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# LEGISLATIVE COUNCIL

Wednesday 16 March 2016

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

**The President** read the Prayers.

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

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business item No. 650 outside the Order of Precedence objected to as being taken as formal business.**

### MR QUAE HUNG LY, OAM

**Motion by the Hon. ERNEST WONG agreed to:**

- (1) That this House congratulates Mr Quae Hung Ly of Cabramatta, President of the Australian—Chinese Teochew Association and a well-known and highly respected identity in the Australian-Chinese community on becoming a recipient of the Order of Australia medal.
- (2) That this House notes that Mr Quae Hung Ly came to Australia as a refugee and has since become a successful business owner who is committed to giving back to a community that first gave to him.
- (3) That this House recognises the outstanding contribution Mr Quae Hung Ly has made over the years through his passion and commitment to promoting the tradition of Chinese Teochew culture in the local community, as well as his involvement in the development of the local community through his many charitable works.
- (4) That this House commends Mr Quae Hung Ly for his dedication and unwavering support of his local community as well as the impact his fundraising endeavours have had at an international level.

## CLOSE THE GAP DAY

**Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
  - (a) Thursday 17 March 2016 is National Close the Gap Day, a day of recognition that we must achieve health equality between Aboriginal and Torres Strait Islander peoples and other Australians by 2030;
  - (b) 2016 marks the tenth anniversary of the formation of the Close the Gap Campaign Steering Committee, which first met in March 2006; and
  - (c) this will be the tenth National Close the Gap Day, with the first being held in April 2007.
- (2) That this House notes that:
  - (a) the Close the Gap campaign's members include more than 40 Indigenous and non-Indigenous health and community organisations;
  - (b) the campaign is supported by many community organisations and individuals across Australia;
  - (c) the campaign aims to close the Aboriginal and Torres Strait Islander health gap through the implementation of a human rights based approach, including through:
    - (i) the implementation and monitoring of a comprehensive National Action Plan developed in partnership with Indigenous communities and health organisations;
    - (ii) meaningful partnerships between Indigenous and non-Indigenous communities and health services;
    - (iii) improvements to Indigenous participation, control and delivery of health services;
    - (iv) a commitment to provide adequate and long-term financial resources including strengthening of the Indigenous health workforce; and
    - (v) a way to address critical social issues that impact Indigenous health (including poor housing, nutrition, employment and education).

- (d) more than 1,500 events have been registered across Australia for National Close the Gap Day 2016; and
  - (e) the "30 for 2030 Challenge" is encouraging people to collect 30 signatures from family, friends, teachers, workmates and other community members pledging support for the Close the Gap campaign.
- (3) That this House congratulates the Close the Gap Campaign Steering Committee, all members and supporters of the campaign and every organisation and community member who continues to support the necessary action and partnership with Indigenous services and communities to eliminate the inequality in health outcomes for Aboriginal and Torres Strait Islander peoples by 2030.

### **TAYA EVANS, LEO OF THE YEAR**

#### **Motion by the Hon. BRONNIE TAYLOR agreed to:**

- (1) That this House notes that:
- (a) Ms Taya Evans of Cooma was awarded New South Wales Leo of the Year on 6 March 2016;
  - (b) Leo Clubs are an affiliation of Lions Clubs International that encourages young men and women to serve others in their community and around the world;
  - (c) Ms Evans will now go on to represent New South Wales for Australian Leo of the Year at the Lions National Convention in May at Echuca; and
  - (d) Ms Evans was also declared the Cooma-Monaro Shire's Young Citizen of the Year for 2016, and is 2016 School Captain at Monaro High School.
- (2) That this House congratulates Ms Evans on her community-mindedness, as exemplified by her recent awards.

### **JEWISH FESTIVAL OF CHANUKAH**

#### **Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
- (a) on Wednesday 18 November 2015, a celebration of the Jewish Festival of Chanukah was held in the Strangers' Function Room at Parliament House, hosted by the Hon. John Ajaka, MLC, Minister for Multiculturalism;
  - (b) several hundred guests attended, including many members from the Federal Parliament and the Parliament of New South Wales, representatives of various religious and community organisations, and members of the Jewish community;
  - (c) the Blessing Ceremony was conducted by Rabbi Pinchus Feldman, OAM, Chief Rabbi of the Yeshiva Centre—Chabad NSW, and the Invocation was performed by Rabbi Ben Elton, Rabbi of the Great Synagogue, Sydney;
  - (d) those who made congratulatory remarks comprised:
    - (i) the Hon. Mike Baird, MP, Premier;
    - (ii) Mr Luke Foley, MP, Leader of the Opposition; and
    - (iii) Mr Jeremy Spinak, President of the NSW Jewish Board of Deputies.
  - (e) this marks the seventh successive year that the celebration of the Festival of Chanukah has been held at the Parliament of New South Wales, after it was initiated in 2009 jointly by the Yeshiva Centre—Chabad NSW and NSW Jewish Board of Deputies.
- (2) That this House extends its greetings and best wishes to the Jewish community on the occasion of the Festival of Chanukah.

### **BALLINA HIGH SCHOOL STUDENT REPRESENTATIVE COUNCIL**

#### **Motion by Mr JEREMY BUCKINGHAM agreed to:**

That this House:

- (a) notes that on 14 March 2016 Ballina High School held an induction ceremony for new and returning members of its Student Representative Council;
- (b) acknowledges that the member for Ballina, Ms Tamara Smith, MP, was a part of the official party and gave a guest address to students, staff and parents;

- (c) commends the principal of Ballina High School, Mr Dan Henman, on his excellent principal's address and on leading such a wonderful school;
- (d) congratulates the Student Representative Council adviser, Mr Andrew Playford, on his organisation of such a formal yet engaging ceremony with students at the centre of the event; and
- (e) congratulates the members of the Ballina High School 2016 Student Representative Council:
  - (i) from year 12, Seamus Burke, Lara Neilsen, Kate Sheehan, Mea Clifford and Courtney Doidge;
  - (ii) from year 11, Kaitlyn Clark and Owen Simpson;
  - (iii) from year 10, Andrew Newell, Caitlin Burke and Jason Marchant;
  - (iv) from year 8, Brea Watts and Jesse Barnwell; and
  - (v) from year 7, Emaly Brannigan, Jesse Barnwell, Shalese Howard, Vivani Damen, Jordan Ryan, Netikah Hauser, Cyril Bolt, Khiana Hamilton, Sophe Robertson, Joanne Vu, Wylde Blaque, Airlie Hunter and Braidan Henman.

### **SERGEANT GEOFFREY GRAHAM RICHARDSON**

#### **Motion by Mr SCOT MACDONALD agreed to:**

- (1) That this House notes that on 5 March 2016, Sergeant Geoffrey Graham Richardson was responding to a request for assistance from a fellow officer when he was tragically killed in a motor vehicle accident.
- (2) That this House notes that:
  - (a) Sergeant Richardson was an 18-year veteran of the NSW Police Force;
  - (b) Sergeant Richardson served in the Campbelltown, Darling River, Central Hunter and Lake Macquarie local area commands before being transferred to the Port Stephens Local Area Command in July 2015;
  - (c) a memorial service was held to celebrate the life of Sergeant Richardson on 14 March 2016 at Christ Church Cathedral, Newcastle;
  - (d) the service was attended by His Excellency General the Hon. David Hurley, AC, DSC (Ret'd); Deputy Premier and Minister for Police, the Hon. Troy Grant, MP; and New South Wales Commissioner of Police, Andrew Scipione, APM; as well as police and emergency services representatives from across Australia and internationally;
  - (e) at the service, Sergeant Richardson's wife, Senior Constable Margaret King, described him as a brave, fiercely loyal, hardworking man who was respected, loved and admired; and
  - (f) Commissioner Scipione gave the valedictory speech, during which he:
    - (i) posthumously awarded Sergeant Richardson the National Police Service medal; the 15 year Clasp to the NSW Police Medal; and the Commissioner's Commendation for Service; and
    - (ii) described Sergeant Richardson as an officer who served his community and colleagues with courage, honour and distinction.
- (3) That this House:
  - (a) extends its sincere condolences to Sergeant Richardson's family including his wife, Senior Constable Margaret King, his sons Patrick, aged seven, and Aiden, aged five months, his father, Mr Graham Richardson, and his mother, Mrs Jeanette Richardson; and
  - (b) thanks Sergeant Richardson for his distinguished service as a New South Wales police officer.

### **NSW SENIORS FESTIVAL**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
  - (a) the NSW Seniors Festival runs from Friday 1 April 2016 to Sunday 10 April 2016;
  - (b) formerly called Seniors Week, the NSW Seniors Festival acknowledges and celebrates the contribution that older people make to communities across the State;
  - (c) the festival thanks and recognises the contributions of people over 60, Aboriginal and Torres Strait Islander people over 50, and people over 50 who have a lifelong disability;

- (d) the theme of the 2016 NSW Seniors Festival is "Grow Young", celebrating seniors' capacity to learn, laugh and be inspired and recognising their energy, experience and ability to know who they are and what makes them happy;
  - (e) the festival ambassadors are:
    - (i) Dr Rosemary Stanton, OAM;
    - (ii) Kumar Pereira;
    - (iii) Heather Lee, OAM;
    - (iv) Maha Abdo, OAM;
    - (v) Robina Beard, OAM;
    - (vi) Nan Bosler, OAM;
    - (vii) Lyall Dennison;
    - (viii) Professor Gordian Fulde;
    - (ix) Graeme Innes, AM;
    - (x) Warren Kermond, OAM;
    - (xi) Dr Yvonne McMaster, OAM;
    - (xii) Terry O'Connell, OAM;
    - (xiii) Graham Ross, VMM;
    - (xiv) Sandra Ross;
    - (xv) Vola Vandere; and
    - (xvi) Aunty Beryl Von-Oploo.
  - (f) the festival will involve hundreds of events across the State hosted and supported by government, community and commercial organisations, including the Premier's Gala Concerts, the Young at Heart Film Festival and the NSW Seniors Festival Expo.
- (2) That this House:
- (a) thanks and expresses its respect for seniors across New South Wales for the invaluable role they play in our communities and congratulates all organisations and individuals who participate in the 2016 NSW Seniors Festival; and
  - (b) acknowledges the need to ensure seniors' wellbeing and address the challenging issues affecting the lives of many older people, including the risk of homelessness, income insecurity and abuse.

## CLIMATE CHANGE AND HEALTH IMPACTS

### Motion by Ms JAN BARHAM agreed to:

- (1) That this House notes that:
- (a) in a statement delivered to a panel discussion on climate change and the right to health in Geneva on 3 March 2016, Mr Dainias Puras, the United Nations Special Rapporteur on the Right of Everyone to Enjoyment of the Highest Attainable Standard of Physical and Mental Health, stated that:
    - (i) "With the Paris Agreement, adopted on 12 December 2015, the Parties to the UN Framework Convention on Climate Change responded to the calls of many to have a robust reference to human rights in the agreement";
    - (ii) "The effects of climate change on the full enjoyment of the right to health already are alarming. They are threatening human health and well-being by increasing causes of morbidity and mortality";
    - (iii) "Climate change is not only affecting human physical health, it is also impacting on the mental health and well-being of individuals and communities affected. Poor physical health and ailments are associated with poor quality of life and psychological distress";
    - (iv) "States have a legal and a moral obligation to stop and mitigate risks associated to climate change and its adverse consequences to human rights, in particular the right to life and the right to health. And they should do so by ensuring policy coherence across all government sectors and institutions and guaranteeing all human rights, including the right to health, in their fight against climate change"; and

- (b) on 9 March 2016 the United States District Court in Eugene, Oregon, began hearings in a legal action brought against the United States Government by 21 children and young people, the non-profit organisation Earth Guardians and Professor James E. Hansen on behalf of future generations, with the complaint brought by the plaintiffs stating that:
  - (i) "Defendants have for decades ignored their own plans for stopping the dangerous destabilization of our nation's climate system. Defendants have known of the unusually dangerous risks of harm to human life, liberty, and property that would be caused by continued fossil fuel use and increased CO<sub>2</sub> emissions. Instead, Defendants have wilfully ignored this impending harm and exerted sovereign authority over our country's atmosphere and fossil fuel resources to increase the production and combustion of fossil fuels, by and through their aggregate actions and omissions, deliberately allowing CO<sub>2</sub> emissions to escalate to levels unprecedented in human history, resulting in a dangerous destabilising climate system for our country and these Plaintiffs.";
  - (ii) "The present level of CO<sub>2</sub> and its warming, both realised and latent, are already in the zone of danger. Defendants have acted with deliberate indifference to the peril they knowingly created. As a result, Defendants have infringed on Plaintiffs' fundamental constitutional rights to life, liberty, and property. Defendants' acts also discriminate against these young citizens, who will disproportionately experience the destabilised climate system in our country."
- (2) That this House acknowledges that:
  - (a) the impacts of climate change on health and wellbeing undermine the human rights of people across the world, in particular affecting marginalised groups and younger people; and
  - (b) developed countries such as Australia, as the largest contributors to historic greenhouse gas emissions and having the greatest capacity to adapt our economies and societies, bear the greatest responsibility for taking urgent action to reduce greenhouse gas emissions and limit the impacts of climate change.

### **BANGALOW HISTORICAL SOCIETY**

#### **Motion by Mr JEREMY BUCKINGHAM agreed to:**

That this House:

- (a) notes the outstanding work of the Bangalow Historical Society;
- (b) acknowledges that the Bangalow Historical Society Inc. was founded in 1992 and is a fully incorporated society affiliated with the Royal Australian Historical Society and Museums Australia;
- (c) notes that the society's museum building was officially opened on Australia Day 1995 and is located next to the parklands in Deacon Street, Bangalow;
- (d) commends the society's mission, which is to represent a vital part of the village of Bangalow and its surrounding district by providing a focus for issues of heritage and history;
- (e) notes that the society seeks to establish, preserve, research, interpret and exhibit a collection of photographs, objects and documentary material of the history and development of the 2479 postcode area;
- (f) recognises that the purpose of the Bangalow Historical Society collection is to encourage a growing interest in Bangalow's past and present history through the development of ongoing exhibitions that encourage access by both the local and wider community;
- (g) acknowledges that the member for Ballina, Ms Tamara Smith, MP, met with members of the society on Thursday 3 March 2016; and
- (h) commends the work of president Vivienne Gorec and all of the committee members and supporters of the Bangalow Historical Society.

### **AHMADIYYA COMMUNITY AUSTRALIA DAY CELEBRATION**

#### **Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
  - (a) on Tuesday 26 January 2016, at the Bait-ul-Huda Mosque, Marsden Park, the Ahmadiyya Muslim Association of Australia held a widely attended celebration of Australia Day, highlights of which included:
    - (i) a flag hoisting and recitation of the national anthem;
    - (ii) a series of speeches by high school and tertiary students of the Ahmadiyya Muslim community on the theme of "Long Live Australia"; and
    - (iii) an Australian style barbeque.

- (b) those who attended as guests included:
  - (i) Mr Kevin Conolly, MP, member for Riverstone, representing the Hon. Mike Baird, MP, Premier;
  - (ii) Ms Michelle Rowland, MP, Federal member for Greenway and Federal shadow Minister for Small Business and shadow Minister for Citizenship and Multiculturalism;
  - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
  - (iv) the Hon. Scott Farlow, MLC;
  - (v) the Hon. Ed Husic, MP, Federal member for Chifley;
  - (vi) Councillor Stephen Bali, Mayor of Blacktown City Council;
  - (vii) Councillor Raj Datta, Strathfield Council;
  - (viii) Councillor Susai Benjamin, Blacktown City Council;
  - (ix) Chief Inspector Bill Pearce, Mount Druitt Police Station; and
  - (x) president David Harper, representing the Church of Jesus Christ of Latter-day Saints.
- (2) That this House commends the Ahmadiyya Muslim Association of Australia on holding a successful celebration of Australia Day 2016 and extends its best wishes to the community for its ongoing contribution to New South Wales.

## **BUSINESS OF THE HOUSE**

### **Formal Business Notices of Motions**

**Private Members' Business item No. 680 outside the Order of Precedence objected to as being taken as formal business.**

### **PARK LANE THEATRE, LENNOX HEAD**

#### **Motion by Mr JEREMY BUCKINGHAM agreed to:**

That this House:

- (a) notes that on 11 March 2016 the Park Lane Theatre at Lennox Head Cultural and Community Centre was formally opened;
- (b) acknowledges that the Lord Mayor of Ballina, Mr David Wright, was in attendance, as well as Ballina Shire Councillor Ms Sharon Cadwallier;
- (c) acknowledges that the member for Ballina, Ms Tamara Smith, MP, was a part of the official party and gave a speech to the attendees;
- (d) commends the community spaces team—Jordan Robinson, Manager Community Facilities and Customer Service; Sara Hayes, Community Facilities Team Leader; Kate McBride, Community Facilities Officer; and Mandy Atkins, Community Facilities Officer—for their work in creating a world-class theatre space;
- (e) recognises that the Park Lane Theatre will be a premiere venue for drama, music, film and dance artists from across the country and the globe; and
- (f) applauds the outstanding performances on the night including a film screening of *Within* by Darius Devas; spoken word by Techa Beaumont; music by Ben Purnell; an incredible dance performance by Michael Hennessey's SPRUNG Integrated Dance Theatre; and a performance by ShakShuka with their Zorba Gypsy Party.

### **SERBIAN FESTIVAL OF SYDNEY**

#### **Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
  - (a) on 6 and 7 January 2016 the fourth annual Serbian Festival of Sydney was held in Tumbalong Park, Darling Harbour, and attended by several thousand visitors;
  - (b) the purpose of the festival, which was organised by the Serbian Orthodox Youth Association of Australia, is to highlight and showcase the history, culture and achievements of the Serbian people and the contribution of Serbian Australians to the life of Australia; and



- (c) those who attended the official opening as guests included:
  - (i) His Grace the Right Reverend Irinej, Bishop of the Metropolitanate of Australia and New Zealand;
  - (ii) Mr Miroljub Petrovic, Ambassador of the Republic of Serbia;
  - (iii) Mr Branko Radosevic, Consul General of the Republic of Serbia;
  - (iv) Mr Branislav Grbic, Consul of the Republic of Serbia;
  - (v) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
  - (vi) Mr Paul Lynch, MP, shadow Attorney General and member for Liverpool;
  - (vii) Councillor Peter Ristevski, Liverpool Council;
  - (viii) Mr Ilija Perach, President of the Serbian Orthodox Youth Association;
  - (ix) Father Nemanja Mrdjenovic, Serbian Orthodox Youth of Australia Spiritual Leader;
  - (x) Father Veselin Svorcan, Father Srboljub Miletich and Father Sasa Radoicic;
  - (xi) Mr Stevan Sipka, Vice President of Air Serbia for Asia Pacific;
  - (xii) Mr Dane Kondic, Chief Executive Officer of Air Serbia;
  - (xiii) Mr John Jeremic, Platinum Sponsor of the 2016 Festival; and
  - (xiv) Ms Michelle Wiess, Executive Director, Place Management, Sydney Harbour Foreshore Authority.
- (2) That this House:
  - (a) congratulates the Serbian Orthodox Youth Association of Australia on its successful organisation of the 2016 Serbian Festival of Sydney and specifically its executive committee, comprising:
    - (i) Dimitrije Grasar, State Coordinator and Festival Director;
    - (ii) Sasa Denda, State Secretary;
    - (iii) Aleksandra Stancevic, State Public Relations Officer;
    - (iv) Tijana Petrovic, State Liaison Officer; and
    - (v) Tanja Stancevic, State Events Officer;
  - (b) sends its best wishes and regards to the Serbian Australian community.

### FEAST OF SAINT MAROUN

#### **Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
  - (a) on Tuesday 9 February 2016 a Solemn Divine Liturgy celebrating the Feast of Saint Maroun was held at Saint Maroun's Cathedral, Redfern, and was attended by several hundred members of Sydney's Maronite Catholic community;
  - (b) the event was hosted by:
    - (i) His Excellency Bishop Antoine-Charbel Tarabay, Maronite Catholic Bishop of Australia;
    - (ii) Monsignor Emmanuel Sakr EV, Dean of Saint Maroun's Cathedral;
    - (iii) Assistant Priests and the Maronite Community of Saint Maroun's Cathedral; and
  - (c) those who attended as special guests included:
    - (i) His Excellency Most Reverend Adolfo Tito Yllana, Catholic Apostolic Nuncio of Australia;
    - (ii) His Excellency Bishop Robert Rabbat, Melkite Catholic Bishop of Australia;
    - (iii) His Excellency Metropolitan Paul Saliba, Antiochian Orthodox Archbishop of Australia, New Zealand and the Philippines;

- (iv) His Excellency Bishop Amel Nona, Chaldean Catholic Bishop of Australia;
  - (v) His Excellency Bishop Meelis Zaia, Apostolic Catholic Assyrian Bishop of the East;
  - (vi) Very Reverend Monsignor Marcelino Youssef, Vicar General of the Maronite Eparchy of Australia;
  - (vii) Mr Luke Foley, MP, Leader of the Opposition, in his own capacity and also representing the Leader of the Federal Opposition;
  - (viii) Mr George Bitar Ghanem, Consul General of Lebanon in Sydney;
  - (ix) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
  - (x) the Hon. Tony Burke, MP, Federal member for Watson;
  - (xi) Ms Julia Finn, MP, member for Granville;
  - (xii) Ms Noreen Hay, MP, member for Wollongong;
  - (xiii) Mr Jihad Dib, MP, member for Lakemba;
  - (xiv) Mr Charles Casuscelli, former member for Strathfield;
  - (xv) Mr Tony Issa, former member for Granville;
  - (xvi) Mr Daryl Melham, Chairman of MaroniteCare, and former Federal member for Banks;
  - (xvii) Dr Salim Sfeir, Vice President of the World Patriarchal Maronite Foundation for Integral Development, and Chairman-CEO of the Bank of Beirut Group;
  - (xviii) Reverend Monsignors and members of the clergy;
  - (xix) Reverend Maronite Sisters of the Holy Family;
  - (xx) Mr Tony Khattar, President of the Maronite Catholic Society;
  - (xxi) Mrs Mariette Doueihy, President of the Maronite Ladies of the Gospel;
  - (xxii) presidents and members of diocesan boards and councils;
  - (xxiii) mayors and councillors representing various councils; and
  - (xxiv) presidents and representatives of Lebanese towns and villages, Lebanese organisations and Lebanese political parties.
- (2) That this House sends its best wishes and ongoing regards to Australia's Maronite Catholic community on the occasion of the celebration of the Feast of Saint Maroun, Patron of the Maronite Catholic Church.

### **JEWISH FESTIVAL OF CHANUKAH**

#### **Motion by the Hon. DAVID CLARKE agreed to:**

- (1) That this House notes that:
- (a) on Thursday 10 December 2015, the Yeshiva Centre—Chabad NSW, under the leadership of its Dean and Spiritual Leader Rabbi Pinchus Feldman, OAM, and the Chabad Youth Network Inc., under its Director Rabbi Elimelech Levy, held a celebration of the Jewish Festival of Chanukah at Martin Place, Sydney, attended by hundreds of members of Sydney's Jewish community, as well as Sydney's wider community; and
  - (b) those who attended as guests included:
    - (i) the Hon. John Ajaka, MLC, Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism;
    - (ii) the Hon. Tanya Plibersek, MP, Deputy Leader of the Federal Opposition, Federal shadow Minister for Foreign Affairs and International Development, and member for Sydney;
    - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
    - (iv) the Hon. Sophie Cotsis, MLC, shadow Minister for Women, shadow Minister for Ageing, shadow Minister for Disability Services, and shadow Minister for Multiculturalism;
    - (v) Senator Sam Dastyari, shadow Parliamentary Secretary to the Federal Leader of the Opposition and shadow Parliamentary Secretary for School Education and Youth.

- (2) That this House notes that the Festival of Chanukah, also known as the Festival of Lights, is an ancient Jewish festival symbolising the universal triumph of freedom over oppression and good over evil and has been celebrated annually for 30 years by holding a major public function in the central part of Sydney organised by Chabad NSW.
- (3) That this House commends Chabad NSW for its promotion of interfaith harmony and goodwill by its past and ongoing holding of a public celebration of the Festival of Chanukah in the heart of the city of Sydney.

## **INCLOSED LANDS, CRIMES AND LAW ENFORCEMENT LEGISLATION AMENDMENT (INTERFERENCE) BILL 2016**

### **In Committee**

**The CHAIR (The Hon. Trevor Khan):** If there is no objection, the Committee will deal with the bill as a whole, with the exception of schedules 1 and 2. I have before me The Greens amendments appearing on sheet C2016-017, Opposition amendments appearing on sheet C2016-021, further amendments from The Greens appearing on sheet C2016-018 and Shooters and Fishers Party amendments appearing on sheet C2016-020B. We will proceed with The Greens amendments appearing on sheet C2016-017.

**Mr DAVID SHOEBRIDGE** [11.28 a.m.], on behalf Mr Jeremy Buckingham: I move The Greens amendment No. 1 on sheet C2016-017:

**No. 1 Interfering with a mine**

Page 4, schedule 2 [2], line 5. Insert "directly" before "associated".

This amendment proposes to insert the word "directly" before the word "associated". That is proposed to be inserted by way of amendments to section 201 (c) and (d). The intent of this amendment is quite clear. By extending the definition that relates to equipment or activities to any equipment or the like that is "associated with" a mine broadens the scope of the provision to things well beyond the mine or coal seam gas site. For example, is a catering contractor who is delivering materials to a mine associated with the mine? An electrician has been called out to do work at the mine. Is the electrician's truck, while travelling to the mine, associated with the mine?

It is unjustifiable and dangerous to extend the criminal liability by such an opaque definition of "associated with". The criminal liability is extended to doing certain activities that have an impact on things that are "associated with" a mine. The scope has never been explained by either the Minister in the other place in his second reading speech or by the Parliamentary Secretary or Minister in this House. The Greens amendment inserts the word "directly" before "associated" in order to attach a limitation or qualification so that it relates only to things that are directly associated with the mine. It limits the scope of the operation of that proposed criminal offence. With that contribution, I will hand the discussion over to my colleague Mr Jeremy Buckingham.

**Mr JEREMY BUCKINGHAM** [11.31 a.m.]: I concur with my colleague Mr David Shoebridge in his assessment of the need for The Greens amendment No. 1. The scope of this vague definition is too wide. The Greens are proposing that there be a limitation on its scope by including the word "directly" before the word "associated". Further to the contribution of Mr David Shoebridge, the other areas of interest that relate to this provision are public areas. There are a lot of public utilities and public spaces associated with a mine, such as rivers, powerlines and public easements. People who are undertaking activities in these areas may well be subject to these laws. Clearly, that is not the intent and there has been no direction or indication from the Government that that is the intent. The Greens consider that this is a reasonable amendment that will limit the scope and refine the intent of the Government.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [11.33 a.m.]: The Opposition will support The Greens amendment No. 1 for the reasons that have been advanced by the previous two speakers. The Greens have a second amendment to this schedule of the bill. I foreshadow that we will be voting against the schedule standing part of the bill because we think it is a bit like unscrambling an omelette. By exposing persons who are protesting against coal seam and other unconventional gas projects to the potential of seven-year jail terms, even in a situation where they may be protesting on their own land, is simply a ridiculous innovation in the law. We do not agree with the proposal. No adequate justification has been advanced in either this place or the other place for that provision. It should not be part of the law and we will be voting against it.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [11.34 a.m.]: The Government will not be supporting The Greens amendment No. 1. The amendment proposes inserting the word "directly" before "associated". The Government does not consider this necessary as the words "associated to" will be interpreted in the context of their connection to a mine. The amendment is not supported.

**Mr DAVID SHOEBRIDGE** [11.34 a.m.]: The Government is proposing to place a greatly extended criminal penalty upon anybody who "hinders the working of equipment belonging to" and it intends to expand it to "or associated with" a mine. The Government also intends to extend the criminality for anybody who "destroys, damages or renders useless any equipment, building, road or bridge belonging to or associated with a mine". If a person damages a road associated with a mine, the Government wants to be able to prosecute that person and see them go to jail for a maximum of seven years.

Let us be clear, the Government's proposal is to punish with a criminal penalty of seven years imprisonment a person who damages a road associated with a mine. The penalty would apply to someone who stencilled a "Lock the gate" triangle on a road leading to a mine. It would apply to someone—and I am not suggesting this would be appropriate conduct—who defaces a road sign on a road approaching a mine. I indicate that defacing a road sign is not good behaviour. A person might apply a sticker to a road or road sign which has the words "Shut the gate", "The Liberal Government stinks", "Stop this mine", or "No new coal in NSW". If a person spray painted "No new coal" on a road leading to a mine, on the ordinary reading of the provision the road would clearly be associated with a mine.

This Government and The Nationals member who is the Leader of the Government in this House want to send people to jail for a maximum of seven years if they graffiti a road or damage a road leading to a mine. They want to be able to jail them for seven years. What explanation do we get from the Parliamentary Secretary, who I understand lives in the regions? He comes from around Guyra way, although he is a Liberal, not a member of The Nationals. They seem to be breeding like mushrooms in the bush, in the space left over by The Nationals.

**The CHAIR (The Hon. Trevor Khan):** Order! I ask the member to address the amendment and not descend into that area.

**Mr DAVID SHOEBRIDGE:** I note the ruling. The explanation from the Parliamentary Secretary is that the Government is comfortable with "associated". He even got the phrase wrong. He said "associated to". He did not realise that the insertion of the criminal penalty is "associated with". There is a distinction at law, if not in the Parliamentary Secretary's understanding, between "associated to" and "associated with". One would think he would get the law right, but he did not. He blithely says, "No, we are comfortable with criminalising to the extent of seven years jail any activity that might damage a road that is associated with a mine and with putting somebody in jail for seven years for that". They are happy and comfortable with it.

It is at the core of the Government's intention: a massive ramp up of police powers and the power of a police State over protesters. Those opposite are happy to put people in jail for a maximum of seven years if they graffiti a road leading to a mine. The Government's failure to even attempt to articulate the limits of the new criminal penalty that it is proposing shows just how intellectually barren and ideologically aggressive it is on this bill. The Government does not care. Even though it knows this will have a significant impact upon civil rights, it does not care.

**The CHAIR (The Hon. Trevor Khan):** Order! I invite The Greens to move the second amendment in globo because it seems to traverse the same territory as amendment No. 1.

**Mr David Shoebridge:** They are quite different.

**Mr JEREMY BUCKINGHAM** [11.39 a.m.]: Further to the Parliamentary Secretary's contribution, which was of concern—

**Mr David Shoebridge:** He got the law wrong.

**Mr JEREMY BUCKINGHAM:** He got the law wrong. He said the wording is "associated to" a mine. The changes to the Crimes Act brought about by this bill carry very serious penalties, including up to seven years jail. They also expand the meaning of "mine" to include petroleum exploration. One of the key concerns the people of New South Wales have about petroleum exploration and, in particular, unconventional gas is the expansive nature of its operations. It is not a localised activity like an underground or an open-cut mine, which, in comparison, has a relatively small footprint. Unconventional gas operations spread across the landscape. If members had spent some time in the Pilliga they would have seen that unconventional gas production involves thousands of kilometres of pipeline, easements, fences and roads. It involves compressor stations and wells. All these facilities are on public land, and other people use that land for various activities such as recreation. They go horseriding and bushwalking. Foresters use the land.

**The Hon. Duncan Gay:** There are no foresters there.

**Mr JEREMY BUCKINGHAM:** There are no foresters in State forests?

**The Hon. Duncan Gay:** There are no foresters in the Pilliga. You got rid of them.

**Mr JEREMY BUCKINGHAM:** State forests are used for a range of activities, including wood collection. Yet if someone interferes with anything associated with a mine they face seven years in jail. That is an incredibly low test. The Government has provided no example to show why the measure is needed. The mining industry is incredibly expansive and the Government is making draconian and utterly unnecessary changes to the Crimes Act in its favour. As my colleague Mr David Shoebridge said, the Parliamentary Secretary is not conversant with the detail. This legislation will catch people the Government did not intend to catch in its crackdown on eco-fascists. It will catch other businesses. It will catch people who use State forests and those who are found adjacent to the land. It will catch farmers, who will be forced into having coal seam gas operations on their land.

As we know, people make mistakes. There are all kinds of reasons for people to undertake all kinds of activities on land in and around these types of developments. People will be subject to an assertion or a charge by police that they intended to interfere in the mining operations. It is outrageous that the Government would expand the scope of the meaning of "mine" and expand the scope of the provisions without giving it serious consideration. The Government is rushing the legislation through without inquiry. I have not heard anyone from the Minerals Council, the Australian Pipeline Industry Association [APIA] or any associated organisation request the introduction of a seven-year jail term.

**The CHAIR (The Hon. Trevor Khan):** Order! The member is moving beyond the scope of the amendment. I invite the member to address the amendment.

**Mr JEREMY BUCKINGHAM:** The amendment deals with the Crimes Act 1900 and a provision therein. It is utterly unnecessary for the Government to go down this path. The Government will catch all kinds of people with this measure. There will be unintended consequences in passing this draconian and unnecessary law.

**Reverend the Hon. FRED NILE** [11.44 a.m.]: As a point of clarification, The Greens are speaking as if the seven-year penalty were mandatory. It is there to be used. It is up to the courts to determine whether it should be used. For such a minor infringement as the Greens are talking about, no court would sentence a person to seven years in jail. The Greens do not seem to understand that the seven-year sentence is not mandatory.

**Mr DAVID SHOEBRIDGE** [11.44 a.m.]: It would be interesting to know which sentencing principles Reverend the Hon. Fred Nile thinks will be applied. Is there an entirely separate set of sentencing principles that will apply to this offence? One of the key matters that the court must have regard to in sentencing is the maximum penalty. In sentencing, the court will say that the Parliament has determined that this is a very serious offence because it set the maximum penalty at seven years. It will start its considerations after looking at the objective seriousness of the offence and say therefore, "Citizen A, B or C, you will be missing from your family, job or community for X period of time because we are sending you to jail." That will happen regardless of whether the court thinks the damage or hindrance is relatively minor. Reverend the Hon. Fred Nile cannot avoid responsibility for voting for this legislation by saying that the court will magically fix it.

**The CHAIR (The Hon. Trevor Khan):** Order! A short contribution was made by Reverend the Hon. Fred Nile. Nowhere in the amendment moved by The Greens is the length of the jail term mentioned. The Greens are entitled to respond but not to go further than to deal with the query raised by Reverend the Hon. Fred Nile. I invite members to keep in mind that we are dealing with a specific amendment.

**Mr DAVID SHOEBRIDGE:** If the Government thinks otherwise, if the Government wants to put flesh on the bones of that somewhat irrelevant contribution from Reverend the Hon. Fred Nile, it should put it on the record.

**The CHAIR (The Hon. Trevor Khan):** Order! I call Mr David Shoebridge to order for the first time.

**Question—That The Greens amendment No. 1 [C2016-017] be agreed to—put.**

**The Committee divided.**

**Ayes, 15**

Mr Buckingham	Mr Primrose	Mr Wong
Mr Donnelly	Mr Searle	
Mrs Houssos	Ms Sharpe	
Mr Mookhey	Mr Shoebridge	<i>Tellers,</i>
Mr Moselmane	Mr Veitch	Ms Barham
Mr Pearson	Ms Voltz	Dr Faruqi

**Noes, 19**

Mr Amato	Mr Farlow	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr MacDonald	Mrs Taylor
Mr Brown	Mrs Maclaren-Jones	
Mr Clarke	Mr Mallard	<i>Tellers,</i>
Mr Colless	Mr Mason-Cox	Mr Franklin
Ms Cusack	Mrs Mitchell	Dr Phelps

**Pairs**

Ms Cotsis	Mr Gallacher
Mr Secord	Mr Harwin

**Question resolved in the negative.**

**The Greens amendment No. 1 [C2016-017] negatived.**

**Mr JEREMY BUCKINGHAM** [11.56 a.m.]: I move The Greens amendment No. 2 on sheet C2016-017:

No. 2 Page 4, schedule 2. Insert after line 5:

**[3] Section 201 (d)**

Insert "by causing, or attempting to cause, damage to the equipment" after "mine".

This will smoke out the Government's intent when it comes to these new laws. The original intent of section 201 of the Crimes Act was to deal with significant acts of sabotage of mines, such as destroying a bridge or flooding a mine; that is, actually destroying an entire mine. It came about during a period of significant industrial relations disruption in New South Wales. It came into being, and quite rightly so, to prevent people from doing significant long-term damage to a mine. That is where the seven-year jail term came from—for people who flooded, sabotaged or destroyed a mine.

The Greens amendment clarifies "hindering" by inserting the phrase "by causing, or attempting to cause, damage to the equipment". That reflects the original intent of the section. If someone does hinder or interfere with the mine, then it reflects the nature of the offence. The rhetoric of the Government and of those in support has been all about the damage that protesters could do. This amendment clarifies that issue. It actually says "by causing, or attempting to cause, damage to the equipment". I think that is a reasonable amendment. I will be interested to hear from the members opposed to it and their arguments that it does not reflect the intent of the Government's proposals.

This amendment is about ensuring that these serious penalties apply to damage or an attempt to damage. If someone sets fire to another's personal goods, chattels or private property then these are the sorts of penalties that will apply. It is a reasonable amendment that reflects the Government's intent. I will be interested to hear the contributions of the Parliamentary Secretary and other members as to why this is not a reasonable outcome. Without this amendment, the law will be that anyone who interferes in any way with any part of a mine or equipment that is associated with a mine will attract this penalty. It will not be about damage or the intent to cause damage; it will just be about interfering.

The Hon. Adam Searle in his contribution to the House last night illustrated that that is setting a low bar. To leave "interference" and "hindrance" unamended is totally unacceptable. It will mean that people face

court for relatively innocuous activities. They will face a sentence, as Mr David Shoebridge has said, that will terrify them. They will face charges for obstructing a vehicle, for standing in the way of a vehicle, for standing in the way of a fence, or for locking onto a fence for 1½ hours. They will face a charge that has a penalty of potentially seven years jail. I do not know anyone who would consider that that is a nice prospect or that the penalty is reasonable for that type of activity. I commend the amendment to the Committee. I hope that my concerns can be placated by the contribution of the Parliamentary Secretary and others.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [12.01 p.m.]: I think Mr Jeremy Buckingham will be sadly disappointed. I do not think the Parliamentary Secretary will be able to allay these reasonable concerns, because this part of the legislation is completely flawed. We will support The Greens amendment, but we will also vote to remove this schedule from the bill.

**Ms JAN BARHAM** [12.01 p.m.]: I speak to The Greens amendment No. 2 on sheet C2016-017. I find it particularly strange that this provision of the bill does not seem to contain any connection or relevance to evidence in relation to these activities. It reminded me of a story that I think is important to tell in this place. I am being reminded of the bad old days—as some of us refer to them—when environmental activists were accused of being ecoterrorists. That happened in the 1990s. That language is not dissimilar to some of the language being used these days.

**The CHAIR (The Hon. Trevor Khan)**: Order! I remind Ms Jan Barham that she should be speaking to the amendment, not making a second reading speech.

**Ms JAN BARHAM**: That is true.

**The CHAIR (The Hon. Trevor Khan)**: Order! The amendment does not refer to ecoterrorists. I remind the member that we are in Committee.

**Ms JAN BARHAM**: The Greens amendment No. 2 seeks to amend section 201 (d) by inserting:

"by causing, or attempting to cause, damage to the equipment" after "mine".

That is relevant because how does one establish who was responsible for any damage caused to a mine? The point of relevance in this: In the past the activities of protesters were called terrorist activities because of a particular activity that took place on the South Coast in relation to a forestry operation in 1994. It was all over the news. Coalition Government members were claiming that The Greens had damaged the equipment in a forestry operation and had caused risk and potential harm to the forest operators by taking this terrible action to disrupt and cause damage to works in relation to an activity. I accept that it was not a mine, but it was an activity that seems to be the substance of some of these provisions. The point was: no proof was required. It turned into a media circus. It was a trial by media. Everyone assumed that because a Government member and some people had said that a protester had taken this action it was a given.

There seems to be no relevance associated with the evidence that is required to establish whether this crime has taken place. I refer to a radio documentary that was done with Matt Peacock, a well-known investigative journalist, just before the election in March 1995. He had taken an interest in what was happening in the campaign around the 1995 New South Wales State election. He thought it would be fun to travel with The Greens for a while and see what they did. He captured a meeting with the Construction, Forestry, Mining and Energy Union and Mr Gavin Hillier and his then legal adviser, Ms Penny Wong. They were talking about the idea that forestry activities were the breeding ground for ecoterrorists and that things were taking place, the damage and—

**The CHAIR (The Hon. Trevor Khan)**: Order! I again interrupt Ms Jan Barham because she is speaking outside the leave of the amendment; she is making a contribution to the second reading debate. At this stage she must address her remarks to the amendment.

**Ms JAN BARHAM**: I am referring to the fact that my colleague Mr Jeremy Buckingham has moved an amendment that states:

"by causing, or attempting to cause, damage to the equipment" after "mine".

I am referring to the relevance of this if there is no clear direction in the legislation about how evidence is sought and how it is gathered. We are in a climate where accusations happen. I was referring to the accusation

about the forestry activities on the South Coast. It was admitted on tape—much to the disappointment and shock of Ms Penny Wong—that Mr Gavin Hillier thought that the foresters did the dirty deed. I dare say that dirty deeds could be done by people associated with mining activities, to seek to find criminality and to pursue these terrible laws that are being passed in this place if we do not have that clarity in the legislation. I therefore support the reasonable amendment moved by my colleague Mr Jeremy Buckingham to try to get some clarity into these bad laws. I raise the fact that there are times when the laws we create just create more problems for everyone and reflect badly on society as a whole.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [12.06 p.m.]: The Government will not support The Greens amendment No. 2 on sheet C2016-017. The amendment would limit the operation of section 201 (d) of the Crimes Act 1900 to circumstances where the hindrance of the working of equipment belonging to, or associated with, a mine is caused by damage to the equipment. The amendment makes a significant change to the current operation of section 201 and would undermine other reforms being advanced. The proposed change to section 201 (d) would result in prosecutions failing where the protester merely hinders equipment operating but does not cause any damage to the equipment. The proposal is not supported.

**Mr DAVID SHOEBRIDGE** [12.07 p.m.]: The Parliamentary Secretary has finally belled the cat. This is about putting people in jail for seven years if they lock on to equipment—with no intent to damage the equipment, no capacity to damage the equipment. They want to put people in jail because they are protecting their farm, their local aquifer, their local trees. They want to put people in jail for seven years simply because they lock on to the equipment, even when they know from the outset there was never any intent to damage the dozer, the grader or the drilling rig; they are simply attaching themselves by a chain to it.

This is civil disobedience seeking to stop the damage; not seeking to cause damage to the mining equipment or the drilling rig. People are simply trying to stop the damage to their environment and their local patch. This Government wants to put them in jail for seven years. If members wonder why 1,000 people were protesting in the street yesterday, it is because of what the Parliamentary Secretary just confirmed—the Government wants to put people in jail even though they have no intention to cause any damage to a mine, and no intention to cause any damage to coal seam gas equipment. People just want to lock on, put their bodies on the line, express their civil right to object to laws or approvals that they see as abhorrent, and this Government wants to put the police on them and put them in jail for seven years.

That is deeply ugly stuff. Civil disobedience of the first order would occur if we ever tried to jail somebody and commence one of these criminal prosecutions. The amendment moved by The Greens is, in many ways, doing the Government a favour. If the Government had eyes to see it, it would realise the illegitimacy of seeking to have this kind of criminal penalty against somebody who has no intention to cause any damage to equipment but simply wants to lock on and express their civil disobedience to this kind of mining activity. If the Government had any sense of self-preservation, it would acknowledge the illegitimacy.

This is where the Government has jumped the shark on police powers and anti-protest powers. I was trying to avoid saying "Fonzie" in *Hansard*. The Government confirms the absence of anything approaching a social licence for this kind of proposed extension of the criminal laws. It has confirmed how grossly out of touch it is with ordinary people in this State, who do not see these people—the protectors of our environment, land, water and farmland—as criminals but as brave citizens who are following centuries of tradition. They are putting themselves on the line; they are doing the right thing for this planet and for society. The Government wants to put them in jail for seven years. Shame on it!

**Mr JEREMY BUCKINGHAM** [12.11 p.m.]: I concur entirely with the contribution of Mr David Shoebridge. Mr Scot MacDonald, the Parliamentary Secretary, summed up the Government's intent with one word: "merely". The Government is opposing this amendment because it would not catch people who merely hinder the operations of a mine across the State by having the temerity to stand in front of a truck for five minutes or even just 30 seconds. Coal seam gas could become a vast enterprise and we have huge coalmines. The vast majority of protests in this State are characterised by people just standing at the front of a gate or in front of a mining behemoth. They do not want their town or their aquifer destroyed; they want to save their food bowl. They want stand in front of a truck for five minutes, to make their point and to get on television. The mining company will have the rest of eternity to destroy the environment, but by merely hindering an activity these protesters will be subjected to an expansion of the criminal code and possibly seven years in jail.

That is an absolute disgrace. These people are heroes. They can be characterised as ecofascists and ecoterrorists for merely hindering an activity. People who merely hindered the Franklin River, uranium mining



and logging of old-growth forests in the past are now heroes. The Parliamentary Secretary is now hoist by his own petard. The Greens are offering the Government a way out because—as sure as night follows day—these laws will not frighten off the community, as members said in their contributions to the second reading debate. We already have hundreds of thousands of reasonable, rational contributors to our society who will test these laws, take a stance, get charged, go to court and be sentenced to jail.

**Mr David Shoebridge:** And you will lose office.

**Mr JEREMY BUCKINGHAM:** And the Government will lose office the day it locks up a Knitting Nanna or even puts one in the dock. Think about it—save yourselves!

**The Hon. Duncan Gay:** Point of order: We are in the Committee stage of the debate. Members have been patient; there has been contribution upon contribution. Honourable members are now becoming bitter, vicious and invective rather than addressing the issue before the Committee.

**Mr JEREMY BUCKINGHAM:** To the point of order—

**The CHAIR (The Hon. Trevor Khan):** Order! I will rule on the point of order. I have already asked members to confine their remarks to the amendment. Mr Jeremy Buckingham is alive to that and to the fact that I will sit him down if he moves beyond the amendment.

**Mr JEREMY BUCKINGHAM:** I have finished my contribution.

**Mr DAVID SHOEBRIDGE** [12.15 p.m.]: The Greens have moved this amendment in Committee because in its second reading contribution the Government said that this legislation is not about jailing Knitting Nannas. Let us be clear: without this amendment, if a couple of nannas sit on a road and knit in front of a truck that is bringing mining equipment to a mine, or coal seam gas equipment to a drill site, to express their civil disobedience they are unambiguously hindering equipment associated with a mine or a with coal seam gas and could face seven years in jail.

In his second reading speech Mr Scot MacDonald, the Parliamentary Secretary, said that this is not about jailing Knitting Nannas. This is exactly about jailing Knitting Nannas and any other person who hinders an activity. The very purpose of the Knitting Nannas is to show people of courage and commitment from across society. People are willing to put themselves in front of equipment and hinder it because they think it is wrong. This Government has confirmed that it wants to put them in jail for seven years. If the Government wants to know why people are passionate about this legislative proposal and why they are frightened for our democracy—

**Reverend the Hon. Fred Nile:** It's The Greens.

**Mr DAVID SHOEBRIDGE:** I hear the interjection of Reverend the Hon. Fred Nile.

**The CHAIR (The Hon. Trevor Khan):** Order! Mr David Shoebridge should not respond to interjections.

**Mr DAVID SHOEBRIDGE:** If the Government has a rational argument it can stand up and say "no". The Government should say why Knitting Nannas who sit in front of a drilling rig and hinder it or prevent it from going onto a coal seam gas site will not be covered by these laws. Now is the chance for the Government to give us a rational reason why.

**Ms JAN BARHAM** [12.18 p.m.]: I am shocked by the response of Mr Scot MacDonald about the reasoning for this legislation being hindering activities. The Government has not listened to the contribution of my colleagues, Mr Jeremy Buckingham and Mr David Shoebridge. It does not realise the mistake that is being made. It does not seem to listen to anything these days.

**The CHAIR (The Hon. Trevor Khan):** Order! Ms Jan Barham will confine her remarks to the amendment.

**Ms JAN BARHAM:** The amendment is an opportunity for the Government to clarify its true intent to secure its stated claim that this is not legislation to capture those who peacefully protest, those who are willing

to observe and take their right in a democracy to protest. This is not as it seems, as the comments of Mr Scot MacDonald made clear. Obstruction happens because people hope that time gives them the opportunity for reflection—reflection on a mistake that is about to be made. Many people in society observe the precautionary principle and observe that these days governments do not take enough time to consider the consequences of their decisions. That is why protests happen and why people are out there hindering—

**The CHAIR (The Hon. Trevor Khan):** Order! Ms Jan Barham will speak to the amendment. If she has no substantive contribution to make I will ask her to resume her seat.

**Ms JAN BARHAM:** The Parliamentary Secretary's comments indicate the importance of the amendment moved by my colleague. I thoroughly support the amendment. It is the only way to show the true intent of this legislation and to make a commitment to the people of New South Wales that they have a right to peacefully protest. Otherwise it is a catch-all clause.

**Reverend the Hon. Fred Nile:** Peaceful, safe protests.

**Ms JAN BARHAM:** Peacefully sitting down and seeking to stop danger or harm is a legitimate form of protest. It should be allowed.

**Reverend the Hon. Fred Nile:** It has to be safe.

**Ms JAN BARHAM:** It is safe if that is how they are doing it.

**Question—That The Greens amendment No. 2 [C2016-017] be agreed to—put.**

**The Committee divided.**

*[In division]*

**Mr David Shoebridge:** Point of order: It is disorderly and a breach of the standing orders for any member of this House to engage in communications with members of the public in the gallery. The Leader of the Government not only engaged in communications with a member of the public but also told a member of the public to shut up. I ask that you request an apology from the Leader of the Government and draw his attention to the standing orders that provide that such conduct is disorderly.

**The Hon. Duncan Gay:** To the point of order: I apologise. I should not have answered back to the gentleman in the gallery.

**The CHAIR (The Hon. Trevor Khan):** Order! Comments and laughter have been heard coming from the gallery. Members of the public are most welcome in the gallery but they should not make comments that are audible in the Chamber.

#### **Ayes, 15**

Mr Buckingham	Mr Pearson	Mr Wong
Ms Cotsis	Mr Primrose	
Mr Donnelly	Mr Searle	
Mrs Houssos	Mr Secord	<i>Tellers,</i>
Mr Mookhey	Ms Sharpe	Ms Barham
Mr Moselmane	Mr Shoebridge	Dr Faruqi

#### **Noes, 19**

Mr Amato	Mr Farlow	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr MacDonald	Mrs Taylor
Mr Brown	Mrs Maclaren-Jones	
Mr Clarke	Mr Mallard	<i>Tellers,</i>
Mr Colless	Mr Mason-Cox	Mr Franklin
Ms Cusack	Mrs Mitchell	Dr Phelps

**Pairs**

Mr Veitch  
Ms Voltz

Mr Harwin  
Mr Gallacher

**Question resolved in the negative.**

**The Greens amendment No. 2 [C2016-017] negatived.**

**The CHAIR (The Hon. Trevor Khan):** Before I put the question with regard to schedule 2, does anyone wish to make any further comments with respect to that schedule?

**Mr DAVID SHOEBRIDGE** [12.29 p.m.]: Like the Opposition, The Greens oppose schedule 2 in its entirety.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [12.29 p.m.]: The Opposition opposes having any part of schedule 2 remain in the bill. The reasons were outlined more fully in the second reading debate, but in summary they are as follows. The expansion of the definition of a mine, as proposed, will criminalise currently legal protests occurring across New South Wales in connection with coal seam and unconventional gas exploration. The Knitting Nannas, the ordinary citizens, the farmers—all of whom have profound and legitimate concerns about these proposals—are currently engaging in perfectly lawful, legitimate protests against policies and proposals which they do not accept or with which they do not agree. This expansion of the definition would extend to those persons a criminal liability that does not currently exist. Those people are clearly the targets of this part of the bill which strikes at the heart of people's right to protest peacefully and legitimately in our society. We strongly oppose this schedule being included in the legislation.

**The Hon. WALT SECORD** (Deputy Leader of the Opposition) [12.30 p.m.]: As the shadow Minister for the North Coast I speak in support of the Hon. Adam Searle's proposal to remove the definition of coal seam and unconventional gas exploration from the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. My contribution will be brief as the views and will of the community are clear. The Lock the Gate Alliance, the Knitting Nannas Against Gas and the North Coast community all want to see the definition of coal seam and unconventional gas removed from the bill. Voting against schedule 2 to the bill and removing it, in particular section 201 (2), which relates to mines, will do that. As I said last night, this bill is directly and squarely aimed at the Bentley blockade, the Knitting Nannas Against Gas and the Pilliga and it should be feared by the North Coast and the Pilliga. A pair of handcuffs will not stop the Knitting Nannas.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [12.32 p.m.]: Just to be clear, this legislation is not directed only at people who choose to lock on. The current definition in the Crimes Act relates to people who merely hinder a mine operation. I know this point was made before, but by expanding this definition to coal seam and unconventional gas—first of all I think it is a live debate about whether gas extraction is mining in the ordinary sense, so what is being done here is fairly artificial—it has been strained to achieve the political purpose of this Government, which is to significantly criminalise currently lawful, peaceful protest activity.

Make no mistake about it: that is the Government's conscious intent, targeted specifically at the North Coast of New South Wales and the many hundreds of citizens who have come together to act collectively against what they see as a rapacious despoiling of their land and water resources. We should not as a Parliament go down this path. People in our society should have the right to protest peacefully. Things that are not now a criminal offence should not be criminalised. I note that yesterday Reverend the Hon. Fred Nile addressed a rally outside Parliament House and said that he would not be voting for anything that impinged on people's right to peacefully protest. We can have this debate about other parts of the bill, but this—

**Reverend the Hon. Fred Nile:** Peaceful protests.

**The Hon. ADAM SEARLE:** I have the call. This part of the bill extends criminal liability in the Crimes Act, punishable by up to seven years in prison—so we know it is not an automatic penalty, it is a maximum.

**Reverend the Hon. Fred Nile:** Not mandatory.

**The Hon. ADAM SEARLE:** It is not mandatory, but it extends criminal liability beyond where it is now to people's currently lawful and peaceful activities—farmers, citizens, Knitting Nannas and others—and it is targeted in a geographical sense to the North Coast of New South Wales. When we divide on this schedule the community will know who lines up with big business and who stands with his or her community.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [12.34 p.m.]: The Government supports the schedule 2 amendments to the Crimes Act. Just to reinforce what was said earlier, this is not directed at the Knitting Nannas; it is directed at people who place themselves and other members of the public in harm's way. We support schedule 2.

**Mr DAVID SHOEBRIDGE** [12.35 p.m.]: Nothing in this schedule talks about being in harm's way, nothing at all. The Parliamentary Secretary just made that up because he is embarrassed by the scope of his law.

**Ms JAN BARHAM** [12.35 p.m.]: I speak in support of schedule 2. The intent of this bill and these amendments is clear—it is focused on the North Coast. That was made clear in the past two weeks when the truth was revealed in regard to the North Coast plan. People must think that because those who are living on the North Coast are a peace-loving, alternative community, they are stupid.

**Mr Scot MacDonald:** Point of order: Nothing in this schedule relates to geography or to a particular part of the State. The member should be brought back to the amendment.

**The CHAIR (The Hon. Trevor Khan):** Order! The member is being generally relevant but she knows that I have listened to her contributions before. She can continue to make a contribution that is relevant to the amendment before the Committee.

**Ms JAN BARHAM:** As a North Coast resident I am proud of the fact that I am a member of a strong activist community that engages in non-violent direct action to protect and preserve the environment, the land, the water and the rights of people on the North Coast and throughout New South Wales. It should be borne in mind that on the North Coast we also preserve and protect a playground and holiday destination for not only people in New South Wales but also people in Australia and throughout the world who come to visit one of the most beautiful areas on the planet—a high biodiversity area that is under threat of being destroyed because of the ludicrous proposals being put forward by the Government. What concerns me is that the schedule 2 amendment to the Crimes Act 1900 No. 40 refers to an expansion of the definition and consideration of a mine. Wherever we have mining or the potential for mining on the North Coast those areas will be targeted. The Nationals members on the North Coast are now saying that they are opposed to these actions and that they want to protect—

**The Hon. Walt Secord:** It means nothing; it may be nothing.

**Ms JAN BARHAM:** I must be naïve and gullible to believe—

**Mr Scot MacDonald:** Point of order: The member is engaging in a political speech and is not addressing the schedule.

**Ms JAN BARHAM:** It is important to put on the record what is going on here. As I was saying before I was rudely interrupted, in the past two weeks the Government has gone back on its word. It has released a document that refers to a long-term plan for the North Coast—

**The CHAIR (The Hon. Trevor Khan):** Order! The member is now straying well beyond the topic. If she has nothing relevant to say she should resume her seat.

**Ms JAN BARHAM:** As someone who contributes rarely to these debates and who tries to keep her representations minimal I find it a little rude—

**The CHAIR (The Hon. Trevor Khan):** Order! I call Ms Jan Barham to order for the first time.

**Ms JAN BARHAM:** In section 201 (2) the definition of "mine" includes "a place at which gas or other petroleum is extracted from the ground". I support the comments that were made earlier that this section targets

that part of this State in which those activities have been highlighted. I therefore support the call for its removal. It is imperative for people to retain the right to protect and preserve the natural environment. They have the right to protect and preserve productive farming, as opposed to mining, which will exclude the sustainable, economic and productive use of that land. We are in a situation where the community knows better than government what is right for the future. It is a sad day when legislation comes before the Committee that destroys trust and breaches the relationship between government and the people. The Government should heed the Opposition's request if it wants to retain any level of trust in the community about the intent of this legislation.

**Mr JEREMY BUCKINGHAM** [12.40 p.m.]: As Mr David Shoebridge said, The Greens support the call of the Opposition to remove schedule 2 which expands the definition of a "mine". I have spent a lot of time studying the issue of unconventional gas, which is a very big industry. Unconventional gas mining is one of the biggest industries in the world. Members might not be aware of the size of the industry in the United States—in Texas and Oklahoma. Those members who have not been to Injune, Roma, Myall or Chinchilla recently should go and have a look because that landscape has been turned upside down.

**The CHAIR (The Hon. Trevor Khan)**: Order! The member is making a contribution to the second reading debate. He should be addressing whether schedule 2 should be included in the bill. This is not an opportunity for him to make a speech about coal seam gas. He should confine his remarks as to whether schedule 2 should be included in the bill. I ask the member to direct his thoughts, before he speaks, to that question. If he does not do so, he will be asked to resume his seat.

**Mr JEREMY BUCKINGHAM**: This schedule expands the definition of a "mine" to include petroleum, which is coal seam gas. How could it possibly not be important to talk about coal seam gas?

**The CHAIR (The Hon. Trevor Khan)**: Is the member cavilling with my ruling?

**Mr JEREMY BUCKINGHAM**: No, I am not.

**The Hon. Robert Borsak**: Point of order: The member is canvassing your ruling.

**The CHAIR (The Hon. Trevor Khan)**: Order! I uphold the point of order.

**Mr JEREMY BUCKINGHAM**: I note that so far in debate on the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 and the inclusion of schedule 2, we have not had a contribution from The Nationals members. As we are talking about expanding the definition of a mine I would have hoped for a contribution from members of The Nationals.

**The Hon. Duncan Gay**: Point of order: We are debating whether or not to include schedule 2, not whether or not members of The Nationals have spoken. The member should be asked to refer to the schedule and not make a contribution to debate on the second reading. The member is once again breaching your ruling and is making a contribution to debate on the second reading.

**The CHAIR (The Hon. Trevor Khan)**: Order! The Mr Jeremy Buckingham is alive to the fact that he is addressing whether the schedule should be included in the bill. I invite him to address that question.

**Mr JEREMY BUCKINGHAM**: I do not believe the schedule should be included in the bill because the new definition is too expansive. It is expansive because the industry is expansive. That is what we are talking about. We are talking about whether or not the expanded definition of a mine should be included in the bill and whether or not coal seam gas, unconventional gas, should be included in this section of the Crimes Act. I do not believe it should be included. This industry is massive—the pipelines, compressor stations, ponds, work camps and trucks. The key issue relating to this industry is the massive number of vehicle movements associated with it. My experience with the unconventional gas industry in the United States, in Queensland and in New South Wales, is that people confront this industry on the roads as they are used by tankers, trucks and workers. The area where there is conflict between farmers and unconventional gas mining is on the roads. As the protests relating to unconventional gas are not unsafe or illegal this schedule should not be included in the Crimes Act.

**Question—That schedule 2 stand as part of the bill—put.**

**The Committee divided.**

**Ayes, 20**

Mr Ajaka	Ms Cusack	Mrs Mitchell
Mr Amato	Mr Farlow	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr MacDonald	Mrs Taylor
Mr Brown	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Clarke	Mr Mallard	Mr Franklin
Mr Colless	Mr Mason-Cox	Dr Phelps

**Noes, 16**

Ms Barham	Mr Pearson	Ms Voltz
Mr Buckingham	Mr Primrose	Mr Wong
Ms Cotsis	Mr Searle	
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Donnelly
Mr Mookhey	Mr Shoebridge	Mr Moselmane

**Pair**

Mr Gallacher

Mr Veitch

**Question resolved in the affirmative.****Schedule 2 agreed to.**

**The CHAIR (The Hon. Trevor Khan):** Order! We will deal with schedule 1. Does any member wish to speak to schedule 1? The question I will put is: That schedule 1 stand as part of the bill. The running sheet says that The Greens wish to vote against that.

**Mr JEREMY BUCKINGHAM** [12.53 p.m.]: That is right. The Greens do not support the schedule, which includes the new offence of aggravated unlawful entry on inclosed lands. As stated in the debate on the second reading, The Greens do not believe that the schedule should be included in the new legislation. The Government has made no case for broadening the existing law on trespass or entry on inclosed land to include aggravated unlawful entry. The Greens believe that the victims of this schedule will be the State's recreational hunters. Navigating western New South Wales is very difficult. Occasionally people find themselves on the wrong side of the fence, leaving a gate open or scaring some sheep.

**The Hon. Duncan Gay:** Leaving the tap on.

**Mr JEREMY BUCKINGHAM:** That is right. They will incur a \$5,500 fine. Trespass is the number one rural property crime in this State. Under this law, doing anything that has been deemed unsafe can incur a fine. I point out to the Committee, and to the Shooters and Fishers Party in particular, that firing a rifle on someone's land, even if a person does not know that he or she is on private land, is unsafe and will incur a fine. The farming community wants recreational hunters and shooters to be severely dealt with. On one hand the Shooters and Fishers Party is supporting laws that lock up farmers for seven years for protesting against Shenhua and coal seam gas operations, while on the other hand the Government is bringing in laws that will put recreational hunters squarely in the sights of a \$5,500 fine. It is remarkable. The Greens are trying to save the Government and the Shooters and Fishers Party from themselves.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [12.56 p.m.]: The Opposition supports schedule 1 being removed from the bill, not only because there is no rational justification for an elevenfold increase in the penalty for breaching the Inclosed Lands Protection Act but also because this provision elevates business interests above the interests of the community and private property owners. What is the aggravation? The aggravation is trespass on inclosed land on which any business or undertaking is conducted. People in business will get a special deal. There will be a \$5,500 penalty to protect their rights, but for every other property owner there will be only a \$500 penalty to protect their property rights. The Government is on the side of big business. It is not on the side of ordinary landowners and the community.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [12.57 p.m.]: The Government supports the inclusion of schedule 1 in the bill as read. The bill is very clear in 4B (1) (b). It says:

... does anything that gives rise to a serious risk to the safety of the person or any other person on those lands.

The Government supports the inclusion of that schedule.

**Mr DAVID SHOEBRIDGE** [12.57 p.m.]: The Government cannot seriously be saying that firing a weapon on a stranger's property without the permission of the property owner is anything other than—

**The CHAIR (The Hon. Trevor Khan)**: Order! I remind Mr Jeremy Buckingham that he is already on one call to order.

**Mr Jeremy Buckingham**: No, I am not.

**The CHAIR (The Hon. Trevor Khan)**: Order! If he is not, he will be shortly. I ask Mr Jeremy Buckingham to keep his voice down.

**Mr DAVID SHOEBRIDGE**: The Government says that this schedule is only about a serious safety issue. Perhaps the Government has such a perverse view of guns that it thinks that a stranger wandering onto somebody's property without permission and firing a firearm is not a serious safety issue. The Greens are not opposing this law in order to protect recreational shooters.

**Question—That schedule 1 stand as part of the bill—put and resolved in the affirmative.**

**Schedule 1 agreed to.**

**Progress reported from Committee and consideration set down as an order of the day for a later hour.**

#### **ASSISTED REPRODUCTIVE TECHNOLOGY AMENDMENT BILL 2016**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka.**

**Motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka, agreed to:**

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

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

*[Deputy-President (The Hon. Bronnie Taylor) left the chair at 1.04 p.m. The House resumed at 2.30 p.m.]*

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

#### **QUESTIONS WITHOUT NOTICE**

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#### **ROADS AND MARITIME SERVICES PHOTO IDENTIFICATION**

**The Hon. ADAM SEARLE**: My question without notice is directed to the Leader of the Government, and Minister for Roads, Maritime and Freight in both of those capacities. What is the Government's response to concerns within the New South Wales Sikh community that Roads and Maritime Services [RMS] is advising members of that community that their religious headdress does not meet RMS guidelines for photo identification?

**The Hon. DUNCAN GAY**: I understand where the member is coming from. It is a vexed question.

**The Hon. Greg Donnelly**: Just answer it.

**The Hon. DUNCAN GAY**: Did you have a supplementary question?

**The PRESIDENT:** Order! The Leader of the Government will ignore interjections. The Hon. Greg Donnelly will restrain himself from making them. The Leader of the Government has the call.

**The Hon. DUNCAN GAY:** Sikh headdress is one of the most vexed issues in road safety, particularly when it comes to wearing helmets. Helmets do not fit over the headdress. Some Sikhs will tell you with a wry smile that their headdress should give them some protection anyway. I always detect the smile; they are a great community. The question has to do with the photo identification of Sikhs. I am advised that they are able to leave their headdress on and arrange it around their face to fit the requirement of the photo.

**The PRESIDENT:** Order! The Hon. Walt Secord will restrain his incredulity.

### SYDNEY ROAD NETWORK INFRASTRUCTURE

**The Hon. CATHERINE CUSACK:** My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on how the Government is fixing key missing links on Sydney's road network?

**The Hon. DUNCAN GAY:** As the member knows, when we came to office in 2011 we promised to fix the major missing links in Sydney's congested road network. For 16 years motorists pleaded with a conga line of Labor roads Ministers—seven of them in less than five years.

**The Hon. Rick Colless:** How many?

**The Hon. DUNCAN GAY:** Seven. We have had one. Motorists pleaded with those Ministers to widen and extend both the M4 and M5 and join them together to form a continuous, free flowing motorway. Motorists also pleaded with Labor to link the M2 to the F3, now called the M1, to ease chronic traffic congestion on Pennant Hills Road. I am delighted to say that under this Government these missing motorways links are being built to address these issues, notably WestConnex and NorthConnex. By the end of 2017 the M4 will have been widened from Parramatta to Homebush to four lanes in each direction—something Labor promised nearly 20 years ago but never did.

Midway through this year we will start to extend the M4 in a road tunnel from Homebush through to Parramatta Road and the City West Link. Subject to planning approval, at the same time we will commence construction of the new M5. In layman's terms, we will build a new six-lane motorway running underground in twin tunnels roughly in parallel to the existing M5. Importantly, the last stage of WestConnex will join two motorways together via a road tunnel extending from Haberfield to St Peters. More than two-thirds of WestConnex will be underground. That will help to remove through traffic from busy inner city suburban streets, not to mention the central business district. Within months we are commencing construction of the nine-kilometre road tunnel called NorthConnex, which will take up to 5,000 trucks a day off Pennant Hills Road.

**The Hon. Trevor Khan:** Goodness gracious.

**The Hon. DUNCAN GAY:** Exactly. Combined with our historic investment in passenger rail and our Easing Sydney's Congestion Program, these missing link projects will help ensure that Sydney never becomes like Mexico City. Alarmist claims such as those in today's newspaper fail to recognise Mexico City has close to the entire population of Australia packed into one of the most densely populated urban areas on the planet. In relation to road pricing, we have a way to go in continuing to expand our public transport system before we could even start to contemplate major reforms in that space. Our laser focus will continue to be on providing Sydneysiders—particularly those living in the outer suburbs—with better commuting options via roads as well as public transport. Any plans for different infrastructure funding models would need to be considered by the Federal Government in consultation with the States. I note Minister Fletcher has suggested that a road pricing scheme, if introduced, might be 10 or 15 years away.

### CIRCUS ANIMALS

**The Hon. WALT SECORD:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. What is the Government's response to community concerns that some circuses are using Crown land as a loophole to circumvent New South Wales councils which have bans on live animal circuses?



**The Hon. NIALL BLAIR:** Protocols, procedures and systems are in place in relation to any exhibited animal in this State. I am advised that the use of animals in circuses in New South Wales is regulated under the Exhibited Animals Protection Act 1986, which is administered by the Department of Primary Industries. The administration of the Act is facilitated by prescribed standards for the exhibition of circus animals in New South Wales. These enforceable standards, which have been adopted nationally, cover a wide range of requirements such as suitability of animals, animal housing and management, transport, performance and training, animal dignity and public safety. Inspections of circuses are carried out by officers of the Animal Welfare Unit to assess and enforce compliance with the Act and the standards. Compliance with these standards ensures that circus animals in New South Wales receive an appropriate level of care.

Occasionally there are campaigns by animal activists against the use of animals in circuses in New South Wales. These campaigns often do not take into account the fact that circuses in New South Wales must comply with rigorous, enforceable standards and that examples of poor circus animal welfare are extremely rare. The RSPCA NSW, the Animal Welfare League NSW and the NSW Police Force are the enforcement agencies for the Prevention of Cruelty to Animals Act 1979. None of these agencies has ever brought an action under that Act against a circus for using cruel training techniques in New South Wales.

The member asked about some of the decisions that some local government areas have made. Obviously I cannot comment on that because that is a matter for those councils. What I can say is that regardless of whether councils want circuses on their land or not, as Minister, I must ensure that the conditions under the Exhibited Animals Protection Act 1986 are adhered to. The Department of Primary Industries does a good job in overseeing that Act through its inspection regime. As I clearly outlined earlier in my answer, the requirements that are outlined are in line with the national standards. Whether we should or should not have circuses is a personal opinion. As I said, many circuses travel the country and we have standards in place that are covered under the legislation that we have in New South Wales and they are overseen by my department.

If the member has a particular concern—other than councils not wanting circuses in their area—or if anyone else has a concern about the way that some of these circuses are operating, they should report their concern to the relevant agencies. If there are issues around animal welfare or if anyone thinks that there are breaches in relation to the standards that are set out in the Exhibited Animals Protection Act, a report should be made to the Department of Primary Industries under the Prevention of Cruelty to Animals Act.

### **WILCANNIA WEIR AND WATER SUPPLY**

**Mr JEREMY BUCKINGHAM:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. On 30 October 2014 the Government announced a feasibility study for an upgrade to the weir at Wilcannia, stating that "the study will take nine to 12 months to be completed". It is now 18 months later. Where is the feasibility study into the Wilcannia weir and what are its recommendations?

**The Hon. NIALL BLAIR:** The Government has engaged consultants to prepare a feasibility study for a new weir at Wilcannia. A number of government agencies, together with representatives of Central Darling Shire Council, the Wilcannia Aboriginal Land Council, the Wilcannia Working Party and the Wilcannia Tourism Association, have been working closely on this project. The consultants' report is due to be delivered to the Department of Premier and Cabinet and the Department of Primary Industries—Water shortly. Once the report has been considered by the Government the future stages of the project will be discussed. These may include detailed engineering designs, environmental studies and community consultation activities.

There is strong community support for a new weir downstream of Wilcannia. The feasibility study has been focused on suitable sites within a few kilometres of Wilcannia. I share the member's concern in relation to water security for towns such as Wilcannia. There is no doubt that things are desperate, particularly in the western and north-western part of our State and those communities that rely on the Darling River for their water supply. A number of contributing factors have led to this situation. One significant factor has been the lack of inflows that are coming particularly from Queensland and northern New South Wales into the Darling River.

I have said before that in New South Wales in 2016 I wish, as Minister for Lands and Water, that I did not have to speak about this issue in this House because we want to ensure that all of our regional communities have access to the things that those communities in our larger cities quite often take for granted. That is one of the reasons we are looking at the issues around Broken Hill and the surrounding areas. As I have indicated, the report, hopefully, will be delivered very soon. We then need to ensure that we have the adequate sites,

infrastructure and programs in place to deliver not just bandaid solutions—which may have happened in some of our communities in the past—but to put the infrastructure in place that gives some of our regional communities certainty. They need certainty not only for the quality of life that we all expect in New South Wales but also for the opportunity to grow and add to the triple bottom line that those regional communities in New South Wales deserve in 2016.

We have committed record amounts of money to regional water security in this State with the infrastructure that we have on the table. We will continue to plan and work with those communities that need more infrastructure into the future. I share the member's concern and I hope all members of this House support the solutions that we bring forward. The answer is that hopefully the report will be delivered shortly and then we will need to look at the next steps once we receive it.

**Mr JEREMY BUCKINGHAM:** I ask the Minister a supplementary question. Could the Minister elucidate his answer in respect to his comment that the recommendations in the report will be delivered shortly and hopefully soon? Could the Minister further define what "shortly" and "hopefully soon" mean? Does that mean days, weeks, months or more years?

**The Hon. NIALL BLAIR:** From the information that has been provided to me, I do not have an exact date as to when this report is due. Obviously, there are many components with this and, as I indicated in my answer, when we are consulting with a wide range of stakeholders on this issue we need to ensure that we get their views. As I said, the advice I have received is that we will be getting this report shortly. If I had anything else other than that advice I would be happy to share that with the House. I think it has been quite clear from my answer that I am concerned about this issue and we are committed to getting on and delivering for these communities. But I reiterate, we want to ensure that when we do these things we do them so that whoever is in my position in the future—I could probably take a punt and say it will not be Mr Jeremy Buckingham, but whether it is the former Opposition spokesperson for Water or someone else—knows that the decisions that we make now are long-lasting.

**The PRESIDENT:** Order! Members will cease interjecting. I am sure Mr Jeremy Buckingham wants to hear the answer. The Minister has the call.

**The Hon. NIALL BLAIR:** We want to ensure that the decisions that we make and the infrastructure that we build will be supported by the community and that they provide the right results. We have committed to that and we will continue to commit to it.

### PREMIER'S GALA CONCERTS FOR SENIORS

**The Hon. SHAYNE MALLARD:** My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister update the House on the 2016 Premier's Gala Concerts for Seniors?

**The Hon. JOHN AJAKA:** I thank the member for his question. It is a privilege to serve as the Minister for Ageing. In this role I am constantly reminded of the valuable role that seniors play in our community.

**The PRESIDENT:** Order! I call the Hon. Shaoquett Moselmane to order for the first time.

**The Hon. JOHN AJAKA:** The Premier's Gala Concerts for Seniors are an opportunity for the Government to say thank you to our seniors. These concerts celebrate the contribution and value of older people in our community. For the past 32 years the concerts have been held at the Sydney Entertainment Centre. However, as members would be aware, due to the work of this Government to deliver a new international convention, exhibition and entertainment precinct at Darling Harbour, this year the concerts have been moved to the Allphones Arena at Sydney Olympic Park.

There will again be four free concerts, with more than 30,000 seniors expected to attend. There will be a morning and afternoon concert on 5 and 6 April. Last year's concert-goers were entertained by the "Viva Las Vegas" theme. This year the theme of the concerts is "Putting on the Ritz"—a toe-tapping step back to the thirties and forties. The concerts will celebrate the music of Harry Connick Jr, Michael Bublé, Frank Sinatra and Tony Bennett, to name a few. I am sure that seniors of all ages will love the music featured in this year's concerts.

We are all aware that the concerts are so popular each year because of the high-quality entertainment on stage, showcasing some of the best Australian voices—a mix of well-known names and some wonderful emerging talent. This year will be no exception. This year's concerts will be hosted by the Australian television personality Gretel Killeen, a well-known journalist and author. Entertainment includes the likes of Bobby Fox, John Bowles and Chloe Dallimore, to name just a few. As always, the concerts will be supported by an Auslan interpreter and special tickets have been organised for a number of seniors with hearing impairment to attend.

Free tickets have been available via Ticketek and Westfield concierge desks since Tuesday of last week. I am advised that tickets to the morning concerts are almost exhausted. However, tickets to the afternoon shows are still available. Bookings are essential. I encourage anyone interested in these popular concerts to book their tickets quickly. To enhance the visitor experience, the NSW Seniors Festival Expo is being held as a stand-alone event to the Premier's Gala Concerts in the forecourt of the Allphones Arena. The expo will provide an opportunity for the thousands of seniors attending the concert to engage with government, peak seniors groups, and organisations and businesses with services relevant to seniors.

The concerts are a major highlight of the NSW Seniors Festival, which runs from 1 to 10 April. The Government wants our wonderful seniors to have a fun and active time during the festival. I hope the concerts have them enjoying themselves and toe-tapping. The Premier's Gala Concerts are additional to the highly successful annual Seniors Christmas Concerts, which have been presented by the Government in regional and outer metropolitan areas since 2013. I am pleased to see the large number of members from the other House, and some from this House, who have applied for the tickets. It is interesting to note that while some members on the other side of the Chamber seem to want to make fun of these concerts, a number of them have applied for a ticket. I congratulate all members—even those from the other side—who have applied for a ticket. They know the true value of these concerts. They are a way of saying thank you to seniors.

#### **GOLD COAST AIRPORT DEVELOPMENT PLAN**

**Ms JAN BARHAM:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. I refer to a report in today's *Gold Coast Sun* that the post-approval release of a major development plan for the Gold Coast Airport instrument landing system has confirmed that the same two perfluorinated compounds that affected water and animal life near the Williamstown RAAF base are present in soils in the Gold Coast Airport's fire station and training area. Was the Minister informed of this contamination prior to today's media report? Will the Minister advise whether any investigation has been conducted of potential impacts on fisheries, given the site's proximity to the class 1 fish breeding habitat of the Cobaki Broadwater? What action will be taken to investigate the matter?

**The Hon. NIALL BLAIR:** I thank the member for her question. She made reference to a report in the *Gold Coast Sun*. I have not read it today. In relation to the Gold Coast Airport lease and the proposed works there, as I have indicated to the House previously, a New South Wales Crown lease was granted to Gold Coast Airport Pty Limited on 18 October 2013 for airport infrastructure and land management purposes. New South Wales Crown land under this lease adjoins the Gold Coast Airport, which is held under a Commonwealth land lease. The New South Wales Crown lease and the Commonwealth land lease both expire in 2048, with a 49-year option to extend.

The New South Wales Crown lease does not authorise any works, but does provide for the installation of airport infrastructure works, subject to obtaining the relevant planning approvals. Airport infrastructure, under the terms of the lease, could include the expansion of the runway but at the moment there are no plans to do that. The proposal for the new airport infrastructure is described in a major development project and is limited to the installation of an instrument landing system. Planning approval for airport infrastructure is subject to Commonwealth legislation. Approval of the major development project under the Commonwealth Airports Act 1996 was granted by the Federal Minister for Infrastructure and Regional Development on 25 January 2016. Approvals for the components of the instrument landing system that affects the New South Wales Crown land lease area is pursuant to a different piece of Commonwealth legislation—the Air Services Act 1995—and this approval process has not yet been determined.

I know that the member opposite gave a notice of motion on this issue this morning. I was having a discussion with the Hon. Catherine Cusack in relation to this and, as a resident of the North Coast, she was saying that at the moment—and I would be happy to be corrected by my colleague—roughly 200 flights that could be landing in the Gold Coast are getting diverted to Brisbane because we do not have this type of infrastructure at the Gold Coast Airport. That is why the Commonwealth Government wants to put the

instrument landing system in place. It is a key piece of infrastructure that the Commonwealth Government believes would be of benefit to the Gold Coast Airport and the surrounding communities. It would benefit those who utilise the Gold Coast Airport, particularly the New South Wales North Coast as it relies upon tourism.

In relation to the matter of the perfluorinated or PFOS compounds, I would ask the member to direct that part of the question to the Minister for the Environment. We know that, particularly in the Williamstown situation, the Environment Protection Authority [EPA] has taken a lead role. I have consistently referred any questions on contamination—and PFOS, in particular—to the Minister for the Environment because the lead agency is the EPA. I give the same response to the member at this stage.

**Ms JAN BARHAM:** I ask the Minister a supplementary question. Will the Minister clarify whether he was aware that the draft major development plan that was exhibited for public comment failed to mention that those contaminants were on that site and likely to have an impact on the Crown reserves and the fisheries of the Tweed?

**The Hon. Dr Peter Phelps:** Point of order: That is a new question.

**The PRESIDENT:** Order! I remind members that supplementary questions must seek an elucidation of an aspect of an answer that has been given. It is not in order to ask a question about a new matter. I rule the supplementary question out of order.

### OMBUDSMAN REPORT OF REVIEWABLE DEATHS

**The Hon. SOPHIE COTSIS:** My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. What steps has the Government taken to implement the recommendations of the NSW Ombudsman's report into deaths of people with disability in care, published in June 2015? Would the Minister confirm whether an agreement between New South Wales and the Commonwealth has been reached?

**The Hon. JOHN AJAKA:** The "Report of Reviewable Deaths in 2012 and 2013, Volume 2: Deaths of people with disability in residential care" by the NSW Ombudsman was tabled in Parliament on 29 June 2015. I am advised that, of the 239 people with disability who died in residential care in 2012-13, 51 per cent lived in accommodation services operated by Family and Community Services [FACS] and Ageing, Disability and Home Care [ADHC]. Forty-two per cent lived in non-government sector operated and ADHC funded accommodation. Six per cent lived in assisted boarding houses and approximately 1 per cent lived in private or community housing with ADHC or non-government support.

The report states that the leading underlying causes of death of people with disability in care were respiratory diseases, accounting for 24 per cent; nervous system diseases, accounting for 17 per cent; neoplasms, primarily lung and breast cancer, accounting for 16 per cent; and circulatory diseases, predominantly heart disease, contributing 11 per cent. The report states that the majority of deaths, 89 per cent, were the result of natural causes. Seven per cent of deaths were the result of unintentional or accidental causes. There were no deaths as a result of intentional causes—for example, assault or suicide. The cause of death for approximately 4 per cent was unable to be determined. There were no deaths of children to report in the period.

The report details the significant reforms that have occurred since the tabling of the last report. These include the introduction of the National Disability Insurance Scheme [NDIS], the introduction of the Disability Inclusion Act 2014, amendments to the Community Services (Complaints, Reviews and Monitoring) Act 1993 and the introduction of simplified information about reducing preventable deaths. The next report, covering 2014 and 2015, is due to be tabled in Parliament in June 2016.

New South Wales government agencies, including NSW Health and the Department of Family and Community Services, have reviewed the NSW Ombudsman's report and provided detailed responses to each recommendation to the NSW Ombudsman. I am advised that the agencies have developed a joint implementation plan and are currently working together to implement responses to the recommendations. I am pleased to advise that the Department of Premier and Cabinet has provided the office of the Ombudsman with a copy of the New South Wales National Disability Insurance Scheme transition plan, which addresses recommendation five.

The work program detailed in the plan includes projects that will support the transition of New South Wales into the national scheme, along with improvements to service delivery to meet the future needs of people

with disability. The New South Wales NDIS transition plan will soon be made publicly available. I am also advised that the Department of Premier and Cabinet is working with FACS and NSW Health to determine the future arrangements for services, including FACS funded and Health related supports, which relates to recommendation nine. In response to the report and to improve accommodation services and disability support services, members from a group within my department continue to work with disability residential care staff and management within FACS districts, the NSW Ombudsman, various local interagency and cross-agency working groups and local NSW Health counterparts to develop local relationships, to promote initiatives and to address the issues.

Information addressing and responding to the report's recommendations has been prepared under the broad themes of recognising and responding to critical situations, effectively managing individual risks, internal reviews by services, and planning to ensure health needs are met in the transition to the NDIS. If members opposite are keen to review progress against recommendations, I am advised that in each of the Ombudsman's reports of reviewable deaths there is a section called "Monitoring our recommendations". *[Time expired.]*

**The PRESIDENT:** I welcome to the public gallery primary school children from Hurstville Grove Infants School and Mortdale Public School, together with their principals, Ms Kylie McKinnon and Mr John Koletti respectively. They are at Parliament today as guests of the member for Oatley, Mr Mark Coure, MP. They are from the electorate where I grew up. I hope you enjoy your visit to Parliament and to question time in the Legislative Council.

### **BROKEN HILL WATER SUPPLY**

**The Hon. SARAH MITCHELL:** My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. Would the Minister please update the House on the long-term solution for Broken Hill's water supply?

**The Hon. NIALL BLAIR:** I thank the Parliamentary Secretary for her question.

**The Hon. Shaoquett Moselmane:** She is a future Minister.

**The Hon. NIALL BLAIR:** I acknowledge the interjection. I am glad that the Hon. Shaoquett Moselmane can identify talent from the other side of the Chamber. She is absolutely a future Minister. The Hon. Shaoquett Moselmane has not said that about too many of his colleagues, but he is happy to acknowledge us on this side. I appreciate that comment from the Opposition Whip. As I have said numerous times, the number one priority is to ensure that the people of Broken Hill have a clean and secure drinking water supply, not only to help the town's economy to prosper but also to maintain quality of life for the people of Broken Hill and surrounding communities. That is why the New South Wales Government is investing up to \$500 million to secure the short- and long-term water supply for Broken Hill and nearby communities.

**The Hon. Trevor Khan:** Goodness gracious!

**The Hon. NIALL BLAIR:** I acknowledge the expression of disbelief from my colleague. This will be the largest ever single investment in water security for a regional community in New South Wales. Any infrastructure project of this size is subject to a technical and financial process. That is just good government. We are well on track to announce the final recommendation from Infrastructure NSW midway through this year. An important part of this process is informing the community. That is why, today, Deputy Director General Gavin Hanlon is meeting with the council and community of Broken Hill.

With council, Mr Hanlon is talking through the next steps of the Infrastructure NSW gateway process that will determine the best solution for Broken Hill's long-term water supply. He will also provide an important update on the current water situation, including a front of water in the Darling River which is about to reach Wilcannia and will arrive at Menindee later in March and be captured in the river channel at Lake Wetherill. Earlier it was thought that an inflow would not make its way down that far because the rain event in Queensland was too far west. As I previously indicated to the House, Lake Eyre is filling as a result. But there have been some heavy localised falls around Bourke and other parts of New South Wales, so we anticipate that some inflow will move down to Lake Wetherill towards the end of March. I hope that all members will cross their fingers for the big weather front that should start to develop around Easter.

**The Hon. Mick Veitch:** You have put the mocker on it.

**The Hon. NIALL BLAIR:** I have not put the mocker on it. The systems are looking positive for some good, widespread rainfall across New South Wales as we head towards Easter. It is important for those communities that rely on big weather events, particularly as we head towards the end of the planting season for winter crops. When I lived in the Riverina, Anzac Day was the cut-off for planting winter crops. I can assure the House that we are out there talking to the community. We are very close to being able to announce the long-term solutions for the Broken Hill community. There has been record investment. Thank God we have implemented the short-term solution, but we are also working on long-term solutions.

**The PRESIDENT:** I welcome to the public gallery Mr Noel Zihabamwe and Mr Bertrand Tungandame, two leaders of our Australian African communities, guests of the Hon. Sophie Cotsis. I trust that they are enjoying question time and their visit to Parliament.

#### INDEPENDENT COMMISSION AGAINST CORRUPTION RAIDS AUTHORISATION

**Reverend the Hon. FRED NILE:** I ask the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Attorney General, a question without notice. Is it a fact that Mr Stephen Lister, registrar of the Newtown Local Court and lately the Downing Centre Local Court, has authorised on at least 10 occasions raids by the Independent Commission Against Corruption [ICAC] on high-profile members of Parliament, businessmen and others—and in particular the Crown Prosecutor Ms Margaret Cunneen, including to obtain her mobile phone that ICAC already held? Is this an unusual procedure—that is, using a court registrar rather than a judge?

**The Hon. JOHN AJAKA:** I thank Reverend the Hon. Fred Nile for his question. I am aware of some of the facts raised by Reverend the Hon. Fred Nile, as are all members of this Chamber. He is seeking specific information from the Attorney General. I will refer the question to the Attorney General and come back with a response.

#### SYDNEY WATER DIVIDENDS

**The Hon. PENNY SHARPE:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given that the percentage of Sydney Water's profits going to the Government's general revenue by way of dividend payments has increased from 70 per cent to 100 per cent, how does the Minister respond to community concerns about the lack of funds for maintenance and other water quality improvement programs as a result of the handover of more funds to consolidated revenue?

**The Hon. NIALL BLAIR:** I thank the Hon. Penny Sharpe for her question. It is interesting. When we talk about dividends—in particular in this case from Sydney Water—being paid to government, we need to also look at what the situation was when those opposite were in government. Sydney Water has paid a dividend to government ever since it was corporatised in 1994. The notion that this Government is all of a sudden the only one that has taken a dividend is quite hypocritical.

**The PRESIDENT:** Order! The Hon. Penny Sharpe will come to order.

**The Hon. NIALL BLAIR:** We do take a dividend from Sydney Water, and that goes into critical infrastructure. As I have said previously, Sydney is absolutely benefiting from the money that we are putting into addressing leaks and building new infrastructure. We are being criticised by those opposite. If I recall correctly the question was about a 100 per cent dividend. Under Labor, the Sydney Water Corporation was paying a dividend of 158 per cent of net profits into government coffers. We are being criticised when Sydney Water is paying a lower dividend—

**The PRESIDENT:** Order! I call the Hon. Penny Sharpe to order for the first time. I call the Hon. Dr Peter Phelps to order for the first time.

**The Hon. NIALL BLAIR:** As I was saying, those opposite when in government were taking 158 per cent of net profits into government coffers, which is a higher percentage than the dividends being paid to this Government. It smacks of hypocrisy. Sydney Water has offered customers across Sydney a reduction of up to \$100 per household with its Independent Pricing and Regulatory Tribunal [IPART] submission. As I said, the number of leaks and breaks is well and truly below what there were when those opposite were in government. What we have here is a comparison. Under this Government household bills have been reduced by

\$100 in the IPART pricing submission by Sydney Water, the Government is taking a lower dividend and Sydney Water is performing better across the board. If those are things that those opposite want to criticise the Government for I guess we will just have to wear that criticism.

### SOUTHERN NEW SOUTH WALES ROAD UPGRADES

**The Hon. RICK COLLESS:** My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on road upgrades south of Sydney?

**The Hon. DUNCAN GAY:** I thank the Hon. Rick Colless for his very important question. The Baird-Grant Government is delivering record investment for road upgrades in New South Wales, from the bush to the beach. This year alone we have invested \$7.5 billion, which is a record in this State. Up the north of the State—

**The Hon. Walt Secord:** Point of order: The question was very clear—it referred to roads south of Sydney. My point of order is on relevance.

**The PRESIDENT:** Order! It is entirely possible that the Minister is talking about the north end of the South Coast. In any case, the Minister has barely started his answer and for the member to take that point of order is absolutely ridiculous. The Minister has the call.

**The Hon. Walt Secord:** Well, I will be interested to hear about the north of the south—

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

**The Hon. DUNCAN GAY:** Up in the north of the State we have the multi-billion dollar Pacific Highway duplication and to the west we have major upgrade works happening along the Newell Highway. Wherever you are in New South Wales—no matter whether you are a truck driver, a motorist, a bus passenger or someone going by plane to an exotic location—you can clearly see the great work this Government has done and will continue to do to improve safety and the experience for road users.

To the south of Sydney we are doing some significant planning for the F6 and have made record investments into improving the Princes Highway. Just last week the Parliamentary Secretary for the Illawarra, and just about everywhere else, the member for Kiama, Mr Gareth Ward, inspected work on the Foxground and Berry bypass. I am sure Mr President is aware of that. It is being built as part of the New South Wales Government funded \$580 million Princes Highway upgrade. So far more than 710,000 cubic metres of material has been removed across the Foxground to Berry bypass project and more than 340,000 cubic metres of rock has been removed and processed for re-use on site.

**The Hon. Trevor Khan:** That's amazing.

**The Hon. DUNCAN GAY:** It is amazing. The Foxground and Berry bypass is expected to be completed by mid-2018. The strategic business case for the F6—or the gateway to the south M1 extension, as it is now known—was completed last year. Work on a final business case is currently underway and is expected to be completed by end of the year. Work is also progressing on the proposed Princes Motorway bypass of Albion Park Rail, which will bypass 16 intersections—reducing crash risk and improving travel times. The people of the Illawarra and the South Coast have been crying out for this for 20 years, and 16 years of those years were during the time Labor was in government. We are aiming for planning approval for the Albion Park Rail bypass project in 2016. We have committed funding through Rebuilding NSW to allow construction to start in 2019.

Whilst we work on the longer term, bigger projects, we are also working on smaller projects to get traffic moving. We have committed \$300 million to fix major pinch points in Sydney's south, thereby improving traffic flows to and from the Illawarra as part of the gateway to the south project. This and more is all from a Government that has committed record funding for the Illawarra region south of Sydney—an area of the State previously neglected and taken for granted by the Labor Party for 16 years. [*Time expired.*]

### COAL SEAM GAS AND NORTH COAST REGIONAL PLAN

**Mr JEREMY BUCKINGHAM:** My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Premier. The draft North Coast Regional Plan released last week by the Government notes:

The NSW Department of Industry is mapping coal and coal seam gas resources in the region. Once completed this information will inform future regional and local planning by providing updated information on the location of resources.

And:

Potential coal seam gas resources that may be able to support the development and growth of new industries and provide economic benefits for the region.

Will the Government guarantee that it will not issue any new coal seam gas licences over the North Coast of New South Wales?

**The Hon. DUNCAN GAY:** The draft regional plan sets a vision for a sustainable and economically diverse North Coast and addresses how the potential development of the North Coast can be met over the next 20 years. The draft regional plan includes a statement about mapping of coal and coal seam resources, which refers to the statewide program of geological investigation to better understand our geological endowments of all mineral and energy resources. The Government has recently completed a buyback of all coal seam gas exploration licences in the North Coast region and has no plans for issuing any new licences in the region. To put it simply, the Government has 25 million reasons why this question and the allegation in the question, and the slur and the sleaze from the Labor Party, are just wrong. When the Labor Party was in government, with the help of The Greens, Ian Macdonald was putting those licences in place. The Greens were riding shotgun and were helping them every part of the way.

**The Hon. Walt Secord:** You were having breakfast in Centennial Park with Ian Macdonald.

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

**The Hon. DUNCAN GAY:** He refused to tell the people that he was part of the government that put those leases in place, but his dishonesty was discovered by the people of the North Coast. There is no-one on the North Coast who trusts the Hon. Walt Secord. I hope that he represents the Labor Party on the North Coast for a decade or more, because everyone who has been connected with him and his hypocrisy has tumbled. Bring this on. We have 25 million reasons why the North Coast is better under this Government than it was under a Greens-Labor Government.

**Mr JEREMY BUCKINGHAM:** I ask a supplementary question: Could the Minister please elucidate his answer that the reference in the North Coast Regional Plan referred only to statewide mapping and confirm that this means there is no mapping occurring in the North Coast region?

**The Hon. DUNCAN GAY:** I have already said that this is state-wide and in fact the draft North Coast Regional Plan acknowledges the region is anticipated to grow by almost 100,000 people by the year 2036. The draft regional plan sets a vision for the development of a sustainable and economically diverse North Coast, which seeks to achieve a balance between the demands such population growth will place on services, the environment and the regional economy. It addresses how potential development and competing demands on land can be met over the next 20 years. In this way the plan will guide strategic planning across the North Coast council areas of Ballina, Bellingen, Byron, Clarence Valley, Coffs Harbour, Greater Taree, Kempsey, Kyogle, Lismore, Nambucca, Port Macquarie-Hastings, Richmond Valley and Tweed.

The plan is a draft and we are looking for input from the public and the community to ensure it is the best plan for the North Coast. The final plan will reflect such comments. I acknowledge the draft regional plan includes a statement about mapping of coal and coal seam gas resources. As I said earlier, this statement refers to the statewide program of geological investigation to better understand our geological endowment of all mineral and energy resources. Whilst the draft plan references the statewide program, this Government has recently completed—as I indicated earlier—a \$25 million buyback of all coal seam gas exploration licences in the North Coast region and has no plans for issuing any new licences in the region.

#### LEO MCCARTHY MEMORIAL PARK

**The Hon. LYNDA VOLTZ:** My question without notice is directed to the Minister for Roads, Maritime and Freight. Given recent works by Roads and Maritime Services at the Leo McCarthy Memorial Park in Smithfield required the Smithfield RSL to spend their own funds to repair their safety fence, why has Roads and Maritime Services refused to reimburse the RSL?

**The Hon. DUNCAN GAY:** I have no idea of the answer to that question. It is one of detail and one that is obviously important to the local sub-branch. I am more than happy to take it on notice to get a definitive answer.



## YOUTH OPPORTUNITIES PROGRAM

**The Hon. SCOTT FARLOW:** My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Can the Minister please outline how the New South Wales Government's Youth Opportunities program is engaging young people in their communities?

**The Hon. JOHN AJAKA:** The Youth Opportunities program provides funding for community organisations and local government to help young people engage with their communities. Late last year I announced grants totalling more than \$1 million for 31 new youth opportunity projects across New South Wales. Research shows that with proper support and opportunities, young people can address a range of risk factors in their lives and play a greater role in their communities. This includes young people living on society's margins and at risk of disengaging from their communities; young people who will respond to mentoring, support and encouragement. As a Government we want to improve access to youth-led and youth-driven activities. We want to increase activity in locally based sport, recreation and cultural activities, as well as events, facilities and venues. Increasing young people's knowledge, skills and confidence also increases their opportunities to link with training and employment.

The Youth Opportunities program provides youth and community organisations and local government with funding for one-off, time-limited new projects. These projects use strategies to support young people's participation, engagement and inclusion in the community to lead and participate in community development activities. Since November 2012, the Government has provided \$6.8 million in Youth Opportunities funding to support 120 local projects. The 31 projects I announced in December 2015 target young Aboriginal people; young people from culturally and linguistically diverse backgrounds; those with disability; and other disadvantaged young people to engage them to be actively involved in their communities. Recently I visited Red Cross's program at Randwick, which works with homeless young mothers, their partners and their children. Young leaders from Red Cross are using their Youth Opportunities grant to work with young parents to develop social enterprise and small business skills as part of supporting them to become independent.

The Cessnock Youth Entertainment Committee is using funding from a Youth Opportunities grant to run a series of live music events and song-writing workshops. This will engage young people on domestic and family violence, and challenge inappropriate learned behaviours as they start to develop their own personal relationships. The Maari Ma Health Aboriginal Corporation, in conjunction with the Murdi Paaki Region Aboriginal Young Leaders Program, is using funding from a Youth Opportunities grant to support young Aboriginal people in 16 Murdi Paaki communities across far western New South Wales to develop their knowledge and skills in project planning, governance and leadership.

Realising Every Dream [RED] is a great project designed by a group of five young people with disability who have experienced challenges attending job interviews and gaining employment. They are creating a living resume in a digital format for themselves and for other young people with disability that will focus on the strengths they can bring to a workplace. These programs highlight this Government's commitment to engaging our young people right across the State. They show that we are committed to helping the next generation of leaders by providing them with the tools and opportunities they may require to fulfil their dreams and make this State an even better place for them to live and work.

**The PRESIDENT:** Order! There is far too much audible conversation in the Chamber.

**The Hon. DUNCAN GAY:** If members have any further questions, I suggest that they place them on notice.

## ROADS AND MARITIME SERVICES PHOTO IDENTIFICATION

**The Hon. DUNCAN GAY:** Earlier the Hon. Adam Searle asked me a question relating to photo identification requirements. The answer that I gave then stands. I also understand that some concerns have been raised by members of the Sikh community about the wearing of turbans and the approval of photos taken for their photo identification card. I am advised that Roads and Maritime Services has asked front-line counter staff to double check the image before uploading it for use on the applicant's card. Roads and Maritime Services also reviews its current facial image guidelines for customers wearing a turban. A turban generally does not need to be adjusted or moved when a photograph is taken for display on a driver licence.

When taking images for display on driver licences and other photo cards, Roads and Maritime Services complies with international standards, which are the same standards used by the Australian Passport Office and

other Australian licensing jurisdictions. The standard requires the area from the top of the forehead to the bottom of the chin, with both edges of the face visible. I am advised that images may be rejected for a number of reasons, including the licence applicant blinking or the turban or headscarf covering parts of the face. Headwear worn for cultural or religious reasons is permitted as long as the required area of the face can be seen. In some cases, the headwear may need to be adjusted slightly when the photograph is taken.

**Questions without notice concluded.**

**FAIR TRADING AMENDMENT (FUEL PRICE TRANSPARENCY) BILL 2016**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. John Ajaka.**

**Motion by the Hon. John Ajaka agreed to:**

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

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

**INCLOSED LANDS, CRIMES AND LAW ENFORCEMENT LEGISLATION AMENDMENT  
(INTERFERENCE) BILL 2016**

**In Committee**

**Consideration resumed from an earlier hour.**

**The CHAIR (The Hon. Trevor Khan):** The Committee will now deal with Opposition amendment No. 1 which appears on sheet C2016-021.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [3.34 p.m.], by leave: I move Opposition amendments Nos 1 to 3 on sheet C2016-021 in globo:

No. 1 **Seizure powers**

Page 5, schedule 3 [1], proposed section 45B (1), line 14. Omit "without warrant".

No. 2 **Seizure powers**

Page 5, schedule 3 [1], proposed section 45B (2), lines 19 and 20. Omit "the police officer suspects on reasonable grounds".

No. 3 **Seizure powers**

Page 5, schedule 3 [1], proposed section 45B. Insert after line 20:

- (3) A police officer may only exercise a power under this section if the police officer is authorised to search the person, vehicle, vessel or aircraft under the authority of a search warrant issued under this or any other Act.

These provisions taken together direct themselves to the far too expansive new seizure powers conferred upon police by this bill. At present the bill allows police officers without warrant to stop, search and detain persons, vehicles, vessels or aircraft on the basis of mere suspicion about the matters contained in the division. They do so as a gateway to seizing property belonging to persons, which property is then forfeited to the Crown and not returned. The amendments do two things. First, they require a police officer to have a warrant before stopping, searching and seizing goods. Secondly, they remove the reasonable suspicion grounds. If an officer's reasonable suspicion turns out to be unfounded, the basis for stopping, searching and seizing goods no longer exists.

These amendments would still permit police to engage in the practice of stopping, searching and seizing goods but they would have to have very solid grounds for doing so and they would also have to obtain the approval of a court. If these extensive and draconian forfeiture powers are to be used against citizens there must be a basis for doing so, not merely reasonable suspicion. I urge all members to give positive consideration to these amendments which will improve the bill and make the measures contained in it more proportionate to the concerns that have been expressed.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [3.38 p.m.]: The Government does not support Opposition amendments Nos 1 to 3. These amendments will limit the ability for police to search and seize lock-on devices to those circumstances where a warrant has been issued, thus enabling police to search and seize any items. Police currently have the power to stop, search and detain a person, and anything in the possession of, or under the control of the person if the police officer suspects on reasonable grounds that the person has in his or her possession, or under his or her control, anything used or intended to be used in connection with the commission of a relevant offence, which includes an indictable offence, without a warrant. Existing powers do not allow for items to be seized unless they may provide evidence of the commission of a relevant offence. The current search and seizure power already operates under the presumption that police can search and seize items that are to be used in the commission of an indictable offence, which includes section 201, and it is appropriate that the power to search without a warrant be included in the bill. The Government does not support the amendments.

**Mr DAVID SHOEBRIDGE** [3.39 p.m.]: The Greens support the Opposition amendments because we believe that the exercise of police power must be constrained by the rule of law. Indeed, we believe that detaining, searching and seizing citizens' property should not be done without a warrant unless there are compelling circumstances. We believe those things primarily because we have kind of been following the way our legal system has developed over the past 800 to 1,000 years. Restraining the power of the State and giving citizens some independence from the arbitrary exercise of that power have kind of been fundamental underpinnings of liberal democracies. We kind of enjoy living in a liberal democracy where police do not have arbitrary search, detention and forfeiture powers.

I do not understand why somebody who purports to represent the Liberal Party wants to give police extended and arbitrary detention, search and forfeiture powers. How on earth does that fit with anybody's liberal philosophy or with living in a liberal democracy? Perhaps The Nationals members think it is appropriate for police to exercise these arbitrary and extraordinarily invasive powers broadly in New South Wales. If so, I ask them to explain how and to also explain why giving police these powers is in the public interest. The Opposition's amendments are very modest. They provide that before the police can—some might say—steal someone's property and destroy it they should have a warrant. That does not seem too revolutionary. In fact, it seems wholly consistent with 800 years of legal theory saying that the arbitrary powers of the State must be constrained. The Government's desire to give police the power to seize and destroy property while expressly legislating that the powers cannot be challenged in court shows at what a low ebb is the discussion of civil liberties in this Parliament.

It is likely that the Shooters and Fishers Party members will not support these amendments. A number of their supporters pointed me to a speech given by a Shooters and Fishers Party member last month in which he referenced comments by Chief Justice Bathurst, who said there is an embarrassing absence of scrutiny of civil rights in this Parliament. His Honour pointed out how fundamental civil rights are being eroded by this Parliament time after time without the Government offering even so much as an acknowledgement of what it is doing. I urge Government members who sit here mutely and tick off the Government's agenda—including case after case of the destruction of core civil rights—to read His Honour's speech. In fact, they could read what the Shooters and Fishers Party member said the other night about the erosion of civil rights. We should also reflect on our behaviour in this Chamber. Regardless of what a member might say in an adjournment speech or what the Chief Justice might say about civil rights we keep doing this kind of rubbish. I support the Opposition's amendments.

**Question—That Opposition amendments Nos 1 to 3 [C2016-021] be agreed to—put.**

**The Committee divided.**

**Ayes, 17**

Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	Mr Wong
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Donnelly
Mr Mookhey	Mr Shoebridge	Mr Moselmane

**Noes, 21**

Mr Ajaka	Mr Farlow	Reverend Nile
Mr Amato	Mr Gallacher	Mr Pearce
Mr Blair	Mr Gay	Mrs Taylor
Mr Borsak	Mr MacDonald	
Mr Brown	Mrs Maclaren-Jones	
Mr Clarke	Mr Mallard	<i>Tellers,</i>
Mr Colless	Mr Mason-Cox	Mr Franklin
Ms Cusack	Mrs Mitchell	Dr Phelps

**Question resolved in the negative.**

**Opposition amendments Nos 1 to 3 [C2016-021] negatived.**

**The CHAIR (The Hon. Trevor Khan):** Opposition amendment No. 4 on sheet C2016-021 and The Greens amendments No. 1 on sheet C2016-018 both deal with the same section, that being new section 45C on page 5. I call the Hon. Adam Searle to move his amendment first.

**Mr DAVID SHOEBRIDGE** [3.52 p.m.]: I will not move The Greens amendment. We support the Opposition's amendment.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [3.52 p.m.]: I move Opposition amendment No. 4 on sheet C2016-021:

**No. 4 Forfeiture powers**

Page 5, schedule 3 [1], proposed section 45C, lines 21 to 31. Omit all words on those lines.

This amendment seeks to remove from the bill new section 45C, which provides for the forfeiture of property seized by police under proposed division 7, which enables police to have the property forfeited to the Crown and to have that property destroyed or otherwise disposed of, sold, and the funds paid into consolidated revenue.

**Mr David Shoebridge:** It's called the cleaning up the farmer's ute provision.

**The Hon. ADAM SEARLE:** I acknowledge that interjection but, more fundamentally, in new subsection (4) it does so without the protection afforded by law to due process and oversight providing for administrative seizure of property only, which is, I believe, a far too rapacious and dangerous provision. We ask members to join us in removing the provision from the panoply of provisions in this bill. All we seek to do is to balance out the matters proposed in the bill by retaining, under part 17 of the Law Enforcement (Powers and Responsibilities) Act 2002, the supervisory jurisdiction of the courts provided for in part 17. In short, we simply ask members to retain the due process of law and the role of the courts in enabling persons whose property is taken by police to have that property returned if the matters that are said to give rise to the reasonable suspicion prove to be without foundation, or the need for the seizure passes.

We are not asking for much; we are asking for the status quo—for citizens to have the right to approach the courts to have their property returned when the need, if there is a need, that gives right to the requirement for their seizure has passed. This provision is far too expansive and rapacious and it is dangerous. Administrative agencies, particularly ones such as the police, need the supervision of the courts to ensure that there is not an excess of power, an excess of zeal or, indeed, a slide towards tyranny.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [3.55 p.m.]: The Government does not support Opposition amendment No. 4. The forfeiture powers are designed to remedy a current problem being faced by police. Currently, police will seize items that are used to lock on but then must return the items to the protesters because of the operation of part 17 of the Law Enforcement (Powers and Responsibilities) Act. The provision in the bill will mean that protesters are not able to continue to use items to lock on, which would undermine the purpose of the changes. The Government does not support the amendment.

**Mr DAVID SHOEBRIDGE** [3.55 p.m.]: Nowhere in the bill does it say that there has to be proof for police to seize property, only that police have a reasonable suspicion that it was being used for a lock on or that it was intended to be used for a lock on or to interfere with a business. Police just have to have a reasonable

suspicion, and that reasonable suspicion is enough for the Government to say that not only can police stop, detain, search and remove the items but that reasonable suspicion—never tested in court—is enough for them to also toss it into the incinerator or have it destroyed.

Since when did we get to the point where a farmer's ute can be emptied out by the police on a country road and the fencing wire, the rope, the cabling, the locks in the farmer's ute can be seized by police on suspicion and then, not only having been seized by police on suspicion, the police can destroy the items without ever having to trouble a court. The farmer who is concerned about his ute being emptied out and destroyed by the local constabulary is expressly given no rights to approach a court to even seek to have his property returned or to prevent the destruction of it.

This is extreme legislation being pushed notionally by a member of the Liberal Party from the country who does not even seem to understand the extent of the power being given. The police just have to say that the person was going to use the items for protest—they do not have to prove it; it is just a reasonable suspicion of a police officer and there is no proof in court. The farmer might say, "Bloody hell, I was actually going down to my bottom paddock past the protest. There was a protest out the front, I drove out onto the main street, I was going past the protest, I was going into town to do some shopping." The police officer has seen a ute approaching a protest, stops the ute, has a look in the back, sees the fencing wire, the cabling, a couple of locks and a bit of chain and seizes them.

The farmer says, "I was not going to go to the protest, I was not going to lock on, I was going shopping." But the police officer says, "I see a ute with this kind of material going through a protest. I have a reasonable suspicion that you were going to be using it to lock on. I am going to seize and detain it," and he takes it back to the local police station and destroys it. The farmer has not a single right because the Government, in its wisdom—the Nationals and the Liberal Party—supported by the Shooters and Fishers Party, has said that it should expunge any legal rights for the farmer to challenge the seizure. The same thing can happen if somebody is riding a bike near a protest somewhere in Sydney. The police officer sees someone riding a bike near a WestConnex protest and the person might have one of those u-locks on the bike.

Maybe the person riding the bike is a male with long hair, wearing a shabby T-shirt. The police officer pulls over the cyclist and says, "What are you doing with that lock on your bike? You are near a protest. I have a reasonable suspicion you are going to use it to lock on," and then removes the lock from the cyclist, takes it back to the local police station and destroys it. There are no rights anywhere for people to challenge the exercise of this power. When did we get to this point? What is the mischief that is to be remedied by this? Let us get it right. The Government has a concern that people have been locking on in order to stop coal seam gas. The Government does not like it, the Minerals Council does not like it, and the mining companies do not like it. We get that they do not like it.

**Reverend the Hon. Fred Nile:** The police don't like it.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjection from Reverend the Hon. Fred Nile. The police do not like it. We get that. That has slowed the coal seam gas industry or largely stopped it in its tracks. It is a noxious industry that the majority of people in the State do not want. One would have to say it is a win for New South Wales. New South Wales wins from a bunch of protests. Our environment and farming land are largely protected from coal seam gas. It is not a perfect situation and the struggle goes on, but they are largely protected. That is a kind of win.

What is the Government's response? The Government says, "Because society has been able to protect itself, despite our venal lack of assistance, we are going to introduce new laws to make sure society cannot protect itself in the future." That is what is happening here. Society has protected itself in the past but the Government does not want that to happen again; it wants to expose New South Wales to the unlimited exploitation of the fossil fuel industry. That is what this bill is doing. This Government does not care if it means trespassing on fundamental rights to property and due process; nothing is getting in its way. If the fossil fuel industry wants it then this Government will give it to them. It is ugly stuff. The Greens support the Opposition's amendment.

**Question—That Opposition amendment No. 4 [C2016-021] be agreed to—put.**

**The Committee divided.**

**Ayes, 16**

Ms Barham	Mr Primrose	Ms Voltz
Mr Buckingham	Mr Searle	Mr Wong
Ms Cotsis	Mr Secord	
Dr Faruqi	Ms Sharpe	<i>Tellers,</i>
Mr Mookhey	Mr Shoebridge	Mr Donnelly
Mr Pearson	Mr Veitch	Mr Moselmane

**Noes, 20**

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Borsak	Mr Harwin	Mr Pearce
Mr Brown	Mr MacDonald	Mrs Taylor
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Colless	Mr Mallard	Mr Franklin
Ms Cusack	Mr Mason-Cox	Dr Phelps

**Pair**

Mrs Houssos

Mr Blair

**Question resolved in the negative.****Opposition amendment No. 4 [C2016-021] negatived.**

**The CHAIR (The Hon. Trevor Khan):** Order! I remind visitors in the public gallery that they are not entitled to comment or interject during the proceedings. If the behaviour continues, I will be obliged to clear the public gallery. I encourage a degree of restraint.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [4.09 p.m.]: I move Opposition amendment No. 5 on sheet C2016-021:

**No. 5 Powers to give directions**

Pages 5 and 6, schedule 3 [2], line 32 on page 5 to line 13 on page 6. Omit all words on those lines.

The changes to the Law Enforcement (Powers and Responsibilities) Act in relation to the so-called police directions or move-on powers are unnecessary and of bad character. They would confer upon police additional powers to give directions to persons in public places in order to prevent obstruction to persons or traffic but in so doing would not only criminalise actions by peaceful protesters but also extend that criminality to any person attending a protest—that is, any person in the vicinity may also be given a direction to move on, not merely those said to be causing obstruction.

Members will be well aware that there are adequate other laws, under the traffic legislation and elsewhere, to deal with legitimate issues of traffic obstruction. This legislation is really about providing police with the opportunity to crack down on and disperse otherwise peaceful assemblies unless those assemblies are authorised under the Summary Offences Act. The Government is seeking to confer upon the police the ability, without going to a court, to end peaceful protests or public gatherings in a way that would not survive scrutiny by the High Court under the implied freedom of political communication—at least insofar as those gatherings were of a political nature. The Opposition thinks this set of provisions should be removed from the bill.

I note that the legislation purports to explicitly exclude the ability of police to give such a direction in relation to an industrial dispute, but the drafting is not clear. The term "industrial dispute", although it has a well understood meaning in the industrial relations legislation, is not defined for the purposes of this legislation. In any case, it may well exclude many union or workplace activities—for example, in connection with safety or supporting workers from other workplaces or broader social causes. The green ban activities of the past by building unions would certainly fall foul of measures such as this.

This set of provisions applies to a wide spectrum of activity. It is not limited to coal seam gas or mining protests but would include any assemblies or protests of any character in any place. It is a pervasive provision

that represents, in the view of the Opposition, a significant attack on civil rights. It continues the erosion of those civil rights and potentially elevates commercial rights above those of the public, as discussed in connection with other provisions. The Opposition asks that members agree to the amendment in order to strip the provisions from the legislation.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [4.12 p.m.]: The Government does not support Opposition amendment No. 5. The amendment would not allow police to have a move-on direction power. This would undermine the intention of the bill, which allows police to proactively manage the risks to safety as well as manage protesters where they are not acting substantially in accordance with the approval granted under part 4 of the Summary Offences Act 1988. The Government does not support the amendment.

**Mr DAVID SHOEBRIDGE** [4.13 p.m.]: The Greens support Opposition amendment No. 5. I indicate that by reason of our support for this Opposition amendment we will not be moving The Greens amendment No. 2 on sheet C2016-018. It might be apposite at this point to move The Greens amendment No. 3, which would be considered only if the Opposition amendment failed.

**The CHAIR (The Hon. Trevor Khan)**: Yes. The Shooters and Fishers Party amendment could also be moved.

**Mr DAVID SHOEBRIDGE**: I will not move The Greens amendment No. 2 on sheet C2016-018. I move The Greens amendment No. 3 on sheet C2016-018:

**No. 3 Exercise of police powers**

Page 6, schedule 3 [2], proposed section 200, lines 1–13. Omit all words on those lines. Insert instead:

- (3) A police officer may give a direction under this Part in relation to a demonstration, protest, procession or assembly if:
  - (a) the police officer believes on reasonable grounds that the direction is necessary to deal with a serious risk to the safety of the person to whom the direction is given or to any other person, or
  - (b) the demonstration, protest, procession or assembly is obstructing traffic and is not an authorised public assembly for the purposes of Part 4 of the *Summary Offences Act 1988* or the demonstration, protest, procession or assembly is not being held substantially in accordance with any such authorisation, and

the Supreme Court has made an order authorising police officers to give directions under this Part in relation to the demonstration, protest, procession or assembly.
- (4) The Supreme Court may, on the application of a police officer, make an order authorising the applicant or any other police officer to give a direction under this Part in relation to a particular demonstration, protest, procession or assembly if the Court is satisfied that it is in the public interest to do so.
- (5) An order authorising the giving of directions under this section may be granted subject to any conditions that the Supreme Court thinks fit.

I speak first to the Opposition's amendment, which proposes to strip out the proposed extension of the move-on powers to protests, demonstrations, processions and organised assemblies. Since the Law Enforcement (Powers and Responsibilities) Act was put in place, there has been a prohibition on the move-on powers being exercised by police in relation to a demonstration, protest, procession or organised assembly for the very obvious reason that protest is a fundamental part of civil society. A number of non-government members, in their contribution to debate on the second reading, pointed out how important protest is to a functioning liberal democracy.

The reason that move-on powers have never been granted to police in relation to protests, processions or organised assemblies is that if police are given the power to issue move-on directions to a protest they can break up that protest. As the provision is currently drafted, if a police officer believes on reasonable grounds that a direction is necessary to deal with a serious risk to the safety of the person to whom the direction is given, then the police officer can give a move-on direction to the demonstration, protest or procession generally. The officer can move the whole thing on.

If a police officer believes that the demonstration, protest, procession or assembly is obstructing traffic, as the bill is currently drafted, the police officer may issue a move-on direction to the entire gathering and break it up. They are deeply troubling powers in a democracy: to allow a police officer to decide that there is a threat

to someone's safety or that someone is obstructing traffic and to break up a protest. As I am sure the Parliamentary Secretary knows, a move-on order can be issued by a police officer to an entire crowd or to an identifiable part of the crowd or to an individual or named parties. That is grossly open to abuse, to break up a protest. That is why the move-on powers have never extended to a protest.

A move-on direction can be that people must move the required distance from a site and may not return for whatever time the police officer thinks is reasonable. What is that? That is the power of the police to break up protests, pure and simple. If somebody is obstructing traffic, sorry, the whole thing is off. Everyone is issued with a move-on order and must move on. It is offensive to civil rights and to democracy. To allow the police to come in and break up protests is so obviously wrong. How on earth did the Government think that it could put that on the statute books?

I turn to what I understand the Shooters and Fishers Party amendment to be. The amendment says that the move-on direction can be used only against the person who is the safety risk or the element of the protest that is obstructing traffic. That is a summary of the Shooters and Fishers Party amendment. It is marginally better than the provision in the Government's bill. The Government's bill gives carte blanche for the whole protest to be moved on. The Shooters and Fishers Party amendment limits the direction by allowing police to issue it only to the person who is potentially a safety risk or who is creating a safety risk or the part of the protest that is obstructing traffic.

If a protest is taking place on a road, the police may issue a move-on direction to every person at the protest, even with the Shooters and Fishers Party amendment. Protesters can be moved on for 24 or 36 hours. It might surprise members to learn that a lot of protests take place on roads. What looks like a seriously beneficial amendment at first glance, in practice it still gives the police the power to issue a move-on direction to an entire protest if the protest is on a road. The police can say, "Break up, move away. Do not come back for 36 hours. If you do, we will arrest you and throw you in jail." Even with the Shooters and Fishers Party amendment, the proposal is still that police are given that power in relation to protests. There is a marginal improvement but the provision of that power remains deeply offensive.

As to the issue of safety, let us assume the police form a view that the crowd is too big and are concerned it might get out of hand. The police think there is a safety issue that applies to the whole of the protest. Bang, under these laws—even as amended by the Shooters and Fishers Party amendments—that gives police the power to issue a move-on direction to the entirety of the crowd. It is a case of, "There's a safety issue here. The safety of all of you is at risk because there are too many people and it might get out of hand." Bang, the move-on power is issued, the protest is broken up and it is a case of, "Don't you dare come back for 24 hours or 36 hours. If you do, we will arrest you." That is not the way a democracy is meant to function. It looks like these laws will be passed with the support of the Shooters and Fishers and Reverend the Hon. Fred Nile. But if the Government ever tries to use them it will have a citizens' revolt on its hands. I think the arrogance of the Government is such that it is just itching to use them. Watch this space.

**The Hon. ROBERT BROWN** [4.20 p.m.], by leave: I move Shooters and Fishers Party amendments Nos 1 to 3 on sheet C2016-020B in globo:

**No. 1 Police powers to give directions to persons in public places**

Page 5, schedule 3 [2], proposed section 200 (2), line 37. Omit "Except as provided by subsection (3) or (4), this". Insert instead "This".

**No. 2 Police powers to give directions to persons in public places**

Page 5, schedule 3 [2], proposed section 200 (2), line 41. Omit "assembly.". Insert instead: assembly,  
except as provided by subsection (3) or (4).

**No. 3 Police powers to give directions to persons in public places**

Page 6, schedule 3 [2], proposed section 200 (4), line 13. Omit "assembly.". Insert instead: assembly, and  
(c) the direction is limited to the persons who are obstructing traffic.

I thank the Chair for his management of the complex lists of amendments. First of all, the Shooters and Fishers Party will not support Opposition amendment No. 5, and I note that The Greens have withdrawn their amendment No. 2 on sheet C2016-018. I listen very carefully to these complex debates; I do not go to sleep at the wheel. I listen to what my learned friends in this Chamber have to say because I know that they have a lot of skill and knowledge in this area.



The amendments I am moving may well be at the margins but they were requested by Unions NSW. I will not verbal Unions NSW but I can inform the House that in the first instance Unions NSW asked us to oppose the legislation. We said that we did not think that we could do that but we agreed to move these amendments, and I have proceeded to do so. Amendments Nos 1 and 2 concern proposed new section 200. Unions NSW were of the view that this is worded in a manner that is confusing and could broaden police powers to give directions in relation to industrial disputes.

The Government argues that that is not the case and that other sections would stand in relation to the exemption of recognised industrial disputes or protests. However, Unions NSW has requested these amendments. I believe there could be unintended consequences from the proposed section. If enacted, it would have a serious impact on the conduct of industrial disputes in New South Wales. Amendments Nos 1 and 2 of the Shooters and Fishers Party, whether they are marginal or otherwise, simply seek to provide greater clarity around this issue and do not in any way change the substantive nature of the bill.

As to amendment No. 3, Unions NSW was concerned that proposed new section 200 (4) would extend the existing power of police officers to give directions to individuals. Amendment No. 3 limits the directions to individuals obstructing traffic. We do not believe that police officers should have the power to give directions to individuals who participate in a demonstration, protest, procession or assembly merely because some of those participants may be obstructing traffic. I have heard the arguments put forward by Mr David Shoebridge about how that might work in practice. Police officers are given an enormous amount of discretion in these areas.

With our amendments, police officers would have the power to give directions only to those individuals engaged in the obstruction of traffic. As Mr David Shoebridge pointed out, were the whole protest to be held on a section of road and the police considered that there was obstruction of traffic or a danger to the public or the protesters themselves, then obviously the police would give a move-on order to the whole of the protest. Where that is not the case, the police can simply shepherd away those who are creating the obstruction and allow the protest to continue.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [4.24 p.m.]: The Opposition continues to press its amendment No. 5, but if it is unsuccessful then the Opposition will be supporting the Shooters and Fishers Party amendments because they give additional clarity and security, as the Hon. Robert Brown averted in his contribution. It is better that we make it as clear as we can that industrial dispute matters are beyond the reach of these new provisions. We do not want to return to the past when the forces of law and order were used to disrupt legitimate activities by working people acting together in pursuit of shared objectives of a workplace or industrial character. As the Hon. Robert Brown indicated, the scope of his amendments is modest. But they do seek some of the outcomes sought by Unions NSW and its affiliates. Insofar as it takes us a small step in that direction, we will support the Shooters and Fishers amendments if our amendments to remove these changes from the bill are unsuccessful.

**The CHAIR (The Hon. Trevor Khan):** Order! I indicate to members that I propose to put Opposition amendment No 5. If that is successful then the other amendments will lapse. If it does not succeed, then I will put the Shooters and Fishers Party amendments Nos 1 and 2, as The Greens have withdrawn their amendment No. 2. I will then put The Greens amendment No. 3. If that is agreed to, then the Shooters and Fishers Party amendment No. 3 will lapse. If not, I will put the Shooters and Fishers Party amendment No. 3 separately.

**Mr DAVID SHOEBRIDGE** [4.26 p.m.]: In my earlier contribution I did not set out the rationale for The Greens amendment No. 3. The essence of The Greens amendment No. 3 is that if the Chamber decides not to delete this whole expansion of the move-on powers, then we should agree to an amendment that no move-on direction can be given by police unless and until the Supreme Court has made an order authorising police officers to give directions under this part in relation to any such demonstration or protest. In that regard, the Supreme Court can only make such an order if it is satisfied that it is in the public interest to grant such powers. Indeed, it allows the Supreme Court to make any such declaration together with any conditions it sees fit.

In short, this proposed amendment says that rather than just handing over this expanded power to the discretion of an individual police officer, let us have some judicial oversight. The Supreme Court can have oversight and the public interest can be argued before the Supreme Court. If the Government is of the view that significant public interest is being affected by reason of a protest, if it is het up about safety or other issues, then rather than just handing over additional discretion to the police, let us put a check and balance on it. This is consistent with the concerns raised by the Shooters and Fishers Party in an adjournment speech about the erosion of civil rights and the increase of discretionary powers to the State. It is also consistent with concerns raised by

Chief Justice Bathurst about the erosion of civil rights and the failure of Parliament to have regard to that issue. The Supreme Court should make the determination as to whether there is public interest. Let us have the argument in an open forum before the court to determine if it is in the public interest to give the police powers in relation to a particular protest. That will provide some measure of comfort that these powers will not be abused.

It is for those reasons that we move The Greens amendment No. 3. I say it is very much our fall-back position. Our primary position is that these powers should not be granted at all to police in relation to protests. The Shooters and Fishers Party is currently saying that it does not want to extend the move-on powers to industrial disputes. I can tell members that when the Law Enforcement (Powers and Responsibilities) Bill and, before that, the Summary Offences Bill went through this Parliament, a group of members got up and said, "We would never expand these move-on powers to protest. We would never expand these move-on powers to public assemblies or processions. We would never expand these police powers to industrial disputes. We are drawing a firm line in the sand here in protecting our civil liberties."

**Ms Jan Barham:** When was that?

**Mr DAVID SHOEBRIDGE:** That is most recently in 2002. We march on 14 years and, of course, we are going down the path of stripping back the protection to protest. At the moment unions are protected from the move-on powers—first, they come for the environmentalists; then they come for the farmers. If I were a unionist I would be looking at this Parliament and thinking, "When are they going to come for us?"

**Mr SCOT MacDONALD** (Parliamentary Secretary) [4.30 p.m.]: Can I just clarify an order of address: The Green's amendment No. 3 and then Shooters and Fishers Party amendments Nos 1 and 2?

**The CHAIR (The Hon. Trevor Khan):** No, the order is Opposition amendment No. 5.

**Mr SCOT MacDONALD:** I have dealt with Opposition amendment No. 5.

**The CHAIR (The Hon. Trevor Khan):** Then we will deal with Shooters and Fishers Party amendments Nos 1 and 2. We will then deal with The Greens amendment No. 3 and Shooters and Fishers Party No. 3.

**Mr SCOT MacDONALD:** I will address amendments Nos 1 and 2 from the Shooters and Fishers Party. The Government supports Shooters and Fishers Party amendments Nos 1 and 2. The amendments are on points of construction, giving further clarity as to what this amendment to the Act seeks to achieve. These are consistent with the intent of the amendment and the Government supports the proposal.

**The CHAIR (The Hon. Trevor Khan):** Mr Scot MacDonald does not want to address any other amendment?

**Mr SCOT MacDONALD:** No.

**The CHAIR (The Hon. Trevor Khan):** It is entirely a matter for him.

**Reverend the Hon. FRED NILE** [4.31 p.m.]: I support the Shooters and Fishers Party amendments Nos 1 and 2, which help to clarify the police powers. The Greens and the Opposition seem to see this legislation as being very draconian. However, the offence of interfering with a mine has been part of the Crimes Act since 1900. The offence has been in its current form since 1987. Also, as I said before, the penalty—the seven years imprisonment—is the maximum and not the mandatory penalty for the offence. I know that The Greens are seeking to make a publicity statement for the media, but nothing could be further from the truth. It is nothing more than a fear campaign because there are no statistics to back up their claims that individuals that are peacefully protesting will be put in jail for seven years.

In fact, I have checked the statistics: not one person has been given a custodial penalty for an offence under section 201 of the Crimes Act 1900. Those who have been found guilty of hindering the working of mining equipment have received only fines, community service orders or bonds. The new definition of "mine" reflects the modern understanding of a mine and how it operates. The way the courts have interpreted what constitutes hindering and relative criminality of the conduct prosecuted under section 201 will continue to be a matter for the courts. I have confidence that judges will always make fair and just decisions in the courts. Therefore, we support these amendments moved by the Shooters and Fishers Party.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [4.33 p.m.]: I clarify the Government's position on the Shooters and Fishers Party amendment No. 3. The Government supports this amendment. The move-on power is intended to apply only to those who are obstructing traffic as opposed to a general direction to a group that is not involved in such behaviour. The amendment merely clarifies the intent of the provision. The Government supports that amendment.

**Question—That Opposition amendment No. 5 [C2016-021] be agreed to—put and resolved in the negative.**

**Opposition amendment No. 5 [C2016-021] negatived.**

**Question—That Shooters and Fishers Party amendments Nos 1 and 2 [C2016-020A] be agreed to—put and resolved in the affirmative.**

**Shooters and Fishers Party amendments Nos 1 and 2 [C2016-020A] agreed to.**

**Question—That The Greens amendment No. 3 [C2016-018] be agreed to—put.**

**The Committee divided.**

**Ayes, 16**

Mr Buckingham	Mr Primrose	Ms Voltz
Mr Donnelly	Mr Searle	Mr Wong
Mrs Houssos	Mr Secord	
Mr Mookhey	Ms Sharpe	<i>Tellers,</i>
Mr Moselmane	Mr Shoebridge	Ms Barham
Mr Pearson	Mr Veitch	Dr Faruqi

**Noes, 20**

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Gay	Reverend Nile
Mr Borsak	Mr Harwin	Mr Pearce
Mr Brown	Mr MacDonald	Mrs Taylor
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Cusack	Mr Mallard	Mr Colless
Mr Farlow	Mr Mason-Cox	Mr Franklin

**Pair**

Ms Cotsis

Mr Blair

**Question resolved in the negative.**

**The Greens amendment No. 3 [C2016-018] negatived.**

**Question—That Shooters and Fishers Party amendment No. 3 [C2016-020B] be agreed to—put and resolved in the affirmative.**

**Shooters and Fishers Party amendment No. 3 [C2016-020B] agreed to.**

**Mr DAVID SHOEBRIDGE** [4.44 p.m.]: I move The Greens amendment No. 4 on sheet C2016-018:

No. 4 **Review of amendments**

Page 6, schedule 3. Insert after line 13:

[3] **Schedule 5 Savings, transitional and other provisions**

Insert at the end of the schedule with appropriate Part and clause numbering:

**Provision consequent on enactment of Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016**

**Review of amendments**

- (1) The Minister is to review the amendments made by the *Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016* to determine whether the policy objectives of those amendments remain valid and whether the provisions, as amended, remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 1 year from the commencement of that Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 6 months after the end of the period of 1 year.

The Greens amendment No. 4 requires the Minister to review the amendments made by this bill to determine whether their policy objectives remain valid or whether the provisions as amended remain appropriate. The amendment would require that review to be undertaken as soon as possible after one year from the commencement of the bill and to report to Parliament within six months from the commencement of that review. I do not pretend that this is an earth shattering amendment because I think the person conducting the review would be the Minister for Justice, who happens to also be the Minister for Police. Because we have a bizarre way of oversighting law and order in this State, the Minister for Justice is also the Minister for Police and he is senior to the Attorney General. That is how arse-up ministerial oversight of law and order is in New South Wales.

This amendment would make the Minister for Justice, who is also the Minister for Police, conduct a review of this bill and table it in the House six months after the commencement of the review. It is a small effort to try to get some kind of corrective in the future, and may be an opportunity to have a bit of rationality in the Parliament, which I doubt. It probably will not be a useful review, given that Troy Grant would not know which end of this Act to hold up to the light. In any event, it is better than a poke in the eye with a blunt stick.

**The Hon. Duncan Gay:** Point of order: Once again, Mr David Shoebridge has entered into personal denigration of a member of the Legislative Assembly. We should not accept that standard of debate in this place. I note that Mr David Shoebridge has completed his contribution, so it is not worth me continuing with this point of order. I thought better of Mr David Shoebridge, but he continues to do this.

**The CHAIR (The Hon. Trevor Khan):** Order! While Mr David Shoebridge has concluded his remarks, I ask him to avoid personal reflections in the future.

**The Hon. ROBERT BROWN** [4.46 p.m.]: I move Shooters and Fishers Party amendment No. 4 on sheet C2016-020B:

No. 4    **Review of amendments**

Page 6, schedule 3. Insert after line 13:

[3]    **Schedule 5 Savings, transitional and other provisions**

Insert at the end of the schedule with appropriate Part and clause numbering:

**Provision consequent on enactment of Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016**

**Review of amendments**

- (1) The Minister is to review the amendments made by the *Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016* to determine whether the policy objectives of those amendments remain valid and whether the provisions, as amended, remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 3 years from the commencement of that Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 6 months after the end of the period of 3 years.

The Shooters and Fishers Party amendment No. 4 contains a different time frame. Most statutory reviews are generally in the five-year bracket, and the Shooters and Fishers Party felt one year is probably a bit too quick.

Certainly because of the controversial nature of this bill—we do not shy away from that; it is controversial—a period of three years, or shortly thereafter as appropriate, would be a better measure of when a review should take place. I note that may put the review in the hands of a different person.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [4.47 p.m.]: The Labor Opposition will support The Greens amendment No 4. Should it be unsuccessful, it will support Shooters and Fishers Party amendment No. 4.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [4.48 p.m.]: The Government will not be supporting The Greens amendment No. 4, and I will explain why it supports Shooters and Fishers Party amendment No. 4. The Government supports Shooters and Fishers Party amendment No. 4. It is proper that after a sufficient time of operation of this bill that a review be undertaken to ensure its execution is consistent with the stated aims. Furthermore, a time frame of three years seems appropriate for adequate assessment of how the powers and safeguards are being employed. For those reasons, the Government supports Shooters and Fishers Party amendment No. 4.

**Reverend the Hon. FRED NILE** [4.48 p.m.]: On behalf of the Christian Democratic Party I support Shooters and Fishers Party amendment No. 4, which is in line with the normal procedures of the House when review requirements are added to or included in legislation after a period of three years from the commencement of the Act. The outcome of that review is to be tabled in each House of Parliament within six months after the end of the period of three years. The review process is put in the hands of the House when it gets that report. I believe the 12 months proposed by The Greens is not long enough to make any clear decisions as to the value of the legislation.

**The CHAIR (The Hon. Trevor Khan)**: I will put the question on The Greens amendment No. 4 first. If it is not agreed to, I will then put the question on the Shooters and Fishers Party amendment No. 4.

**Question—That The Greens amendment No. 4 [C2016-018] be agreed to—put and resolved in the negative.**

**The Greens amendment No. 4 [C2016-018] negatived.**

**Question—That Shooters and Fishers Party amendment No. 4 [C2016-020B] be agreed to—put and resolved in the affirmative.**

**Shooters and Fishers Party amendment No. 4 [C2016-020B] agreed to.**

**Title agreed to.**

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

**Bill as amended agreed to.**

**Bill reported from Committee with amendments.**

### **Adoption of Report**

**Motion by Mr Scot MacDonald, on behalf of the Hon. Niall Blair, agreed to:**

That the report be adopted.

**Report adopted.**

### **Third Reading**

**Mr SCOT MacDONALD** (Parliamentary Secretary) [4.51 p.m.], on behalf of the Hon. Niall Blair:  
I move:

That this bill be now read a third time.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [4.51 p.m.]: On behalf of the Labor Opposition I oppose the third reading of the bill. I move:

That the question be amended by omitting "be now read a third time" and inserting instead "be referred to the Standing Committee on Law and Justice for inquiry and report."

Members on this side of the House and some on the crossbench have worked diligently and constructively to try to improve what is a terribly flawed and oppressive piece of legislation. We have tried to make it better adapted to the ends to which the Government claims it is directed and make its measures more proportionate to the concerns upon which they are said to rest. Sadly, despite our best endeavours, that has not proved possible. The legislation before the House remains directed to preventing legitimate, peaceful protest activities by law-abiding members of our community. It is directed to criminalising activities that today are completely legal but will, if this bill becomes law, expose farmers, Knitting Nannas and citizens from the wider community to jail penalties of up to seven years under the expanded definition of a "mine", which will now extend to coal seam and other unconventional gas operations, for acting to protect their land, water and food integrity.

The pervasive and sinister provisions of the bill are not limited to coal seam gas or to mining or even to trespass—although it certainly covers those matters. The legislation still contains new police powers to disperse peaceful assemblies unless authorised under the Summary Offences Act. It still contains new powers to stop and search persons and vehicles without a warrant on the basis of mere suspicion and it allows the seizure of property without due process or protection by the courts. Whether members opposite acknowledge it, this legislation strikes at the heart of a fundamental aspect of our liberal democracy—the right to peaceful protest. It strikes at people's right to signify the community feeling and opposition to government policies and actions with which they disagree and by such means hold governments to account. In doing so they are seeking to change not only the minds of government but of those in the wider community—in short, to change society for the better.

That crucial capability has brought about many of the best advances in our society, without which we would be a much less equal and harsher community. Examples are the right of women to vote, Aboriginal self-determination and many of the improvements in human and legal rights for the whole community, including those in the past who were oppressed by the structures and laws of society such as working people, those of non-English speaking backgrounds and gay men and lesbian women to name just a few. If our society is to remain free—if we are to retain and bequeath to future generations this important avenue for social and political discourse of progressive and peaceful social change—we must not restrict or diminish the right to assemble and protest as this bill clearly does.

The measures contained in this bill are not proportionate or reasonably adapted to the objectives to which it is directed, as required by the implied freedom of political communication laid down by the High Court in authorities such as *Lange*, and *Unions NSW*. That is why we are of the view that a short review by the Standing Committee on Law and Justice is both warranted and prudent. The matters we are discussing are usefully illustrated in the decision of the High Court of Australia in *R v Neal* [1982] 149 CLR 305. Mr Neal was an Aboriginal man and Council Chairman in Yarrabah, a community in Northern Queensland. The community had a deep sense of grievance about the paternalistic treatment by white authorities, including the management of the store which was reportedly selling rotten meat.

Mr Neal argued with the store manager about the management of the reserve. When the discussion reached an impasse, Mr Neal swore at the store manager and spat at him. For this, Mr Neal was sentenced to two months hard labour. On appeal to the Queensland Supreme Court, Mr Neal's sentence was increased to six months. Mr Neal then appealed to the High Court, where Lionel Murphy presided. At page 317 of the judgement in that matter the late Justice Lionel Murphy noted:

That Mr. Neal was an "agitator" or stirrer in the magistrate's view obviously contributed to the severe penalty. If he is an agitator, he is in good company. Many of the great religious and political figures of history have been agitators, and human progress owes much to the efforts of these and the many who are unknown. As Wilde aptly pointed out in *The Soul of Man under Socialism*, 'Agitators are a set of interfering, meddling people, who come down to some perfectly contented class of the community and sow the seeds of discontent amongst them. That is the reason why agitators are so absolutely necessary. Without them, in our incomplete state, there would be no advance towards civilisation.' Mr. Neal is entitled to be an agitator.

The entire court joined with Justice Murphy in overturning Mr Neal's harsh treatment by the Queensland courts. Justice Murphy and the court are saying to us today that those who agitate, who dissent, are often challenging characters. They often cause discomfort to those around them. But what they do is necessary for society to continue to evolve in a positive way. For those reasons the Labor Opposition rejects this legislation even as amended. We press our amendment on the House.

**Mr SCOT MacDONALD** (Parliamentary Secretary) [4.57 p.m.]: The Liberal-Nationals Government went into the last election promising a review of these laws. It was very clear. We have had at least a year to consider this and the Government is delivering on its promise. As the bill says, directions cannot be given for genuine protest, procession and organised assembly. It is not a reduction of democratic rights. The bill addresses risks to protesters, the public and emergency services personnel. It enables lawful activities to be continued and allows businesses that go through an extensive development and approval process to get on with their legitimate work.

**Mr DAVID SHOEBRIDGE** [4.58 p.m.]: The Greens support the Opposition's referral of this bill as amended to a committee for considered review before this Parliament takes the step of trashing the right to protest. Before this Parliament trashes that 800-year-old common law right, of course we should refer it to a committee for proper review. The token amendments that have been achieved during the Committee stage in no way protect our civil liberties. The Parliamentary Secretary is still misleading the Chamber about the effect of the bill by saying wrongly on the record that these powers cannot be used against a genuine protest. He would know that is fundamentally and obviously wrong if he had read and understood the bill. Move-on powers can be used in relation to a genuine protest if the police think there is obstruction to traffic or if they think there is a safety issue. That is the effect of the bill. The fact that the Parliamentary Secretary still does not get it after he says the Government has been chewing on this for a year and we have been debating this for two days shows why we obviously need a more mature debate on this legislation before the Parliament passes it.

The fact that we have not yet educated the Parliamentary Secretary, let alone whatever thought process there was in the Cabinet and the Government before introducing this legislation, shows why it is necessary for it to go to a parliamentary committee for review. The Law and Justice Committee is the obvious place for it to go as that committee is dominated by Government members—the Government has the numbers on that committee. We are not sending this legislation off to be killed by some Opposition or crossbench dominated committee. We are saying that we must do this properly and carefully. Let us not remove an 800-year tradition of liberty with such haste and with the intellectually barren argument put forward by the Government in this Chamber.

**The Hon. WALT SECORD** (Deputy Leader of the Opposition) [5.00 p.m.]: As shadow Minister for the North Coast I support the amendment moved by the Hon. Adam Searle. Referring this legislation to a committee will allow the Parliament and the community to have a say through formal submissions, particularly those on the North Coast and in the Pilliga—even the Knitting Nannas. I urge members on the crossbenches to reconsider their acquiescence to the Government. What we are doing today is taking away an 800-year-old right and I urge them to reconsider that. I thank the House for its consideration.

**Ms JAN BARHAM** [5.01 p.m.]: I support the amendment moved by the Hon. Adam Searle. One of the most sensible things I have heard in the past 24 hours is that this legislation should be sent to a parliamentary committee. I have been listening closely to the things that have been said and I appreciate the fact that they are on the record as they will come back to haunt this Government. Government members are concerned about the time it has taken to debate this legislation. If they were confident about their right to introduce this legislation and to honour the promise that they made during the election they would not be rushing the legislation through both Houses; they would have followed the proper process.

Government members are not confident that they have done the right thing. This is another disrespectful act against the community. My North Coast community, which has a proud history of protesting and standing up for issues in which it believes, has been proven right over and over again. It will never trust the Government again as it has misrepresented the facts and misinformed the community about its intention and about the powers in this bill. I say to anyone who wants to move to the North Coast and to live there that that community stands up for what it believes in; it has integrity which is worth something in a rural area.

**The Hon. Duncan Gay:** Are you threatening people?

**Ms JAN BARHAM:** Do you feel threatened?

**The Hon. Duncan Gay:** No, I don't feel threatened, but you are threatening people.

**Ms JAN BARHAM:** I am not threatening anyone.

**The Hon. Penny Sharpe:** Point of order—

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones):** Order! Members will resume their seats while a point of order is being taken.

**The Hon. Penny Sharpe:** The Leader of the Government continues to interject while members are speaking. He knows it is disorderly and he should not be doing it. I ask you to call him to order.

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones):** Order! There have been a number of interjections across the Chamber. I remind Ms Jan Barham to address her remarks through the Chair and that engaging in any form of debate across the Chamber is disorderly at all times.

**Ms JAN BARHAM:** I apologise as I certainly meant no disrespect; I was being honest. I am a North Coast member, I have lived in that community and I am proud of my community because it stands up for what it believes in. This Government has misrepresented the facts and it is saying that it is doing something it promised to do. The Government is doing this to my community. I went to the Department of Planning today and picked up the North Coast plan—this Government's hidden agenda on coal seam gas. Promises were made on the North Coast about no coal seam gas, about protecting the environment, and about all sorts of other things in an attempt to seduce people on the North Coast. We are not fools. We are passionate and we will stand up for and protect what is precious to us as this Government obviously no longer does. What the Government is doing to this community is shocking.

I do not apologise for speaking out on behalf of my community. If anyone is arrested for defending the things that are precious to them we will never forgive the Government for enforcing this legislation. We know what is precious—we live there, we belong to that country, we respect the traditional owners and we respect the old growth forest. That is why we live there and we do so with integrity. If this legislation is ever used against my community the Government will feel my wrath and the wrath of many others. This legislation should be sent to a committee to establish what it will really do. I do not believe what has been said in this place about the legislation. This legislation should not have been rushed through both Houses. The Hon. Adam Searle's amendment is sensible and I trust that common sense prevails. We expect this Government to honour its promises to the people of New South Wales who entrusted it to care for them and their environment in the future. I encourage all members to support this amendment.

**The Hon. ROBERT BROWN [5.06 p.m.]:** As we are all trying to justify our positions I thought I had better make clear the position of the Shooters and Fishers Party. I repeat what I said in debate on the second reading. Our motivation for supporting this legislation and for getting it done in a reasonable time frame is that we will not have to think about or worry about the death or injury of any more workers.

**Ms Jan Barham:** That is not true; that's a misrepresentation.

**The Hon. ROBERT BROWN:** It is not a misrepresentation. The Greens are keen to try to talk over me and shut me down but that will not happen. Our intentions, which are honourable, are to protect workers and farmers. Nobody likes trespass or vandalism and nobody likes idiots causing injury or death to other persons.

**Mr JEREMY BUCKINGHAM [5.07 p.m.]:** I support the amendment moved by the Hon. Adam Searle to refer this legislation to a parliamentary committee. I do so because I had cause this week to pay attention to how the Senate operates—the Commonwealth House of review. I have been watching the passage of some of the Federal bills, which seem to be going pretty well. I have been observing how the Senate considers its legislation.

**Mr Scot MacDonald:** Point of order: The member is not addressing the amendment; he is talking about some sort of Federal issue.

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones):** Order! I remind Mr Jeremy Buckingham that when a point of order is being taken he should resume his seat and not have a conversation with other members of the Chamber. There is no point of order as wide latitude is given.

**Mr JEREMY BUCKINGHAM:** The Senate gives more careful consideration to its legislation and it refers innocuous pieces of legislation to committees in order to understand any implications and to ensure that no unforeseen circumstances arise. The Senate does not rush legislation through both Houses as a social experiment. This is symptomatic of an arrogant government with total control and with a supportive conservative crossbench, the members of which say one thing in this Chamber and another thing in the



community. The Government is not thinking through the implications of expanding the definitions of "mine", "interference" and "associated with". As Mr David Shoebridge said, the issues surrounding expanding the powers of police to break up protests and to move-on protesters go way beyond the single issue of coal and coal seam gas—they extend to all kinds of protests.

**The Hon. Robert Brown:** It's not about coal seam gas.

**Mr JEREMY BUCKINGHAM:** What arrogance and condescension from the Government. It is not just about that.

**The Hon. Robert Brown:** It's not about coal seam gas.

**Mr JEREMY BUCKINGHAM:** No, it is about the right to protest and police powers.

**The Hon. Robert Borsak:** It's about you destroying New South Wales. It's about your preselection. That's all it is.

**Mr JEREMY BUCKINGHAM:** Madam Deputy-President, I cannot hear myself think.

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones):** Order! There is too much audible conversation in the Chamber.

**Mr JEREMY BUCKINGHAM:** I support the referral of this legislation to a committee. We will be back again. Arrogant governments rush legislation through the Chamber and a year or six months later they are back being held to account by electors who say, "They made lots of mistakes and now we are throwing them out." Members opposite are repeating the mistakes of the Labor Party. At the end of Labor's term its members became arrogant and toxic and they were thrown out. The Liberal-Nationals Coalition was elected in a rush.

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones):** Order! There is too much audible conversation in the Chamber. Does the Hon. Adam Searle wish to respond to the debate?

**The Hon. ADAM SEARLE** (Leader of the Opposition) [5.11 p.m.]: I have nothing further to add.

**Question—That the amendment of the Hon. Adam Searle be agreed to—put.**

**The House divided.**

#### **Ayes, 16**

Ms Barham	Mr Primrose	Ms Voltz
Mr Buckingham	Mr Searle	Mr Wong
Dr Faruqi	Mr Secord	
Mrs Houssos	Ms Sharpe	<i>Tellers,</i>
Mr Mookhey	Mr Shoebridge	Mr Donnelly
Mr Pearson	Mr Veitch	Mr Moselmane

#### **Noes, 20**

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Borsak	Mr Gay	Mr Pearce
Mr Brown	Mr MacDonald	Mrs Taylor
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Colless	Mr Mallard	Mr Franklin
Ms Cusack	Mr Mason-Cox	Dr Phelps

#### **Pair**

Mr Blair

Ms Cotsis

**Question resolved in the negative.**

**Amendment of the Hon. Adam Searle negatived.**

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

**The House divided.**

*[In division]*

**The Hon. Duncan Gay:** Point of order: A member moved sides after the doors were locked.

**The Hon. Peter Primrose:** To the point of order: The President at that point had not asked the ayes to move to the right and the noes to move to the left.

**The PRESIDENT:** Order! The convention has always been that it is possible for members to move until the tellers are appointed. The tellers may proceed.

#### **Ayes, 20**

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Borsak	Mr Gay	Mr Pearce
Mr Brown	Mr MacDonald	Mrs Taylor
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
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Mr Mookhey	Mr Shoebridge	Mr Donnelly
Mr Pearson	Mr Veitch	Mr Moselmane

#### **Pair**

Mr Blair	Ms Cotsis
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**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendments.**

### **BUSINESS OF THE HOUSE**

#### **Postponement of Business**

**Government Business Notice of Motion No. 2 postponed on motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka, and set down as an order of the day for a later hour.**

### **DRUG MISUSE AND TRAFFICKING AMENDMENT (DRUG EXHIBITS) BILL 2016**

#### **Second Reading**

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [5.24 p.m.], on behalf of the Hon. John Ajaka:  
I move:

That this bill be now read a second time.

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

**Leave granted.**

The Government is pleased to introduce the Drug Misuse and Trafficking Amendment (Drug Exhibits) Bill 2016.

The bill amends the Drug Misuse and Trafficking Act 1985 and Drug Misuse and Trafficking Regulation 2011 to improve and consolidate the testing, transportation and destruction of illegal drugs seized by the NSW Police Force, and decreases the time taken to finalise drug matters in courts, while safeguarding the rights of the accused and community confidence in the justice system.

This bill is designed to improve the process for all those involved in the management of illicit drugs from their seizure, through the criminal justice process, to their destruction.

For Police, a workplace health and safety hazard will be minimised and more police officers freed to carry out their frontline duties. For courts and lawyers on both sides, the criminal trial process for drug related matters will be quicker and establishing the chain of evidence easier. For the Forensic and Analytical Science Service, known as FASS, which is part of NSW Health, the drug analysis backlog will be reduced. For the accused, additional rights of review will be introduced. And for the broader community, stringent best-practice procedures for the safe and secure handling of illegal drugs will be formally embedded in legislation.

This bill responds to concerns raised by the New South Wales Auditor-General in a report to Parliament in February 2013, titled "*Managing drug exhibits and other high profile goods: NSW Police Force*". The Auditor-General conducted a performance audit examining how well the NSW Police Force manages the storage and disposal of drug exhibits. The audit looked at police methods of recording exhibits, how they are stored, and their eventual disposal.

Overall, the Auditor-General found that the NSW Police Force manages the recording, storage and tracking of drug exhibits well. However, the Auditor-General did highlight areas where there was scope for improvement to increase safety and efficiency and decrease costs. Those areas for improvement identified by the Auditor-General can be extended to the courts, where the resources of judges and lawyers are tied up in drug related matters which could be resolved in a quicker, simpler manner.

One of the key findings of the Auditor-General was that drug exhibits include chemicals which can deteriorate and become unstable, posing serious health and safety risks to any person handling those drugs or working in the vicinity of where they are stored.

Currently the NSW Police Force usually needs a court order to destroy drugs that are seized. The Auditor-General found that, because court orders are generally not obtained, 25 per cent of drugs held by the NSW Police Force are held for more than two years, with some held more than 10 years, long after court proceedings have concluded. This means our police officers are exposed to health and safety risks as drug exhibits deteriorate and release toxic fumes, becoming very dangerous.

The Auditor-General also found that drug exhibits are currently transported by New South Wales police around the State for analysis, taking the equivalent of 1,000 police officers away from the frontline for two days each year (particularly regional officers, who travel long distances) at an estimated cost of \$1.2 million per year.

The Auditor-General ultimately made six recommendations relating to the management of drug exhibits. The Legislative Assembly Public Accounts Committee supported all of the Auditor-General's recommendations and recommended the Government introduce legislation to facilitate the destruction of drugs and improve drug sampling and analysis procedures.

The implementation of the Auditor-General's recommendations has involved a mix of changes to police operational procedures, which have already occurred, and legislative amendments, which are contained in this bill.

This bill will allow for drug exhibits to be destroyed earlier, and without a court order. This process will be similar to the process in force in the Northern Territory, Tasmania, South Australia, Queensland, Western Australia and Commonwealth jurisdictions. This ensures that police are not exposed to dangerous exhibits any longer than is absolutely necessary. It is also more efficient for our justice system as courts will no longer need to spend time considering orders for the destruction of drugs. Stringent destruction procedures are in place to maintain the integrity of the destruction process.

Scientifically trained and certified police from the Forensic Services Group, or FSG, will now be able to weigh all drug exhibits and issue a mass or quantity certificate, and sample drug exhibits which are not less than the trafficable amount. These samples will then be provided to FASS for analysis. The weighing and sampling of drugs by specialist qualified police, or FSG, will reduce the analysis backlog at FASS and speed up the analysis process.

Secure couriers will now be able to transport exhibits that are less than the trafficable quantity and samples of an exhibit taken by an FSG officer to FASS. Police officers will no longer need to transport drugs around the State, allowing them to return to their core duties. Couriers are already used by police for the transportation of other exhibits for analysis, including blood and DNA samples.

The bill provides for new safeguards for the rights of the accused by allowing the accused to seek a second independent drug analysis and apply to the Local Court to have drugs re-weighed.

The bill will codify the existing Presumptive Testing Trial, which was started by the Office of the Chief Magistrate, the NSW Police Force, the Office of the Director of Public Prosecutions and FASS Police in September 2013, by providing that less than trafficable quantities of drugs only need to be analysed by FASS where the drugs are in dispute. This allows an accused to either plea on the basis of a presumptive test, which will be provided to the accused in a shorter time frame, or to seek a full analysis of the exhibit by FASS.

In order to cut down the time taken by prosecutors to prove continuity to the court, the bill creates a presumption, which can be rebutted by an accused, that, where drugs have been sealed in tamper evident bags and entered on the NSW Police Force exhibits management system, the drug that is analysed by FASS is the same as the drug seized by police. This avoids the need for the court to call multiple witnesses to prove continuity. The change will make drug trials more efficient and simpler for the accused, the prosecution and the court.

The bill also ensures that exhibits will continue to be held securely. Current police systems, including the use of drug vaults, drug cabinets, recording and fingerprinting, operate to provide probity and anti-corruption measures in the management of drug exhibits. This system will continue.

The reforms implemented by this bill were developed by a working group comprising the NSW Police Force, the Department of Justice, the Office of the Director of Public Prosecutions and the Forensic Analytical Science Services. Other key stakeholders, including the Law Society of NSW, the New South Wales Bar Association, the Local Court, the District Court, Legal Aid and the Public Defender's Office have been consulted on the reforms.

I join with the Attorney General in thanking all individuals whose work has contributed to these important reforms.

I will now turn to the specific provisions of the bill.

The bill replaces Part 3A of the Drug Misuse and Trafficking Act 1985 and Part 3 of the Drug Misuse and Trafficking Regulation 2011.

Schedule 1 to the bill introduces new exhibits and testing procedures for prohibited plants, prohibited drugs, Schedule 9 substances (as defined in the Act), and other psychoactive substances.

Schedule 2 to the bill amends the regulation and provides for the procedural elements of the dealings with and analysis of drug exhibits.

The proposed structure of amendments to both the Act and regulation is consistent with the existing structure of the Act and regulation and allows for process related matters in the regulation to promptly respond to emerging issues.

The NSW Police Force will be empowered to destroy a prohibited substance under division 3 of Part 3A of the Act without a court order. Under section 39G, a qualified police officer will be empowered to order the destruction of suspected drug exhibits of any quantity, where there is no likelihood of charging a person with an offence relating to the suspected drug, 21 days after the exhibit is seized. For the purposes of Part 3A of the Act, a qualified police officer means a police officer of or above the rank of superintendent. Analysis is not required for an exhibit destroyed under section 39G.

This bill will also improve the way that police handle seizures of prohibited plants. Decaying plants have little evidentiary value and present health risks due to the mould, fungi and spores that grow on them. This is particularly true of moist cannabis that has been stored in conditions which do not allow for rapid drying.

Under section 39H, a qualified police officer will be able to order that a prohibited plant that is seized is destroyed immediately after a certificate identifying the plant is issued and the particulars of the plant. Clause 16E of the regulation provides that the particulars will include a photograph of the plant, if practicable, the height of the plant, and where there are multiple plants, the number of plants seized.

Clause 11 of the regulation provides that as soon as practicable after a substance is seized by the NSW Police Force, the exhibit is to be provided to an approved police officer or an analyst for weighing. The approved police officer will be a member of the Forensic Services Group of the NSW Police Force that is certified by NSW Health to weigh and sample drug exhibits. That officer or analyst will issue a certificate of the mass or quantity of the exhibit, which will be then served on the accused.

Where the exhibit is not less than the trafficable quantity, the approved police officer or analyst will then take two samples from the exhibit for full analysis.

Clause 13 of the regulation will provide that both the "A" and "B" sample must be at least three times the minimum amount required for analysis, where practicable. Samples will be taken in accordance with accepted international standards and the process will be detailed in police standard operating procedures.

The "A" sample will be forwarded to Forensic and Analytical Science Services for full analysis, with the "B" sample and remainder, or bulk, of the exhibit stored by New South Wales police in secure storage at a local area command or within the Surry Hills Exhibit Centre.

Clause 16D allows for the "A" or "B" sample, and exhibits that are less than the trafficable quantity, to be transported by an approved courier. Couriers will be security screened and will only transport small, securely sealed amounts of the prohibited substance in tamper evident bags. This is in line with current arrangements for the transportation of other exhibits for analysis, including blood and DNA.

Clause 16A of the regulation provides that when an analyst receives the "A" sample, the analyst will determine the identity of the substance, quantity or mass of the portion of the substance weighed, and where the substance is capable of being tested, and it is practicable to do so, the purity of the substance. The analyst will then provide an analyst certificate under clause 16B of the regulation.

Under Clause 16I, after the analyst certificate is issued a senior FASS officer will authorise the destruction of the remaining portion of the "A" sample.

Section 39I provides that a qualified police officer may order the destruction of the bulk of an exhibit, where the exhibit is not less than the trafficable quantity, after analysis takes place. When police receive the analyst certificate they will serve the analyst certificate and notice of impending destruction of the bulk of the drug exhibit on the defendant. This notice informs the defendant that the 'bulk' of the drug exhibit may be destroyed after 28 days.

However, notwithstanding that a notice of impending destruction of the bulk of the exhibit has been served on the defendant, police will not be able to destroy the exhibit until both the 60-day time period for a mass review application under section 39M, or the 28 days after the written notice of destruction has been served on the defendant, whichever is later.

Section 39M of the bill provides that an accused person may make an application to review the mass listed on a certificate issued by the NSW Police Force or analyst under clause 11 of the regulation. This application cannot be made later than 60 days after the certificate of mass has been served on the accused.

An accused must satisfy the Local Court there has been a substantial failure to comply with the Act or regulation in respect of the substance, or there is a real doubt as to the accuracy of the certificate issued by the approved member of the NSW Police Force or analyst in respect of the mass of the substance, for the substance to be reweighed.

After the 60-day period for a mass review application, or 28 days after the notice of impending destruction has been served, whichever is later, a qualified police officer may authorise destruction of the bulk of the exhibit.

A qualified police officer may only authorise the destruction of the "B" sample 28 days after the completion of court proceedings, including any appeal period.

The "B" sample will continue to be held by police to allow the accused to request a re-analysis of the exhibit if the accused disputes the results of the analysis of the A sample.

Clause 16 of the regulation provides that an accused may request police send the "B" sample to an authorised, independent analyst not later than 28 days after receiving the certificate of analysis of the "A" sample.

The testing of the "B" sample will involve police providing the sample to FASS or another authorised testing facility. The cost of the independent testing is borne by the defendant, and the sample itself is never provided to the accused. The analyst will then issue a new analyst certificate for the exhibit to both the police and the accused.

Clause 16C of the regulation provides that if a difference occurs between the findings recorded in two or more certificates of any analyst concerning the same drug exhibit and the analyst providing the later or latest certificate is of the opinion that the difference is significant, that analyst must immediately forward a copy of all certificates relating to the drug exhibit to the Director of Public Prosecutions.

Where the exhibit is less than the trafficable quantity, a qualified police officer may authorise the destruction of the exhibit under section 39J not earlier than 28 days after the end of proceedings for an offence relating to that substance, including the end of any appeal proceedings or end of period in which an appeal can be made.

The bill remakes the existing power for qualified police officer to order the destruction of dangerous substances and articles. Section 39K of the bill will allow a qualified police officer to make an order for the destruction of dangerous substances or articles, after an analyst certifies in writing that the substance or article is dangerous. In this situation, a substance or article that is deemed to be dangerous cannot be destroyed prior to 28 days after a notice of impending destruction is served on the accused unless the analyst certifies in writing that, in the interests of health and safety, the substance or article needs to be destroyed earlier.

This provision reflects current powers under section 39PA of the Act and will allow a qualified police officer to order the destruction of dangerous articles used in or associated with the range of offences under the Act, such as toxic waste and dangerous precursors.

Under section 39L of the bill, where a qualified police officer finds that a substance cannot reasonably be securely retained during the period between the notice of impending destruction being served to the accused and the destruction of the substance, the substance can be destroyed by order of a qualified police officer.

The bill introduces new presumptions that will improve the way drug trials are run.

Section 39N of the bill provides that where a legally represented person who has pled guilty appeals from a decision of the Local Court on a drug-related charge and the drug exhibit has been destroyed before the appeal is heard, the particulars in the Court Attendance Notice about the drug exhibit are presumed to be true.

This provision will assist the efficiency of appeals from the Local Court by reducing the amount of time and evidence required to prove a matter that is invariably not in issue in an appeal. Further 39N ensures that this presumption is rebuttable by the accused.

Division 5 of the regulation creates a rebuttable presumption to 'chain of custody' of a drug exhibit.

All drug exhibits seized by police will be sealed into barcoded tamper evident bags. Clause 16F of the regulation requires that the details of each bag and its barcode are entered onto the NSW Police Exhibits Management System. Any movement or interaction with that drug exhibit is recorded on the exhibits management system.

This system is a far cry from the old exhibits management book system which required manual updating as well as extensive statements from each police officer involved in the process. This system made proving continuity an unnecessarily arduous task for prosecutors.

The NSW Police Force's computerised exhibits management system was a great leap forward and has ensured the more efficient management and tracking of exhibits. It provides real-time tracking of exhibits, and allows better oversight of exhibits. The bill capitalises on its strengths by applying it to drug exhibits.

In recognition of the safeguards provided by barcoded, tamper evident bags, clause 16L provides that a certified copy of a report of the NSW Police Exhibits Management System, which shows chain of custody of the exhibit, will replace the complicated system of statements currently employed in contested drug trials.

Clause 16M of the regulation will also allow for certificates to be issued by the police officer who seals the bag and the analyst who opens the sealed bag for testing to complement the record from the NSW Police Exhibits Management System.

If a courier is used to transport an exhibit that is less than a trafficable quantity, or a sample of a larger drug exhibit, this will be recorded in the exhibits management system, which will be certified by a police officer and is prima facie evidence of the fact that the drug exhibit bag sealed by the police officer is the same exhibit that is received by the analyst where the bag remains sealed.

Clause 16N of the regulation replicates the existing section 43(4) of the Act, providing that the certificates issued under the Regulation are prima facie evidence of the matter stated in them without having to approve the appointment or approval of the person giving the certificate or the signature of the person giving the certificate.

This bill also codifies existing procedures for presumptive testing of exhibits less than the trafficable quantity developed under the presumptive testing trial.

Clause 15 of the regulation provides that for exhibits that are less than the trafficable amount, a presumptive test may be conducted on the drug exhibit.

Presumptive, or indicative, testing is not a conclusive test, and will not provide prima facie evidence of the identity of a drug exhibit in the same way that a drug analysis certificate, which states the results of full analysis, does. What the presumptive test certificate does provide is a clear indication of the identity of the drug, which may be sufficient for an accused person to determine their position with regard to a plea.

Under clause 15 of the regulation, the bill will still allow the defence, upon receipt of the presumptive test certificate, to advise the court that the identity of the substance remains in issue, which will result in proceedings being listed for a defended hearing and for a full analysis to be sought.

If a full analysis is requested for an exhibit that is less than the trafficable quantity, the drug will be sent to an analyst, and will follow the same procedures for a sample from an exhibit not less than the trafficable amount sent to an analyst.

A presumptive test is much less time consuming than full analysis and can be completed, with a presumptive test certificate issued, within the four week adjournment time frame. Incorporating these procedures into the Act will continue to significantly reduce the drug analysis backlog at FASS.

Section 390 will allow for a court, on application of a person who is legally entitled to a substance to which part 3A of the Act applies, discretion to order that the substance at issue is returned to the person if the substance has not been destroyed. Police will also now be empowered to return substances to the lawful owner under section 39P if the retention of the substance as evidence is not required and it is lawful for the person to have possession of the substance.

Section 39Q remakes the existing section 39RA of the Act to ensure measures introduced by schedule 1 to the bill complement existing anti-corruption measures in the Drug Misuse and Trafficking Act 1985.

This builds on other security measures introduced by this bill.

Clause 16G of the regulation ensures that exhibits are only stored in tamper evident drug exhibit bags. These exhibit bags will provide the details the responsible investigating officer, details of the seizure and accused's name and a barcode, which will be used to track the exhibit in the NSW Police Exhibits Management System.

The exhibit bags used by the NSW Police Force are tamper evident, with heat seals indicating when an exhibit bag has been opened. Under clause 16G, an exhibit bag can only be opened before it is handed to an analyst for weighing, presumptively testing and sampling, or in exceptional circumstances that are approved in writing by a qualified police officer.

The weighing, presumptive testing and sampling will continue to only be carried out by approved police officers, being those from the Forensic Services Group.

Clause 16H provides that the drug exhibits bags can only be stored in secure drug lockers or cabinets, which have dual locking mechanisms that require at least two keys to unlock, or in an approved facility, which includes the Surry Hills Exhibits Centre.

Where a qualified police officer has approved the destruction of an exhibit, and the time frames mandated by the Act have expired, a police officer of or above the rank of inspector must inspect the drug exhibit bag to determine that the drug exhibit bag has not been opened or tampered with. Clause 16J provides a further safeguard to corruption.

A separate police officer is then required to record the particulars of an exhibit that is not less the trafficable quantity before destruction, to ensure that the drug exhibit corresponds with the record of the exhibit in the police exhibits management system. Clause 16E requires that the drug exhibit must be first photographed, and any other relevant identifying information recorded.

Once this inspection has occurred, clause 16K of the regulation requires that the exhibit be destroyed in the presence of a police officer of or above the rank of Inspector, an independent witness, such as a priest or Justice of the Peace, and a member of the NSW Police Force who is capable of identifying the exhibit being destroyed as the substance ordered to be destroyed.

The changes proposed by this bill will ensure that only the amount of drugs that need to be retained is retained. It will improve officer safety by reducing exposure to dangerous and deteriorating exhibits.

The bill empowers the NSW Police Force to get on with tackling drug crime; something that is becoming more important given the increasing prevalence of ice. The changes focus on reducing the time and resources expended to manage and store drug exhibits long after they are required for drug trials. It will cut down the costs borne by police for the storage of drug exhibits.

The bill will also make our justice system more efficient. It slashes unnecessary red tape in the courts. Lawyers and judges will no longer need to spend hours compiling and considering evidence to establish the chain of custody of drugs. The court process will be quicker for an accused who wishes to plead guilty for a drug-related charge. Importantly, the rights of the accused will be protected by new review mechanisms.

This bill addresses improved workplace health and safety for police, decreases costs and improves the efficiency of both police procedures and our criminal justice system when dealing with drug-related matters.

I commend the bill to the House.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [5.25 p.m.]: I lead for the Opposition in debate on the Drug Misuse and Trafficking Amendment (Drug Exhibits) Bill 2016. The Opposition does not oppose the bill. The bill has two objects. The first is:

... to amend the *Drug Misuse and Trafficking Act 1985* ... and the *Drug Misuse and Trafficking Regulation 2011* to update and streamline the system for the retention, analysis and destruction of prohibited plants, prohibited drugs, Schedule 9 substances ... and psychoactive substances ... and suspected relevant substances, that are seized or otherwise come into possession of the NSW Police Force.

The second object is to make consequential and transitional amendments and provisions. The New South Wales Bar Association has advised the Opposition that it has no issue with the legislation. A significant portion of the bill finds its ancestry in a performance audit by the New South Wales Auditor-General entitled "Managing drug exhibits and other high profile goods", dated 28 February 2013. There was also some commentary by the Public Accounts Committee in its report No. 17/55, dated August 2014. The Auditor-General found that police managed drug exhibits well, including the recording, storage and tracking of drug exhibits. The Auditor-General dealt with other high-profile goods as well, but that is not relevant to this debate or to this bill. The Auditor-General did say that there could, nonetheless, be beneficial changes. He said:

However, there is room for improvement, mainly in regard to the effective disposal of drug exhibits and other goods, and improving efficiency by reducing the need to transport drug exhibits for testing.

Nearly 7,000, or around a third, of the drug exhibits recorded in NSW Police's electronic tracking system EFIMS have been on hand for more than a year, and some for over five years.

The Auditor-General also said:

Some drug exhibits could pose a significant risk to the health and safety of officers, and this risk may increase over time. Police in other jurisdictions reduce the risk by documenting, analysing and destroying drug exhibits as soon as possible, with only a sample of the drug exhibit retained for court proceedings. However, in New South Wales, unlike most other jurisdictions, Police must hold onto some drug exhibits until a court order is obtained for their destruction.

The Auditor-General noted the development of legislative changes. He pointed to the tying up of police resources through the transporting of drugs by police. He said:

Some NSW Police practices are also not as efficient or cost effective as they could be. Drug exhibits, as well as the samples taken from the exhibits for analysis, are currently moved around the State, tying up NSW Police resources.

The Auditor-General pointed out that in 2011-12 more than 15,000 of the nearly 40,000 drug exhibits collected in the State were from areas that would require overnight stops in Sydney. The residual drug exhibit samples not used up in the analysis process need to be collected by officers and returned to police storage. An alternative would be for exhibits to be weighed and samples taken locally in the regions, with samples taken to Sydney only by courier and being destroyed during testing. This seems to follow the procedure in other jurisdictions. The driver behind these changes is of course not justice but costs. There is nothing wrong with reducing the costs of the legal system if that is capable of being done without reducing the quality of justice.

The response of the Commissioner of Police to the Auditor-General's recommendation, dated February 2013, noted the proposals for legislative change made by police. Some of those proposals seem at last to have

found their way into this bill. The Auditor-General estimated the cost of transporting drug exhibits at \$1.2 million. That is equivalent, he said, to 1,000 police being away from front-line duties two days per annum. However, he conceded that if a trip had to be made from a regional area to Sydney then officers, as a matter of practicality, would link the trip with other tasks. The system of the destruction of drugs is complex. In some circumstances the police can destroy them; in other cases it needs a court order. It is, however, a very complex regime, which is a point that was made graphically in appendix No. 2 of the Auditor-General's report.

Many of the considerations have found their way into this bill, including the issue of how long police retain evidence and the complex issue of how much to destroy. It is not the case that police are unable to destroy drugs without a court order. In some instances that is correct, but it is not correct in all cases. Holding onto exhibits imposes a cost by way of secure storage. Deterioration of the substance can cause health dangers, although the Auditor-General asserted that the police can destroy drugs if they are dangerous. That certainly emerges from appendix No. 2 of his report.

The bill replaces part 3A of the Drug Misuse and Trafficking Act 1985 and part 3 of the Drug Misuse and Trafficking Regulation 2011. Division 3 of the new part 3A deals with destruction of substances. New section 39G provides that a qualified police officer may order the destruction of a substance where there is no likelihood of prosecution, although it must be recorded by a means such as photographing. New section 39H provides for the destruction of prohibited plants by a qualified officer's order, providing it has been recorded and a certificate issued identifying the plant.

Under section 39I, a qualified officer of the rank of superintendent or above may order the destruction of a non-plant substance where the exhibit is not less than the trafficable quantity. This applies to the bulk of the exhibit after a sample has been taken. The regulations provide for the taking and analysis of the sample and the destruction of the remaining amount. Transport will be by courier. There will be two samples, A and B samples. Notice of the proposed destruction of the bulk exhibit must be served on the defendant. The defendant can apply for a mass review application under new section 39M.

There are also provisions allowing the defendant or accused to request that the B sample be sent to an authorised independent analyst. New section 39J provides an authorised officer with the power to order destruction of a prohibited drug if it is less than the trafficable quantity, after the end of proceedings. New section 39K allows for destruction by police if an analyst certifies that it should be done in the interests of health and safety, after appropriate recording has occurred. Notice must be served on the defendant or accused, although this can be overridden in the interests of health and safety.

New section 39L allows immediate destruction if it cannot reasonably be kept secure. New section 39N provides a presumption on appeal relating to a substance. I note the Attorney General's assurance that the presumption is rebuttable. The regulations in division 5 create rebuttable presumptions concerning the chain of custody of a drug exhibit. There are provisions also that effectively codify the existing trial of presumptive testing of exhibits of less than trafficable quantities. Presumptive certificates can be disputed as well. The proposals in this bill will allow substances to be destroyed, in some cases earlier than they presently are. They will relieve the need for some transportation of exhibits and replace some of the transport by police with transport by couriers. This legislation has taken three years to reach the Parliament, which I guess is pretty standard for this Government—

**Mr David Shoebridge:** Unless it is taking away rights.

**The Hon. ADAM SEARLE:** I acknowledge that interjection. Nevertheless, the Opposition supports this bill.

**Mr DAVID SHOEBRIDGE** [5.33 p.m.]: On behalf of The Greens I speak in debate on the Drug Misuse and Trafficking Amendment (Drug Exhibits) Bill 2016. The Greens do not oppose this bill. This bill has a number of objects, primarily to amend the Drug Misuse and Trafficking Act 1985 and the Drug Misuse and Trafficking Regulation 2011 that sits under that Act to update and streamline the system for the retention, analysis and destruction of prohibited plants, prohibited drugs, drugs set out in schedule 9 of the poisons list under the Poisons and Therapeutic Goods Act 1966, psychoactive substances and suspected relevant substances that are seized or otherwise come into the possession of the NSW Police Force. The bill will also make a series of consequential and savings amendments consistent with that.

Essentially the bill seeks to modernise the way that police deal with drug exhibits. A huge amount of the time of NSW Police Force officers is spent policing cannabis and illicit drugs. There is a bigger debate to be



had about whether or not that is a rational use of police resources. By and large I think not. But in the course of those police operations vast amounts of drugs are gathered. Relative to the amount of illicit drugs being used in society it is a tiny amount, but relative to the storage capacity of the NSW Police Force it is a large amount of illegal drugs. In fact, there has been an awful history of the way the police have dealt with drug exhibits.

I have spoken with a good number of police officers who have been exposed to very harmful fumes as a result of what has been a Ma and Pa Kettle approach to storing drugs by the NSW Police Force. It took a deeply amateurish approach to storing drug exhibits. Indeed, some local area commands would store drugs in 1930s era safes. In some police stations, the storage area was near the lunch room. In others, the drugs were stored in a relatively secure area but the extraction fan would be turned off because it was too noisy and the fumes would then go through the police lunch areas.

I note for the record that this is the first time I have seen Cleo Chapple in attendance at the New South Wales Parliament. She is in the President's gallery and I say hello to her. The worst example of police storage of drug exhibits would have to be at the Sydney Police Centre where Sergeant Nader "Ralph" Hanna was exposed to overwhelming noxious fumes from the drug exhibit room. In early 2009, Mr Hanna and a number of other police officers were tasked with auditing the drug exhibit room. It was a large room in the basement of the Sydney Police Centre and it was absolutely chock-a-block with drug exhibits.

The drugs were in degraded bags and the room had no exhaust extraction system. I think the room was the better part of 10 to 15 metres long and there were rows and rows of shelves of drug exhibits, many in deeply degraded plastic bags. The drugs contained in the bags or the precursor chemicals contained in the bags had eaten through the bags, spilled out and filled the room with an appalling concoction of vapours from different chemicals. As I said, this room had no exhaust fan and was located in the large basement area of the Sydney Police Centre, around which a number of other police were working.

When these officers, who had been assigned to audit these noxious and dangerous drugs, opened up the room the fumes swelled out into the rest of the police centre. Nobody had any idea what this concoction of fumes was. The fumes rolled out into the rest of the Sydney Police Centre and literally knocked over Sergeant Hannah and caused other police officers serious health complaints. How obviously foreseeable it was that this type of injury would occur.

The NSW Police Force was prosecuted, which rarely happens. WorkCover investigated and prosecuted the Police Force for a gross breach of the Occupational Health and Safety Act. Initially the Police Force tried to fight it but at the end of 2013, I think November 2013, it pleaded guilty and acknowledged that it had a significant occupational health and safety problem on its hands—and not just at the Sydney Police Centre but at police stations around New South Wales. Drugs had been kept for months or years in bags that were degrading and leaking fumes. They created a serious health problem for the police. Not only were the fumes a problem but whenever police had to handle these exhibits which were in degrading and deteriorating bags there was no sensible way to handle or transport them. It was an absolute disgrace.

Thankfully, as a result of that prosecution a number of things have happened. Eventually the Auditor-General looked at the matter and noted that the way police were dealing with drug exhibits was appalling. The ultimate policy solution is that the drugs have to be in secure airtight facilities with proper air extraction fans in place so that police are not exposed to those occupational health and safety issues. The problems should not have happened in the past and they should not happen in the future. As I understand it, the Sydney Police Centre drug exhibits room is now of a much higher grade and does not expose officers to the same risk.

As I understand it, the current policy is that drugs will be held centrally and not in safes at local area commands. That is another good development. Obviously, as a result of police operations a physically large amount of drugs—which is a small proportion compared with the very large illicit drug problem—are eventually seized by police. Purely from the point of view of a lawyer wanting to ensure that a client's rights are fully protected, he or she would tell police that all the drugs have to be retained as evidence so that the defendant can have them properly tested. A defendant should be able to get the drugs tested at any time leading up to a trial in order to obtain evidence that it might not be drug A or drug B or it is not an illicit substance.

However, the holding of a large amount of drugs creates an obvious occupational health and safety risk for police. It is also quite expensive to retain these drugs in the proper facilities. There is expense and occupational health and safety on the one hand and respecting the rights of defendants on the other. Whilst The

Greens could cavil with small elements of this bill, on the whole we believe this bill basically gets it right in balancing the different public interests. In relation to the quantity of drugs, there is a strict time line within which police are to supply a certificate as to the amount of the drugs. I think the defendant has 60 days in which to challenge that certificate and to have the drugs separately tested. If there is no challenge within 60 days the drugs are destroyed and the certificate becomes prima facie evidence.

That does not mean that defendants cannot produce other evidence to challenge the quantity, but it is highly unlikely they would be successful in those circumstances. The legislation seems to get the balance right in the mass storage of drugs. Samples A and B are retained for exhibits, sample A is sent to the laboratory for testing and the small sample B is retained until the expiration of the appeal period or, if a notice of intention to appeal has been filed, until the expiration of the notice of intention to appeal period. In that way, sample B is available for testing by the defendant if an issue arises as to the validity of the initial certificate that has been supplied by the police.

This is a difficult area of public policy and it has taken a long time to get to the point where the very legitimate occupational health and safety concerns of police have been addressed. My understanding is there is still work to be done in drug storage arrangements at local area commands. An ongoing issue is that drugs still are held at local area commands in safes and storage facilities that are not properly ventilated. I hope the Government will address that issue and advise the House in that regard.

On the whole, police officers are in a lot better place now than they were in 2009 when Mr Nader Hanna was exposed to toxic chemicals. I wish Mr Hanna all the best in his recovery and in seeking fair compensation for the injuries that he has suffered. It should not be an ongoing issue. I pass on my regards to his family who have been dealing with the injuries he suffered as a result of occupational health and safety breaches, and I acknowledge all other police officers who have suffered injuries as a result of being exposed to these noxious substances. These were foreseeable safety risks. We can and will do better. This bill is part of doing better and that is why The Greens support it.

**Reverend the Hon. FRED NILE** [5.44 p.m.]: On behalf of the Christian Democratic Party I support the Drug Misuse and Trafficking Amendment (Drug Exhibits) Bill 2016. This very practical bill will improve and consolidate the testing, transportation and destruction of illegal drugs seized by the NSW Police Force. It will also decrease the time taken to finalise drug matters in the courts. The bill contains safeguards for the rights of the accused and will promote community confidence in the justice system. As has been stated, the Christian Democratic Party has been concerned about the health effects on police officers who have handled drug exhibits that have been stored sometimes up to 10 years. We are pleased that the drug exhibits will now be properly destroyed.

The Auditor-General found that drug exhibits are currently transported by the NSW Police Force around the State for analysis, taking the equivalent of 1,000 police officers away from the front line for two days each year, particularly regional officers who travel long distances at an estimated cost of \$1.2 million per year. This bill will save the time of officers being wasted by transporting drug exhibits. In order to cut down the time taken by prosecutors to prove continuity to the court, the bill creates a presumption that where drugs have been sealed in tamper evident bags and entered on the NSW Police Force exhibits management system, the drug that is analysed by the forensic people is the same as the drug seized by police.

I was concerned about a loophole being created for drug dealers who are being prosecuted to argue that it is a different drug to the one they were charged with. This bill requires that all drug exhibits seized by police will be sealed into barcoded tamper evident bags. The details of each bag and its barcode are entered onto the NSW Police Force exhibits management system. I am pleased that seized drugs have that security. There will be details of the responsible investigating officers, the seizure and the accused's name together with a barcode which will be used to track the exhibit in the NSW Police Force exhibits management system. As far as I can see, there are no loopholes that could assist drug dealers to try to escape a conviction. I am pleased to support this bill.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [5.48 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank all members for their contributions to debate on the Drug Misuse and Trafficking Amendment (Drug Exhibits) Bill 2016. This bill empowers the NSW Police Force to get on with tackling drug crime, something that is becoming more important, given the increasing prevalence of ice. The changes focus on reducing the time and resources expended to manage and store drug exhibits long after they are required for drug trials. The bill introduces a model similar to ones in force in the Northern Territory, Tasmania,

South Australia, Queensland, Western Australia and Commonwealth jurisdictions and will allow for police officers to destroy drug exhibits without a court order. This will ensure that only the amount of drugs that need to be retained is retained.

Most importantly, this bill will create a safer workplace for members of our police who handle illegal drugs by reducing their exposure to dangerous and deteriorating exhibits. The changes in the bill are accompanied by appropriate safeguards at each stage. When a police officer seizes a prohibited substance, that substance is returned to the local area command where the substance is weighed in the package in which it is found and entered into the police exhibits management system.

This process ensures that the exhibit and its chain of custody are always accounted for. The investigating police officer does not take the substance out of the packaging it has been seized in because that officer is not qualified to remove the packaging and handle the substance. In circumstances where there is a likelihood of prosecution the exhibit will be sent to a certified scientifically trained member of the police Forensic Service Group [FSG] or an approved analyst such as the Forensic and Analytical Science Service [FASS] as soon as practicable for the substance to be weighed without packaging and a certificate of the quantity or mass produced.

The certificate issued by FSG or FASS after the weight of the substance is taken is prima facie evidence of the quantity or mass of the substance and the matters stated in it. This ensures that the seized exhibit is weighed sooner and that the accused does not have to wait for full analysis of the substance before receiving the confirmed weight of the exhibit. At any time within 60 days of receiving the certificate as to initial weight of the substance, a defendant can make an application to the Local Court to challenge the mass listed on the certificate and seek to have the substance reweighed if there is doubt as to the accuracy of the certificate or a substantial failure to comply with the legislative requirements. If an application is successful, the entire exhibit will be reweighed. This is an important new right of an accused person.

Importantly, a substance cannot be destroyed under sections 39I or 39K of the Act while a quantity review application is being determined or before any consequent determination of the mass of the substance has been completed. The bill also introduces presumptions in the trial process to facilitate the quick resolution of drug-related matters in the courts. These presumptions have been carefully drafted to ensure efficiency is not at the expense of the rights of the accused. With this bill, the Government is delivering on the recommendations of the Auditor-General as endorsed by the Legislative Assembly Public Accounts Committee. This bill is an important step towards making the process for handling illegal drugs in the criminal justice system safer and more efficient. 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. David Clarke, on behalf of the Hon. John Ajaka, agreed to:**

That this bill be now read a third time.

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

## **ELECTRICITY SUPPLY AMENDMENT (ADVANCED METERS) BILL 2016**

### **Second Reading**

**Debate resumed from 9 March 2016.**

**The Hon. ADAM SEARLE** (Leader of the Opposition) [5.54 p.m.]: I lead for the Opposition in debate on the Electricity Supply Amendment (Advanced Meters) Bill 2016. The Opposition has a range of concerns

about the bill and what it does and does not contain. We will move some amendments to address those concerns and determine our final position once we have debated the amendments and heard what the Government says in response. The legislation provides for the voluntary rollout of so-called smart meters, termed "advanced meters" in the bill, and for the responsibility for metering generally to be shifted from electricity distributors to retailers and for metering providers registered under the National Electricity Rules and the Australian Energy Market Operator to install meters.

The bill provides that electricity distribution companies will no longer be required to install and maintain electricity meters. The meters will no longer form part of the electricity network assets. The meters will be supplied, installed and maintained by the energy retail companies who will own the assets. That is a fundamental change to the network architecture. NSW Labor supports the concept of smart metering. It will be necessary to make battery storage and peer-to-peer energy trading a reality and to drive increased energy efficiencies. We understand this is the gateway to a decentralised energy future, a smart grid, and we embrace that. We note the voluntary, market-led rollout proposed in this bill is in contrast to the forced rollout undertaken by the Liberal-Nationals Government in Victoria a few years ago. We note also that consumer group the Public Interest Advocacy Centre has made a submission to government in the past about why a market-led rollout is the most appropriate way to proceed.

However, as I indicated, we have some serious concerns about aspects of the bill and further concerns regarding issues that are not dealt with in the bill and on which this Government has remained silent. I will commence with the issue of rooftop solar. Around 140,000 households have installed solar on their rooftops as part of the Solar Bonus Scheme or gross feed-in tariff scheme instituted by the Labor Government and the Hon. John Robertson as the relevant Minister at the time and subsequent Leader of the Opposition. I place on record that as a private citizen, and well before I entered Parliament, I took part in that scheme and I remain a beneficiary. Many more have taken the step to make a contribution to a shared, clean energy future by also installing solar on their rooftop even outside the Solar Bonus Scheme.

**The Hon. Dr Peter Phelps:** Even dinosaurs like me.

**The Hon. ADAM SEARLE:** I acknowledge that interjection. While the choice of installing a smart meter will be voluntary, it is being said around the industry that unless houses have smart meters residents will not be able to benefit financially from their rooftop solar after the closure of the Solar Bonus Scheme at the end of this year. It was reported today on the RenewEconomy website that Solar Energy Industry Association spokesman Geoff Bragg says it is pretty clear that the New South Wales Government is opting to bring forward the market-led rollout of smart meters in New South Wales by energy retailers about 12 months earlier than the national plan to make metering an open market in 2017, because:

This approach is intended to solve the problem that about 130,000 of the 160,000 Solar Bonus Scheme customers will want to have their solar system Net metered & billed rather than their current Gross metering, to gain the best advantage from their solar PV system when the scheme ends on December 31.

There is fear that solar households will in effect be forced to adopt smart meters and pay a hefty fee of up to \$700 depending on the model adopted by retailers unless they sign on for a long-term contract with a retailer. There is also fear that consumers will have to foot the bill by paying an up-front charge for the metering. Can we assume that energy retailers will compete for customers by offering low or zero cost metering upgrades? This has happened in some other jurisdictions and the larger retailers may well take this step. But how will consumers be protected against rogue operations? And will regional and rural customers get the same offerings, be left waiting or have to pay additional charges?

I note that regional and rural customers account for a significant proportion of the solar installations in New South Wales. Will the offered tariff structures by retailers to consumers discriminate against solar customers with "free" smart meters? I have heard reports that some people who even now have smart meters are being told their meters are not sufficiently smart and need to be upgraded in advance of the closure of the solar bonus scheme to make the best of what the future may have to offer.

The legislation does not make clear how customers will be protected from having to pay for their meters multiple times—for example, when switching from one retailer to another. Will it be like mobile phones where one signs up for two or three years with a retailer, the retailer increases its charge and one wants to gain a better price from a competing retailer? Will one be required to pay out the term of one's contract in some way and, if one switches to a new retailer, will that new retailer be using the same kind of meter? Will one then have to enter a similar arrangement to have one's meter switched over? These questions have not been answered.

There may be an answer to these questions but they were not outlined in the Parliamentary Secretary's second reading speech. Having spoken to people in the industry in different locations—different industry players—there does not seem to be a consensus on how these issues are likely to be resolved.

As the retailers will own the meters, will this lead to customers being bound to a single retailer for extended periods to pay off the price of the meter, preventing them from obtaining the best electricity prices? How will the competing interests of the retailer and customer be balanced out? No doubt this will be dealt with as a consumer issue, but the potential for disadvantage to consumers is quite apparent. Retailers already have all the information to "net off" on electricity generation and use by customers in their billing, and customers should not be at risk of being forced to pay for expensive new meters unnecessarily. For example, in my case, I know that the energy company I am with knows how much electricity I generate; it gives me a bill which says so and it pays me for it. But it also knows how much I consume because the meter records that and it is also on my electricity bill. It already has that information so I do not see how smart meters are necessary to ensure that persons with roof-top solar continue to benefit in a financial sense from that, even after the closure of the Solar Bonus Scheme.

I acknowledge that smart meters will be a huge benefit to retailers and to the Australian Energy Market Operator and will have benefits for the network as a whole because it will be able to track, in real time, people's energy generation and consumption—how much is being paid for that energy in real time and on a day-to-day basis. So I can see the benefits broadly for the network and its operators, and I understand that customers will be able to benefit depending on their pattern of usage and what types of equipment they have in their homes. We understand the benefits that smart meters can have in the development of a smart grid. But, as I have indicated, the retail companies already have the information necessary to transition customers from the Solar Bonus Scheme at the end of the year without smart meters necessarily.

As was also reported in *Renew Economy* yesterday, it is unclear what the minimum standard for any new metering equipment will be. Will the various smart meters offered by different retailers be required to collect a data stream for gross solar generation and a separate data stream for consumption, netting off the two data streams for billing purposes? Will the New South Wales Government allow energy retailers to just install smart meters that only record the net energy data—effectively blind to solar production and short-changing solar-generating consumers?

In addition, confusion remains in the industry about what solar households on the premium tariffs of 60¢ per kilowatt hour plus a retailer bonus for most will be obliged to do and what they will be paid after the closure of the Solar Bonus Scheme. A proposed letter to solar households is yet to be sent out by the Government. I understand that the New South Wales Department of Trade and Investment, as it was then known, called a workshop meeting for stakeholders on 2 November 2015 to discuss the closure of the Solar Bonus Scheme, stating its intent to send a letter with clear information to all Solar Bonus Scheme customers in December 2015 or January 2016. It is now mid-March and that letter has not appeared—at least not in my letterbox. I understand the draft letter may still be awaiting ministerial approval and there is a rumour it should be arriving in households around New South Wales in a week or so. I ask the Parliamentary Secretary with carriage of this matter, the Hon. Rick Colless, to tell the Chamber exactly where that matter is up to.

When the information comes, like other consumers and other members in this Chamber, I hope that letter is packed with clear and accurate information on what consumers need to do, at what cost and by when. Why has it taken this Government so long to get its act together? The Government has been in office for five years and it does not appear to have an adequate plan for this transition. At last year's election, the Labor Opposition outlined its plan for what to do on the closure of the Solar Bonus Scheme. We indicated quite clearly that we understand that the retail companies are not legally bound to pay solar-generating households for the electricity they generate.

The Independent Pricing and Regulatory Tribunal [IPART] has made a non-binding recommendation. The Labor Opposition indicated that it would take steps to provide consumer protection for those who put solar on their roofs and ensure a fair tariff for those who sell excess energy back to the grid. We would require that there be a fair minimum payment set by IPART for energy paid back to the grid from households generating solar energy, with a rigorous mandate given by law to ensure that this takes place. We were not elected to government and it is a matter for those opposite to ensure that the transition from the Solar Bonus Scheme to whatever system will be in place thereafter is fair and balanced, gives solar-generating consumers a fair deal and does not create a situation where consumers are ripped off by the retail electricity companies. We do not want

the giant energy companies to have a free ride on the backs of households that make a contribution to energy supply in this State. I understand that this issue and other issues will be raised at a meeting of the solar industry this Friday under the auspices of the Solar Energy Industry Association.

The next concern of the Opposition is about who can install the meters in the future and how worker and community safety will be safeguarded. I note that the Parliamentary Secretary with carriage of this matter set out in his second reading speech a fair bit of information in this space. The Government claims the bill will allow a wider pool of qualified electricians to install smart meters—not just the presently accredited service providers [ASPs]—to create a competitive market for meter installation. The changes in the bill are not limited to smart meters but extend to all meters and allow the Government to create exemptions from the ASP framework. I think that is how the Government is going to effect that change.

At present, only level two Accredited Service Providers can do metering work, and I believe there are about 2,500 of them in New South Wales. The bill also removes the requirement for the sealing of customers' equipment, including the meter, that has been traditionally used in the industry for safety and revenue protection. The Government says it will ensure that those who do this work will have to meet strict minimum conditions, but the legislation, and the Parliamentary Secretary's second reading speech, does not set out a road map or provide the certainty that is needed to ensure that public safety will be properly safeguarded.

We know that they will have to be properly qualified electricians under the Australian and New Zealand standards, but to what level. The accredited service providers framework is established under the national electricity law and the requirements at present under the national electricity rules provide that persons who install meters have to be accredited service providers and registered, and the standards and skills required are to ensure both quality and safety. If the Government intends to permit those who do not have that demonstrated level of skill and who meet that national schedule to perform this work, that is of grave concern. I have re-read the second reading speech a number of times, and how the Government intends to meet those concerns is not spelt out. I ask, perhaps rhetorically: How can the community be confident that those who will be allowed to do this work will be properly skilled if their accreditation is at a lower standard?

A recent paper by the National Electrical and Communications Association, dated 19 February this year, stated that this work should continue to be restricted to those who are accredited service providers level 2 because of the significant dangers associated with performing metering work, which has the potential to cause serious injury to those performing the work, householders and the wider public. These include arc blast incidents and transpositioning or electrocution shock hazard, and making water outlets and metallic appliances live. One does not have to be a physicist or electrician to know the clear and present dangers that faulty installation could cause. These are very serious matters that are not answered in the bill before the House or the second reading speech from the Parliamentary Secretary. The Opposition will move some amendments during the Committee stage that address these concerns. Schedule 2 to the bill provides for the regulation of electricity meters as electrical installations under the Electricity Consumer Safety Act 2004. I draw the attention of honourable members to schedule 2, item [4], which inserts proposed section 30A, Electricity meters. Subsection (2) states:

The regulations may prescribe a fee for or in connection with the inspection by an authorised officer of an electrical installation that includes the installation of an electricity meter.

I believe the Parliamentary Secretary talked about how responsibility for ensuring the safety and integrity of this work would be transitioned to NSW Fair Trading. This provision will include electricity meters as part of the types of electrical installations to which NSW Fair Trading has responsibility for safety and compliance. The Parliamentary Secretary spent some time in his speech addressing this aspect of the bill, but did not mention the budgetary arrangements that the Government had entered into to ensure that NSW Fair Trading is adequately resourced to undertake this work. I could be wrong about this, but my information is that the Government has provided no additional budget allocation to allow NSW Fair Trading to undertake this important work.

In relation to the provision that enables a fee to be set—which presumably would be charged to householders—the Government will seek to charge householders to do this work, which will potentially place a significant cost burden on the community and act as a disincentive for households to have advanced meters in their property. This will slow the transformation of our electricity network for the benefit of our community and individual households. Solar households are told they need to have smart meters if they are going to make proper use of the solar feed-in tariff arrangements, whatever they may be. There is pressure on households to

switch to advanced meters but there is a cost disincentive. Will they have to pay for it? If so, how much? Are they bound to individual retailers? Will they have to pay fees if and when they break the contract to be able to switch to retail companies that provide better prices?

Is there a further disincentive to switch to smart meters than the costs imposed through this regulation-making power? None of this is rocket science. There have to be simple and clear answers to most of these issues, but none is apparent from the legislation or from the Parliamentary Secretary's second reading speech. Perhaps the debate should be adjourned to enable the Government to consider closely the concerns that the Opposition has raised and to be in a position to respond to them properly. In summary, the Opposition's concern is about whether or not solar rooftop generator customers are being coerced into getting smart meters unnecessarily. My meter at home is not a smart meter, but it is less than five years old and seems to be working fine.

While I have no objection to switching, do I really need to spend up to \$1,000 to switch to a smart meter in circumstances where I think the energy retail company has all the information it needs to transition me off the Solar Bonus Scheme? If I do want to switch, what will be the cost implication and what will be the regulatory implications through NSW Fair Trading? Will I have to pay NSW Fair Trading a fee to have the work done at my home properly certified and supervised or audited by that organisation to ensure that when I turn on my shower in the morning my family and I do not get electrocuted? These are important issues that remain unanswered.

The issue of net billing for customers is not resolved. That is bound up with whether customers need to switch to smart meters, at least at this point in time. I acknowledge that smart meters are the gateway to the smart grid. The real benefit will come when people also have smart appliances, where one can remotely program appliances such as one's dishwasher, oven, washing machine or heating system to turn on or off at certain times of the day or night in order to chase the best price and to avoid the peak pricing areas. When battery storage becomes common there will be more options. However, a lot of those facilities have not been generated at a customer availability level.

The starting point is the smart meter. The question is: Do people need to transition to those now? There are the issues of net billing; the standards of those who do the meter installation work; consumer protection; and the regulatory approach to be taken by NSW Fair Trading about how much it intends to charge customers to ensure that the installation work is done effectively and safely. About 140,000 people are under the Solar Bonus Scheme, with a large number of them potentially transitioning to smart meters in a short space of time. A small number of persons are qualified to do the work, even with the liberalisation proposed by the Government. One does not have to be a rocket scientist to see the potential for a situation arising similar to the Pink Batts rollout where there was a shortage of qualified installers, particularly in Queensland. No-one wants to see that happen. We must take a sensible and balanced approach to this matter.

The Opposition is taking a sensible and constructive approach to this policy area. We are not anti smart meter. I am personally pro smart meter, but I want it to be a genuine consumer choice at the right price, at the right time and when it will benefit the customers and not just the retailers and the network operators. That is what happened in Victoria. The compulsory rollout in Victoria did not greatly benefit the customers. The customers paid for it, but it mostly benefited the operators and the network. We do not want to replicate that situation. The transition should happen in a graduated way, a way that benefits everybody. The Opposition has some amendments that have been lodged with the Clerks. I ask the Government to have a constructive look at those, to think about the issues I have raised and to consider embracing our amendments, to see whether or not these concerns can be addressed by the Government in reply.

**Reverend the Hon. FRED NILE** [6.19 p.m.]: On behalf of the Christian Democratic Party I support the Electricity Supply Amendment (Advanced Meters) Bill 2016. Advanced meters are also known as smart meters. This bill removes the responsibility for electricity meters from distribution businesses and establishes a metering, safety and compliance regime under NSW Fair Trading. This amendment puts the responsibility on retailers in what the Government calls a "voluntary market-led rollout of smart meters" in New South Wales by allowing retailers and new metering businesses to install smart meters.

As has already been said, there were major problems in Victoria, where it was compulsory to purchase smart meters. I have heard of various costs—between \$700 and \$1,000. I believe that the Government, under NSW Fair Trading, should set up a system through which these smart meters are supplied by retailers free to

consumers. They would then always belong to the retailer. If the consumer pulls out of the arrangement the retailer would remove the smart meter. It is not purchased by the consumer; the consumer simply uses it. That means the consumer does not have a big outlay. The costs are borne by the retailer who is making a profit from retailing electricity. I urge the Government through NSW Fair Trading to follow through on my proposal. We do not want to hit the consumers with the high cost of these smart meters.

I note also that the bill will allow a qualified electrician licensed by NSW Fair Trading to install a smart meter without having to have specially accredited service providers. Again, as has been mentioned already, those qualified electricians need also to be qualified on how to install a smart meter and any other conditions need to be met to ensure safety for the consumer. We support the bill but we are concerned about any attempt to rip off consumers in New South Wales with the installation of these smart meters.

**Mr JEREMY BUCKINGHAM** [6.22 p.m.]: On behalf of The Greens NSW I participate in debate on the Electricity Supply Amendment (Advanced Meters) Bill 2016 and state at the outset that we share the concerns of the Labor Party regarding this bill. Rather than putting on the table our support or otherwise for the bill, we will be considering the Labor Party's amendments and the Christian Democratic Party's amendments before advancing our own amendments.

The Electricity Supply Amendment (Advanced Meters) Bill 2016 amends the Electricity Supply Act 1995, the Electricity (Consumer Safety) Act 2004, the Electricity Supply (Safety and Network Management) Regulation 2014, the Electricity Supply (General) Regulation 2014 and the Electricity (Consumer Safety) Regulation 2015 to transfer ownership and responsibility for the State electricity metering apparatus from distributors to retailers, removing a cost from the networks and putting it onto the retailers and then potentially onto consumers. So some people could argue that we are fattening up the electricity distribution network for sale.

Schedule 1 removes the authority for distributors to impose requirements regarding the installation of meters and to refuse connection. It removes the authority for distributors to inspect meters or grant powers of entry to authorised agents of retailers and sets out the relationship between the distributors and retailers regarding gross metering and net metering. It gives distributors continued responsibility for the gross meters while transferring the responsibility for smart meters to retailers. Schedule 1 also expands the accreditation for installation and servicing of smart meters, allowing the Government to make regulations for accreditation, the classes of accredited service providers and the fees for accreditation.

The bill amends the Electricity (Consumer Safety) Act 2004 to bring smart meters under the same regulation standard as other electrical installations. Schedule 3 amends the Electricity Supply (Safety and Network Management) Regulation 2014 to be in line with amendments made by schedule 1, as well as authorising the Secretary of the Department of Industry, Skills and Regional Development to delegate functions. Schedules 4 and 5 make minor amendments.

From 1 January to 28 October 2010 New South Wales households had access to contracts for a gross feed-in tariff of 60¢ per kilowatt hour for small-scale solar and wind generation. Many people in this State took advantage of that, including former Deputy Premier Andrew Stoner. Although the scheme was slashed to 20¢ a kilowatt hour after that, households that had already signed up for the scheme were guaranteed their tariff until the end of 2016.

At the same time, New South Wales has been attempting to move energy consumers away from traditional gross metering, where the energy exported by solar panels and the energy consumed by the household are separate, towards net metering, where generating energy within the household can offset consumption. Most consumers with solar panels have switched to net metering, either with a traditional meter or with a smart meter. However, households remaining on the 60¢ tariff have not, since it would be a bad financial decision to offset consumption at 24¢ to 32¢ a kilowatt hour with power that could be sold for 60¢ a kilowatt hour.

A bill shock is looming for those 130,000 people in the gross feed-in tariff scheme. That change is coming soon. Households that have not been paying electricity bills for six years or more will suddenly see their 60¢ tariff shrink to 6¢. That is why the Government is taking action. The 130,000 households that remain on gross metering will need to switch to net metering in order to get the most use out of their installed solar system. This will be an expensive process, estimated at \$400 to \$600 per meter. I note that the Hon. Adam Searle



mentioned a figure of \$1,000. It will also be a project that is too large for the State's current workforce of technicians to complete. The 1,800 level 2 technicians currently employed in the State could install only 50,000 meters per year. This is a key issue.

There have been problems with so many schemes that we have rushed into. There are unforeseen circumstances and unforeseen implications and outcomes as a result of that haste. Now we appear to be rushing out of the scheme and into a new regime that The Greens and the Opposition, as indicated by the Hon. Adam Searle, have considerable concerns about. Do we have the capacity to implement the new scheme in the time allotted? Whether we have the workforce with the appropriate skills and accreditation are also yet to be determined. Is this the best system for consumers? We should put first the interests of the hundreds of thousands of people who are part of the current scheme.

The Government proposes to address the accreditation shortage by allowing ordinary electricians to be trained in the installation of meters. It proposes that the cost of meters can be defrayed by retailers offering inducements to new customers—for example, a free meter change with a new contract. Are consumers aware of what is at stake in this market-based system? Do they know the pros and cons of accepting a free smart meter but locking into a three-year contract? Do they know the price variations to which they may be subjected? It is my understanding that the community is unaware of these issues. The Greens believe rushing to accredit installers is a serious and risky proposal. There are too many risks associated with electricity. Introducing a regime of voluntary smart metering is connected to retailers and the contractual arrangements they have with their consumers.

Removing the requirement for accredited service providers exposes thousands of households to serious fire risk because the wiring for smart meters is specific to each device. I understand that an incorrectly wired system can electrify devices in a home through reverse polarity, which is a serious issue and it is the reason that accreditation has been necessary. The changes are rushed and rely heavily on shaky free market and competition principles. The Government's figures indicate that 50,000 people will not have changed to gross metering by the end of the scheme. There is no incentive for retailers to offer meters, other than competition. Why would it be in the interests of retailers to tell people they will be exposed to a price shock when they can continue to sell electricity to consumers at 24¢? All of a sudden the consumer will not receive the 60¢ feed-in tariff. The retailer wins.

Despite the efforts of the Government, which has moved too slowly too late, consumers will receive a real shock—hopefully not a physical one. There is no incentive besides competition from the invisible hand. Profits of gross metering will flow to the retailers, who will be able to charge 30¢ for green power that was bought for 6¢. There is in fact no incentive for retailers to be open and honest about this change. To date I have not heard any retailers talking about it. Participants in the Solar Bonus Scheme are a solid constituency and will no doubt be opposed to being forced to pay in order to continue receiving a partial benefit from solar panels. SolarCitizens are demanding:

- A minimum fair price for exported solar
- A fair transition for solar owners on the 60¢/kW feed-in price
- Laws to stop discrimination against solar owners

Amendments can be drafted to address the equity principles, and the concerns of SolarCitizens must be addressed. There is no doubt it is a complex issue. The Greens are considering the Government's proposal, the Opposition's amendments and whether we must move to smart meters. Over the past decade I have had a series of solar photovoltaic panels installed on my home that have not been subject to the feed-in tariff. I installed them well before that.

**Ms Jan Barham:** You did.

**Mr JEREMY BUCKINGHAM:** I did. They were expensive but I am helping to save the planet—think global, act local. Although I did not have a smart meter, the bills from electricity retailers were able to inform me how much electricity I had imported from the grid, how much it cost, and how much electricity I fed back. I acknowledge the point made by the Hon. Adam Searle that smart metering will enable householders to use electricity produced at their home at a particular time. There is also the potential for a peer-to-peer arrangement, which is emerging in other markets. It is an interesting and dynamic time for the energy market because it is being disrupted by the emergence of renewable energy.

The model that we will settle on is unclear. For the Government to rush into a voluntary, market-led scheme I think is fraught with danger. It is doing so in a way that is clearly rushed and that requires the conscription of a large cohort of newly accredited installers. We do not know to what level those installers will be accredited—that is to emerge in the regulations. Unions are already raising their concerns about that, Labor members have raised their concerns and The Greens are also concerned. It is a serious issue. It only takes one person to get it wrong once for it to become a massive issue.

There are issues around virtual metering. My inclination is that the cost of this should be borne by the retailer. Some people have said that this is a cost that all people across New South Wales will be exposed to. Well, good luck with that. It is the market working. It is going to cost \$65 million or thereabouts to install these smart meters. If retailers want to say, "Well, we're not copping the cost to sign these people up; we're going to hand it on to consumers," then I say to them good luck with that. The retailers who decide not to do that—and it may be the smaller retailers—may benefit. There is a market advantage there. A compulsory scheme does raise some concerns, as we have seen in Victoria. This voluntary scheme is market led in terms of forcing people into a particular model. In this market-led model the retailers have all the power. It is of concern.

It is clear that the Government has moved too late—the shock is going to come. The clock is ticking, and I understand that. I understand that the Government is trying to act but I do not think it has built into this bill the appropriate protections for consumers in terms of not only price but also accreditation. I think this bill is very fraught. The Greens are reserving our judgement on the bill. We will consider Labor's amendments and continue to consult. We are also open to further amendments from the Government. We will probably also come forward with our own amendments in due course. At this stage The Greens will not be putting our position on the table until we see what emerges from discussion during the Committee stage.

**The Hon. RICK COLLESS** (Parliamentary Secretary) [6.37 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank the Hon. Adam Searle for his constructive comments in relation to the Electricity Supply Amendment (Advanced Meters) Bill 2016. I thank also Reverend the Hon. Fred Nile and Mr Jeremy Buckingham for their contributions. This has been quite an interesting debate. The purpose of this market really is to roll out the smart meters. It reflects the competitive nature of the market and the commercial agreements that will ultimately operate within it. The Solar Bonus Scheme of course expires at the end of 2016, and that is why we need to get this underway right now.

The Solar Bonus Scheme was originally estimated to cost something like \$400 million over its duration and that has blown out to something like \$1.2 billion. It had a much greater take-up rate than we expected and certainly cost a lot more money than anticipated. In relation to the gross metering process and the net metering process, smart meters of course have the capacity to indicate both the gross and the net figures. It is important that the rollout of smart meters commences so as to make sure that as technology changes customers will be able to take advantage of that.

The Hon. Adam Searle referred to the advice that is going out to solar customers. My information is that the advice will be going out to solar customers shortly and it will include a question-and-answer package, which will answer many of the questions the member raised in his address. As to the tariff, the Independent Pricing and Regulatory Tribunal [IPART] has proposed that the tariff is to reflect the generation costs only, not the network distribution costs. The tariff that is paid back to the solar customers will reflect the generation costs which the distributors pay for their electricity.

The Hon. Adam Searle also raised the issue of fees to NSW Fair Trading. Currently there is a notice of service works fee, which is somewhere between \$90 and \$300 when a person needs to have their meter serviced. That fee will disappear and will be replaced by a fee payable to NSW Fair Trading. It is my understanding that that fee will be significantly lower than the fee that is currently in place. Mr Jeremy Buckingham raised the issue of fattening the network. That aspect has been removed from the network's business and responsibilities, so it is not a process that will happen.

In terms of bill shock, Solar Bonus Scheme customers knew that they were contracted until the end of 2016. That time is approaching, and they all should have known it was going to happen. As this will occur in the marketplace, we should expect a positive impact on the bills of most consumers. The major concern that was raised by all speakers was the issue of safety and consumer protection. To be clear, the bill does not amend any of the existing safety standards. The bill does clarify that all parties involved in the meter installation process are accountable for safety, not just the qualified electrician who is engaged to install the meters.

In addition to these important safeguards, the amendment bill includes a power to make regulations to impose minimum training requirements for qualified electricians who are engaged to install meters. This is a significant measure that sends a clear and unambiguous signal to all businesses involved in meter installations that the Government is prepared to take strong regulatory action to ensure that appropriate safety standards continue to be met. This measure squarely meets community expectations regarding electrical safety. The existing prohibition on qualified electricians undertaking live electrical work will remain unchanged under this bill. If the removal or installation of a meter requires live electrical work, then the electrical contractor will be required to engage an accredited service provider.

Existing electrical safety standards for meter installations will remain unchanged. These standards are set out in the Electricity (Consumer Safety) Regulations and include the Australian New Zealand Wiring Rules and the Service Installation Rules of New South Wales. These documents set the safety standard and are currently in use. The measures set out in the bill ensure that safety standards are front and centre in the meter installation process and they give confidence to the industry and community that these standards will not be compromised. This bill comprehensively addresses all the safety issues and concerns raised by a competitive rollout of smart meters and, particularly, the opening up of meter installation to competition. 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.**

**Consideration in Committee set down as an order of the day for a future day.**

#### **ASSENT TO BILLS**

**Assent to the following bill was reported:**

Transport Administration Amendment (Authority to Close Railway Lines) Bill 2016

#### **ADJOURNMENT**

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.45 p.m.]:

That this House do now adjourn.

#### **AFFORDABLE HOUSING**

**Ms JAN BARHAM** [6.45 p.m.]: With all the talk about housing recently, one would be forgiven for thinking that governments finally were getting on track to tackle the crisis in housing affordability. The New South Wales Government has acknowledged the need for more social and affordable housing and is establishing a \$1 billion investment fund. Last year the Federal Government appointed a Minister for Cities, who was quickly demoted to Assistant Minister, and established an affordable housing working group. Recently, Federal Labor proposed reforms to negative gearing, following the policy The Greens put forward last year to improve affordability and deliver more tax revenue for public investment. But none of those steps is enough to address the challenge we face in ensuring all people across New South Wales have access to stable, appropriate and affordable housing. It remains hard to be optimistic that governments are ready to deliver what we need.

The title of a recent article in *The Conversation* by Professor Nicole Gurran and Professor Peter Phibbs captures the main reason to be cynical: "Housing policy is captive to property politics, so don't expect politicians to tackle affordability." During the past two decades housing policy has been captured by lobbyists and interest groups keen on continuing to drive speculative investment and developer windfalls. These interests have framed the housing crisis so that planning system barriers are the problem and regulatory reform is the solution. This suits the interests of speculative land developers but obscures many major issues affecting housing availability and affordability.

Our planning system needs to deliver more housing but that housing needs to be appropriately located and designed to promote liveable communities and access to opportunities for work, education and social connection. Policies that satisfy the property industry's desire for ever-increasing housing prices and rezoning

bonanzas will not deliver affordable housing. A speculation-driven market will continue to shut people out of home ownership whilst stable and affordable rental accommodation will remain scarce. As Professor Gurran and Professor Phibbs proposed, governments must "expand, radically, the size of the non-profit and affordable housing sector" by driving investment towards affordable rental housing and by enabling new housing products. This needs more public investment, together with bringing greater community and private sector involvement into the affordable housing sector.

The State Government's \$1 billion fund is a starting point, but it is nowhere near enough. A recently released plan of St Vincent's de Paul Society to address homelessness and housing unaffordability called for a \$10 billion national affordable housing fund. The Greens took a proposal to the State election to deliver \$4.5 billion investment in social and affordable housing by capitalising on the ongoing low interest rates available for government financing. Federally, The Greens have proposed housing supply bonds that would allow a \$25 million government investment to raise \$2 billion in funds for affordable housing construction.

Inclusionary zoning requirements are needed to ensure that a fair share of all new developments, especially high-density projects in well-located areas, are dedicated to providing below market rental accommodation for essential workers and people on low incomes. Governments also need to support increased long-term institutional investment in the residential housing sector, including a key focus on affordable housing, which appeals to the increasing focus of institutions and communities on ethical investment and corporate social responsibility. We need all levels of government to promote innovative models of housing tenure including shared equity, community land trusts, intentional communities and other forms of co-housing. Governments must be willing to deliver tax reforms that can prevent the housing market being overheated by speculative investment and improve the availability and affordability of homes.

Negative gearing reform is essential and should not be subject to the incoherent scare campaign being put forward by the property lobby and the Federal Government. We should recognise that it is being used to fund holiday lets and Airbnb properties, and that reduces affordability and supply. The State Government has received massive stamp duty revenue windfalls. A transition to phase out stamp duty in exchange for a broader based land tax, which I proposed in the housing inquiry in 2014, would promote efficient use of available land, create a disincentive for people to leave properties vacant or under-occupied and capture a share of any improvements in land value.

## REGIONAL HEALTH AND WESTERN NEW SOUTH WALES

**The Hon. SARAH MITCHELL** (Parliamentary Secretary) [6.50 p.m.]: I will update the House on some of my recent activities as Parliamentary Secretary for Regional and Rural Health and Western New South Wales. First, I can report that a team of 108 registered riders has successfully undertaken the 2016 Royal Far West's Ride for Country Kids—a three-day, 390 kilometre cycling challenge from Port Macquarie to Coffs Harbour. Now in its third year, during this astounding adventure riders passed through country towns including Kempsey, Bowraville, Macksville and Nambucca Heads. At the various stops, Royal Far West hosted community dinners and the riders met with children and families from schools and the local community. As many of my colleagues know, Royal Far West is a non-government organisation that has been providing health services to children living in remote and regional New South Wales for more than 90 years. This incredible organisation works with families as well as local health providers as an accompaniment to existing services.

With 25 per cent of Royal Far West services delivered to kids on the coast, this year's Ride for Country Kids presented a great opportunity to raise awareness of the needs of kids from coastal New South Wales and to support them. Although total funds raised are still being tallied, the ride has already raised in excess of \$540,000—with every dollar going directly towards providing vital health services to country children. I was privileged to be part of the support crew for the ride—handing out snacks, water and Gatorade for peloton 3. I was also an ambassador for the event. I acknowledge those who were on the bikes in lycra, including our colleague the member for Oxley, Melinda Pavey, as well as other members from The Nationals team Douglas Martin and Jeremy Scott. The team has raised in excess of \$13,000, which is a truly fantastic result. I congratulate Lindsay Kane and Richard Colbram and their team at Royal Far West on a most successful ride. I look forward to next year's event with equal anticipation. I might even get on a bike myself at some stage.

Last week I visited Deniliquin with member for Murray Adrian Piccoli to discuss renal dialysis services in the region with community members. We met with Murrumbidgee Local Health District representatives and several local renal dialysis advocates. A decision was made to form a working party in Deniliquin to determine the best future model of care for renal dialysis patients there. It was decided that the working party would review all

the available data and look at all options for a suitable model of care which would improve the quality of life of patients and their carers. It is important that the working party look at the different care needs of all local patients and examine how future services can tie in with partner organisations and agencies. Recommendations will come in the second half of this year. I note that the Murrumbidgee Local Health District has initiated a kidney disease prevention and early detection program. It was an extremely worthwhile visit and a good opportunity for me to hear from local communities members about an important issue. I look forward to working with the executive of Murrumbidgee Local Health District, particularly Chief Executive Jill Ludford, as well as local member Adrian Piccoli and community members to ensure we deliver renal dialysis services best suited to Deniliquin.

Finally, the Australian Local Women's Association Conference was held in Gunnedah last week and I had the pleasure of attending the opening day. With more than 70 delegates in attendance it was great to see so many capable women who are making a contribution through local government. Although there were many fantastic speakers I feel compelled to especially acknowledge keynote speaker Dr Gill Hicks, who members are aware is a survivor of the 2005 London bombings.

She was a passenger on the London Tube at Kings Cross Station when a bomb detonated only metres from her. Her injuries were so severe that she was not expected to survive, but despite losing both her legs she did survive. She gave a powerful address to the ladies gathered in Gunnedah last week, telling us what attributes we need to live the best, most rewarding and most fulfilling life possible. She told us that when she was found after the bombing, the team that found her tried to resuscitate her. They decided to give her three minutes and 30 seconds longer before giving up because they thought she could not be revived. It was not until the three-minute mark that she began to breathe. She said:

I am here with only 30 seconds to spare. If 30 seconds can mean the difference between life and death for me, what can we do in a minute? What can we all do in five minutes to change someone's life?

She told us she was taken to hospital in London and given the label "one unknown estimated female" because her injuries were so horrific. She said:

Hatred took my legs but love actually saved my life. That was the unconditional love of humanity, of those who showed me by rescuing an unknown estimated female by putting their own lives at risk. They showed me the beauty and brilliance of humanity.

Gill Hicks gave a fantastic address and I recommend that anyone who has the chance takes the time to listen to this address.

## MONOPOLIES AND CRONY CAPITALISM

**The Hon. Dr PETER PHELPS** [6.55 p.m.]: Tonight I wish to talk about monopolies and crony capitalism. A monopoly is defined as a single seller in a given industry, but this definition is less useful than it would appear to be. Being a single seller in a given market is not, in and of itself, good or bad. The defining moral characteristic rests on how that single-seller status was obtained. A coercive monopoly can engage in arbitrary production and pricing policies, free from the usual laws of supply and demand. It can make supernormal profits in the long run, and it can exclude competitors. When people speak about the dangers or economic evils of monopolies, what they usually have in mind is that sort of coercive monopoly—where a field is not only devoid of competition but there is an impossibility of competition.

There is only one way to prevent entry into a given market—by law. Every coercive monopoly that has ever existed was created and maintained by Acts of the legislature, licensing, subsidies, tariffs, special deals or outright legislative fiat. Such businesses are granted special privileges, not otherwise obtainable in a free market. Thus a coercive monopoly is not the result of a free market—it is antithetical to a free market, it is an abrogation of a free market, and it is an elevation of the opposite principle: namely, statism. How long ago in our history were we told that there were certain "natural" monopolies which "had to be legislated for by the State"? These included post and parcels, telecommunications, airlines, railways, roads, public transport, electricity, and so on. But the flourishing of competition, which was occasioned by the removal of restrictive legislation, proved that there was nothing "natural" about these coercive monopolies all along.

Now monopolies can exist in a free market, but the only ones that can survive are non-coercive monopolies, where the economic limitations of an existing market provide for but a single seller in a given field. For example, a country town may have only one service station which is barely able to survive, but it hardly merits the description of being a "monopoly". There is no economic need or market demand for a second service station. But if the town grew then that service station would have no power to prevent a competitor from emerging. Microsoft's Explorer in the 1990s and 2000s might be seen in this light. It was able to garner

90 per cent of the browser market not by government-created privileges but by offering a better product at a lower cost. Do we condemn Microsoft as monopolists for producing a product that people overwhelmingly wanted compared to other browsers? No, we do not.

The true monopolists are the private companies that come panhandling for government action to guarantee them an income, or to divide up a market, or to exclude their competitors. These crony capitalists are a poisonous boil on the body politic. No-one can demand a right to compete in a field in which they cannot match the productive efficiency of their potential competitors. There is no reason why people should buy inferior products, at higher prices, in order to maintain less efficient companies in business. Observe what is evil here: the act of using the Government to prefer one business, or one group of businesses, over others. Only the Government can physically force competitors out of markets, or corrupt honest intercourse in free markets, or establish harmful monopolies through the granting of state benefits. This is, of course, a clear violation of individual rights, since such state benefits prevent those who do not have enough political pull to enter a state-regulated industry.

There is only one kind of monopoly that people may rightfully condemn; the only one for which the designation "monopoly" is economically significant: a coercive monopoly. Capitalism is blamed for many things, but coercive monopolies should not be one of them. It is not free trade on free markets which creates these pustulant carbuncles, but governments—government intervention, government favouritism, government diktat, government legislation, government regulation. If people are concerned about monopolistic behaviour, let them recognise the actual villain of the picture—the crony capitalists and their lickspittles in government, who feel they can intervene in normal business decisions with impunity. Let us also recognise that there is only one way to destroy monopolies: by instituting the principle that no government may abridge the freedom of production and trade and that it is not government's role to dictate the buying and selling practices of individual companies.

## OLDER WOMEN

**The Hon. ERNEST WONG** [7.00 p.m.]: On Wednesday 8 March 2016 I had the great pleasure to host a forum, "A Fairer Future", on behalf of the Older Women's Network [OWN] NSW to coincide with International Women's Day 2016. Established in 1987, OWN's aim is to promote the rights, dignity and wellbeing of older women, 50 years and over. The forum was a very well represented event in the New South Wales Parliament Theatre, which was almost full to capacity. This was testament to the dedication and tireless work of the organising committee made up of Denise Dunn, Mary Hacio, Glenda Laird, Cassandra Parkinson, Cate Turner, Sharan Tuite and my very good friend and president of OWN Australia, Ms Aloma Fennell, and chair of OWN NSW, Ms Annette Bray.

Ethnicity, disability, age, sexuality and socio-economic status have been identified as inevitable influences on older women in regard to housing, education, health care, employment and the ability to live in a safe environment, free from violence. Achieving economic independence for women is still at the core of the overall vision for gender equality. Economic independence for women means adequately recognising the value of their paid and unpaid work, both socially and economically. Educating the community on the value of unpaid work and educating employers and employees on effective flexible work practices has been raised as a means to help overcome the struggle many women face to balance paid and unpaid work, bearing in mind that the majority of unpaid care is provided by older women.

According to the Australian Bureau of Statistics, the estimated replacement value of unpaid care provided in 2015 was \$60.3 billion—more than \$1 billion per week—or 3.8 per cent of gross domestic product. Deloitte Access Economics estimated that carers would provide 1.9 billion hours of unpaid care in 2015. Women continue to be disproportionately affected by financial disadvantage and, as a result, have significantly less money saved for their retirement. The gender gap in retirement savings and superannuation has many women fearing the possibility of living in poverty in their later years.

Older women are particularly vulnerable to homelessness because many have had interrupted careers to raise children, have spent a large amount of time caring for relatives and children, or have worked in low-skilled or low-paid jobs and do not have superannuation nest eggs. Factors such as relationships ending through divorce or the death of a bread-winning partner often push older women into homelessness. The consensus among older women is that no government has made any significant movement to support older women in terms of violence, homelessness and poverty in the past five years. The omission of older women from two key New South Wales strategies—one focusing on social housing called "Future Directions" and another focusing on domestic violence called "It Stops Here"—was noted with keen interest and utter dismay. Yet, according to Australia's Age Discrimination Commissioner, "Workforce discrimination, affordable and accessible housing and elder abuse are among the most significant issues facing older women."

These are issues of importance to women, along with nursing home accountability, advance care directives and keeping older women informed of the many changes that take place in government in relation to aging policies. It is imperative that governments connect and engage with older women if they are serious about addressing the issues affecting the ageing population. Governments are fostering an insecure and vulnerable generation of older women by not adequately planning for and supporting them in the later years of their lives. But the good news is that it is not too late.

However, keeping up with the many changes can be highly stressful and often leaves older folk feeling very anxious. This is in addition to all the negativity in the media about the ageing population, with no reference whatsoever to the active lives these people have led, their contributions to society, or the billions of dollars saved by the voluntary work older people do. This current generation of older women have sacrificed a great deal in support of the feminist movement, but have received very little benefit from it personally. After a lifetime of sacrifice and caring for other people they are being let down. We should be doing everything in our power to ensure that the later years of life are dignified and fulfilling.

### GENDER PARITY

**The Hon. SHAOQUETT MOSELMANE** [7.05 p.m.]: As the convenor of the forum for Middle East affairs it gave me great pleasure to attend a forum on Arab women in the west. It was followed by a very engaging Palestine at a Crossroads Conference in 2015. Last week we celebrated International Women's Day and we heard growing calls for gender parity. Women worldwide continue to contribute greatly to the social, economic, cultural and political development of modern day societies. Women in western societies it seems have come a long way, but not to a point where we can say we have genuine gender parity.

Australia has had its first female Prime Minister and by the end of the year the United States may have its first female President. Sporadically we see women make it to the top. For example, Labor's Kristina Keneally was the first female New South Wales Premier. Recently the New South Wales Labor conference voted for the first female general secretary, Kaila Murnain. Internationally there is the election of Indira Gandhi in India, Benazir Bhutto in Pakistan, Margaret Thatcher in Britain and Angela Merkel in Germany—and there are a few others, but the key word here is "few". Few have made it to the top.

Progress towards real gender parity is slow; it is slower for migrant women and even more so for Arab women. It is therefore important that we keep this goal of parity at the forefront of our minds. The Arab women in the west forum is perhaps our contribution to that cause. The quest for parity and the empowerment of women must be one of our key social, cultural, economic and political goals as we head into the twenty-first century. Arab women who come from societies that have not pierced through male domination find it difficult to take even the first step on to the first rung up that ladder of success. So the question is on what rung up that ladder do Arab women in the west currently stand? On 30 April 2015, in her BBC editor's note, journalist Brooke Anderson wrote:

One way to find success as a Middle Eastern woman? Head west.

She went on to say that entrepreneurial women have thrived outside that often patriarchal region of the Middle East. Arab women have been given greater economic opportunities, but they still face different challenges than their western counterparts. The forum explored those challenges to see whether Arab women have indeed found success in the west and at what cost. I was delighted to have Inaam Tabbaa, the New South Wales Industrial Relations Commissioner, speak about Arab women and the glass ceiling. Majida Abboud-Saab, former SBS journalist and Arabic program director, spoke to us about Arab women and the media. And the final speaker was Fatima Ali, chair of the Arabic Communities Council of New South Wales, who spoke to us about Arab women and the Guantanamo west.

I guess the first thing that comes to mind when one says "Guantanamo" is the abuse and confinement that it came to symbolise. Obviously this is stretching the connection of experience for Arab women in the west and those in Guantanamo Bay. The fact is that some Arab women speak of a sense of isolation and intimidation, and for cultural, religious and language reasons talk of confinement within the four walls of their homes. Some were subjected to public abuse because of their religion or dress and feel that they are confined within the four walls of their homes because of a lack of opportunities. Some remain confined within their homes due to a lack of understanding of the Australian culture and language.

Some were even subjected to public abuse because of their religion or dress, and some felt that they had been confined within the four walls of their homes because of a lack of opportunity. As Ms Ali notes in her

contribution, "The road to liberation has been thorny and painful." She further notes that, "Arab women are captured within a glass wall and a glass ceiling." She says, "This symbolic imprisonment is seen and felt by Arab women in their homes, on the street, in public spaces, when accessing services, in educational institutions, and the workplace." She does note, however, that, "The Australian Arab woman has agency, she is defiant, she has fought and continues to fight the invisible glass walls and ceilings" and she is fighting to break out of her prison. I hope to see that sooner rather than later. I thank those who attended the forum and made it a success. I thank the sponsors, Mitry Lawyers. I thank my staff and most of all I thank the presenters and speakers for a most engaging and informative forum.

### LOCAL GOVERNMENT AMALGAMATIONS

**The Hon. ROBERT BORSAK** [7.10 p.m.]: The Shooters and Fishers Party has a proud history of standing up for rural New South Wales. That is why we are changing our party name to the Shooters, Fishers and Farmers Party. It will leave no doubt on where we stand on rural issues. My colleague the Hon. Robert Brown recently argued the case for our party's name change in letters to the editors of rural newspapers to better inform regional communities of this change. I am proud to advise that the letters were published in newspapers across the State. Last Thursday's edition of *The Land* also covered our championing of farmers' land rights against the scourge of environmental zoning on which The Nationals have been silent. There is certainly a mood for change in rural New South Wales. Our rural focus is heralded by our strong opposition to forced council amalgamations including, of course, in regional areas.

Honourable members will be aware of the protest in Hyde Park last Sunday that was addressed by my colleague the Hon. Robert Brown. He made it clear to the more than 2,000 concerned protesters from across the State that we stand against forced amalgamations. As advocates for rural New South Wales, we are open to giving members of The Nationals the chance to vote with us in support of farmers, rather than voting with their Liberal Coalition colleagues. There is a strong precedent for members of the National Party crossing the floor to join us in opposing forced rural council amalgamations. The Deputy Prime Minister and Federal Leader of The Nationals, the Hon. Barnaby Joyce, MP, has weighed in on the debate. In a press release on 22 February he made his directive to his colleagues in The Nationals clear:

Walcha Council is in a good financial position and has a long history as a successful and committed local Government organisation. It is important that country communities such as Walcha are supported to maintain their own identities rather than see them consolidated into larger local Government regions as proposed under Fit for the Future. I fully support the strong community calls for the proposed amalgamation of Walcha Council with Tamworth Regional Council to be withdrawn.

We agree with the Hon. Barnaby Joyce on this matter and commend him for his candour. His assessment flies in the face of recommendations from the Government's Independent Pricing and Regulatory Tribunal [IPART] report, recommending that Walcha Council merge with Uralla Shire Council. The merging of these two councils makes no sense. Not only do they have little in shared geography, but the new super council would be almost 10,000 square kilometres in size. That is larger than The Nationals State electorates of Oxley, Myall Lakes, Port Macquarie, Coffs Harbour, Ballina and Tweed. We cannot see the Government rounding up rural communities into one massive area when each of their local identities, stories and way of life is unique. It is already a travesty that the State electorate of Barwon covers 44.5 per cent of the State of New South Wales.

I am surprised that The Nationals have not stood up to their Liberal Party coalition partners to object. The opposition to forced council amalgamations expressed by the Hon. Barnaby Joyce, however, is one that cannot be ignored by the New South Wales Nationals. It is a clear directive from their Federal leader that forced council amalgamations are not the way to go. Despite being a junior partner in the Coalition, The Nationals no longer have to remain obediently silent when the Liberals promote policies that are bad for farmers and rural communities. I call on The Nationals to follow the lead of the Hon. Barnaby Joyce and to stand side by side with the Shooters, Fishers and Farmers Party in forming a united front against the Liberal Party's forced council amalgamations.

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

**Motion agreed to.**

**The House adjourned at 7.14 p.m. until Thursday 17 March 2016 at 10.00 a.m.**

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