabis hidden in the fuse box of his car. As a result, police instituted vehicle searches as cars entered Mount Panorama. They had the dog squad there and searched each vehicle. Police also arrested and charged a man for displaying pornographic material whilst camping at the site.

Families with young children camp at the mountain. The behaviour of someone walking around displaying pornographic material is completely unacceptable and that person had obviously thought about it in advance. Another incident involved a police officer being struck on the head whilst seated in a police vehicle. Fortunately, the officer was uninjured and the alleged offender was arrested and charged with assaulting police.

Police believe that the alcohol restrictions over the past two years have contributed to the reduction of alcohol-related violence and drunken behaviour. As people returned home from the event the weekend traffic operation continued, resulting in the issuing of 215 infringement notices, 2,136 breath tests being conducted, and two people charged with drink driving and other associated traffic offences. It is easy to see that this year people got the message with only two people charged with drink driving following 2,136 breath tests.

I am advised that a number of families and long-time attendees of this event have approached the police and praised their work in making such a safe and secure environment. Police worked tirelessly to ensure that the event remained a family-friendly event to be enjoyed by all spectators. When I visited the area, I saw many

families camped there with young children on their pushbikes as opposed to the sorts of behaviour we have seen in past years. Motor sports fans attending next year's event can be assured there will again be a significant police presence at Mount Panorama to ensure that it remains a safe, thriving and fun event.

ILLEGAL LAND CLEARING, NORTH ROTHBURY

Ms SYLVIA HALE: I direct my question to the Minister for Police. In light of the failure of the Department of the Environment and Climate Change to pursue the investigation and prosecution of illegal land clearing and removal of the critically endangered *Persoonia pauciflora* from the Hanwood Stage 5 site at North Rothbury, will the Minister initiate a full criminal investigation of this offence, which carries a penalty of two years imprisonment and/or heavy fines?

The Hon. TONY KELLY: If that is a genuine inquiry—and I am not sure that it is—I would suggest that Ms Hale should do what everybody else in New South Wales would do, and report it to the police.

ELECTRICITY INDUSTRY PRIVATISATION

The Hon. GREG PEARCE: My question is directed to the Treasurer. What legislation will the Treasurer be introducing to facilitate the sale of the State retail electricity assets and generator sites? If the Minister will not be introducing legislation, what safeguards will be put in place to get the best value for the taxpayer and to run clean transactions?

The Hon. ERIC ROOZENDAAL: I appreciate the question of the honourable member. The Opposition's stance on the Government's original electricity reform package exposed the public sector to potential loss of \$12 billion to \$15 billion over the next 15 years.

The Hon. Michael Gallacher: You keep saying that.

The Hon. ERIC ROOZENDAAL: Are you telling me that you wanted to roll O'Farrell? Is that what you are saying?

The Hon. Duncan Gay: You did not put it to a vote. There are lots of people in the House.

The Hon. ERIC ROOZENDAAL: The Opposition members did not support electricity reform; they made that very clear. They took a decision for cheap political point-scoring. They denied their own ideological perspective. They denied their own position. They always strongly supported power reform right up until the crunch when they decided to rat on the people of this State and do the wrong thing.

The \$12 billion to \$15 billion over the next 10 to 15 years is a cost identified by Professor Anthony Owen and represents the cost of building new electricity generation, improving the environmental performance of the existing generators, and maintaining the ongoing viability of the Government's retail businesses. This issue will be addressed in the mini-budget to provide the State with the flexibility needed to fund new baseload generation capacity if necessary, while protecting the triple-A credit rating of New South Wales.

MINISTERIAL FOOD REGULATORY COUNCIL

Dr JOHN KAYE: My question is directed to the Minister for Primary Industries. As the sole representative of New South Wales on the Ministerial Food Regulatory Council, can the Minister tell the House which of the following issues are on the agenda for the council meeting on Friday of this week: melamine in foods; traffic light front-of-package labelling; trans-fats; the six bright food colours implicated in attention deficit disorders in children; and, country of origin labelling? If any of these issues are not on the agenda, will the Minister seek to raise them? If not, will the Minister seek to raise them at a subsequent meeting of the Ministerial Food Regulatory Council. I would have asked the Minister for Health but he will not be attending the meeting.

The Hon. IAN MACDONALD: Yes, I am the sole representative of the Government on the ministerial council and there is a very good reason for that.

The Hon. Michael Gallacher: Because you know everything.

The Hon. IAN MACDONALD: Besides talent, New South Wales was the first State to introduce the paddock-to-plate system for dealing with food safety issues. In the past there were two agencies effectively dealing at two different levels with food and there was a lack of coordination. A few years ago a very smart gentleman by the name of John Perrin came along and proposed that we introduce the paddock-to-plate system in New South Wales. A lot of legislation has since been introduced to implement that system. Having said that, when I attend food council meetings I always take a senior adviser from the Department of Health to deal with issues relating to serious illness—that area still lies within the ambit of the Department of Health. It is a very good system and it works well. In answer to the five questions of Dr John Kaye, the answers are: yes, yes, yes, yes and yes, so I do not have to raise them at a subsequent meeting.

MINISTER FOR ENERGY VISIT TO CHINA

The Hon. TREVOR KHAN: I direct my question to the Minister for Energy. Will the Minister confirm that he travelled to Gansu in north-west China and that the cost of the air travel from south-west China and the accommodation was either paid for by Mr Alan Fang or his company, the Tianda Group? Will the Minister confirm that this is a highly unusual transaction and whether he has accepted such a gratuity from a company involved in mineral exploration and mining before? Will the Minister inform the House what the total cost borne by Mr Alan Fang, or the Tianda Group, was for this generous gratuity? Will the Minister tell the House the names of the persons who accompanied him to Gansu in north-west China?

The Hon. IAN MADONALD: As I have pointed out, there was a circumstance in which I accepted the offer of transport to meetings with the Governor of Gansu province and other senior Ministers and bureaucrats. It followed the earthquake in Szechwan, which affected Gansu with the loss of many hundreds of lives and many hundreds of millions worth of damage. This is all recorded in the evidence given before the estimates committee last Friday.

I was scheduled to fly to Gansu to meet the Governor and his senior officials at lunch on the Sunday. Let us remember that the capital Lanzhou is not exactly the Riviera or someplace around Italy or Paris. It is a very poor city but is in a resource-rich State way out in one of the poorest parts of China. I was also scheduled to speak at the joint economic meeting in Guangzhou to celebrate the next step of our economic sister city and sister State relationships, following the Premier. The Hon. Henry Tsang also attended the meeting as part of the large delegation. The Governor, like most senior officials in Gansu province, had to visit the earthquake-devastated areas of the province at that time and those areas were out of Lanzhou. The problem was that the Governor requested me to proceed with the meeting on the Sunday night instead. I agreed. The Hon. Trevor Khan would know, given his great elucidation on Friday, that it would have been somewhat of an insult for me to decline the meeting that was scheduled for that evening. That was the only way we could get from where the meeting was held in Shenzhen—which is near Hong Kong, for those who want to know—

The Hon. Duncan Gay: You did not want to fly economy class again?

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition does not have to worry about that. I have flown economy class many times. For me to get from Shenzhen to Lanzhou and then back to Shenzhen to undertake my duties at the joint economic meeting required flights outside the normal scheduled services. I accepted on the basis that it was a humanitarian visit. There was great devastation in the area. At the meeting with the Governor and senior Ministers we did television and media work and said we would support the many tens of millions of people in the province. When I returned to Sydney I, together with the Premier, organised a fundraiser at Parliament House and we were able to get— *[Time expired.]*

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

The Hon. IAN MACDONALD: Within a month or so of getting back, the Premier and I organised a function at Parliament House and raised almost \$90,000. I organised with the Red Cross Society that 20 per cent of that funding would go to Gansu, which, I have been informed by the Red Cross, was duly paid.

The Hon. Trevor Khan: How much did Mr Fang pay?

The Hon. IAN MACDONALD: I have no idea of the cost of the transport services, and I will not ask in relation to a humanitarian visit. It could not have been done any other way. I was not going to say that I would not attend a meeting in Gansu province, which is situated in the poorest part of China. I did the right thing, and I stand by it. I do not change my mind one iota about what I did.

GOOD WILL WEEK

The Hon. HENRY TSANG: My question without notice is addressed to the Attorney General. Will the Attorney General inform the House about the New South Wales Public Trustee's activities during Good Will Week?

The Hon. JOHN HATZISTERGOS: I thank the Hon. Henry Tsang for this timely question, as this is Good Will Week. The Public Trustee, which has over 90 years experience in writing wills and administering estates, having made more than 900,000 wills, is encouraging people not to leave things to chance when it comes to the division of property and assets. As part of Good Will Week 2008, the Public Trustee conducted a survey of 1,000 Australians over the age of 18 about their attitudes to inheritance. The results revealed some astonishing attitudes towards inheritance. Some 30 per cent of people indicated they would write family members out of their will if they did something to upset them. Almost 70 per cent of young people aged between 18 and 24 have something in mind they would want to inherit. Perhaps most disturbingly, the survey found that 54 per cent of all adults over the age of 18 do not have a will, with this figure rising to 93 per cent of adults between the ages of 18 to 24. Whilst it is never easy for us to grapple with our mortality, the message from the Public Trustee is clear: People over the age of 18 should make a will, otherwise, if the unthinkable does happen, the laws of intestacy apply and their property may not be divided the way they want.

Family structures are changing, with an increasing occurrence of blended families. Younger people aged between 18 and 24 are almost twice as likely than those over the age of 54 to have a parent who has been in more than one marriage or long-term de facto relationship; about one-third of the population has a half- or step-sibling; and one-third of the population count close friends as part of their extended family. That is why the theme the Public Trustee has chosen for this year's event is "Inheritance: Make the Connection". Wills are not only vital in ensuring that the appropriate people inherit our assets, they are also an enduring gateway to family history. Wills are an invaluable research tool. To demonstrate this, the Public Trustee will host family history workshops around the State. The first workshop is being held today in Wollongong at the Illawarra Steelers Club. The Sydney Workshop will be held tomorrow at the Grace Hotel, and the Ballina Workshop will be held on 24 October 2008 at the Ballina RSL Club. These free workshops boast leading genealogists and special guests who explain where to start researching a family tree and how to make the connection between wills and family history.

Every year the Public Trustee gets involved with a charity for Good Will Week. In 2008 the charity is the Children's Medical Research Institute. As honourable members know, the institute investigates conditions such as birth defects, cancer and epilepsy. It believes that major advances in prevention and treatment come from research into the fundamental processes of life. The Public Trustee of New South Wales will donate one dollar for every will written over the next 12 months to the Children's Medical Research Institute. Once again, I encourage everyone to be mindful of the importance of having a valid and up-to-date will. The Public Trustee's website—www.pt.nsw.gov.au—is a good starting point for information about wills and trusts, including the option of starting to make a will online. Further information about Good Will Week activities is available at www.Goodwillweek.com.au.

CHILD ABDUCTION

Reverend the Hon. Dr GORDON MOYES: My question without notice is directed to the Minister for Police. Is the Minister aware of recent recorded crime statistics that 380 cases of abduction and kidnapping have occurred in New South Wales in the past 12 months ending 30 June 2008? In particular, is the Minister aware of 15 abduction attempts of children aged between 8 to 16 since August this year? Given that New South Wales has the highest recorded rate of abduction and kidnapping in the country since 2005, can the Minister inform the House about measures the New South Wales Police Force will implement to reduce the development of this particular type of crime? What progress has been made to arrest the offenders involved? What programs have been established to educate not only our schoolchildren but also our local communities to prevent further abduction and kidnapping attempts?

The Hon. TONY KELLY: The New South Wales Government takes seriously any incident that may involve harm to children. I am advised that the recent spate of incidents where children have been approached by persons unknown to them do not appear at this time to be related. Each matter must be investigated on the evidence at hand. All reported incidents cause the community, the officers of the New South Wales Police Force and me a great deal of concern. Police have released information on the matters to keep the public informed and to encourage increased vigilance. Police are attempting to get the balance right between warning the community

and ensuring that the community is not unduly alarmed. This information campaign may lead to a higher level of reporting of similar episodes by children, but this should not instil fear into our communities. Awareness and watchfulness remain the best protection for our children whilst the police investigate each matter thoroughly. Parents should continue to talk to their children about sticking to agreed routes home, to never go with someone without their parents' permission and to report any suspicious activity to police. Police are continuing their investigations. Anyone with information on these or other matters is encouraged to call Crime Stoppers on 1800 333 000.

I should also make some comments on the Keeping Me Safe Program, which the police have recently instituted. The New South Wales Police Force continues to strive to improve its partnership with the community to protect children and to provide simple to understand and effective messages to children and their parents. The Keeping Me Safe Program provides children with help to ensure their personal safety, especially in situations involving strangers or when there is no immediate adult supervision. The program was developed as an enhanced replacement to the Safety House Program to ensure that at every location there are safe places and safe adults that a young child can recognise and remember. The program helps children to identify safe adults in their life and in the community; to identify safe places in the community, home, streets or where they regularly go; to say no when they are frightened of being asked to do something they do not like; to develop confidence to tell an adult, regardless of what is going on or who is harming them; to never go with someone, whether they are known to them or not, without their parents' permission; and to learn where to go when lost or frightened.

This package of information is presented in schools and other locations by youth liaison officers and it pulls together resources to assist children to find safe places whether in their own home or in the community as well as safe people they can turn to, reinforcing the message to children that it is not safe to go with anyone unless their parents have given permission. Community members wishing to assist are encouraged to become volunteers in policing. Volunteers participate in the program by spreading the message in outdoor events and venues that children can be protected and that it is a responsibility we all share.

As children respond well to images that they can remember and with which they can identify, the police penguin mascot, Constable Charlie, was developed to highlight the program and to connect those messages to children. So far, police report that the program and mascot are extremely effective and well received in the areas where the program is presented. Other jurisdictions have shown interest in the New South Wales initiative, which is developing a better and more comprehensive approach to a community-based child protection program. We look forward to the ongoing success of the program and the opportunity to share it with our colleagues in other States. I understand that well in excess of 20,000 children have already participated in the program.

STATE ECONOMIC REFORM

The Hon. MATTHEW MASON-COX: My question without notice is directed to the Leader of the Government in the Legislative Council. Is the Minister aware of reports in today's press that the real reason why the Director General of the Department of Premier and Cabinet, Ms Kruk, resigned was that she could no longer bear working with Mr Tripodi and other members of the Government? What does this say about the Government's economic credentials and capacity to deliver real reform for the people of New South Wales? Is it not true that a change in Premier has changed nothing in New South Wales?

The Hon. JOHN DELLA BOSCA: The first piece of advice I give the Hon. Matthew Mason-Cox is not to believe everything he reads in the papers. It is a very big mistake for a member to come into the House with some ill-conceived nonsense from newspapers and trot that up as a serious question about public affairs. It is a fairly foolish thing to do. But if the member wants to do that, I will respond accordingly. Fundamentally, the question is about economic reform and the Premier. More generally, I think the question is about the nature of the Premier's task and how he has laid out the work he has done since becoming Premier, some 27 days ago. The point I make is that this Premier and this Government is about the future. The Opposition remains overwhelmingly committed to the past and overwhelmingly continues to dwell in the past.

[Interruption]

It does not matter whose past it is; it is the past.

The Hon. Michael Gallacher: You don't want to talk about the past. You do not have a future because of your past.

The Hon. JOHN DELLA BOSCA: Ask not for whom the bell tolls. The Leader of the Opposition can sit there reading about Machiavelli and about the activities of Mr Stoner and Mr O'Farrell, but I reiterate: This Government is a government about the future—a future that the Premier has already been laying down. Just yesterday the Premier laid down an important series of steps about rail and rail maintenance—issues that need to be dealt with now for the immediate future. I have been working very hard visiting hospitals and clinicians; dealing with issues and living up to our promises.

The Hon. Duncan Gay: You won't give us any answers.

The Hon. JOHN DELLA BOSCA: I am giving you the answers. The answers to the future are for us as a government to deliver on the things that we promise to the electorate.

The Hon. Michael Gallacher: Did you practise this over the weekend?

The Hon. JOHN DELLA BOSCA: You will be smiling on the other side of your face.

The Hon. Duncan Gay: This is the new spin, is it?

The Hon. JOHN DELLA BOSCA: There is no spin. I have never been interested in spin at all. I do not even know what the expression means. Mahatma Gandhi used a spinning wheel as a symbol of re-embracing the important things that characterised the people of India. If you want to talk about spin and spin doctors and all sorts of things like that, you can talk about the past.

The Hon. Michael Gallacher: That was yesterday. What about tomorrow?

The Hon. JOHN DELLA BOSCA: The Opposition will not take my advice. I gave them great advice all the time I was Minister for Industrial Relations. I warned them over and over again to tell their Federal colleagues about WorkChoices and how they have to worry about the real experience of people on the ground: how they are experiencing government, how they are experiencing the decisions and the services the government provides, and the things that Government can do to regulate their lives. If you get it wrong, and severely wrong—and the Opposition will not listen to good advice like the advice I gave them over two years—then you get kicked out on your ear. The Opposition lost two elections because it failed to take my last lot of advice. I am very certain it will lose the next one as well because it will not take the advice I am giving that now we are talking about the future; we are talking about what we are doing from today onwards and what we have been doing for the last 26 days. And what we are doing is making sure that we are delivering on the transport, health and education policies that we were elected to provide. The Opposition can do whatever it likes, but we will continue to do that and it will be all right. [*Time expired.*]

FEDERAL FISCAL STIMULUS PACKAGE

The Hon. HELEN WESTWOOD: Could the Treasurer please inform the House how the Federal Government's fiscal stimulus package will impact on New South Wales?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for her question and interest in this matter. On 14 October the Federal Government announced a \$10.4 billion fiscal stimulus package to help strengthen the Australian economy during the current financial crisis. The initiative includes pre-Christmas payments of \$4.8 billion for pensioners, \$3.9 billion in support payments for families, \$1.56 billion for first homebuyers and \$187 million to create new training positions. It is supported by both sides of the Federal Parliament and it is swift, decisive action that should be widely acclaimed in the face of global economic uncertainty.

New South Wales is set to benefit from measures included in this package on two fronts. Firstly, one-off payments to pensioners, carers and families will boost consumer spending in New South Wales. Recently, New South Wales consumer confidence has been affected by a slowdown in the real estate market and the effects of the global financial crisis. These Federal Government payments will support consumer-spending growth with further flow-on effects to other sectors of the economy. The implementation of the pensioner payments before Christmas will provide a boost to consumer spending and will be welcomed by New South Wales retailers during this important part of the trading year.

The New South Wales housing sector has also suffered under higher interest rates and a tightening credit market. The initiative to enhance the first homeowners grant to \$14,000 for those buying established

homes and \$21,000 for those buying new homes will help stimulate demand for housing. The emphasis on new housing should also lead to an increase in supply and provide a welcome boost to the housing construction sector. Increases in housing construction would also stimulate other areas of economic activity ranging from furniture and electronic sales to gardening and building supplies.

The initiatives outlined in the fiscal stimulus package complement the recent action by the Reserve Bank to significantly reduce interest rates. While changes in interest rates take time to work their way through the economy, the fiscal stimulus initiatives will provide a more immediate impact. In times of global uncertainty, consumer and business confidence is a precious commodity.

The Hon. Melinda Pavey: Just look at him!

The Hon. ERIC ROOZENDAAL: I am glad that the campaign director for Port Macquarie has spoken. I have been waiting very patiently. There has been quite a bit of discussion about the result in Port Macquarie. The Hon. Melinda Pavey follows in the footsteps—

The Hon. Greg Pearce: Point of order: Mr President—

[Interruption]

The PRESIDENT: Does the member wish to make a point of order?

The Hon. Greg Pearce: I do, but I was waiting for some silence so that you would be able to hear me.

The PRESIDENT: The member should not wait; he should speak to me. What is the point of order?

The Hon. Greg Pearce: My point of order relates to relevance. The Treasurer was asked a very important question about the impact of the Federal Government's fiscal stimulus package on the New South Wales economy.

The PRESIDENT: Order! I understand to point of order. The member will resume his seat.

The Hon. Greg Pearce: The Treasurer has not actually—

The PRESIDENT: Order! I will not remind the member again to resume his seat.

The Hon. Duncan Gay: To the point of order—

The PRESIDENT: Order! I trust that the Hon. Duncan Gay accepts my earlier ruling in relation to points of order.

The Hon. Duncan Gay: What was the earlier ruling?

The PRESIDENT: The Chair will call to order for the first time any member who seeks to make a debating point under the guise of taking a point of order.

The Hon. DUNCAN GAY: I will bear that in mind and sit down.

The Hon. HELEN WESTWOOD: I wish to ask a supplementary question. Will the Treasurer elucidate his answer?

The Hon. ERIC ROOZENDAAL: It is no wonder that in the *Australian* today Alby Schultz accused The Nationals of emotional nonsense. As I said, the initiatives outlined in the fiscal stimulus package complement the recent action taken by the Reserve Bank in significantly reducing interest rates. While changes in interest rates take time to work their way through the economy, the fiscal stimulus initiatives will provide a more immediate impact. In times of global uncertainty, consumer and business confidence is a precious commodity. Decisive action of this type helps to generate and maintain employment.

The Hon. Catherine Cusack: Would the Minister stop mumbling? I cannot hear him.

The Hon. ERIC ROOZENDAAL: If the member were to stop talking to the Hon. Trevor Khan, she would be able to hear. This Federal Government initiative will be widely welcomed. It re-emphasises the need to maintain the triple-A credit rating, something the Leader of The Nationals does not believe is important to this State. It is no wonder Alby Schultz accused The Nationals of emotional nonsense. It is an interesting reflection that the Hon. Melinda Pavey follows in the footsteps—

The Hon. Greg Pearce: Point of order: My point of order is again relevance. The question was about the Federal fiscal package. Mr President, you did not get an opportunity to rule on my previous point of order.

The PRESIDENT: Order! I will rule on it now. The Treasurer has been asked to elucidate and he will continue to do so.

The Hon. ERIC ROOZENDAAL: To quote the Hon. Mr Schultz:

It's a typical reaction by a National Party member not up to facing the realities of what's happened in a particular seat the National Party was contesting...

The Hon. Greg Pearce: Point of order—

The Hon. ERIC ROOZENDAAL: They keep interrupting me because they do not want to face the truth.

The Hon. Greg Pearce: Mr President, the Treasurer is clearly flouting your ruling.

The PRESIDENT: Order! I have asked the Treasurer to elucidate and that is what he is doing.

PUBLIC HOSPITAL DOCTORS WORKING HOURS

Reverend the Hon. FRED NILE: My question without notice is directed to the Minister for Health. Is it the fact that doctors in our public hospitals, especially young new doctors, are working exceptionally long hours, even 60 hours a week and double shifts? Is it a fact that overtired and exhausted doctors are vulnerable to making medical errors? Does the Minister have the latest statistics on this issue, and what action is he taking to ensure that doctors are required to work only normal hours in accordance with occupational health and safety requirements and the Public Hospital (Medical Officers) Award conditions?

The Hon. JOHN DELLA BOSCA: No-one wants patient safety to be compromised under any circumstances or for any reason. That is why the public health system of New South Wales takes very seriously its workplace safety obligations, and of course those obligations extend to the medical and nursing work force. It is important to remember that the survey to which the member is referring is not a New South Wales survey; it was conducted across Australia and New Zealand and it represents only 5.5 per cent of junior doctors working in the New South Wales public health system.

The survey confirmed that the early stages of a medical career are demanding and that the health and wellbeing of younger doctors should be a priority for individual junior doctors and the medical profession. The issue of preventing work-related fatigue is an ongoing priority for the New South Wales Government. That is why last year New South Wales Health released a guideline document entitled "Preventing and managing workload and fatigue". It focuses on the broad range of factors that impact on fatigue, including working hours. Strategies to address fatigue include shift and roster design, better leave management, improved working environment and provision of staff support.

I am advised that the Doctors Health Advisory Service provides support and counselling to doctors with alcohol or substance abuse problems and that each year a labour force survey is conducted with a questionnaire being sent to doctors renewing their registration in New South Wales. The 2006 survey found that there was a decrease in the average hours worked by all New South Wales doctors, with a doctor working an average of 43 hours a week. That is a decrease of two hours a week since 2005.

Of course, our public health system faces many pressures, including increased demand pressures due to the ageing and growing population, the high cost of new medical technology and, of course, a worldwide work force shortage. There are two ways of looking at the impact of those factors. First, it is more difficult to recruit younger doctors and specialist doctors from overseas jurisdictions and, second, because of the relative

transparency of medical and nursing credentials and the scarcity of those skills in other jurisdictions, young doctors, and in some cases nurses—but the question was about doctors—find it relatively easy to get suitable and attractive jobs in other jurisdictions. That creates two separate but related problems for our health system.

Despite these pressures, independent evaluations rank New South Wales as the best-performing public hospital system in the nation. However, to ensure that we have a strong and stable health work force, we need to train more Australian doctors and nurses. The fundamental failing here—and I know that members opposite will react angrily and with false bravado when I say this—is the responsibility of the Howard Government. It refused stubbornly to do anything, despite being told time and again by New South Wales Health Ministers Refshauge, Knowles, Iemma, Meagher and, obviously, the Health Ministers of the other States that there was a looming work force shortage, if not crisis, in the New South Wales hospital system. We now confront that problem—

The Hon. Michael Gallacher: Do not shout. We are not interjecting.

The Hon. JOHN DELLA BOSCA: I noticed that. Why? Members opposite obviously agree with what I am saying. I am saying it to embrace the future, which is what we are grappling with today. I met with Professor Mark Brown of the Institute of Medical Education and Training, the organisation established by New South Wales Health to find ways in which to better train staff and to provide suitable work force opportunities for our young doctors. [*Time expired.*]

GREATER WESTERN AREA HEALTH SERVICE

The Hon. JENNIFER GARDINER: My question is directed to the Minister for Health. Is the Minister aware that within a year of the election of the Carr Labor Government the Macquarie Area Health Service—now amalgamated into the Greater Western Area Health Service—owed \$1.4 million to creditors for in excess of 45 days? Is he aware that the Mid Western Area Health Service—now also part of the Greater Western Area Health Service—had to be bailed out to the tune of \$6 million in 1996-97 to ensure that creditors were paid within 45 days, but that was still not enough for the health service to pay its creditors on time? Why is it that over a decade later the same Labor Government still cannot ensure that Greater Western Area Health Service creditors are paid in a timely fashion? How much is still owing to Greater Western Area Health Service creditors and when will the Labor Government ensure that its on-time payment policy for area health services is implemented not only in a strict manner but also in an enduring manner?

The Hon. JOHN DELLA BOSCA: Talk about the past! We are going a long way back in history with the details of our cash flow. The honourable member is obviously making the point—and she continues to make the point by way of interjection—that two well-rehearsed issues are at stake here. One is the issue of growing demand for health services, particularly as the population ages. She knows that in the Western Division we are dealing with an ageing population. We are also dealing with an indigenous population that has complex health needs. We know that creates particular stresses for rural health services, and the costs of locums and other special stresses apply more intensively to the Greater Western Area Health Service and its predecessor organisations, about which the member gave us a potted history.

I can do no more than reiterate what I have said in this House and publicly time and again, that I can deal with the problem as it is now. We are dealing with that problem. We have released funds to ensure that we are making appropriate progress in reducing the creditors who are over benchmark. Currently, approximately \$16 million is overdue beyond the benchmark of 45 days. That is being brought down.

The Hon. Duncan Gay: That is appalling.

The Hon. JOHN DELLA BOSCA: You can say it is appalling. I have told you what the number is. Why is that so appalling?

The Hon. Duncan Gay: You are happy to have \$16 million overdue over the 45 days?

The Hon. JOHN DELLA BOSCA: No, I will explain to the member again. I have said there is a benchmark of 45 days and I expect all area health services to meet their benchmark. I have just told the House, in response to the member's question, that the amount involved is \$16 million over the benchmark. That is unsatisfactory. We are dealing with that. But I make the point that we have also dealt with the smaller creditors, the ones I think many members have been concerned about as they have read about this issue in the newspapers—and I have been concerned about it too. We have dealt with those creditors.

I have asked the Chief Financial Officer of the Department of Health to go out to the Greater Western Area Health Service to make all the necessary arrangements to work through the systems involved to make sure that the area health service is appropriately managing its cash flow and its budget. Of course, what is happening on the ground is that creditors are being paid. Those funds are being released. We are addressing the issue. I have now answered the member's question about the amount overdue beyond the benchmark. That is unsatisfactory. That will be reduced.

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

Questions without notice concluded.

STATE ARMS, SYMBOLS AND EMBLEMS AMENDMENT (BLACK OPAL) BILL 2008

Second Reading

Debate resumed from an earlier hour.

Ms SYLVIA HALE [5.02 p.m.]: In the debate this afternoon there have been a number of references to Lightning Ridge. The background information accompanying this bill notes that Lightning Ridge is the source of the world's major commercial supply of black opal. I find it somewhat ironic that we are celebrating a gemstone that comes from Lightning Ridge while simultaneously completely ignoring the plight of so many people who live in Lightning Ridge. When I was there a little over a year ago I was appalled at the conditions that so many people living in the camps at Lightning Ridge experience. They were living in tents, had no electricity, no running water, no sewerage, no public transport. In many instances, in places I visited, the earth had been tamped down, perhaps covered with some lino or carpet. They were really living in Third World conditions. Today we have talked in glowing terms about Lightning Ridge and the commercial product its soil yields, but we have paid no attention whatsoever to the people who live in that area and the conditions they experience.

Many of those people came from Europe in the hope they would be able to participate in the mining, that they would strike it rich and make their fortunes. Unfortunately, for so many of them, particularly in the Eastern European communities, that has not been the case, and they are now so poor they are unable to move away from the area. Just this week I received a letter from a resident of Lightning Ridge. He gives me his name, address and phone number but those details do not need to be read into *Hansard*. In his letter he says he is a full-time resident of Canfells opal field, Lightning Ridge. He has a problem with very bad pollution. He says he has been experiencing that for the past 12 months. He says further:

There is no mining here just residential camps.

As I noted, these camps tend to be bare earth and no facilities. He goes on to say:

People burn rubbish, rubber, plastic and run old generators to make electricity to have light. Sometimes I have to run away from home because of toxic smell. Next door generator runs day and night and vehicles come for about half a minute a go.

He went on:

I have built a 20m high tower with a 6" pipe on it to get better air from 20m above the ground. It helps a little bit. I don't know what else to do. I've reported this problem to the Walgett Shire Council, to the mines department, Police, EPA, local MP, Crime stoppers, Health department, TV today tonight and doctors. Nobody wants to do anything about that.

It is the case that Walgett Shire Council routinely ignores the conditions of people living in these camps. I understand they are frequently not counted in the census, and because they are not counted in the census, the council—and I suspect the Government—feels no obligation to turn its mind to the living conditions in Lightning Ridge. Indeed, there is a complete absence of affordable housing. Children find it difficult to attend school—in fact, their living conditions make it impossible for them to do so. As I remember telling the House soon after my regional visit to Lightning Ridge, I there encountered a man who had a broken leg and who had to walk a kilometre with a broken leg just to see a doctor. He could not afford a taxi. The people living on the camps have no public transport at all. Because they have generators they have to bring fuel in. Often, the only way they can do that is by hiring a taxi, and that is becoming exorbitant. Frequently they cannot get a taxi. Of course, for those who have cars, the increase in the price of fuel is making life even more difficult.

I find it so ironic that this House should be extolling the virtues of the black opal that is found at Lightning Ridge, but the Government so readily turns its back on the conditions of the people living there.

I suggest that if one had to name one of the worst areas in the State where Anglo-Saxon people are living, it would be Lightning Ridge, not to mention the living conditions of many indigenous people throughout the State and of the big indigenous community at Lightning Ridge. As I said earlier, I find it depressing as well as ironic that these conditions should be allowed to continue, especially at a time when we are proposing to make the black opal the State's emblem.

The Hon. Rick Colless: Do you support the bill or not?

Ms SYLVIA HALE: I support the bill. I have nothing against opals but what I have something against is our preparedness to ignore the living conditions of people in the area from which black opal comes.

The Hon. MARIE FICARRA [5.07 p.m.]: I am delighted to speak to the State Arms, Symbols and Emblems Amendment (Black Opal) Bill 2008. This is not the avenue to raise living conditions or environmental conditions in Lightning Ridge. If Ms Sylvia Hale wants to do that, other legislative avenues are available to her. The object of the bill is to recognise the black opal as the gemstone emblem of New South Wales. As members have said previously, we have the platypus as our State animal, the kookaburra as our State bird, the Waratah as our floral emblem, the groper as our State fish, but New South Wales has had no gemstone emblem.

It is only fitting that we acknowledge the black opal, the world's most valuable and rare opal, with nearly all the world's supply coming from the famous Lightning Ridge region in New South Wales. I was fortunate to be given a small black opal when I was very young and probably did not appreciate how rare it was. I am now actively lobbying my husband for a much bigger and more expensive black opal and hopefully I will be successful. Black opal is the most expensive of all opals because the darkness of the black base colour makes the other colours stand out beautifully. The colours are often bright and strong, not found in any other opal.

The word "opal", as Reverend the Hon. Dr Gordon Moyes told us, has its origins from the Greek word "opallios" meaning to see changes of colour. Unlike ordinary opals, black opals contain carbon and iron oxide trace elements, resulting in this dark base that highlights the brilliant rainbow colours to their best advantage. From the outset, I congratulate Kevin Humphries, the member for Barwon, who led the charge, together with the opal community of Lightning Ridge, his strong support base. Other members may have spoken in the past about the black opal, but I pay tribute to Kevin Humphries for pushing the introduction of this bill. Back in May 2007 he, along with the Leader of the Opposition, Barry O'Farrell, the Deputy Leader, Andrew Stoner, and the member for Coffs Harbour, Andrew Fraser, visited an opal mine in Lightning Ridge. They spent a lot of time consulting and as a result of their visit the member for Barwon made representations to the former Premier, Morris Iemma, about the status of the black opal.

The Hon. Rick Colless read into *Hansard* the letter Mr Humphries wrote to the former Premier and the former Premier's response. It is shameful that when the member for Monaro, Steven Whan, gave the in principle speech on 11 April 2008 on behalf of Premier Iemma, he failed to acknowledge those efforts. Issues of statewide importance should receive bipartisan support. It has been said that the former member for Murray-Darling, Peter Black, made representations, and I agree. However, Peter Black was not successful in driving the issue. He made a fine effort but he could have done more. I acknowledge everyone who played a part but I particularly acknowledge in *Hansard* today Kevin Humphries, the member for Barwon. It is a shame that the member for Monaro could not be a gentleman and acknowledge those efforts also. Nevertheless, the mining community of Lightning Ridge will know the role championed by their local member; indeed the mining and gemstone communities throughout New South Wales and Australia will know of his efforts as well.

The Australian opal mining industry produces 95 per cent of the world's precious opals, which are significantly exported, and we are very proud of that. New South Wales provides half that output. Our State opal production is worth over \$30 million and our main market is Japan. At the top of the range the black opal is worth \$15,000 per carat, making it more expensive than some diamonds. The black opal rates alongside the diamond, sapphire, ruby and emerald as one of the most valuable gemstones in existence. The opal was proclaimed as Australia's natural gemstone in 1995, so it is most fitting that the rare black opal is proclaimed as our State gemstone.

This move has the support of the Australian Museum and the Lightning Ridge Opal and Fossil Centre, which is a non-profit organisation working in cooperation with Walgett Shire Council to develop a public display of opals, fossils and mining heritage. Opal mining commenced in Lightning Ridge in 1901 and continues today on about 200 distinct opal fields, usually being undertaken by individuals or small partnerships.

Lightning Ridge has an estimated population of 5,000 to 6,000 people and it is part of the Walgett shire, located in north-western New South Wales. The dominant economic activities in the area are opal mining, tourism, wheat growing and grazing.

Opal mining has attracted people from more than 50 different nationalities to live and work in the town. It is an exciting cultural mix. I remember visiting there approximately six years ago and it is quite rich with its multicultural diversity. Some miners have literally gone from rags to riches when they have struck a rich pocket of high-quality black opal. Lightning Ridge is a semi-desert, with an amazing ambience about it. As others have said, it has wide skies, a multicultural, eccentric and vibrant community with over 55 languages spoken, no airs and graces but a genuineness about it—a true Australian feel about it. When I visited there many years ago I considered it a truly unique experience and I believe the tourism potential is immense if the region is marketed well. I hope that the outcome and significance of this bill will assist that process.

There are about 6,000 opal mining claims distributed over about 200 distinct opal fields in the region. Occasionally miners recover a couple of fossils when picking the opal, including opalised shells, bones, teeth and plant remains. These fossils are unique because some are composed of precious opal, thereby having value as a gem as well as being scientifically important. They include the oldest known monotreme fossils. Lightning Ridge is the most prolific and only significant source of dinosaur fossils in New South Wales, so it is an area of very valid scientific geological and archaeological research.

In some cases the finest details of the fossils are preserved, including internal bone structure. Most significant, opals and fossils recovered from the Lightning Ridge region are sold overseas or held in private collections. It is a shame that many potentially scientifically important specimens have lost their way to overseas museums. The saga of small miners battling to find the sporadic occurrences of opal provides some of the most fascinating insights into the Australian Outback. Visitors to the Lightning Ridge Opal and Fossil Centre from Australia and overseas have the opportunity to experience part of the rich history of mining in one of Australia's most romantic places.

The Hon. Trevor Khan is laughing. It just depends on whom you go with, where you stay and what you do. This could be a new experience. I do think it is a very romantic place but maybe it was just the mood I was in when I was there. Visitors can experience the culturally diverse and extraordinarily vital town of Lightning Ridge. In conclusion, I congratulate the Lightning Ridge community and the opal industry, including the Lightning Ridge Australian Opal Centre and the Lightning Ridge Miners Association. I wish them much success in setting up the Australian Opal and Fossil Centre that will be based in Lightning Ridge. It will be a world-class national tourist facility that will showcase, research, display, preserve and record the world's greatest collection of gem opal, Australia's natural gemstone, and also internationally and scientifically many recognised opalised fossils from nearby opal fields.

Indeed, this significant time in our history will be welcomed by the Sydney-based tourist industry, especially around our Rocks area. There has always been a genuine affiliation between the Lightning Ridge miners and the Sydney Rocks gem retailers—a symbiotic relationship of mutual respect. I am sure there will be much celebrating and acclamation that at long last the right thing has been done. I want to congratulate, in particular, the man responsible for this great outcome—the sincere and capable member for Barwon, Kevin Humphries. Collectively the hard work of Opposition members and their foresight and dedication in championing the bill has ensured that our pioneering Aussie mining and prospecting heritage will be forever reflected in our newest State emblem—our gemstone—the black opal.

Reverend the Hon. FRED NILE [5.20 p.m.]: Together with other members I support this non-controversial bill, the State Arms, Symbols and Emblems Amendment (Black Opal) Bill 2008. As members are aware, currently the State emblems recognised under the State Arms, Symbols and Emblems Act 2004 are as follows. The animal emblem for New South Wales is the platypus, the bird emblem for New South Wales is the kookaburra, the floral emblem for New South Wales is the waratah, and the fish emblem for New South Wales is the blue groper. The bill amends the State Arms, Symbols and Emblems Act 2004 to recognise the black opal as the gemstone emblem for New South Wales.

The black opal is the most sought-after type of precious opal, as the very dark body colour enhances the depth of colour and the colour play is seen to its best advantage. The magnificent black opal ranks with diamond, emerald, ruby and sapphire as one of the most valuable gemstones in the world. Black opal is a suitable gemstone emblem for the State as it is the only gemstone that is mined in New South Wales in a significant amount. As members would be aware, internationally the black opal is strongly associated with New

South Wales, and in particular Lightning Ridge. Opal, in general, was discovered at Lightning Ridge in the late 1880s, with significant mining starting in the early 1900s. The opal industry in New South Wales is now largely based at Lightning Ridge, which has a population of about 1,200. Lightning Ridge is now the world's major commercial producer of black opal and is world famous for its high-quality black opal. Specifically, Lightning Ridge supplies 95 per cent of the world's black opal.

I have many fond memories of visits to Lightning Ridge, and one of those visits in particular I will never forget. When landing at the Lightning Ridge airstrip in a light aircraft we heard grinding noises coming from the engine of the aircraft. Finally, as the aircraft reached the airstrip and was taxi-ing along, its engine completely seized up and the aircraft stopped. The engine later needed \$20,000 worth of repairs. If it had seized up five minutes earlier, I would not be here tonight; we would have crashed. I thank God for that safe arrival for one of my campaign meetings with the miners. When I arrived at the meeting building, which was a large galvanised shed, I was surprised that it seemed to have strange accommodation arrangements. The building had been purchased by a Christian group and was then its church. I noticed that the building had small rooms on the side. I remarked, "It's a strange building." I was told, "Yes. This used to be the brothel in Lightning Ridge and the building has now been converted into a church." I was pleased to be in a former brothel and able to conduct my meeting in Lightning Ridge. I fully support the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.24 p.m.], in reply: I thank honourable members for their contributions to the debate. The purpose of the bill is to recognise the black opal as the gemstone emblem for New South Wales. I note that the Greens have raised in this debate many issues that would have been far more appropriate to be dealt with as a motion on notice if the issues are considered so grave, rather than being raised in debate on this legislation. Having said that, however, I am pleased that all members will support the bill.

I also note that there was much debate about who is responsible for this bill. It is unfortunate that some members of this House spend a lot of time trying to talk up their colleagues in the lower House regarding the importance of this bill. The importance of this bill has nothing to do with the member for Barwon; indeed, it has very little to do with the members of this place. The bill declares the importance of a gemstone that means something for the people of New South Wales. It is disappointing that members of this place churlishly reflect on who is responsible for the bill. The fact is that the people who are responsible for the black opal becoming our State emblem are the people who worked in the Lightning Ridge minefields for many, many years, the people who discovered it, the people who have campaigned long and hard for its recognition as a State emblem. That includes a number of people: the people at Lightning Ridge, the miners, and the various tourism operators who see the future of this. Members of both Chambers, from both city and country areas, have also pushed for this legislation—and I include Peter Black, as well as the member for Barwon—which members have accepted.

The Hon. Duncan Gay: Point of order—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I remind the Hon. Duncan Gay of the President's former ruling.

The Hon. Duncan Gay: The former member for Broken Hill does not have the title "Hon.".

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! That is not a point of order, so I will not rule on it.

The Hon. PENNY SHARPE: The spectacular black opal is worthy to be declared the State's gemstone emblem as it is a world-famous gemstone and is strongly associated with Lightning Ridge and the State. I commend the bill to the House and welcome the black opal as our new official gemstone emblem.

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.

DIVIDING FENCES AND OTHER LEGISLATION AMENDMENT BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.28 p.m.], on behalf of the Hon. Tony Kelly:
I move:

That this bill be now read a second time.

The purpose of the Dividing Fences and Other Legislation Amendment Bill 2008 is to achieve four aims. Three of these relate to the powers and jurisdiction of a local land board and the Local Court concerning dividing fences. The final proposal relates to the powers of the Local Court to award costs under the Access to Neighbouring Land Act 2000. The proposed amendments to the Dividing Fences Act 1991 relate to expanding the jurisdiction available under the Act. These changes include a power to make an order relating to a retaining wall and vegetation. The proposed new power is appropriately limited in its scope to matters incidental to a dividing fence.

The dividing fences proposals as set out in the bill have been formulated in consultation with the government agencies responsible for legislation imposing requirements for tree preservation. These are the Department of Local Government, the Department of Planning and the Attorney General's Department. Some issues were raised in another place on the impact of these amendments on issues regarding retaining walls and vegetation. Such issues are becoming more prevalent in disputes between property owners, and one of the aims of these reforms is to update the dividing fences legislation to enable land boards to make more relevant, practical decisions without having to resort to other jurisdictions such as the Land and Environment Court.

While the bill will not solve all possible fencing problems between neighbours, it is designed to operate in a sensible way that will not cause additional problems. The interaction between dividing fences, these amendments and retaining walls was raised in another place. The scenario was raised as to implications of a dividing fence located on top of a retaining wall. I emphasise that the bill does not allow for an unfair contribution to be obtained for the repair of a retaining wall. In these circumstances if the owner of the retaining wall wishes to repair the wall, the scheme of the bill does not allow for an unfair contribution to be obtained for repair of the retaining wall.

The intention of the scheme set out in the bill is that only fencing work necessary for the immediate support of a fence will be caught within the scope of the power to order a contribution for fencing work. This will mean in practice that a contribution will not be available for the work that is necessary for repairing a retaining wall when those funds are spent purely on the maintenance of the retaining wall for its principal purpose as a retaining wall and not as part of a dividing fence. An example of the sort of fencing work that will be the subject of a contribution is work on the fence footings on top of a retaining wall. No expenses for the construction of the retaining wall itself are intended to be claimable. The operation of section 26 of the Dividing Fences Act as amended by the bill means that the Dividing Fences Act does not affect the operation of laws that affect the rights of persons to support a retaining wall. This means that the duty to preserve support for neighbouring land created by section 177 of the Conveyancing Act 1919 is preserved.

The scheme set out in the bill will also limit disputes by limiting the scope of the contribution available for fencing work involving vegetation. The amendments specifically provide that an adjoining owner, who desires to trim vegetation for a purpose other than for the provision of a sufficient dividing fence, is liable for the expenses of carrying out that work to the extent the work is for the other purpose. This provision is intended to avoid there being any incentive for the removal of vegetation for a purpose other than the construction or maintenance of a sufficient dividing fence. The limitation on the new power over vegetation will serve to avoid disputes between neighbours.

The first proposal is to permit a local land board or a local court to make a fencing order requiring construction or maintenance work to be done on a new or existing retaining wall but only to the extent necessary

for the settlement of a dividing fences dispute. It also relates to any tree or vegetation but only to the extent necessary for settlement of a dividing fence dispute. The bill authorises an adjoining owner to include in a fencing notice matters relating to a retaining wall, tree or vegetation. A fencing notice under the Act allows an adjoining owner to claim a contribution for a share of fencing costs.

The final aspect to the first proposal is to allow a local land board and local court to fix a fair contribution between adjoining owners for the cost of the fencing work carried out when this affects a retaining wall, tree or vegetation. Such contributions by adjoining owners should generally be made in equal proportions. The Dividing Fences Act 1991 allows an order to be made under section 14 for the construction or repair of a dividing fence of a certain type. An order may also be made for the adjoining owners to contribute a proportion of the construction costs. A contribution for fencing costs may be enforced against an adjoining owner only for usually half the cost of a sufficient dividing fence. The Act defines a sufficient dividing fence in a way that means it is in general the usual type of fence for the relevant area. A contribution may not be enforced against an adjoining owner for half the cost of any fencing work for a fence that is more expensive and of a higher standard than a sufficient dividing fence.

The proposed extension of jurisdiction to allow an order to be made regarding a retaining wall and vegetation is specifically limited in the bill. The proposed amendments will authorise an order to be made for fencing work to be carried out provided it is associated with a retaining wall. But this order is limited only to the extent that such work is for the purpose of any foundation or support necessary for the support and maintenance of a dividing fence. The limited power to make an order regarding a retaining wall will ensure that the new power cannot be used for any other purpose other than the erection of a sufficient dividing fence and to allow for a fair contribution to fencing costs.

The application of the Act to vegetation is limited, in that the removal of vegetation is to be added to the definition of "fencing work". This amendment will mean that vegetation may only be trimmed, lopped or removed under the Act if that work is fencing work done in connection with the preparation of land for the construction or repair of a dividing fence as defined by the Act. But this order is also limited to only the extent that such work is to be carried out for the purpose of the design, construction, replacement, repair or maintenance of the whole or part of a dividing fence. This limited power to make an order regarding a retaining wall or vegetation removal will ensure that the new power cannot be used for a purpose other than the erection of a sufficient dividing fence and for fair contribution to fencing costs.

The definition section 3 of the Dividing Fences Act 1991 currently excludes a "retaining wall" from the definition of a fence. The result of the exclusion of a retaining wall from the definition of a fence is that no order may be made affecting a retaining wall by a local land board or the Local Court. The complete exemption of retaining walls from the operation of the Act means that in making orders about a sufficient dividing fence, a local land board or court is often unable to fully resolve disputes between neighbours where a dividing fence consists of a fence constructed on or near a retaining wall. This may lead to dissatisfaction by the parties and it hinders the effective dispute resolution capabilities of a local land board or Local Court to resolve the dispute.

Implementation of the proposal will allow certain problems experienced by the local land board to be overcome for the first time. Problems arise because frequently a fence and a retaining wall are complimentary to each other. Thus a dispute between neighbours is only partly resolved if a land board or the court may only make orders in relation to the fence—not the retaining wall. The number of such problems is increasing in the experience of the senior chairperson of the local land board. At present the parties bringing a matter before a land board are unlikely to appear with the benefit of legal representation. Sometimes either or both have a misunderstanding that the land board has the power to make orders about a retaining wall when the retaining wall is integral to the structure of a dividing fence. The courts currently do not have the power to make orders in relation to a retaining wall when hearing dividing fence matters.

The experience of the senior chairperson of the local land board shows that it is often difficult or impossible to settle a dividing fence dispute where a tree or substantial vegetation stands on or near the boundary and affects the subject fence. In these circumstances the jurisdiction of the local land board and of the court does not permit any fencing order for the removal or trimming of the relevant vegetation. The local land boards and the local court should have the power to make an order affecting a tree to the extent necessary for the settlement of a dividing fence dispute.

The first proposal will not override other general laws applicable to the construction and maintenance of a retaining wall, including requirements for development approval. Similarly the proposal will not override

any legislation providing protection to vegetation including trees. Legislation protecting vegetation includes the Environmental Planning and Assessment Act 1979. This allows for the making of environmental planning instruments that may contain provisions protecting or preserving trees or vegetation. An interim heritage order made under the Heritage Act 1977 may prevent a person from causing damage or destruction to a tree or other vegetation subject to the order.

In the event that any relevant work on a retaining wall would require development approval under planning legislation, the local land board or the Local Court will need to see any required development approval before a final order regarding a dividing fence is made. The local land board or the Local Court must also ensure that a proposed fencing order will apply in a way that is consistent with other legislation protecting vegetation. Amendments found in the bill ensure that the proposed limited power for an order to be made affecting a retaining wall, tree or other vegetation is reflected in the permissible scope of work that may be included in a fencing notice. An adjoining owner may serve a fencing notice to request a contribution for certain proposed fencing work. The bill also limits the amount of the contribution that may be claimed. An adjoining owner will only be liable to pay a contribution in respect of the removal or trimming of vegetation or for works proposed regarding a retaining wall to the extent that those works are necessary for the provision of a sufficient dividing fence.

In view of the proposed limitations on the permissible scope of the fencing orders that refer to a retaining wall, tree or vegetation, it is appropriate for the existing general rule to apply that adjoining owners should make such contributions in equal proportions. Payment in equal proportions is fair and reasonable in the circumstances where a contribution only need be made to the cost of works affecting a retaining wall, tree or vegetation, to the extent those works allow for a sufficient dividing fence. A dividing fence will usually benefit both parties equally. However, an adjoining owner, as a result of fencing work relating to a retaining wall, tree or vegetation performed under the Act, may gain a particular benefit. A particular benefit arises where, for example, one owner has the benefit of relevant excavations beneath a retaining wall or has the benefit of clearing. The bill will allow an adjoining owner to construct a retaining wall or to clear vegetation that provides that owner with a particular benefit but prevents him or her from claiming a contribution for that work from the adjoining owner if that work is not part of constructing a sufficient dividing fence.

Finally, regarding the new proposed powers for an order to be made affecting a retaining wall or vegetation under the Dividing Fences Act 1991, I will mention that one of the consequential amendments in the bill allows for such an order to be made in any current proceedings before a local land board that have not been finalised before the bill commences. The second main purpose of the bill is to allow a local land board to make an order for the payment of a fixed amount by an adjoining owner under the Dividing fences Act 1991. This new power adds to the existing power to make an order for a proportion of fencing costs to be paid by each adjoining owner.

An order for the payment of a fixed amount, after being certified by a local land board, may be enforced as a judgement debt in a court of competent jurisdiction. Section 24 of the Dividing Fences Act 1991 presently allows an order made by a local land board for the payment of money by a person to be recovered as a debt in a court of competent jurisdiction. The practical difficulty with this provision is that a certificate issued by the relevant local land board under section 24 serves only as evidence of the making of the order. The party seeking to enforce a money order made under section 24 may need to commence fresh proceedings, usually in the Local Court. They would do so by issuing a statement of claim and going through the process of obtaining a fresh judgement for the debt, with the assistance of a section 24 certificate. No useful purpose is served by the need for the debt to be established in two sets of proceedings. The implementation of the proposal will allow a person with the benefit of an order for the payment of a fixed amount of money to file it in a court of competent jurisdiction as a judgement. They can then take advantage of the procedures of the court that are available to assist with the recovery of a debt. Dividing fence disputes commonly bring before a local land board people who, due to the nature of neighbourhood disputes, are in a highly charged and emotive state of mind. The need to embark on other proceedings to enforce a money order may unnecessarily prolong the dispute.

The third main proposal contained in the bill will allow the senior chairperson of the local land board discretion to sit alone or to direct a chairperson of a local land board to sit alone in a residential dividing fence hearing. The experience of the senior chairperson of the local land board indicates that in many cases it is appropriate for a dividing fence dispute to be heard by either the senior chairperson sitting alone or the chairperson of the relevant local land board. This is in circumstances where the subject fence is located in either the Sydney metropolitan area or a residential area of a regional city or town. In general, the lack of complexity of the subject matter of such disputes means that only the chairperson is required to sit in order for the dispute to

be dealt with. The senior chairperson is in a position to decide at the outset if a matter is appropriate for only the chairperson or the senior chairperson to sit alone in the matter. The bill does not provide for such discretion to apply in the case of fencing matters located in non-residential areas. This is because by their nature such matters have proven in practice to be likely to be more complex.

The final proposal contained in the bill relates to the Access to Neighbouring Land Act 2000. The purpose of the proposal is to provide that an applicant for an access to land order must pay the legal costs of the landowner whose land is the subject of the access order. This will occur unless, in the discretion of the Local Court, the conduct of the parties to the application for access or any other relevant matter means that either another order or no order should be made. The amendments proposed in the bill will require the court to consider any attempts by the parties to reach agreement before the proceedings and whether the refusal to consent to access was unreasonable in the circumstances. The Access to Neighbouring Land Act 2000 was the subject of a review in 2005 to examine whether the Act was operating to meet the needs of all stakeholders. A report entitled "Review of the New South Wales Access to Neighbouring Land Act 2000" was subsequently tabled in Parliament. Respondents to the review highlighted deficiencies in the operation of the legal costs recovery provisions of the Act.

The current scheme governing recovery of the legal costs of an application for access to neighbouring land, which is contained in section 27 of the Act, provides that a costs order may be made at the discretion of the Local Court. In determining if an order should be made, the court may consider any attempts by the parties to reach agreement before the proceedings, whether the refusal to consent to access was unreasonable in the circumstances and any other matter it thinks fit. In practice, orders made by the court usually require the costs of the application to be borne equally by both the applicant for access and the owner of the land that is the subject of the access order. Submissions and anecdotal evidence received as part of the review indicated that it is more reasonable if the requirement were for the applicant to pay the legal costs of the owner of the land that is subject to the access order. This is because only the applicant usually receives a benefit from an order for access. The proposed amendments will allow the Local Court to continue to have discretion to make an appropriate order for costs or no order based on an examination of all relevant circumstances.

The measures in this bill will improve the operation of the Dividing Fences Act 1991 and assist dispute resolution between adjoining owners. The proposed increase in the jurisdiction of the local land boards and the Local Court will allow a fencing dispute to be settled where the relevant dividing fence has an incidental impact on vegetation or a retaining wall. The controls on the application of the new jurisdiction will mean that any impact on vegetation or a retaining wall is likely to be minor. The amendment proposed to the Access to Neighbouring Land Act 2000 will provide a fairer method for the award of an order for legal costs following a hearing in a Local Court. I commend the bill to the House.

The Hon. TREVOR KHAN [5.44 p.m.]: I congratulate the Parliamentary Secretary the Hon. Penny Sharpe on the extraordinary detail of her speech. I was completely unaware that she was so interested in dividing fences legislation. With those preliminary compliments paid, I lead for the Opposition on the Dividing Fences and Other Legislation Amendment Bill 2008. I indicate to the Chamber that I will be brief and that the Opposition will not oppose the bill. It is the Opposition's view that the bill will streamline the Dividing Fences Act 1991. Traditionally, the Act has been contentious in its interpretation. Numerous amendments have been introduced over time, but the latest are commonsense changes. The Parliamentary Secretary has set out in great detail the extent of those commonsense changes.

The bill allows the chairman of the local land board to sit alone. This is a very sensible amendment by the Government and is supported by the Opposition. Sadly, no bill can remove entirely the bad will that occasionally boils over between neighbours over boundary fence disputes, and such disputes can become a very heated and contentious area of conflict. Notwithstanding these amendments, there will still be disputes. The bill allows an adjoining owner to seek contributions for the preparation of land involving trimming, lopping or removing vegetation for the purposes of the provision of a dividing fence. In this way, it can increase the issues in dispute between parties and lead to heightened tensions over a fence. The Opposition has sought further clarification from the Government on how the bill will affect the interaction between dividing fences and retaining walls. We acknowledge that the Parliamentary Secretary has dealt with that issue in, one could almost say, intimate detail. Plainly, I do not have to repeat the areas of concern. I will take away her words tonight and think on them very deeply indeed. As previously stated, this bill does not refer to rural properties. That is a sensible limitation and is supported by the Opposition. The bill reflects sensible changes to the principal Act and, as such, the Opposition will not oppose it.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): I acknowledge the visitors in the public gallery. They are participants in A Little Night Sitting, which is a public education program run by our parliamentary Education Section. The aim of the program is to give members of the public an overview of the role and function of the Parliament and our system of government. I hope the participants enjoy the program and, in particular, the quality of debate in the Legislative Council.

Ms SYLVIA HALE [5.48 p.m.]: It is unfortunate for the visitors in the public gallery that the debate is not on a particularly scintillating issue. However, that has never stopped members from expressing a view. On behalf of the Greens I support the Dividing Fences and Other Legislation Amendment Bill 2008. The bill amends the Dividing Fences Act 1991. I will not mention all the provisions in detail, as that has been accomplished already in the Government's second reading speech. Suffice it to say, the amendments will allow the local land boards to make orders not only in relation to an actual fence but also in relation to trees, vegetation and retaining walls. The protections of trees and vegetation will continue, and orders will be consistent with other legislation. The boards will be able to make rulings on fair apportionment costs where a dividing boundary includes trees or other vegetation and retaining walls, except where one owner has chosen an unusual fencing material that may be more expensive than reasonably expected.

The Greens have some queries about the lopping or trimming of trees when the trees or a hedge form the fence. What happens when the trees or hedge are right on the boundary? Would this be a cause for dispute? What if the trees are clearly on one person's land? Would vegetation near a fence be classified as part of a fence? One supposes that these questions will be resolved in land board hearings, which, under the provisions in the bill, will be able to determine these types of matters and apportion costs. The Greens are still concerned about hedge disputes: for example, when Leighton's Green hedges—a variety of cypress pine—overshadow a neighbour's property and remove that neighbour's access to sunlight, lowering both the temperature and levels of light. That is an issue in Sydney and in other parts of New South Wales such as the Southern Highlands. Uncontrolled hedges can result in extreme animosity between neighbours. The website *problemhedgesaustralia.com* reports that:

An estimated 100,000 Britons were locked in hedge wars with neighbours before legislation was brought in there. In the UK, "hedge rage" caused two neighbours to shoot each other dead in 2003 after a bitter dispute over a hedge.

Hedges of Leighton's Green pines are high maintenance, requiring pruning four or five times a year for the 100 years of the life of the hedge. One hopes that the land boards will make sensible determinations on such hedges where they form part of a fence or are a fence, and will take into account overshadowing at the cost of pruning. Finally, I draw the attention of honourable members to Robert Frost's poem *Mending the Wall*. The poem is an interesting meditation on fences, boundaries and divisions. In that poem Robert Frost—

The Hon. Trevor Khan: He was an American.

Ms SYLVIA HALE: Yes, he was an American—a very well-known and prominent American poet. In the poem Frost reflects on the phrase, "Good fences make good neighbours"—

Reverend the Hon. Dr Gordon Moyes: From the seventeenth century.

Ms SYLVIA HALE: True—and, contrary to popular misconception, suggests that they do not. One might ask equally whether bad neighbours make bad fences. Regardless of what we think of either of those propositions, the Greens hope that this legislation will reduce disputes between neighbours.

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

ADJOURNMENT

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.52 p.m.]: I move:

That this House do now adjourn.

ANTON "TONY" GLAVICA

The Hon. MICHAEL VEITCH [5.52 p.m.]: I advise the House of the sad passing of a wonderful individual, an amazing character and a true Labor stalwart, Mr Anton Glavica—better known as "Tony" to all

and sundry. Tony was born on 14 April 1923 in a small village near Ptuj in the European country now known as Slovenia. Tony was one of seven children and lived with his family on a small self-sufficient farm. Tony often spoke of his happy childhood with his siblings and their wonderful lifestyle. Tony told great stories about helping his parents and siblings work the farm. Tony also spoke with very fond affection of his mother making and preserving the winter provisions, including one of his very favourites, a speciality cheese.

In the early years of World War II Tony's country was invaded by Germany and Italy. As a young man he joined the Yugoslavian partisans and fought against the occupiers. When the war ended he returned to his beloved village near Ptuj in January 1947, only to find his home destroyed, his brothers dead, and that he was a wanted man by the then authorities. Tony had no option but to flee his country and make a new life for himself. He fled to Austria where he heard of the proposed Snowy scheme and so applied to migrate to Australia. He arrived in Melbourne in November 1949. He travelled to the Snowy high country and worked as a surveyor's assistant for many years. His navigational skills, learned in the mountainous regions of northern Yugoslavia, were invaluable and they became legendary in the Snowy Mountains project.

In 1951 during his employment on the Snowy scheme he became a member of the Australian Labor Party and remained a staunch, reliable member of the Tumut Branch for 57 years. On 20 April 1957 Tony married Rita Denson, a widow with two children. Together they made their family home in Tumut and were blessed with the arrival of daughters Helen and Lorraine. In October 1957 Tony became an Australian citizen and lived in Tumut for his remaining days. Tony developed a passion for the Australian bush during his time with the Snowy Mountains Hydro-electric Scheme. To explore this interest further, Tony joined the Talbingo and District Bushwalkers Club in the late 1970s. During this period he spent many happy hours participating in and guiding treks around the Snowy Mountains.

He was an extremely talented carpenter and was instrumental in the volunteer work undertaken in restoring the historical, and very valuable, high country huts. He was renowned for his passion for hard work. Many a piece of gum tree found lying around on the bush floor was magically transformed into a beautiful work of art in the form of a walking-stick. Indeed, the Deputy-President and the Hon. Christine Robertson have advised me that they each have possession of one of these fine walking-sticks.

In 1993 Tony was awarded Australian Labor Party life membership and received his life membership certificate and life member's badge during a moving ceremony in Tumut. There were five others awarded life membership at this function, each and every one of them hardworking and tireless workers for the Tumut branch of the Australian Labor Party. I was very fortunate to be in attendance at this moving function and thought that it was only appropriate that Tony received his life membership badge from former member for Burrinjuck Terry Sheahan. Tony worked on every campaign for Terry Sheahan and a large number of the campaigns for Terry's father, Billy Sheahan, also a former member for Burrinjuck.

Following the Federal Labor Government's victory in November 2007, Tony stood proudly and sang his Slovenian *Victory Song* to the booth workers and campaign volunteers during the Eden-Monaro celebrations. He had a beautiful singing voice and sang with such passion it brought tears to the eyes of the audience. Indeed, Tony was able to sing a passionate rendition of the *Victory Song* again during a country parliamentary trip when the Hon. Tony Kelly, who was then Minister for Rural Affairs and Regional Development, was able to enjoy the emotion of Tony's beautiful singing voice. Tony passed away in Tumut Hospital on 2 August 2008 after a short illness and is survived by his wife, Rita, daughters Helen and Lorraine, grandchildren Sarah and Michael, and stepdaughter Sue and family. Tony typified the true Labor spirit of our party stalwarts and will be sadly missed. Vale Anton "Tony" Glavica.

RALLY AGAINST INAPPROPRIATE DEVELOPMENT

Ms SYLVIA HALE [5.57 p.m.]: On Sunday morning I joined more than 1,000 people from around the State at the Rally Against Inappropriate Development [RAID] in Hyde Park. The rally moved from the park and participants marched down Macquarie Street to assemble outside the Parliament building. It is the second large rally to be held outside the Parliament building in recent years to protest about what this Government has done to the State's planning laws and the damage that those laws are causing to the State's environment and heritage. Representatives from many groups around the State were angry about developments in their local area that are destroying the environment and desecrating our heritage.

The rally was initiated by the Friends of Currawong group to reinforce the community's demand that Currawong be listed on the State Heritage Register and incorporated into the adjacent national park—a demand

supported by most of the State's leading environmental and heritage organisations and a demand that should be met by the Minister for Planning. Other groups represented at the rally protested against overdevelopment or inappropriate development at places like Sandon Point, Catherine Hill Bay, Gwandalan, Killalea, Ku-ring-gai, Mullumbimby, Oatley, Hill Top, Morisset Peninsula and Ballina.

I was pleased to hear the shadow Minister for Planning, Brad Hazzard, commit the Opposition to repealing part 3A of the Environmental Planning and Assessment Act, which was introduced in 2005. Part 3A gives extraordinary powers to the State Minister for Planning to call in large developments and override local councils, and environment and heritage protections, which has led to some of the most controversial and damaging developments this State has seen.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order!

Ms SYLVIA HALE: I am very conscious of generous offers by The Nationals to reprint Greens how-to-vote cards. However, it must be recorded that the Greens would never contemplate accepting such an offer.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Rick Colless will come to order.

Ms SYLVIA HALE: I do not believe that it is a coincidence that donations from the property industry to the New South Wales Labor Party jumped by more than 50 per cent in the first full year after part 3A came into operation. I also do not believe that it is entirely coincidental that many of the proponents of part 3A projects are or have become major political donors to the Labor Party. Part 3A is symptomatic of what is wrong with the entire planning system in this State; it is riddled with conflicts of interest, corrupted by developer donations, damaging to the State's environment and heritage and is held in complete contempt by the public.

We have part 3A because the Opposition voted with the Government in 2005 to get it through this House. The Greens opposed its introduction. It is pleasing to see that the Opposition has realised it was wrong in supporting part 3A in the first place and is now committed to supporting its repeal. What we need now is for the Leader of the Opposition to confirm his commitment to that repeal in an unequivocal statement. We also need a thorough re-examination of the planning system.

Given the alarming increase in the projected population of Sydney over the next 30 years, the lack of affordable housing and the emerging effects of overdevelopment of the coast, there are some very difficult planning issues for us to confront in the next few years. To face up to those problems effectively, we need a planning system that is rigorous, transparent, uncompromised and protective of the community and of the things that we cherish and that are deemed to be worthy of public support.

I do not know how many more public rallies and electoral drubbings the Labor Party needs before it gets that message. But people are lining up to give this Government the message in very clear and blunt terms. I congratulate the organisers and participants in Sunday's rally. I would particularly like to acknowledge the work and leadership of Shane Withington, Harvey Rose and the other members of the RAID committee for organising this important public protest.

JOHN HUNTER HOSPITAL DOCTORS AND NURSES

AMBULANCE SERVICE INQUIRY

The Hon. ROBYN PARKER [6.02 p.m.]: I bring to the attention of the House a couple of health-related issues. I want to put on the record my thanks to members of this place and the other place for the support they have offered to my family and to me over the past few weeks when my son has been ill. Unfortunately, the general public get to see only the argy-bargy in this place; they do not get to witness the honesty and decency of most members of this Chamber. It is very much appreciated.

There are times in our lives when we are pulled up very suddenly and made to realise quickly what life is all about. They are often traumatic events and most of us do not go through life without those sorts of the things happening in our families. For my family it was a recent traumatic event, when my son was diagnosed with a tumour. We very quickly went through the New South Wales health system, which is strengthened by the outstanding people who work in it—the doctors and the nurses. We observed first hand some fabulous people.

The problem is that there are not enough of them and they are not appropriately resourced—they are rushed off their feet. I thank the doctors and nurses at the John Hunter Hospital. I wish this Government would resource public health in the way it should.

Another issue that has come to public attention in recent days has been the General Purpose Standing Committee No. 2 inquiry into the Ambulance Service of New South Wales. There will be other opportunities to speak about the inquiry, but they may be some time coming. I want to put on the record my thanks to the ambulance officers who appeared at the committee's hearings and who told their stories about bullying, harassment and life working in the Ambulance Service. As we know, their profession is one of the most trusted in our community, and rightly so. Ambulance officers are there when we dial 000 and they often deal with horrendous situations. Members of the public have a right to expect that service. However, they may not have been aware that often ambulance officers are suffering from workplace harassment and bullying and issues that could have been and should have been dealt with more transparently, and certainly more expediently, so that issues were nipped in the bud. Ambulance officers should receive management training so that when they are promoted they have the necessary skills to deal with such issues.

The committee worked very hard in this inquiry. It received double the number of submissions that the Royal North Shore Hospital inquiry received. Many of them were from people who wanted their name or some of their information suppressed because they were so distraught and concerned about reprisals. The inquiry's terms of reference required the committee to examine the management structure, recruitment and training, and other issues. I have chaired a number of inquiries since I have been in this place, but none has been as distressing as this inquiry into the Ambulance Service of New South Wales.

For 10 years the State Government has ignored the complaints and concerns of ambulance officers. As a result, many officers have been driven to the edge. Sadly, the Government has known about how unhappy many officers are with their workplace, and management, despite numerous reports, has failed to act decisively and quickly. Instead of helping those who are helping us, often in the most difficult of times, the Government and senior management of the service have chosen to stick their head in the sand time and again. The seriousness of the cultural problems in the service was demonstrated over and again by the witnesses. This inquiry should not go away. The Ambulance Service of New South Wales needs to be restructured—it needs a broom through it. The Minister for Health is on notice and the public is now aware. We need to support our hardworking ambulance officers, who do such a fantastic job, by offering them the support, training and protection they need so that they can work in a good work environment and are able to care for the public of New South Wales.

I thank the committee members. As I said, we will be talking more about this issue. However, I put on the record my thanks to public health care professionals in this State on a personal level, and I thank also our ambulance officers. This inquiry has re-affirmed that one of the most important tasks that members in this place perform is to bring issues to the forefront and to the Government's attention, and in doing so call for action.

PREMIER'S ASIA BUSINESS DINNER

The Hon. HENRY TSANG (Parliamentary Secretary) [6.07 p.m.]: I take this opportunity to report on the 2008 Premier's Asia Business Dinner, which was held last night at the Sheraton on the Park Hotel. The dinner, presented by the New South Wales Asia Business Council, which I chair, was a great occasion to celebrate the friendship and business relationship between New South Wales and our Asian partners. It was also a good networking opportunity to create and extend connections that will contribute to investment, trade and new employment in New South Wales.

The presence of the Premier, the Hon. Nathan Rees, is an indication of his support for the business community of New South Wales and his understanding of the important role played by expatriate and Australian-born Asian business people who are investing and growing the economy of our State. The Minister for State Development, Ian Macdonald, in introducing the Premier at the dinner stated that New South Wales merchandise exports were worth \$30 billion in 2007-08. More than two-thirds of New South Wales exports, worth more than \$20 billion, are destined for Asia. Japan, China, South Korea, Taiwan, Thailand, Indonesia and Malaysia are among our top 10 export destinations.

In 2006-07 New South Wales export of goods and services to Asia rose almost 7 per cent to more than \$47 billion. New South Wales exports are highly diversified with services accounting for 41 per cent of total exports in 2006-07. Traditional strengths in tourism and education services exports, as well as expanding

markets for a wide range of business and technical services, support New South Wales' dominance in this area. Our State's world-class education facilities are helping us to attract increasing numbers of Asian students. In 2007 more than 270,000 international students were studying at Australian higher education institutions, with 26 per cent of them enrolled in New South Wales.

The Premier of New South Wales, the Hon. Nathan Rees, delivered the keynote address at the dinner. He outlined a bold agenda for supporting business with Asia and restoring New South Wales to the engine room of the Australian economy. He said that his Government is about now and the future, outlining a positive agenda for this State. The Premier noted the strength of our business relationship with Asia and the importance of the New South Wales-Asia Business Council, whose membership stretches from East Asia to India and beyond. Members come from many backgrounds: Chinese, Malaysian, Singaporean, Vietnamese, Indian, Japanese, Korean, Indonesian, Assyrian, and Filipino, to name a few. The Premier noted that this diversity is a great strength, providing a competitive edge in the global market. New South Wales has a highly educated, multilingual population—almost 25 per cent of New South Wales residents were born overseas—with more than 200 languages spoken in the State, and 55 per cent of the working population hold tertiary qualifications, the highest proportion of any State.

The Premier reaffirmed that the Government wants to work with the business community, noting that they are the ones out there in the marketplace with international contacts. The Premier encouraged those present to let their business contacts know about the strengths of New South Wales and its competitive advantage as an Asia-Pacific business base. New South Wales has modest salaries for highly skilled labour, economical operating costs and comprehensive, low-cost infrastructure. Sydney offers global city status at an affordable price. The Premier noted that ongoing engagement with Asia is crucial for the State's economic growth and prosperity and that the Government will continue to help New South Wales companies to participate in trade and investment missions, attend exhibitions in other Asian markets, and identify opportunities for business engagement between New South Wales and Asia.

The Government is committed to making New South Wales a more attractive place to do business by providing the resources, the infrastructure and the support that companies need to excel, ensuring an environment that helps businesses flourish and creates jobs and investment. The business community was impressed by the Premier's powerful, bold, deadly serious agenda for growth and to be competitive in the global marketplace. The Premier said that New South Wales had to adopt a more aggressive attitude to win business for the State. The business community also appreciated the Premier's commitment to infrastructure reform and to less red tape in the bureaucracy.

I congratulate the Premier on his bold agenda for economic growth in New South Wales and supporting business with Asia, and Minister Macdonald on being regarded by the Premier as his most energetic Minister. I thank the staff of the Department of State and Regional Development for doing a good job in promoting New South Wales business and the members of the New South Wales-Asia Business Council for their contribution.

GLOBAL ECONOMIC CRISIS

Dr JOHN KAYE [6.12 p.m.]: The overreaching greed and poor judgement of bankers in the United States of America have brought the dreams of untold millions to a crashing halt. The inability and unwillingness of politicians to fulfil their duties to regulate markets to protect the defenceless has plunged the world into a recession and possibly worse. The price of fixing the mess will be extracted from those who can least afford to pay for it. In Australia retirement plans, employment opportunities and the chance to build a better future for disadvantaged communities have been put on hold, or possibly destroyed for good. Mind boggling amounts of public money have been poured into the merchant banks by the United States taxpayers, and today the United States Reserve admitted that even more might be required to soak up the bad debts that led to the collapse of the banking and finance system.

It would be easy to place all the blame on rapacious bankers whose appetite for the easy profit that appeared to be readily made on high-risk loans, initiated the crash. We could sheet responsibility to the credit rating agencies Standard and Poor's and Moodys, which gave the thumbs up to the bad debt in the first place and which are hell-bent on exacerbating the impacts of the economic downturn by putting New South Wales on a negative outlook and panicking the Rees Government into a slash-and-burn mini-budget. But real culpability lies with the politicians who lacked the intellectual and moral strength to unpack and reject the dogma pushed by the neo-liberal economic elite and their cheer squads in the banks and the corporate boardrooms. Those who elevated markets from a useful tool in balancing supply and demand to the centrepiece of a new religion

surrendered their critical capacities to the seductive allure of simplistic models and politically convenient conclusions. If they had not, they would have learned from the appalling history of human suffering that inevitably results when human greed is not constrained by regulatory forces.

The centrepieces of neoliberal ideology—the supernatural powers of competition, the supremacy of the market, the imperative of deregulation, the evils of public ownership and the panacea of privatisation—stand condemned in the wrecked dreams of ordinary people. The only real truth of markets is that when they work well, they work well. When they do not, it is the State, using money raised from the pockets of ordinary people, that is forced to step in to pick up the pieces. In doing so, yet another prop supporting the neo-liberal economic edifice is removed. For years, the ability of private entrepreneurs to manage risk was the central argument for privatisation and deregulation. But now, that risk is no longer symmetric. After the sub-prime bailout, no large financial institution will ever again make a decision with the fear that they will bear the downside risk of failure.

It is not clear in what form the capital markets will emerge from the wreck of Wall Street, but there are already important lessons for New South Wales. The State should not let Standard and Poor's or Moodys dictate its economic future. The credibility of those credit agencies is in tatters. The real possibility exists that in the subjective rating process, the urge to rebuild reputation will lead to unnecessary and unwarranted warnings of impending financial problems for the State. The collapse of the capital markets should put paid to the sell-off of the providers of any public service. The sub-prime collapse proves that the Government and the people will end up paying the cost. It is now time for the Rees Government to learn the lessons of the sub-prime crash and end its push towards privatisation of the ferries and electricity retailers.

The real moral of the story is that there is no longer any excuse for holding to the economic myths propagated by Margaret Thatcher, Milton Freedman and their ilk. It is now time to recognise that we live in a society where corporate greed will all too often fail to deliver the cornucopia, and that public ownership and regulation remain important and viable tools to secure a strong future and to protect the vulnerable.

DAI LE, LIBERAL CANDIDATE FOR CABRAMATTA

The Hon. CHARLIE LYNN [6.16 p.m.]: I served in Vietnam with the Royal Australian Engineers in 1967. I was 21 years of age at that time and, whilst I did not really understand the politics of the war, I was aware of the fear that had been embedded in our minds during our school years about the spread of communism. I volunteered for active service because I thought it was the right thing to do. During my time in Vietnam I observed the destruction brought about by decades of war and the poverty of the people. They lived in squalid conditions and always under a veil of fear from both sides of the war. I often wondered how well they would do, with the work ethic they had, in a free, democratic country.

After the fall of Saigon I could never understand why the Whitlam Labor Government would not allow South Vietnamese people refuge in Australia. We had developed strong bonds with the South Vietnamese people and the Army of the Republic of Vietnam. Our Australian Army training team, the most decorated unit in the Vietnam War, fought with the Army of the Republic of Vietnam units, and our civil affairs unit was deployed to deliver essential services to villages in Phuoc Tuy Province. Australian Vietnam veterans felt a great sense of betrayal as the people they had fought for, and others had died for, were denied safe haven because Gough Whitlam wanted to appease the new Communist regime. Liberal Prime Minister Malcolm Fraser reversed this inhumane policy after the defeat of the Whitlam Government. We now know, after the release of Cabinet papers in January 2007, that there would not be a Vietnamese community in Cabramatta if it were not for the Liberal Government.

An 11-year-old refugee girl Dai Le was a beneficiary of Malcolm Fraser's decision. She had been ushered to the boats by her parents, along with her two sisters, during the chaotic evacuation of Saigon as the tanks of the North Vietnamese Communist army rolled into the city. Dai Le's father never made it to the boat. They never saw him again. During the next four years they survived treacherous sea voyages on overcrowded boats. They lived in squalid refugee camps in the Philippines and Hong Kong as an uncaring world ignored their plight. Malcolm Fraser gave them hope of a better life with his reversal of Gough Whitlam's edict to refuse entry to boat people. Dai's mother and two sisters settled in Wollongong. Here she had to quickly learn English and try her best to fit in with her new friends. Her young mother, Anne, cleaned houses to educate her daughters. They later moved to Cabramatta where Dai Le completed her Higher School Certificate, then studied journalism and political science at Macquarie University. She then worked as a journalist with the local *Fairfield Champion* and later worked with the ABC radio national program.

Dai Le's life experiences sparked a desire to tell the story of her people. She achieved this through the production of television documentaries such as *Operation Babylift*, *In Limbo*, *Starting from Zero* and *Taking Charge of Cabramatta*. Dai's family roots are now firmly embedded in Cabramatta, even though she later moved to Marrickville with her partner, Markus, and her son, Ethan, to be closer to her work at the ABC. Public transport was not an option for her given the lack of services in the Cabramatta area.

Reba Meagher's decision to resign from Parliament and formally abandon the seat she had informally abandoned 14 years ago caused Dai Le to take the next step and become a voice for her people. The only effective way to do this was to join the Liberal Party because it was the Liberal Party that gave her a home, safe haven, hope and a future. She was also aware that Labor takes her people for granted and treats Cabramatta with contempt. One does not have to spend much time in the area to see the results of Labor's neglect of this area. Daily traffic jams, dilapidated and inadequate car parks, overgrown and shabby parklands and a proposal to divide the city with a railway wall are testimony to this neglect.

Dai Le's campaign to break Labor's stranglehold on the seat of Cabramatta was simply outstanding when one considers the time and resources that were available. She gave hope to those who were resigned to another decade of Labor neglect. We are proud to have Dai Le as our Liberal candidate and we look forward to welcoming her as the member for Cabramatta in this Parliament in 2011. As a Vietnam veteran, I am proud to work to assist a Vietnam refugee become a member of Parliament. Back in 1967 I drove a bulldozer, and if anyone had suggested back then that one day I would be a member of Parliament helping a young boat person whom the Labor Party had abandoned and tried to prevent from coming here to also become a member of Parliament, I would have said, "You're dreaming." I am so proud to be able to assist Dai Le in this way, and I am equally proud that the Liberal Party has given Cabramatta the opportunity to have Dai Le as its representative and a voice in this Parliament.

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 6.20 p.m. until Wednesday 22 October 2008 at 11.00 a.m.
