LEGISLATIVE COUNCIL

Wednesday 3 December 2008

———

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

The President read the Prayers.

NSW OMBUDSMAN

Report

The President tabled, pursuant to the Community Services (Complaints, Reviews and Monitoring) Act 1993 and the Ombudsman Act 1974, a report entitled "Report of Reviewable Deaths in 2007—Volume 1: Deaths of People with Disabilities in Care", dated December 2008, which had been authorised to be made public this day.

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

DEPARTMENT OF THE LEGISLATIVE COUNCIL

Report

The President tabled the annual report of the Department of the Legislative Council for the year ended 30 June 2008.

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

MINI-BUDGET 2008-2009 PAPERS

Motion by the Hon. Greg Pearce agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents, excepting any budget papers tabled in Parliament or previously provided to the House under an order of the House relating to the mini-budget 2008-2009:

(a) the following documents in the possession, custody or control of the Treasurer, New South Wales Treasury or the Department of Premier and Cabinet relating to the mini-budget 2008-2009:

  (i) any document provided by government departments, agencies, and public trading enterprises to the Treasurer, Treasury or the Department of Premier and Cabinet in preparation for the mini-budget,

  (ii) any document that assesses the impact of any of the measures outlined in the mini-budget,

  (iii) any models or documents that estimate the revenues to be raised as a result of the measures outlined in the mini-budget,

  (iv) all advice, correspondence, briefing papers and budget kits provided to any member of Parliament relating to the mini-budget 2008-2009,

(b) all documents in the possession custody or control of the Department of State and Regional Development relating to the program "Building the Country" referred to on page A-9 of the 2008-09 mini-budget papers,

(c) all documents in the possession custody or control of the Zoological Parks Board of New South Wales relating to the reprioritisation of the Taronga and Western Plains zoos capital program referred to on page A-4 of the 2008-09 mini-budget papers,

(d) all documents in the possession custody or control of the Department of Education and Training relating to the "Accelerated Asset Sale Program" referred to on page A-5 of the 2008-09 mini-budget papers, and

(e) any document which records or refers to the production of documents as a result of this order of the House.

IRANIAN KURDISH TEACHER DEATH SENTENCE

Motion by Dr John Kaye agreed to:

1. That this House notes with alarm that:

   (a) Iranian Kurdish teacher and trade unionist Farzad Kamangar was detained in July 2006 by Iranian security forces and subsequently charged with membership of the banned Kurdistan Workers Party,

   (b) Mr Kamangar was initially cleared of all charges during the investigation process and according to his lawyer, Kahlil Bahramian, nothing in his judicial files and records demonstrates any links to the charges brought against him,

   (c) Mr Kamangar was sentenced to death by the Iranian Revolutionary Court on 25 February 2008 after a trial that took place in secret and was reported to have lasted only minutes and failed to meet Iranian and international standards of fairness,

   (d) it has been reported that Mr Kamangar has been tortured while in detention and was denied medical treatment, and

   (e) Mr Kamangar remains on death row in Evin prison in Tehran and has, on at least one occasion, been taken from his cell in preparation for execution.

2. That this House calls on the Government of Iran to:

   (a) immediately remove the death sentence from Farzad Kamangar,

   (b) set aside the original conviction,

   (c) provide Mr Kamangar with immediate medical treatment and access to his lawyers, and

   (d) institute a fair and accountable trial that respects both Iranian and international standards of justice.

3. That this House requests the President of the Legislative Council to write to the President of the Islamic Republic of Iran, Mahmoud Ahmadinejad, communicating the terms of this resolution.

DEATH OF LIEUTENANT MICHAEL FUSSELL IN AFGHANISTAN

Motion by the Hon. Lynda Voltz agreed to:

That this House:

(a) extends its condolences to the family of Lieutenant Michael Fussell, who was tragically killed in action whilst fighting on behalf of the Australian people in Afghanistan, and

(b) notes that Lieutenant Michael Fussell was a highly regarded and respected officer who had served with distinction, bravery and courage whilst in Afghanistan.

TABLING OF PAPERS

The Hon. Penny Sharpe tabled the following papers:

Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2008:

Health Foundation
Legal Aid Commission of New South Wales
New South Wales Medical Board

Ordered to be printed on motion by the Hon. Penny Sharpe.

UNPROCLAIMED LEGISLATION

The Hon. Penny Sharpe tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 2 December 2008.

PETITIONS

Gaden Trout Hatchery

Petition opposing the closure of Gaden Trout Hatchery, received from t**he Hon. Melinda Pavey**.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business items Nos 17 to 19, 43, 53 and 96 outside the Order of Precedence withdrawn by Ms Sylvia Hale.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day items Nos 1 to 6 postponed on motion by the Hon. Tony Kelly.

Business of the House Notice of Motion No. 1 postponed on motion by the Hon. Don Harwin.

ATTENDANCE OF HIS EXCELLENCY MR AGUNG LAKSONO, SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE PARLIAMENT OF THE REPUBLIC OF INDONESIA

Motion, by leave, by the Hon. Tony Kelly agreed to:

That in the event of the attendance in this House on Wednesday 3 December 2008 of His Excellency Mr Agung Laksono, Speaker of the House of Representatives of the Parliament of the Republic of Indonesia, he be invited to take a chair on the dais.

COMBAT SPORTS BILL 2008

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

Motion by the Hon. Tony Kelly agreed to:

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

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

BUSINESS OF THE HOUSE

Precedence of Business

Motion by the Hon. Tony Kelly agreed to:

1. That on Wednesday 3 December 2008 Government Business take precedence of debate on committee reports and debate on budget estimates.

2. That on Thursday 4 December 2008 Government Business take precedence of General Business.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Ms LEE RHIANNON [11.16 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 156 outside the Order of Precedence, relating to the Newcastle rail line, be called on forthwith.

This matter is urgent because in eight days—on 11 December—the task force into the future of Newcastle rail, set up by this Government in August this year, will hand down its report. Today is the last opportunity for this House to consider the critical issue of public transport for Newcastle before the Parliament rises for three months. Surely the responsible thing for all members in this House to do is to vote to bring on this debate. Irrespective of what members think should happen to Newcastle rail, surely we should have the opportunity to debate the issue.

In the three months during which the Parliament does not sit a decision may be made to remove the Newcastle rail line from Wickham to Newcastle. This motion congratulates the Legislative Assembly members Ms McKay and Mr Campbell on their unequivocal public defence of Newcastle rail. They have stated their positions clearly. Ms McKay said:

> I can assure you the Government will not give in to threats by developers … At no time when they—

That is General Properties Trust [GPT], the property developer—

> were buying up properties around Newcastle did they say the development would hinge on the removal of the rail line.

The Minister for Transport, David Campbell, stated clearly:

> The Government has looked at this issue over a long period with the local community. It has come to a position supporting the community's view that a heavy rail line should remain.

This motion should be supported because the retail developer, the GPT group, is engaging in push polling and a range of tactics that is distorting debate about the revitalisation of the Newcastle central business district. The distortion in the way the debate has been handled in the Hunter region is a further reason why we should have this debate today. Ms McKay should be congratulated on her exposure of GPT's tactics. As she said in the other place, she will not give in to threats over the rail line.

This is a matter of urgency, because the future of Newcastle rail will be decided before Parliament resumes next year. GPT is threatening to pull out of its $600 million Newcastle central business district revitalisation plan unless the New South Wales Government agrees to remove the rail line between Newcastle and Wickham. It is important that members note that the former member for Newcastle, Mr Gaudry, has said that he is sceptical about the research that General Property Trust is using to convince the community that it is a good plan.

We must debate this motion to bring balance to the dialogue and the information that GPT has been disseminating because much of it is inaccurate. Despite what the company's research consultants say, Vancouver and San Diego still have rail services operating between the city and the harbour. The company has used the rail systems in those cities as examples of the new approach of scrapping rail systems that go deep into the heart of the city. In fact, the opposite is true. I urge members to support this motion to ensure that the people of the Hunter outside Newcastle have a voice in this debate. At the moment, GPT is concentrating on the Hunter itself. It has polled a small sample of people and has used push-polling techniques.

Commuters from Maitland and other areas outside Newcastle are at risk of becoming the silent victims of this Government's Newcastle rail policy. I draw the attention of the House to the fact that the member for Maitland, Frank Terenzini, is also pushing for a louder voice for city commuters about the proposal to cut the line at Wickham and to replace Civic and Newcastle stations. The member said that he had been asking Maitland commuters about the idea and that he had not met anyone who wanted it implemented. He made the important observation that people with disabilities, the elderly and young surfers with surfboards were three examples of commuters who would be disadvantaged by the plan to replace the rail service with a bus service. It is most important that we bring on this debate. Of particular concern is the Government's reliance on Federal funding to replace the rail service with a bus service. That is in jeopardy because the funding provided to revitalise Australian cities depends on sustainable transport systems. [*Time expired.*]

The Hon. TONY KELLY (Minister for Police, Minister for Lands, and Minister for Emergency Services) [11.22 a.m.]: The Government does not support urgency on this motion. From memory, this issue has been around for five years.

The Hon. Michael Gallacher: No, it is longer.

The Hon. TONY KELLY: The Leader of the Opposition suggests that it has been around even longer than that. This is one of the last sitting days of the year, we rose at 2.30 this morning, and we are very likely to be sitting until 2.30 tomorrow morning. This is not an urgent issue, and I urge the House not to support the motion.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.23 a.m.]: Like the Government, the Opposition will not support this motion. Ms Lee Rhiannon made a wide-ranging contribution and I will make a few observations about it. With regard to the time frame, the Leader of Government Business is correct

in saying that this matter has been the subject of debate for some years. I recall about 20 reports or inquiries into the future of this rail service going back many years. It is an important issue and we need to debate it publicly. However, it does not need to be debated as a priority today. Honourable members should also recognise that organisations like the Hunter Valley Research Foundation, which is one of the leading and most respected research organisations in this State—

The Hon. Tony Kelly: In Australia.

The Hon. MICHAEL GALLACHER: As the Leader of the House said, it is one of the most respected research organisations in Australia. Such organisations do not participate in push-polling exercises. It is obvious that Ms Lee Rhiannon was debating the motion when she made those observations. The Opposition fully supports the Hunter Valley Research Foundation, and the work it has done and the work it will continue to do. For all the compassion and concern we hear from the honourable member, apart from Hunter Valley Research Foundation, it has fallen to the Hunter Liberals to survey passengers on the rail line about their needs. While doing that we have not seen one Greens member anywhere near a railway station. The Greens want to politicise the issue rather than contribute in a positive way.

Ms SYLVIA HALE [11.25 a.m.]: I support my colleague Ms Lee Rhiannon's motion. If ever there were an urgent issue it is this issue. The Government task force report on the future of the rail service will be handed down in one week. The Government's and Opposition's failure to support this motion indicates that they do not wish to confront the issue. Clearly, the Government is backing away from the opportunity to support both its local member and the Minister for Transport. I have no doubt that the Government is embarrassed. It wants to see the railway line dismantled and the land effectively handed over to the General Property Trust. By not supporting this motion—which is clearly urgent—the Government and the Opposition are succumbing to the blackmail referred to by the member for Newcastle. It is extraordinary that the Government is not taking this opportunity to support the unequivocal statements made by its members during the budget estimates hearings. Of course, the Opposition always talks about its concern and passion for the area and its determination to stick up for—

The Hon. Duncan Gay: Point of order: I clearly heard the honourable member indicate that I bowed to blackmail. I find that statement offensive and I ask the member to withdraw it.

The PRESIDENT: Order! I ask the member to consider withdrawing the statement.

Ms SYLVIA HALE: I withdraw the statement.

The Hon. Rick Colless: Apologise!

Ms SYLVIA HALE: I apologise. I was certainly making no personal reflections on any member of this House.

The PRESIDENT: I thank the member.

Ms SYLVIA HALE: However, I note that many people who read about the failure of the Government and the Opposition to support this motion would draw a conclusion that members of the House may well have succumbed to—

The Hon. Duncan Gay: Point of order: Members cannot apologise and withdraw a statement and then restate it. Mr President, I ask you to indicate to the honourable member that if she withdraws she should do so unreservedly.

Ms SYLVIA HALE: To the point of order: I have clearly withdrawn the statement. I am now commenting on the interpretation that many members of the public may place on the Government's and the Opposition's decision—

The PRESIDENT: Order! Imputations against any member are disorderly. I understood that the member had withdrawn unreservedly. I ask the member to confirm that she has withdrawn the imputation unreservedly.

Ms SYLVIA HALE: I confirm that I withdraw that statement.

The PRESIDENT: I thank the member.

Ms SYLVIA HALE: I draw the attention of the House to the words of the member for Newcastle during the budget estimates hearings when she stated:

> I can assure you the Government will not give in to threats by developers. At no time when they were buying up properties—

The Hon. Tony Kelly: Point of order: The member is now arguing the substantive motion, not the urgency.

Ms SYLVIA HALE: To the point of order: I was reminding members of the House about the content of the motion.

The PRESIDENT: Order! Standing Order 198 (1) states that standing or other orders of the House may be suspended only in "urgent cases". President Johnson on 26 February and 19 November 1987 ruled:

> In debating a procedural motion, members should restrict their comments to the terms of the motion and not the substance of the matter.

On numerous occasions, including on 7 April 2005, President Burgmann also ruled:

> On a motion to suspend standing orders members must confine their remarks to debating whether standing and sessional orders should be suspended and should not debate the substantive motion.

Accordingly, the member must not debate the substantive motion. I note, however, that the member's time for speaking has expired.

Dr JOHN KAYE [11.29 a.m.]: I support the motion of Ms Lee Rhiannon. It is hard to understand how any member of this House could not appreciate the urgency of protecting the rail into Newcastle. At a time when we are clearly faced with major problems with oil and major problems with climate change, a key piece of sustainable low-oil dependency infrastructure is about to be damaged. If this House does not act today, we risk losing that infrastructure, losing that opportunity for the people of Newcastle to use sustainable and low-oil infrastructure. Labor members of this Parliament should recognise that the high swing against Labor in the 2007 State election was in the seat of Newcastle. That swing was followed by a drop in Labor's vote at recent local elections across the Hunter. This is a matter of urgency, and everyone in this Chamber should be concerned about it.

The Hon. Penny Sharpe: Tell us why the motion is urgent.

Dr JOHN KAYE: I am reminding members of the Government why the motion is urgent. It also goes to the issue of the public interest in this matter. The public views the matter as urgent. Whenever a political party suggests closing down that rail link, it is inevitable that the community reacts against it. I am referring to evidence of the political dangers for the Government in closing down the rail link. I urge members to accord this motion urgency so that every member of this place will have the opportunity to put on record their views about the appropriateness of the relationship between a property developer and public transport. The debate will give members the opportunity to talk about the alternatives to closing down the railway line, and the important task of revitalising the CBD of Newcastle. The debate will give members the opportunity to put on record their commitment to sustainable and just transport solutions for the people of Newcastle.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 4

Mr Cohen
Ms Rhiannon

Tellers,
Ms Hale
Dr Kaye

Noes, 29

Mr Ajaka	Mr Khan	Ms Robertson
Mr Brown	Mr Lynn	Ms Sharpe
Mr Catanzariti	Mr Macdonald	Mr Smith
Mr Clarke	Mr Mason-Cox	Mr Tsang
Mr Colless	Reverend Dr Moyes	Ms Voltz
Ms Fazio	Reverend Nile	Mr West
Ms Ficarra	Ms Parker	Ms Westwood
Miss Gardiner	Mrs Pavey	*Tellers,*
Mr Gay	Mr Pearce	Mr Harwin
Mr Kelly	Mr Robertson	Mr Veitch

Question resolved in the negative.

Motion negatived.

HOMEBUSH MOTOR RACING (SYDNEY 400) BILL 2008

Second Reading

Debate resumed from 27 November 2008.

The Hon. TREVOR KHAN [11.40 a.m.]: I lead for the Opposition on the Homebush Motor Racing (Sydney 400) Bill 2008. I indicate that the Opposition will oppose the legislation for the reasons previously stated at length by the shadow Minister in the other place. There is little need to go over the same ground in detail. The object of the bill is to facilitate the conduct of an annual V8 motor race and associated races and events at Homebush, to be known as the Sydney 400.

Part 1 and part 2 of the provisions of the bill are as follows. Clause 1 sets out the name, also called the short title, of the proposed Act. Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation. Clause 3 defines certain words and expressions used in the proposed Act, and contains certain other interpretive provisions. Clause 4 provides for the constitution of the Homebush Motor Racing Authority as a corporation. Clause 5 provides that the authority is a New South Wales government agency. Clause 6 provides that the authority is subject to the direction and control of the Minister. Clause 7 provides that the chief executive officer of the authority is responsible for the day-to-day management of the affairs of the authority.

Clause 8 provides for the establishment of an advisory board to provide advice to the chief executive officer on the functions of the authority under the proposed Act or any other matter referred to the advisory board by the chief executive officer. Schedule 1 contains provisions relating to membership and procedure of the advisory board. Clause 9 provides for the establishment of an event implementation committee to provide advice to the advisory board on matters referred to the committee by the advisory board. Clause 10 sets out the functions of the authority. The functions of the authority relate to the preparation for, and the management and conduct of, the race. Clause 11 enables the authority to delegate the exercise of its functions.

The Government has not demonstrated transparency in its dealings with the promoters of the event. There are considerable questions in the minds of the people of New South Wales as to how, why and when the deal was done between the State Government and the V8 proponents. People are sceptical about whether due process has been followed. When one looks to the budget estimates process, obtaining information relating to the background of the event could be likened to pulling hens teeth. When information was sought on the economic basis for staging this event at Homebush, the Minister gave various explanations as to why the material could not be released, including that it was Cabinet in confidence. When told that the Premier had abandoned that approach, he said the material was commercial in confidence.

Clearly the Government did not wish to be frank with the people of New South Wales. It has failed to convince the people of New South Wales that the taxpayer contribution would be capped. Time and again during budget estimates, when questions were put, the Minister was akin to an eel and we could not come to grips with why he was not prepared to explain the extent of the cap. People are sceptical, after the blow-out in taxpayer contributions to World Youth Day, which was beneficial to Sydney, that the Government's assessment of the V8 event's cost will be less than what taxpayers end up paying.

When determining the value of the V8 event for Sydney, it is difficult to assess the economic and social benefits to the New South Wales economy. The Government should not fail to disclose the full cost upfront so the people of New South Wales can then determine the worthiness of the proposal. I am not suggesting the Government withheld information as to its costs. Having read the brief in detail, I suggest that the Government does not know the full cost of the event in the longer term. More importantly, the announcement of the event was done without proper consultation. We know that the Sydney Olympic Park Authority, Ryde Council, Strathfield Council and Events New South Wales all oppose the staging of the event at Homebush. These bodies have identified serious flaws with the proposal and, to date, these problems have not been addressed.

Equally as important, the mums, dads and working families do not believe the event will be of benefit to them. That has been shown in media reports and elsewhere. Indeed, it was demonstrated in the recent Ryde by-election, where it was obviously a significant issue to local residents. The Government has failed to win the support of the people of New South Wales and to clearly articulate why the event should be held at Homebush. People are quite rightly sceptical that this will not be another costly event for New South Wales taxpayers to pick up the tab on. The Opposition will oppose the bill. It is another demonstration of a Government that makes its policy decisions based on the back of media releases that, in turn, are only knee-jerk responses to the substantial dissatisfaction within the community about how the State is being run. The proposal has been rushed and lacks due process. The people of New South Wales are not convinced of the merits of the proposal. For these reasons the Opposition opposes the bill.

Ms SYLVIA HALE [11.47 a.m.]: I lead for the Greens on the Homebush Motor Racing (Sydney 400) Bill 2008, to which the Greens are opposed. It is extraordinary the number of times people have commented to me recently that the dying days of this Government are reminiscent of the decadence and decay that marked the decline and fall of the Roman Empire. This bill serves to reinforce that view. If ever there was a Government trying to survive by relying on public circuses, this is one. This bill shows the extent to which the Government is willing to sacrifice the environment, the economic survival of local businesses, and the amenity of local residents to impose on its unwilling citizens such a circus.

Local residents, councils, motor clubs, economists and environmental groups have expressed an extensive range of concerns about this bill. Their concerns include: all power is centralised with the Minister and his handpicked authority; there is no oversight, accountability or independent review mechanism; the Sydney Olympic Park Authority will be stripped of its powers over the site for an undefined period each year; the selection of the race promoter is predetermined; the race promoter, V8 Supercars, essentially has exclusive use of the site, with minimal obligations; environmental protection laws are suspended because the race would fail any environmental or triple bottom line evaluation; there is to be no compensation for surrounding residents and on-site businesses for amenity or economic loss; and a public asset is to be used for private commercial gain and exposed to long-term degradation risks as a result.

A key concern about the bill is that there is no limit on the length, frequency and size of the V8 races. The definition of "Homebush motor race" contained in the bill is "A V8 motor race, and any associated motor races and events, authorised under Division 1 of Part 3". That division of the bill authorises the Minister to "declare any area within Sydney Olympic Park as the area within which a Homebush motor race may be conducted" and to "designate the period during which a Homebush motor race may be conducted", a period to be known as the "Homebush motor racing period".

While clause 14 (1) has the effect of limiting to one the number of motor racing periods each year, the bill ensures that there is no limit on the duration of the racing period or on the number of races that can be conducted during that single period each year. So this bill is not limited to one motor race during a three-day period each year. It authorises the Minister to hand Sydney Olympic Park over to a private race promoter for an unlimited amount of time and for an unlimited number of races each year. Part 4 of the bill ensures that the decision of the Minister cannot be challenged in any way. Clause 34 states in part:

> (2) The exercise by any protected person of any protected function may not be:
>
> (a) challenged, reviewed, quashed or called into question before any court of law or administrative review body in any proceedings, or
>
> (b) restrained, removed or otherwise affected by any proceedings.
>
> (3) Without limiting subsection (2), that subsection applies whether or not the proceedings relate to any question involving compliance or non-compliance, by a protected person, with the provisions of Part 3 or the rules of natural justice (procedural fairness).

(4) Accordingly, no court of law or administrative review body has jurisdiction or power to consider any question involving compliance or non-compliance, by the protected person, with those provisions or with those rules so far as they apply to the exercise of any protected function.

(5) This section has effect despite any provision of this Act or other legislation or any other law (whether written or unwritten).

(6) In this section:

exercise of functions includes:

(a) the purported exercise of functions, and

(b) the non-exercise or improper exercise of functions, and

(c) the proposed, apprehended or threatened exercise of functions.

I find clause 34 deeply disturbing. This legislation prohibits any review by any court or tribunal of decisions by a Minister or any other authorised person, even in relation to the improper exercise of the Minister's or other authorised person's functions or in relation to the denial of natural justice. The bill invites corruption and is fundamentally anti-democratic.

The Government has, as ever, been completely disingenuous when describing the effect of this bill. In his second reading speech the Minister speaks extensively of how the Government is going to protect the environment and the interests of local businesses and local residents. It will strive to achieve these goals through the counter-intuitive measures of overriding all existing protections for the environment, local businesses and residents, and by removing all legal rights to take action to stop or seek compensation for the damage suffered as a result of the Government handing over Sydney Olympic Park to the V8 race promoter. The Government should at least be honest about what it is doing here. The Homebush Motor Racing Authority is being established for the specific purpose of removing or reducing environmental and amenity protections that currently exist and could be enforced by other statutory authorities.

Many existing protections under the Environmental Planning and Assessment Act, the National Parks and Wildlife Act, the Protection of the Environment Operations Act, the Local Government Act, the Sydney Olympic Park Authority Act, the Motor Vehicle Sports (Public Safety) Act, and the Road Transport (Safety and Traffic Management) Act are swept away by this bill. The Minister assures us that we should not be alarmed by this extensive trashing of statutory protections because the new Homebush Motor Racing Authority will protect everyone. He assures us in his second reading speech that the authority "will streamline approvals for the necessary pre-race preparations by VB Supercars, while still ensuring that public safety and environmental matters are properly taken into account".

We can certainly see that the authority is established to streamline approvals, but nowhere does the Minister explain how public safety and environmental matters will be taken into account, given that most existing protections are extinguished by the bill. The bill contains no guidelines for the new authority on environmental protection or related matters. Clause 10, which sets out the functions of the authority, makes no reference to protection of the environment, protection of the livelihoods of local businesses, or protection of the amenity of local residents. It refers only to "the preparation for, and the management and conduct of and the works associated with, a Homebush motor race".

The authority has one clear goal: to make this race happen. To suggest, therefore, that the authority is going to ensure protection of anything other than the interests of the V8 supercars organisation is nonsense. "The new authority will provide transparent and centralised planning oversight functions for the event," says the Minister. It will certainly centralise things, but how will it make planning oversight transparent? The authority is answerable directly to the Minister, who appoints its advisory board. Its actions or inactions cannot be subject to legal challenge and it cannot be sued for nuisance or economic damage. This is the opposite of transparency. It is the extinguishment of individual and collective legal rights, which will be replaced by excessive and unchallengeable Executive decision making.

What could possibly justify such cavalier disregard on the part of the Government for the rights of its citizens? The Minister assures us that his department's modelling tells him that the race will deliver $100 million to $110 million to the State's economy over five years. This, however, is clearly not a net figure because in his second reading speech the Minister admits that the level of Government support for the Sydney 400 "is still being finalised". If the level of Government support is unknown, it is clear that the modelling does not discount the Government's contribution when assessing the potential benefit to the State's economy. Nor is it clear that the modelling takes into account the impact of not holding the V8 races at Eastern Creek.

If the race will bring in $100 million at Homebush, would it produce the same benefit if it were held in the specialist motor racing precinct at Eastern Creek? Some economists have argued that there would be substantially greater benefit if the event were to be held in an automotive and motor sport industry cluster like Eastern Creek rather than at Olympic Park which has no history with or links to the motor racing industry. A review of the Government modelling provided to the Greens and other crossbenchers describes the economic analysis as "seriously deficient". The review describes how the halo effect from the yearly V8 car races held at Eastern Creek has played an important role in the development of the automotive and motor racing industry cluster. The halo effect refers to the spin-off benefits to the Eastern Creek raceway from the V8 event. The review notes:

> The raceway can attract visitors to its wide variety of other events including club races, drive and ride days and driver training. The halo effect also provides the recognition factor that attracts new businesses providing higher order jobs in research and development and services beyond the existing businesses. In economic terms it is these backward and forward linkages between the different sections of the automotive and motor sport industry that make such an industry cluster a success.

The review outlines the concerns that moving the V8 races to temporary facilities at Homebush will see a major component of the potential economic benefits of the event lost. It states:

> The motor races become simple spectator events, comparable to any other large-scale event that could be held in Olympic Park in Homebush and lose the specific contributions they can make to the New South Wales economy if they remain integrated into an industry cluster in permanent facilities.

The economic modelling prepared for the Department of State and Regional Development does not consider this halo effect. The simple input-output model used by the department simply estimates an increase in gross state product assuming that the alternative is no V8 race at all. It gives no consideration to the benefits the race could provide if it is staged in a permanent facility that is well integrated in an industry cluster. In my view the question of the potential costs and benefits of this event being staged at Homebush remains open. The modelling prepared for the department fails to consider the triple bottom line, and it fails to consider the opportunity costs of not holding the event at Eastern Creek. It ignores the money that has already been spent on Eastern Creek, it ignores the way moving this race will threaten the future viability of Eastern Creek, and it ignores the effect the transfer of the event will have on the environment, businesses and residents around the Olympic Park site.

Why is the Government so determined to ignore the facilities available at Eastern Creek where V8 supercar events have been held successfully for decades, and which would like to continue to stage V8 supercar events? Eastern Creek has had V8 events in the past; it wants more V8 events in the future. A lot of time, effort and planning, not to mention millions of dollars, have been invested in creating a purpose-built motor racing precinct at Eastern Creek. The environmental and amenity issues that arise at Olympic Park at Homebush are not present at Eastern Creek. Eastern Creek has not needed special legislation removing everyone's rights in order to stage V8 events in the past. There would be no need for legislation like this if it were staged at Eastern Creek in the future.

The Government is allowing itself to be bullied into this by an apparent ultimatum from the V8 promoter. We have a purpose-built motor racing precinct but the promoter apparently does not want to use it. He wants the cache of Sydney's Olympic venue to promote his event and maximise his profits. He makes the mere threat of holding the event outside Sydney and the Government falls over itself to do his bidding. It simply gives the promoter what he wants: control over one of Sydney's premier sporting precincts for an undefined period each year with a $30 million Government handout straight to his bottom line thrown in for good measure. Is it any wonder this Government has such an appalling reputation?

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

ATTENDANCE OF HIS EXCELLENCY MR AGUNG LAKSONO, SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE PARLIAMENT OF THE REPUBLIC OF INDONESIA

The PRESIDENT: Order! I invite the attention of members to the presence in my gallery of His Excellency Mr Agung Laksono, Speaker of the House of Representatives of the Parliament of the Republic of Indonesia, together with an official parliamentary delegation. I welcome His Excellency to the Legislative Council and, in accordance with the resolution of the House, I invite His Excellency to take a chair on the dais.

The House of His Excellency has 550 members. The Legislative Council of the Parliament of New South Wales has many fewer members, but as His Excellency will soon realise what we lack in numbers we make up in noise.

His Excellency Mr Agung Laksono, Speaker of the House of Representatives of the Parliament of the Republic of Indonesia, took a seat on the dais to the right of the President.

QUESTIONS WITHOUT NOTICE

HOSPITAL PERFORMANCE REPORT

The Hon. MICHAEL GALLACHER: I direct my question to the Minister for Health. What was the Minister's justification for publishing an 18-page quarterly hospital performance report for September when in March his predecessor, Reba Meagher, published an 89-page performance report? Have the conditions in New South Wales hospitals improved so considerably under his tenure as Minster for Health that the size and scope of the quarterly performance reports can be diminished to such an extent? Why were 11 key performance indicators left out of the most recent report? Were these key performance indicators met? Why has the Minister not reported on any information concerning 31 individual hospitals out of 72 hospitals? What other information contained in the previous quarterly hospital performance report was left out of this report?

The Hon. JOHN DELLA BOSCA: I am absolutely flattered by the attention of the Leader of the Opposition—

The Hon. Duncan Gay: Don't be.

The Hon. JOHN DELLA BOSCA: Why not? I am flattered by the attention of the Leader of the Opposition and his concern for health services in New South Wales and the quarterly review. As pointed out by the Leader of the Opposition, the quarterly report showed that once again the services of the Department of Health and New South Wales public hospitals are performing very well.

The Hon. Michael Gallacher: How can you be sure of that when there is information missing?

The Hon. JOHN DELLA BOSCA: There is no information missing. Hospitals in New South Wales collect and report a wide range of data. The member has resisted the opportunity at the moment, but I am worried about what his supplementary question might contain because no doubt he will continue the Liberal Party tradition of running down the New South Wales health system both in Opposition and in Government. The data is not collected for its own sake, or for the Opposition to play political games with; it is collected for a much more productive purpose. The data is collected to provide the Government with real information about the performance of our hospitals, the performance of patient care and safety, and ways in which to improve the treatment of patients in public hospitals. The Garling report noted that key performance indicators have been a feature of our system for many years. The commissioner acknowledged the work done at State and Federal levels to collect that data and the significant amount of data collected in each hospital.

The Hon. Michael Gallacher: You have no answer for this, have you?

The Hon. JOHN DELLA BOSCA: You would be surprised. I have answers to every question you have, Michael. In a briefing with the commissioner, he expressed to me his concern that the data must only be collected if it is useful to patients and will improve patient care. The Garling report provides the State with a basis of an action plan to improve patient care in New South Wales. Properly analysed publicly available data is one of the keys to delivering an outcome. The commissioner noted how hard our doctors and nurses tried in their efforts to achieve the existing benchmarks from the data we collect. In fact, the commissioner said the pressure on our staff to meet those benchmarks is sometimes too great. The Opposition has wrongly suggested that data is being falsified. The member for North Shore asked a question last week about the "manipulation" of what is happening in our hospitals. If there was a distortion, it is a claim that clinicians are falsifying data.

NSW Health recently commissioned Deloittes to examine the collection of data in our hospitals. The Deloitte Triage Benchmarking Review, released last week, did not mention any instances of inappropriate data manipulation for electronic patient records that were matched to supporting paper documentation. Deloitte audited 498,000 electronic patient records covering presentations to 11 hospitals—Concord, Gosford, John Hunter, Liverpool, Mona Vale and District, Nepean, Prince of Wales, Ryde, St George, Westmead and Wollongong—between January and December 2007.

The review found that 0.24 per cent of data entries contained anomalies, or 24 out of every 10,000 records. It also found that patient emergency department presentations are largely documented in accordance

with NSW Health emergency department data definitions on the triage scale of 1 to 5. Importantly, the report acknowledged that NSW Health has taken significant and successful steps in remedying a lack of consistency in the capture, processing and triaging of patients across the reviewed hospitals. NSW Health's first generation of electronic data collection EDIS, or Emergency Department Information System, is being replaced by new software known as—

The Hon. Duncan Gay: This has nothing to do with the question.

The Hon. JOHN DELLA BOSCA: It has everything to do with the question. [*Time expired.*]

STATE ECONOMY

The Hon. HENRY TSANG: I direct my question to the Treasurer. Will the Treasurer inform the House about the latest developments in the New South Wales economy?

The Hon. ERIC ROOZENDAAL: I thank the member for his question and I take the opportunity to remark on what a fantastic Parliamentary Secretary the Hon. Henry Tsang has been in supporting the important work of Treasury.

The Hon. Michael Gallacher: Is Henry leaving? He probably does not know it yet!

The Hon. ERIC ROOZENDAAL: I think it is important from time to time to acknowledge the contribution that the Hon. Henry Tsang has made in support of the people of New South Wales. The Australian Bureau of Statistics this morning released economic growth figures for the September quarter. For New South Wales the State final demand during the September quarter was growth of 0.6 per cent. The State final demand for the June quarter was revised up to growth of 0.2 per cent. These results are in line with the forecasts announced in the mini-budget. If we compare our results to other states, New South Wales is above the national average, while Victoria's State final demand for the September quarter was minus 1.4 per cent, and Queensland's State final demand was minus 0.5 per cent.

State final demand measures the volume of spending in New South Wales by households, businesses and government, but excludes overseas and interstate exports and imports, as well as inventory accumulation. The main component of State final demand is household consumption, which accounts for 60.3 per cent. The next largest component is general government expenditure, which accounts for 16.1 per cent. The remainder of State final demand is comprised of business investment, 13.5 per cent; dwelling investment, 4.7 per cent; and public investment, 4.0 per cent.

These figures today, although good for New South Wales, nonetheless show the impact of the global financial crisis. We must not be complacent. The consensus of expert opinion is that harder times may yet be ahead of us, and the full impact of the crisis is yet to be felt. We are in the midst of the most severe global economic and financial downturn in the post-war period, with nearly all OECD economies now in or near recession. New South Wales is structurally more exposed to United States and European economic turbulence than the resource states.

As the financial capital of Australia, Sydney is especially exposed to the global financial crisis. Given the rationalisation now underway in this sector, Sydney is bearing a disproportionate share of the adjustment that is now underway nationally. Households in New South Wales also have high gearing levels compared to other states, and because of this they are more exposed to financial conditions. It should also be noted that apart from coal, the New South Wales economy had comparatively little direct exposure to the resource sector boom.

In these challenging times we recognise the reality of the situation, but it is important not to unnecessarily talk down the New South Wales economy. The fact is that the New South Wales economic fundamentals remain solid. Although times are tough now, New South Wales, as the engine room of the national economy, will lead the recovery when it comes. The recent sharp declines in interest rates can be expected to boost consumer confidence and spending over the next 12 months, as will the recently announced Federal Government fiscal package. Stimulating the housing sector is a first order of priority for the Government. With cuts to interest rates, extra grants for first homeowners and the work that is underway to reduce development costs, the Government is supporting the preconditions for recovery in this sector.

The fall in the exchange rate can be expected to help local manufacturers, agriculture and service industries whose competitiveness was eroded by the high Australian dollar. Our record $56.8 billion capital works program over the next four years—the highest capital works program of any Government in Australia—

will help to sustain jobs and support business activity. The Government stands ready to meet the challenges of this difficult period. As demonstrated by the mini-budget, we will act decisively and responsibly to support jobs and investment and maintain front-line services.

GREATER WESTERN AREA HEALTH SERVICE

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Health. Given the Treasurer's claim that he has secured $2.2 billion for health as part of the Commonwealth State Funding Agreement, will the Minister now give a guarantee to the people of Dubbo to fix the financial problems of the Greater Western Area Health Service for good and to redevelop Dubbo Base Hospital and the previously promised Lourdes Hospital? Surely the Minister has no excuses left.

The Hon. JOHN DELLA BOSCA: I do not proffer excuses; I simply state the facts. I am appreciative of the excellent work done by the Premier and the Treasurer at the Council of Australian Governments meeting. They secured a much better position than previously for New South Wales on health and a range of other important services that are jointly funded through Commonwealth-State partnerships. They obtained a much better position not only because of their diplomatic and political skills, but because we have a Commonwealth Government that is committed to key areas of social policy, including a historic commitment to a fair split of funding responsibility in health between the Commonwealth and the State. I have said over and over again, and I will say it again because the Opposition needs to be aware of the facts and the consequences—

The Hon. Duncan Gay: Are you going to go close to answering my question?

The Hon. JOHN DELLA BOSCA: This is part of the answer to your question. At the beginning of the Howard era the Commonwealth and the State shared hospital funding 50:50. By the end of the Howard era the split was 41:59. The numbers are very persuasive. As members are aware, the numbers have been publicly canvassed and they demonstrate that the Rudd and Rees Governments are committed to a partnership to deliver the public health that Australians are entitled to expect. We have that agreement. The Deputy Leader of the Opposition moved on to a checklist of very important issues. In relation to capital commitment, the Deputy Leader of the Opposition knows—or I hope he knows because it has been said time and again in the mini-budget and subsequently—that the Commonwealth is separately embarking on substantial infrastructure investment, including a significant investment on a national basis in health infrastructure. We do not know the exact shape of it; that is for the Commonwealth processes to determine.

The Hon. Duncan Gay: So no money?

The Hon. JOHN DELLA BOSCA: Listen to the answer.

The Hon. Duncan Gay: You are not giving us an answer. You are telling us to look into the future.

The Hon. JOHN DELLA BOSCA: It is a very near future. The health infrastructure fund, which is a matter for the Commonwealth, will be concluded, one anticipates, in the next couple of days, perhaps weeks. It may be early after Christmas; we do not know exactly when. It is a matter for the Commonwealth, but no doubt it will keep us advised appropriately.

The Hon. Michael Gallacher: Christmas which year?

The Hon. JOHN DELLA BOSCA: I suspect it is this year. It is a Commonwealth process. It will keep us advised, as it sees fit. When it comes to a landing, we will come to a landing on our capital commitments and make them public. Irrespective of those matters, I have already provided information about Lourdes Hospital.

The Hon. Duncan Gay: You know you haven't.

The Hon. JOHN DELLA BOSCA: I have. We are concluding negotiations with Catholic Healthcare.

The Hon. Duncan Gay: They have already been completed with the previous Minister.

The Hon. JOHN DELLA BOSCA: They have not been. I do not know what the Deputy Leader of the Opposition is basing that on. We have all but concluded our negotiations. They have been successful. I have given in general terms the progress of those negotiations. They have been satisfactory to both Catholic Healthcare and NSW Health. I expect those matters to be concluded and announced in the near future.

The Hon. Duncan Gay: With a positive outcome?

The Hon. JOHN DELLA BOSCA: I anticipate a positive outcome. Obviously, I am talking about negotiations that have to be finally landed. I have communicated as much as I can responsibly to the physicians and the hospital community at Dubbo. It is important that we are sensible about these matters. They are not exclusively related to any outcomes of the Council of Australian Governments, but they are influenced by the Commonwealth health infrastructure outcomes. All those things will become clear and be public and transparent when the final health infrastructure proposal is completed.

SEX TRAFFICKING

Reverend the Hon. Dr GORDON MOYES: I direct my question without notice to the Minister for Police. Is the Minister aware that Sydney remains the most significant entry point for trafficked women and that New South Wales and Victoria are the States where most trafficked women and associated crime groups operate? Is the Minister aware of the findings of the United Nations trafficking citation index, which states, "Human trafficking to Australia is predominantly women for the purpose of sexual exploitation"? In particular, is the Minister aware of recent cases, one involving a Surry Hills brothel with a $2 million turnover where, when raided by the Australian Federal Police, six Korean sex slaves were found and another incident of a double homicide in Auburn of Chinese women who may have been sex workers? Can the Minister indicate what immediate action will be taken by the New South Wales Police Force to ensure that we do not turn a blind eye to this transnational crime and to ensure that there are no victims of slavery and sexual servitude in the State's brothels?

The Hon. TONY KELLY: As partially indicated in the question by Reverend the Hon. Dr Gordon Moyes, to a large degree this is a Federal police matter. I give an undertaking that I will discuss this matter with the Commissioner of Police and make sure that the New South Wales Police Force coordinates with the Australian Federal Police to try to keep on top of these issues. I will pass on this information. Before I conclude my answer, I want to acknowledge the people from Lambing Flat. The Cherry Festival at Young is on this weekend. I encourage everyone in the central west to go to the Cherry Festival.

MEDICAL RESEARCH INVESTMENT

The Hon. LYNDA VOLTZ: My question without notice is addressed to the Minister for Health. Can the Minister inform the House about the impact of the State Government's investment in medical research on families across New South Wales?

The Hon. JOHN DELLA BOSCA: I thank the Hon. Lynda Voltz for her ongoing interest in health issues, particularly the important area of medical research. Medical research leads to medical breakthroughs, which can be delivered from the laboratory to the bedside to enhance the health and welfare of families in New South Wales and on a global scale. Without medical research New South Wales residents would not be able to benefit from life-saving and life-changing procedures, such as split liver transplantation where adult livers can be transplanted into children; deep brain stimulation to treat epilepsy in children and adults; and interventional neuroradiology [INR] to treat strokes, aneurysms and brain tumours. This procedure involves the insertion of coils or glues into blood vessels to decrease or increase the supply of blood to the brain or spinal cord.

As a result of these breakthroughs people are living longer and healthier lives. According to the Chief Health Officer's recently released report, a newborn male in New South Wales in 2006 can expect to live to 79.3 years of age while a female has a life expectancy of 84.2 years. To promote and support medical research, the State Government provides two medical grants programs that operate on a three-year cycle—the Medical Research Support Program, which is administered by the Office of Science and Medical Research, and the Capacity Building Infrastructure Grants Program, which is overseen by NSW Health.

These programs provide a total of $66.8 million over the three-year cycle to support our medical researchers so that they can continue their important work. Last Saturday I attended the Royal North Shore Hospital's Kolling Institute of Medical Research to learn more about one of our latest medical breakthroughs. Researchers at the institute have discovered a protein in the blood of expectant mothers that could identify babies at risk of being born malnourished. The protein, angiopoietin-2, can be measured in maternal blood at as early as 10 weeks gestation. This is a significant breakthrough for expectant parents. If we can identify the problem early in pregnancy we can start looking at helping women with the protein to deliver healthy babies.

Traditionally, the detection of malnourished babies that may be born small have come comparatively late in pregnancy using a combination of clinical examination and ultrasound. At this stage the only effective treatment is to deliver the baby early in the hope that it will survive—a difficult decision for both parents and clinicians. Babies experiencing poor nourishment by the placenta are at risk of preterm birth, stillbirth, learning difficulties and heart disease in later life. According to the researchers, angiopoietin-2 is significantly lower in those mothers who subsequently delivered small babies due to placental problems.

The Kolling researchers' discovery suggests problems that are traditionally identified in the third trimester of pregnancy have their origins much earlier. This has important implications for the prediction and, more importantly, the prevention of women giving birth to smaller babies. The researchers now plan to confirm their groundbreaking finding by carrying out a larger study across New South Wales. All going well, the study could ultimately inform doctors when they need to intervene and improve foetal growth by using existing methods such as blood thinning agents to promote blood flow through the placenta and trialling new methods.

When it comes to medical research, as well as investing in ideas we also invest in infrastructure. Earlier this month I officially opened a new state-of-the-art $99 million medical research and education centre, the Kolling building at Royal North Shore Hospital. The major research facility will help New South Wales lead the way in delivering improvements in health care and develop advances in medical science and practices. The Government is providing our researchers, doctors and nurses with the tools they need to pioneer advances in health care and to cater to the changing needs of our growing population. We can only marvel at what future medical breakthroughs we will witness and how they will change our lives.

[*Business interrupted*.]

ATTENDANCE OF HIS EXCELLENCY MR AGUNG LAKSONO, SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE PARLIAMENT OF THE REPUBLIC OF INDONESIA

The PRESIDENT: I would like to thank His Excellency Mr Agung Laksono, Speaker of the House of Representatives of the Parliament of the Republic of Indonesia, and his parliamentary delegation for attending the Legislative Council today.

His Excellency Mr Agung Laksono withdrew.

QUESTIONS WITHOUT NOTICE

[*Business resumed*.]

SYDNEY BROTHEL SEX TRAFFICKING

Reverend the Hon. FRED NILE: I ask the Attorney General a question without notice. Is it a fact that the Commonwealth Director of Public Prosecutions has decided not to proceed against brothel madam Kwang Suk Ra for keeping foreign women as sex slaves in a Sydney brothel that has a $2 million turnover annually? Will the Minister investigate what avenues are available to him to prosecute Kwang Suk Ra for this serious offence in Sydney to protect these innocent foreign girls from sexual exploitation and sexual abuse?

The Hon. JOHN HATZISTERGOS: I am aware of the reports published in the newspapers to which the honourable member refers stating that the Commonwealth Director of Public Prosecutions has decided not to prosecute. In response to the honourable member's question, it is not my role to investigate; that is the role of the police. If the police have evidence of any criminal offence against State law they should submit that to the Director of Public Prosecutions for appropriate advice.

BASELOAD ELECTRICITY GENERATION

The Hon. GREG PEARCE: My question is directed to the Treasurer. The mini-budget states:

> A provision will be made in the second half of the State Infrastructure Strategy to allow the government to invest the second tranche of baseload generation in the event that the private sector failed to commit to developing adequate subsequent capacity.

The mini-budget also says the State Infrastructure Strategy would be reviewed in November 2008. As the State Infrastructure Strategy has not been released, can the Treasurer inform the House what provision has been made in the second half of the strategy to allow the Government to invest in the second tranche of baseload electricity generation?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question and for his interest in this matter. We are in the process of putting in place appropriate structures to ensure that we can secure power generation going forward in this State. The mini-budget was about reducing risk and making prudent policy and reform, allowing greater flexibility in building priority infrastructures, as the honourable member would understand. We will be releasing the State Infrastructure Strategy in the near future, which will resolve those issues he has raised.

DROUGHT ASSISTANCE

The Hon. TONY CATANZARITI: My question without notice is directed to the Minister for Primary Industries. Will the Minister update the House on the latest assistance measures for New South Wales farmers battling the worst drought in a century?

The Hon. IAN MACDONALD: As I have mentioned before in the House, the burden of drought has been hanging over the State's farming sector for up to seven years and is forecast to persist over the hot summer ahead. The New South Wales Government has supported the farmers of this State since the onset of the drought and will continue to do so until the drought ends and farmers get back on their feet. That is why I have announced an additional $3.86 million to continue the Government's drought assistance program. In total, more than $450 million has been allocated in drought assistance, loans and services to farmers and rural businesses since the commencement of this drought. Currently, 62.8 per cent of New South Wales remains in drought and 17.4 per cent of the State is marginal; only 19.8 per cent is satisfactory.

The Hon. Duncan Gay: Is that real money or is that part of the costs of running your department?

The Hon. IAN MACDONALD: It is real.

The Hon. Duncan Gay: It hasn't always been that way.

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition has tried to pick over this year in, year out, and he has gotten nowhere.

The Hon. Duncan Gay: You fudge the figures.

The Hon. IAN MACDONALD: I do not. Despite recent widespread rain in some areas, the outlook between now and the end of January is grim. The chance of receiving average rainfall is only 45 to 50 per cent over at least half of the State. Warmer than normal temperatures are also predicted, with a 65 per cent chance of higher temperatures in the south of the State where the drought is hitting hard. Parts of the south and central west are battling plagues of locusts along with the drought, although that has eased a bit with the rain that has fallen in recent weeks.

That is why I am pleased to advise the House that drought support funding has been extended once again. An additional $3.86 million has been allocated by the Government to extend funding for existing measures that are helping the farmers of this State to survive the drought. Drought transport subsidies that were due to end this week will now continue until 28 February. This will allow eligible farmers in drought-affected areas some certainty. They will continue to receive a 50 per cent subsidy on the transport of fodder, stock for adjustment, stock to sale, and stock and domestic water.

By the end of February next year the New South Wales Government will have committed more than $140 million for transport subsidies since the start of the drought in 2002. We are pleased to extend this practical drought assistance measure as it is widely used by farmers most in need. In addition, funding for drought support workers and their community activities has been extended by a further six months. This will allow the drought support workers to continue running farm family gatherings until the end of June next year. Farm family gatherings provide a vital social outlet for many people isolated on their farms. In the recent Premier's Awards drought support workers won the premium award for their farm family gatherings. They also took out the major State Plan Award and the gold award in the Delivering Locally category for farm family gatherings.

Rural financial counsellors, Centrelink and other agencies that provide assistance also attend farm family gatherings to supply information on their services. The drought support worker team provides a valuable service to the rural community. Recent rain has greatly boosted the spirits of farmers on land lucky enough to

receive a good drenching. Some areas have also achieved above-average winter crop yields this season. Good rain and better crop yields in some areas are positive signs that hopefully indicate we are nearing the end of the drought. However, until drought-quenching rains recede throughout the State and farmers are back on their feet, the New South Wales Government will continue to provide them with all possible assistance.

Anticipating the usual criticism over the past six or seven years, the Government will again, around February, evaluate whether the drought is continuing in this State and will make the appropriate decision to continue the funding.

MURRAY-DARLING BASIN WATER STUDY

Ms LEE RHIANNON: I direct my question to the Minister for Primary Industries. Considering both Houses of the Federal Parliament last week supported legislation requiring independent water studies in the Murray-Darling basin prior to any future mining being approved, and despite The Nationals reversing their position under pressure from the mining industry, and given that the Minister has established a working party to formulate the terms of a water study of the Upper Namoi catchment and the Federal Government has committed $1.5 million to that study, will the Minister commit the New South Wales Government to matching the Commonwealth's $1.5 million immediately to enable the study to proceed in a timely manner? Will the New South Wales Government give an undertaking not to approve any mining developments in this area until such time as the study is complete? If the study shows that subsidence mining adversely impacts the underground or surface water flows, will the Minister give an undertaking not to allow mining to proceed?

The Hon. IAN MACDONALD: There has been considerable productive discussion with the local community in the Gunnedah basin, particularly in the Liverpool Plains area. The ongoing water study has also been the subject of detailed discussions. I will not make commitments about funding because I do not have authority to do so at this point. Nor will I make a commitment about how any future mining might be done if it were to go ahead. Processes are available and everyone knows about them. I will not intervene at this point by saying one way or the other what the Government's decision will be. I will leave it to the fruitful discussions that are being conducted.

MINI-BUDGET: BUDGET-DEPENDENT AGENCIES

The Hon. MATTHEW MASON-COX: My question is directed to the Treasurer. Is the Treasurer aware that New South Wales has more than 100 general government agencies, comprising 69 budget-dependent agencies and 39 public trading enterprises? In stark contrast, Victoria has only 11 budget-dependent agencies. Why did the Treasurer's mini-budget fail to target obvious cost savings by significantly reducing the number of budget-dependent agencies in New South Wales as recommended in the Government's 2006 Stokes and Burdekin report?

The Hon. ERIC ROOZENDAAL: The mini-budget was about this Government taking tough decisions for tough times. It has emptied the too-hard-decision basket and is getting on with the job. I remind honourable members that the mini-budget delivered more than $3.3 billion worth of savings. The Government made a decision to tighten its belt in these very difficult global financial times. The mini-budget delivered additional revenue of about $3.6 billion and tax cuts for business in the form of payroll tax reductions. That represents an injection into the economy of about $1.9 billion over the next four years.

The Hon. Michael Gallacher: What about the hard decisions, Eric?

The Hon. ERIC ROOZENDAAL: We have here the classic Coalition response. Members opposite do not think that cutting $3.3 billion from government expenditure was a tough decision. All they want to do is sack public servants. That is what it is all about for members opposite. They default to the same position they took during the last election campaign, which is to sack public servants. They think that that will solve all the problems.

The Hon. Matthew Mason-Cox: Point of order: My point of order relates to irrelevance. The Treasurer is not addressing the question about his plans.

The PRESIDENT: Order! I ask the Treasurer to be generally relevant.

The Hon. ERIC ROOZENDAAL: The mini-budget included $850 million of new expenditure. I remind the House that the Government will deliver 300 new buses, including 150 articulated buses—that is,

the bendy buses—new commuter car parks and the Sydney metro strategy. Members opposite bleat, but the reality is that the mini-budget confirmed that the New South Wales Government has the largest infrastructure spending program in the nation over the next four years. More than $56 billion will be spent on infrastructure. That is this Government's commitment to strengthening New South Wales. At the same time, the Government has worked hard to preserve frontline services.

The mini-budget demonstrates the Government's responsible approach to dealing with the challenges of the future. That is what this Government is about: It is committed to ensuring that New South Wales is in the strongest possible position. I also note that members opposite did not listen to my earlier statement about the announcements made by the Australian Bureau of Statistics regarding New South Wales's growth figures, which indicate that we are heading in the right direction. We do face many challenges ahead, and that is exactly why this Government has worked hard to ensure that this State is well positioned for the future.

SUMMER FESTIVAL POLICING

The Hon. IAN WEST: My question is directed to the Minister for Police. Can the Minister advise the House about the NSW Police Force's presence at this summer's festivals?

The Hon. TONY KELLY: As members may be aware, summer in Sydney is festival season. It is an opportunity for thousands of people to enjoy our beautiful city, to celebrate with family and friends and to take in an amazing range of music concerts. The NSW Police Force wants to ensure that the summer music festivals are safe and that people attending these large gatherings do not have to put up with criminal and antisocial behaviour.

The Hon. Amanda Fazio: No, but they do have to put up with sniffer dogs.

The Hon. TONY KELLY: Not if they are not breaking the law. More than 10,000 people attended the Global Gathering Music Festival at the Moore Park entertainment precinct last Sunday. While the vast majority of festival-goers managed to have a good time without breaking the law, 52 people were arrested at the event and 51 of those arrests involved drug offences. Of those arrested, 11 people were issued with cannabis cautions, 35 people were issued with court attendance notices for possession of a prohibited drug, five people were charged with supply of prohibited drugs and one woman was found to be carrying four different types of prohibited drugs at the time of her arrest. In addition, 15 people were evicted from the festival because of fence jumping, intoxication and other antisocial behaviour. I do not want to discourage people from attending these events, which provide a fantastic showcase for arts, music, food and the festive spirit. However, these results should serve as a warning for anyone tempted to bring illegal drugs to any of the festivals this summer. Police attending these events will also be targeting antisocial behaviour and the carriage of prohibited items, such as weapons, fireworks, laser lights and glass. It is about consideration for fellow festival-goers. Everyone who has bought a ticket is entitled to have a good time, and that can be done without breaking the law.

The annual Homebake event will be held at the Domain this Saturday. Patrons should be aware that there will be a strong police presence at the event. This year, as in the past, the event has sold out and more than 20,000 people are expected to attend. The Homebake event is for people over the age of 18 and identification will be required. The event is licensed and police officers will be enforcing licensing laws. At last year's Homebake event police made 29 arrests, including 27 charges for possession of prohibited drugs and two charges for supply. The police seized a variety of drugs including MDMA, cocaine, LSD and cannabis. We do not want a repeat of those arrests this year. The NSW Police Force will again be providing a highly visible presence at the event and officers will be working with event organisers to provide a safe and drug-free environment for patrons and performers. The message is simple: If patrons intend to carry or supply illegal drugs or prohibited items at Homebake, they will be caught. I reiterate that these measures are not designed to crack down on fun. My advice to festival-goers is to enjoy the day and that they can have a great time without drugs and without breaking the law.

WOOD HEATER EMISSIONS

Mr IAN COHEN: My question is addressed to the Minister for Health. Has the Minister reviewed the scoping paper presented to the recent Environmental Protection and Heritage Council on national approaches to the management of wood heater emissions? If yes, what options does he support? According to the "Air Pollution Economics: Health Costs of Air Pollution in the Greater Sydney Metropolitan Area" paper at page 43,

the estimated health cost of one kilogram of PM10 emissions in Sydney is $132. What advice has the Department of Health given to the Department of Environment and Climate Change on PM10 emission limits for wood heaters?

The Hon. JOHN DELLA BOSCA: That is a very good and important question. I had the opportunity in a previous portfolio to become familiar with some of the data to which the member refers with regard to both gas and wood heating. I have not reviewed that data in the context of my current portfolio. However, I will do so and answer his question in due course.

POTATO CYST NEMATODE

The Hon. RICK COLLESS: My question is directed to the Minister for Primary Industries. What measures does the Government intend to implement to prevent the spread of potato cyst nematode from the Thorpdale region of Victoria into potato crops in New South Wales? Is the Government prepared to halt all Victorian potato seed stock entering New South Wales or, at the very least, to impose protocols to prevent potato seed from the Thorpdale region entering our State? Is the Minister prepared to assure New South Wales potato farmers that they will be protected from a potato cyst nematode outbreak prior to the Government's previously stated deadline for action of April 2009?

The Hon. IAN MACDONALD: I thank the honourable member for his question. Yes, this is an issue of very real concern. I understand there has been an outbreak of the disease at Thorpdale and, if my memory serves me correctly, it was on one property. We have in place protocols to protect our industry and to ensure that the disease does not enter New South Wales. An outbreak has happened periodically over time. For instance, in the Dandenongs—

The Hon. Michael Gallacher: You've got to watch those Victorians!

The Hon. IAN MACDONALD: I always watch those Victorians. That's why I left there! There have been instances of the disease in the Dandenong Ranges in previous years, and they led to prohibitions on the importation of the product into New South Wales. I am considering a number of ways of handling this issue, but the member can rest assured that we would take as our bottom line the protection of our own industry from this insidious and costly disease.

The Hon. Duncan Gay: Crookwell is safe.

The Hon. IAN MACDONALD: Crookwell is very safe—always has been. So long as you live there, Duncan, the industry is safe! I am considering ways of continuing some trade, because of the need to import Victorian product, particularly over the next couple of months. I am looking at a number of protocols in this area, but I have not made any decision at this point. I anticipate making a decision probably before Christmas or early in the new year. The point is that our base line will be the protection of the New South Wales potato industry.

CENTRAL WEST INMATE REHABILITATION PROGRAM

The Hon. JOHN ROBERTSON: My question is addressed to the Minister for Justice. Can the Minister please inform the House about the inmate rehabilitation program in the Central West of the State?

The Hon. JOHN HATZISTERGOS: Mr President—

The Hon. Duncan Gay: We saw you on Prime the other night at Oberon.

The Hon. JOHN HATZISTERGOS: You are a very discerning viewer.

The Hon. Duncan Gay: My grandchildren were scared!

The Hon. JOHN HATZISTERGOS: I don't think so.

The Hon. Duncan Gay: "He has a nice smile," they said, "but very fleeting."

The Hon. JOHN HATZISTERGOS: I take this opportunity, as I always do when I address questions about what happens at Oberon, to acknowledge the work of one of my predecessors, John Hannaford, who established the Young Offenders Program back in 1993.

The Hon. Jennifer Gardiner: He did a lot of good things, and that program was just one of them.

The Hon. JOHN HATZISTERGOS: He was one of the few in the former Coalition Government who accomplished some significant milestones in correctional programs. I acknowledge that particular program because it is the longest running program in New South Wales, and indeed one of the most successful programs that I believe Corrective Services has ever run. The Gurnang Life Challenge commenced 15 years ago. On Friday, I attended the 200th graduation. This is a 16-week program aimed at minimum security male offenders aged between 18 and 25 years. As well as drug and alcohol education and training, the program puts inmates through their paces in the mountains, often in freezing-cold pine forests of the Central West. The inmates go out on Outward Bound-style wilderness expeditions, taking part in a roping course which sees them suspended, sometimes upside down, 10 metres above the ground. It is a rigorous program, designed to build character, self-esteem and victim empathy, and it gives participants a sense of responsibility. The idea is to try to break through the wall of anger and mistrust that many young offenders harbour.

Prison is not just about punishment. This program helps inmates to understand what it is in their lives that drives them to commit crime. At Oberon they call this dynamic risk. The program helps to identify and change their behaviour and, eventually, to reintegrate offenders back into the community. If we can reach them before they get caught in a cycle of offending, going to prison, getting out and then reoffending, we will be helping them and we will be protecting the community. The last challenge that the inmates have to undertake as part of the program is a public speaking exercise. On Friday, each of the nine graduates had to get up in front of a room full of people, including myself, local community leaders, Corrective Services staff and their families, and describe if and how the program had helped them.

It was a very impressive occasion—impressive not because they all managed to pronounce my name very well, but because each described his or her transformation having gone through the program. One after the other, they related anecdotes of their experiences, not only in terms of the programs but what they were obtaining out of the program. Listening to these young graduates, the emotion in their voices, their shame about their crimes, and their determination to move in a different direction, moved everyone and left us all believing that offenders do have an opportunity to lead a crime-free life. And, if their predecessors are anything to go by, most of them will not be coming back.

We have been running the Gurnang Life Challenge for 15 years because it works. About 2,300 inmates have successfully completed the program. Research shows that only 1 in 10 of them returned to prison. That compares with 3 in 10 inmates who did their time in the general prison population. This program is delivering for the people of New South Wales. It is reducing reoffending; it is putting lives back together. I want to acknowledge the work particularly of Dennis Carey and his team, who have been running that program successfully over a considerable period of time. I acknowledge also that the program has been extended to cover young female offenders. It is a very successful program, and one with which Corrective Services is pleased to be associated.

POLICE TASER USE

Ms SYLVIA HALE: I address my question to the Minister for Police. I refer to the Minister's answer to my question asked yesterday regarding the threatened use of tasers in which the Minister quoted statistics about the number of times tasers have been drawn but not fired. My question relates to a threat to apply a taser, as opposed to the application of a taser. In a situation where a person is neither violent nor threatening violence, does the Government support the use of a threat to use a taser in order to coerce a person to comply with a police direction such as to remove himself or herself from premises or to provide information? Are there specific guidelines for police officers outlining the circumstances in which a threat to apply a taser may or may not be made?

The Hon. TONY KELLY: I answered the member's question yesterday.

PAMBULA MATERNITY SERVICES

The Hon. DAVID CLARKE: My question is directed to the Minister for Health. Is the Minister aware of the huge protest at the weekend at the closure of maternity services at Pambula and the community's vote of no confidence in the area health service? What is the Minister's response to the massive community concerns bout this issue?

The Hon. JOHN DELLA BOSCA: My response to massive community concerns about this issue is, of course, that the priority that NSW Health has applied to the issue of Pambula and Bega maternity services is patient care and safety. Following independent assessment of maternity care for the local community, a decision was made to consolidate Bega and Pambula maternity birthing services. Over the last two years the Greater Southern Area Health Service had maintained separate services at Bega and Pambula hospitals. Due to insufficient nurses and midwives, maternity services were alternated between the two hospitals, effectively week about. Not surprisingly, this arrangement caused considerable confusion, and some women and babies were required to travel between Pambula and Bega hospitals. Consequently, an assessment panel was formed to review this situation.

The panel included an independent consultant, a general practitioner obstetrician, a specialist obstetrician, a midwife and a consumer representative. The panel listened to the views of the medical, midwifery and hospital staff as well as community groups and members. One of the panel's recommendations was to move birthing services to Bega hospital. This clinical advice has been acted upon in the interests of safety for mothers and their babies. Features of the consolidated Bega maternity service included sufficient obstetrician coverage at all times; the recruitment of a clinical nurse consultant and a clinical nurse educator specifically for maternity services; dedicated obstetric beds and delivery units; and expanded antenatal and post-natal care. Maternity services have now been provided from Bega hospital for three months, and the service is operating well.

Although birthing services are now located at Bega, antenatal and post-natal care will continue to be available to mothers and babies in Pambula. All other medical services will remain unchanged at Pambula, until the new Bega hospital is built. I am also advised that the Greater Southern Area Health Service has announced the membership of the Bega Valley Maternity Advisory Group. A mix of community and health representatives will ensure that professional and patient views are considered while the recommendations from the review are implemented. The maternity advisory group will have a central role in guiding implementation of the recommendations in the report of the review of the Bega Valley maternity services. The group will act as a link between the community and local health services and provide advice and feedback as the recommendations are enacted. The first meeting was held last Tuesday, 25 November 2008.

ELECTRICITY THEFT

The Hon. AMANDA FAZIO: My question is directed to the Minister for Energy. Could the Minister inform the House what the Government is doing to protect our State's electricity infrastructure from theft?

The Hon. IAN MACDONALD: Stealing from public utilities is not only a dangerous crime, it is also a disgraceful waste of taxpayers' money. As honourable members may be aware, last year the New South Wales Government launched a campaign targeting copper theft. Following the success of the New South Wales initiative, a national campaign was launched in August this year targeting illegal activity across Australia. As part of the campaign, police and the New South Wales Utilities Copper Theft Security Committee have been working with energy retailers, scrap metal dealers, the construction industry and other businesses to stop thieves in their tracks. We want to help protect our vital electricity infrastructure from brazen thieves. That is why more than $16 million is being invested to upgrade surveillance equipment and other security measures at EnergyAustralia's substations and works depots.

Over the past five years, EnergyAustralia has invested $90 million to upgrade security at its substations across Sydney, the Central Coast and the Hunter. When vital equipment is stolen from our electricity infrastructure, power is interrupted, leaving communities isolated. So thieves are putting not only their own lives at risk, but also that of the community. It is worth noting that international scrap metal prices, particularly for copper, are currently at their lowest levels in five years. Despite the drop in prices, we are yet to see any real drop in activity from opportunistic thieves. Unfortunately, thieves are still prepared to take life-threatening risks to steal equipment, such as copper. We have seen multiple cases of live-line thefts over the past 12 months.

Last year one person was almost killed while trying to cut a live 11,000-volt cable in western Sydney. The person received serious internal and external burns and was very lucky to survive. This $16 million investment is necessary, given some of the disturbing recent statistics across EnergyAustralia's network, which include: 89 incidents of copper theft over the last financial year; 32 more incidents so far this financial year; 49 arrests for theft from EnergyAustralia property over the past two years; and seven people arrested and charged within the past six months alone—four in Sydney and three in the Hunter;

In Sydney, one thief was caught at a substation in southern Sydney, another was caught stealing copper from a high voltage power pole in the northern beaches, and two thieves were arrested at a depot in Sydney's

north. In the Hunter, three thieves were arrested in two nights after stealing copper from an EnergyAustralia depot. This $16 million investment includes 24/7 surveillance monitoring, high-tech electronic locking devices, installation of tamper-proof security doors, intruder-resistant fencing and mobile security patrols.

The upgrade sends the clear message to cable thieves, "Come near these facilities and you will be caught." Police can trace copper using DNA tracing technology, and scrap metal dealers are now actively keeping a record of the source of all copper transactions. The community has a valuable role to play in reporting this crime to stop electricity disruptions and prevent unnecessary costs to the public. The Government calls on members of the public to be aware of this crime, and the crippling effect it is having on power supplies. Anyone with information about these crimes is encouraged to call CrimeStoppers.

STATE TRIPLE-A CREDIT RATING

Dr JOHN KAYE: My question without notice is directed to the Treasurer. What are the short-term and medium-term annual savings in the State's cost of interest on borrowing from the fall in the official interest rates from 7.25 per cent in March of this year to the current level of 4.25 per cent? What are the Treasurer's current estimates for the short-term and medium-term annual increased costs in the State's borrowing that would result from the downgrading of the State's credit rating levels by one level?

The Hon. ERIC ROOZENDAAL: I will not even ask why the honourable member did not put something of that detail on the *Notice Paper*. I will start with the downgrade. There is a fundamental misunderstanding about credit worthiness and credit downgrades. I place this on record so that people clearly understand the issue. This is not like a credit card where if a person forgets to make payment, the credit card is stopped, and then when the payment is made, the credit worthiness is returned. The question referred to the cost to the Government in additional interest rates if there were a downgrade by one level? The credit agencies do not just downgrade the Government because they feel like it. They do so for a couple of reasons. One is because they believe that the Government has not made the structural changes they believe are required within the State's finances.

Dr John Kaye: I know all this.

The Hon. ERIC ROOZENDAAL: You don't know because if you did, you would not ask the question the way you asked it.

Dr John Kaye: Are you having a bad hair day or something?

The Hon. ERIC ROOZENDAAL: You're the one making the inane interjections, which is consistent with your performance in the House. Sit there, be quiet and I'll teach you about this. It is very important we get this right because the assumption in the question is that in the event of a credit downgrade, somehow we would be frozen in time. We know that it took 11 years from the start of Victoria's credit downgrades until it was able to get back its triple-A credit rating. In that time there were at least four downgrades. The costs depend on a number of factors such as over what time frame and a number of other issues, which the member should understand.

Credit worthiness is critical in this time of global financial crisis. It is critical to this State that we maintain our triple-A credit rating. We are competing with other institutions to get funds offshore, as the member should well know, and it is important that we maintain that triple-A credit rating so a number of organisations, sovereign banks, central banks and other traders that have an investment policy of only buying triple-A credit-rated bonds will continue to look at our bonds as a serious investment prospect.

It is crucial that people understand that. It is about ensuring the future of this State. There is no doubt that if we were to be downgraded, it would have a huge impact on the people of New South Wales in increased interest costs—and I have discussed this many times in estimates and in this House—and would put us on the slippery slide of further credit downgrades. The agencies do not just say, "We will downgrade you and we are not going worry about it." They then continue to downgrade until structural action is taken. If action were not taken, we would be in the same situation as the Victorian Kennett Government. When Jeff Kennett came to power he slashed the Victorian public service by 15 per cent across the service. He shut hospitals and schools. He sacked nurses and teachers. He brutally smashed through the public service of Victoria, and that is something that we will not allow to happen in this State. That is why we have taken action in the mini-budget.

The Hon. Duncan Gay: You want to do it yourself.

The Hon. ERIC ROOZENDAAL: Let us be very clear: Opposition members are the only people with a history of sacking public servants.

NEWCASTLE BHP SITE

The Hon. ROBYN PARKER: My question without notice is directed to the Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development. Can the Minister inform the House when the future of the former BHP site in Newcastle will be announced by the Government, given that it has been more than 14 months since the former Minister for the Hunter indicated that the process was drawing to a close? When can the community, which is desperate for this site to be developed, expect to know what is happening?

The Hon. IAN MACDONALD: I will refer the question to the Minister for the Hunter for a reply.

REGISTRY OF BIRTHS, DEATHS AND MARRIAGES IDENTITY THEFT PREVENTION

The Hon. PENNY SHARPE: My question without notice is addressed to the Attorney General. What is the latest information on preventing identity theft in relation to the Registry of Births, Deaths and Marriages?

The Hon. JOHN HATZISTERGOS: New South Wales will become the first jurisdiction in Australia to apply contemporary information technology to meet the emerging identity security demands of the twenty-first century. A contract between the Registry of Births, Deaths and Marriages and the Australian company UXC Ltd will see the development of the registry's new computer database, known as Lifelink. Lifelink will realise the enormous task of migrating all the State's registry records together—records which go back as far as 1787 when events were recorded on the First Fleet before it reached Australia.

Lifelink represents a significant innovation in civil registration so far as it moves away from the traditional, event-based model to a citizen-based model. The benefits of Lifelink are numerous—more efficient customer service, reduced processing time and cost, more flexible reporting capability and improved information exchange with other government agencies. Moreover, Lifelink will strengthen security and reduce the possibility of the commission of identity fraud. The Registry of Births, Deaths and Marriages, which recently marked its sesquicentennial, registers over 190,000 births, deaths, marriages and changes of name each year. It holds over 18 million birth, death and marriage records. It conducts some 3,000 civil marriage ceremonies each year and processes over 500,000 certificates and other customer service products annually. That is why Lifelink's advantage in the prevention of identity theft is of such importance.

Hollywood has envisaged situations where characters travel to graveyards and locate a tombstone of someone of about the same age who had died before their time. The would-be thief then applies for a copy of the dead person's birth certificate and uses it to build the assumed identity. Whilst it would be very difficult to get away with tombstone identity theft in New South Wales because of the proof of identity requirements, the registry is aware of a number of occasions in recent years when people applied for the birth certificates of people who were dead. In 2005 registry staff contacted police after the name given in connection with a birth certificate application was located on the deaths registry. A similar incident also occurred in 2006.

Lifelink will guard against identity fraud because all the birth, death and marriage events associated with an individual will be contained on a single citizen-based electronic file. However, I point out that registry staff are already trained to be on the look-out for people who act suspiciously, and will ask for additional proof of identification if they suspect someone is attempting to commit fraud. Attempted frauds, aside from tombstone identity theft, have included trying to change the name of a child to avoid losing custody, and changing a name to avoid being deported. The total value of the Lifelink contract is $3.3 million—an investment in better and more efficient registration of life events. Now the people of New South Wales can enjoy these services knowing they are delivered with increased security and identity protection.

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

HOSPITAL PERFORMANCE REPORT

The Hon. JOHN DELLA BOSCA: Earlier in question time today the Leader of the Opposition asked me about hospital data. I direct the member to *health.nsw.gov.au*, where he will find individual data for hospitals, including surgery waiting lists and emergency department performance.

The Hon. Michael Gallacher: If I can find it.

The Hon. JOHN DELLA BOSCA: I used to have that problem, but then I did a computer course. Perhaps the Leader of the Opposition should do likewise. The website includes all the data released by my predecessor earlier this year, updated for the September quarter, including the number of patients treated within triage times, the percentages, the graphs, patients arriving by ambulance, hospital admissions, ambulance response times, attendances and admissions. In fact, more information is available now than has ever previously been released. A number of changes were made to the July-September 2008 New South Wales Health quarterly performance report, largely to make it easier to comprehend.

New South Wales families expect honesty, transparency and accountability, and that is exactly what we are providing. We are providing more publicly available data than a State government has ever previously released. If the member is still having trouble finding the data on the website, my staff would be happy to show him how to use the computer.

FORESTS NSW PARCEL SALE AGREEMENTS

The Hon. IAN MACDONALD: I wish to respond to a question asked of me yesterday by the Hon. Trevor Khan regarding Forests NSW's expression of interest process. In November 2008 Forests NSW sought expressions of interest for the supply of high-quality sawlogs from Forests NSW for between 500 cubic metres and up to 12,000 cubic metres from the north-east and central regions. The closing date for this process was Thursday 20 November 2008. Clause 6.12 of the expression of interest, identified by the honourable member, is a general clause targeted at preventing collusive behaviour. The part referring to industry associations is one of three parts of the clause in which the proponent in essence warrants that it has no knowledge of any other proponent's proposal or has otherwise colluded. The clause does not expressly forbid members of the New South Wales Forest Products Association or the National Association of Forest Industries from participating as the honourable member suggests.

Forests NSW has recently responded to a similar query raised by the New South Wales Forests Products Association stating that it believes it to be unlikely that the inclusion of the clause would have deterred any member of the Forest Products Association, or any other customer, from submitting an expression of interest. In any case Forests NSW expects that any proposed proponent concerned about the clause would have contacted Forests NSW prior to submitting an expression of interest. This has not occurred during this process, or in previous processes, even after the closing date.

With regard to selling the product overseas, I see no problem with international trade, particularly as a result of a competitive expression of interest process. Nevertheless, Forests NSW advises it received no offshore bids on the current expression of interest process. This Government remains committed to its value-adding initiatives in the timber industry, and I do not believe that they are impacted in any way by the clause in question.

FOX STUDIOS HAZARDOUS CHEMICALS USE

The Hon. JOHN HATZISTERGOS: On 29 October 2008 Reverend the Hon Dr Gordon Moyes asked me, representing the Deputy Premier, Minister for Climate Change and the Environment, and Minister for Commerce, a question without notice concerning Fox Studios hazardous chemicals use. I seek leave to incorporate in *Hansard* the member's question and the Minister's response.

Leave granted.

Question:

Is the Minister aware that the Environmental Protection Authority is responsible for monitoring the use of only two of a dozen hazardous chemicals at Fox Studios, including some styrene-based resin and certain clothes dyes?

Is the Minister aware that currently there are no legislative or regulatory controls on the use of more than a dozen other chemicals at the Fox Studios site?

Is the Minister aware that the hazardous chemicals for which there are currently no legislative or regulatory controls are extensively documented carcinogens?

Is the Minister prepared to undertake an assessment of operations at Fox Studios regarding the use of currently monitored hazardous chemicals and their impacts upon Centennial Park and the surrounding residences, particularly in relation to airborne documented carcinogens?

Answer:

The Department of Environment and Climate Change regulates the site occupied by Fox Studios via a Prevention Notice issued to Fox Studios, which limits the amount of certain odorous substances that can be used at the site resins, solvents and dyes, to prevent off-site odour impacts on surrounding residents.

These limits, derived from detailed Air Quality Impact Assessments undertaken in 2005 and 2008 by specialist consultants, are regulated to ensure that odours are not emitted from the premises as a result of the use of these chemical products.

There are a number of craft workshops at the site where props and sets are made using commonly available materials such a wood, plastic, paint, fibreglass, fabric and foam. Some of the craft workshops use materials which can be odorous such as styrene based fibreglass resin, oil based paints which contain solvents, and clothing dye.

These materials are commonly used at panel beaters, in surfboard manufacture and by householders.

Officers from the Department have inspected the site more than 40 times since 2004 and not found any evidence of offensive odours on or off the site. I am confident that the Department of Environment and Climate Change's regulatory oversight of Fox Studios is appropriate.

Questions without notice concluded.

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

ASSENT TO BILLS

Assent to the following bills reported:

Dangerous Goods (Road and Rail Transport) Bill 2008
Racing Administration Amendment Bill 2008
Rail Safety Bill 2008
Transport Administration Amendment (Rail and Ferry Transport Authorities) Bill 2008
Gaming Machines Amendment Bill 2008
Graffiti Control Bill 2008
Liquor Legislation Amendment Bill 2008
Liquor Amendment (Special Licence Conditions) Bill 2008

CRIMES (DOMESTIC AND PERSONAL VIOLENCE) AMENDMENT BILL 2008

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

Motion by the Hon. Ian Macdonald 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.

CRIMES AMENDMENT (SEXUAL OFFENCES) BILL 2008

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

HOMEBUSH MOTOR RACING (SYDNEY 400) BILL 2008

Second Reading

Debate resumed from earlier hour.

Reverend the Hon. Dr GORDON MOYES [2.31 p.m.]: I speak to the Homebush Motor Racing (Sydney 400) Bill 2008 because it is a matter that has exercised my mind ever since hearing about it. The object of this bill is to facilitate the conduct of an annual motor race at Homebush, to constitute the Homebush Motor Racing Authority and to confer functions on the authority, and for other purposes.

Sydney Olympic Park is a wonderful development of which the citizens of Sydney and the whole State are justly proud. It is a jewel in the New South Wales crown, and it took a lot of time and tax dollars, very careful design for the creation of a green and sustainable site, and effective implementation to bring to life the dream of so many people. Now it is thoroughly established and thriving. It is a masterpiece of excellent planning, enjoyed by over 8.5 million users annually as a place to take one's family for picnics, jogging and walking, exploring the historical sites and attending various cultural events. It is an excellent facility for birdwatching, riding bicycles, and other healthy activities—the kind of activities for which we fund health promotion campaigns to convince the people of New South Wales to participate in. The people of New South Wales have responded wholeheartedly and taken up these activities at Sydney Olympic Park. The people of Sydney and New South Wales love their Sydney Olympic Park, and make excellent use of it.

Changing the essential character and purpose of Sydney Olympic Park by converting it into a V8 supercar racing area is not just a local issue; it is an international one—which may surprise members of the House. Let me explain. Australia has entered into international trade agreements with Japan, China, and South Korea—nations that are otherwise in danger of overdeveloping every single metre of natural space within their borders, even those wetland areas that have been used for millennia for annual migratory purposes by the species of migratory birds that live in all our countries.

Most bird species are seasonal in their habits, and spend the winters in the warmer climes and the summers in the cooler ones. They are transnational citizens, seeing the stretch from Australia up the flyway to Korea and Japan as their home. They deserve acknowledgement from us, and access to their habitats. If not, they will die—because this land is where they rest, feed, mate, raise their young, and prepare to return north when it is time. If this parkland is destroyed or made uninhabitable by pollution or noise, they have nowhere else in the Sydney Basin to go to perform the basic activities of life.

In Asia it has been reported that many birds have been observed simply dropping dead from the sky, starved and exhausted, while flying further in the fruitless search for appropriate sites after theirs have been heartlessly built over. To prevent this terrible scenario from occurring here, Australia has entered into trade agreements with these Asian nations, with all signatories agreeing to protect the environments of the migratory birds that use their areas. Such agreements include provisions that expressly state that the Government shall "seek means to prevent damage to such birds and their environment". Well these are those birds, and this is their environment that we pledged to protect internationally—here in the ponds and grasses of Sydney Olympic Park. Phil Straw, the Vice Chairman of the Australasian Wader Studies Group, wrote to inform me that:

> A team of ecologists from Birds Australia, the Australian Museum and a number of universities worked in close association with the Olympic Park Authority to coordinate one of the largest development and restoration projects in the world to provide a world-class wetlands, and wildlife habitat in balance with recreational venues, sporting facilities and the commercial sector.
>
> This work at the Sydney Olympic Park has attracted worldwide attention for its excellence, notably from planners from China and other parts of Asia where similar restoration and habitat creation projects have been underway. That is all under threat now, as extensive research has proven that noise from motorways has a detrimental effect on nesting birds, and the noise from a racetrack is likely to result in species leaving the area. This would be a tragedy after so many years of hard work by some of Australia's top ecologists and planners.

Peter Marsh, the New South Wales and ACT Chairman of Birds Australia, wrote to me and I quote:

> All animals depend on sound to communicate, navigate, avoid danger and find food. Human-generated noise can alter their perception and so interfere with their normal functioning, and harm their health, as well as alter reproduction, survivorship, habitat use, distribution, abundance, or genetic composition. Although the noise impact from the proposed supercar races may be over a short period of time, the abrupt disturbance and volume of these impacts may be enough to frighten them away. This would be extremely serious.

We owe it to the other nations to which we are pledged through treaties, to the people of New South Wales, and to the birds themselves, not to destroy any aspect of this place. To breach those agreements would be very bad form, internationally, and would give the other nations carte blanche in their turn to do the same.

We have to do the right thing, not only because it is right but because of our responsibility to meet and model the highest standards of international citizenship regarding such international treaties. So it is, you see, an international environmental issue. Pointing out that fact should be enough to change the nature of this debate, but it may not, so I shall point out several other drawbacks of the plan to transform Sydney Olympic Park into a raceway.

The removal of hundreds of beloved and beautiful trees, landmarks to the local residents, is a terrible thing. Every healthy mature tree in the urban environment is working hard to filter our pollution-filled city air of

car exhaust and industrial fumes, making the air breathable, and making the city liveable. The preliminary estimate of trees destined to be destroyed to make way for concrete barriers and race roadways is in the hundreds. With so many absolutely barren places in this brown land why would we seriously consider the destruction of a beautifully treed area that is considered by all to be an ideal green precinct? That the race organisers promise to replace the trees later means nothing. A mature, living tree now is worth more than all those promises of future tree planting activity that may or may not be honoured. The air filtering which provides a healthy atmosphere, the shade, habitat, beauty and pleasure they provide now, is needed and desired by the affected animals and humans alike on an ongoing basis more than ever. Experts maintain that the removal of the maturing trees will set Sydney Olympic Park back 20 years.

Besides the trees, and the estimated 140 species of birds living in the Sydney Olympic Park area—many of which are considered threatened or endangered—there are also the endangered frogs and plant species. Worldwide the health of frogs is used as an ecological indicator of environmental health—something like the canary down a mineshaft—and these creatures are already under threat from human activities. The fact that they have found refuge and are able to live in this area attests to the success of the area as a green and sustainable environment. It costs hundreds of thousands of dollars to make the right environment in the Sydney area for the frogs. Any damage to the Narawang wetlands habitat at Sydney Olympic Park will be exponentially damaging for the frogs.

The State and Federal Governments have a plan that is in effect until 2010 to protect this habitat for the green and golden bell frog. The frog is listed as a vulnerable species under the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 and as endangered under schedule 1 to the New South Wales Threatened Species Conservation Act. These frogs breed mostly in the brick pit. The run-off from the proposed race car pit area, which is slated to be located next to the brick pit, potentially will damage this environment with ethanol, oil and gasoline waste. No technology presently exists that can entirely prevent the damage, despite assurances from organisers and the Minister that environmental socks will be placed to soak up the waste. The trees, birds and frogs are all under threat from this proposal.

Hundreds of companion cats, dogs and birds live in the 9,000 homes around this area. These creatures are exquisitely sensitive to noise; many are terrified by thunder. Can members imagine the effect of loud screeching of tyres, careering of racing cars, and unpredictable noises? It would be very harmful for them to be bombarded with the high decibels that are expected. Reacting in alarm, the pets may try to escape and injure themselves in the process. They may be hit by cars or lost, or even fly into walls in terror as they seek to get away from the noise. Even if they stay safely indoors, they still will be at the mercy of the noise, which they perceive as threatening. Such noise easily permeates and penetrates residential walls as if they were not there. The predictable, planned noise of organised motor sport should be isolated from population centres.

The inevitable spillage of oil, petrol and other waste that will seep into the ground or down gutters will make its way into the recycled water plan, which may cause problems that potentially will cost taxpayers millions of dollars to fix. Pollution of that water is unconscionable in our drought-affected State. The air pollution generated from the planned use of E85 fuel, which is a blend of 85 per cent ethanol and 15 per cent unleaded petrol, is unhealthy for people living in close proximity to the track. In this era of climate change and in response to the deadly global threats of increasing greenhouse gases, it would be far more sensible to discourage all non-essential human activities that produce massive amounts of pollution. Motor racing should go the way of the gladiatorial games. It belongs to another age, one on which we look back and shake our heads in wonder. Excessive noise pollution will be imposed upon the human population as well—upwards of 95 decibels from 300 cars racing for three days—as well as 1,200 semitrailer movements in and out of the park to set up and dismantle the concrete barriers.

Exposure to excess noise is known by medical science to raise heart rate and blood pressure and to contribute to human anxiety. It should not be inflicted on the population as if it were of no importance. Using earplugs from a chemist is of no use in such a situation. Commercial tenants who have leases with clauses guaranteeing quiet enjoyment will be barred from seeking compensation under the proposed legislation, as the new authority will be able to circumvent all planning and environmental laws to ensure it can do whatever it wants. The fact that the Government has made this exemption against all planning and environmental laws indicates that it believes it could be sued for compensation over that issue. Additional concerns have been reported to me in hundreds of emails and letters from appalled residents across the State about issues such as problem driving and street racing. Our city and suburban streets are already deadly to innocent drivers, with deaths being caused regularly by uncontrolled and apparently uncontrollable car racers. But rather than discouraging racing, the Government wants to set up an activity in our streets that lionises racers. Do we really want to inspire more of them? The answer from the public is a resounding "no".

There are also aesthetic issues. Every year seven kilometres of temporary concrete barriers and fencing are to be erected and dismantled. Other States were promised the same thing, but the concrete barriers were eventually made into permanent fixtures, as it was too expensive and too much trouble for race organisers to continue to erect and remove them every year. Guarantees were made in writing that permanent barriers would never occur, but they did. Members can have a look around Albert Park in Melbourne. The same empty promises very likely will be made in this State. That is their proven modus operandi. Further, many of my constituents have pointed out all the prudent economic arguments.

The State will expend up to $30 million on an activity with no guaranteed economic return or full-scale economic modelling at a time of unprecedented international monetary meltdown. At a time when our State hospitals are desperate for money, when massive job cuts are planned across the area health services, when our education sector is suffering, when pensioners live on a pittance, when the Department of Community Services constantly complains it is underresourced, when the State transport infrastructure is creaking under the weight of an increasing population, when unemployment is on the rise, when public servants, police, firefighters, nurses, teachers and ambulance officers are refused a real wage increase, the expenditure of $30 million on a race is not good stewardship. It is appalling for the Government to use taxpayers' resources to fund a car race at this time.

In this time of financial crisis New South Wales residents believe it is absolutely critical for us to fund core services as a priority. That is the only moral and ethical thing to do. I remind the Minister that this weekend the final race in the V8 Supercars series this year will be held at Oran Park. As only two drivers of two vehicles can win the series, how will this weekend's final benefit the economy of New South Wales? The history of the V8 Supercars races in other States has been abysmal, leading to regular large losses by taxpayers over the years. We should ask the people of Victoria about their experience with Albert Park.

The Hon. Ian Macdonald: That is not V8s, that is F1s.

Reverend the Hon. Dr GORDON MOYES: They also race V8s.

The Hon. Ian Macdonald: They are invited to participate. It is not their race. It is F1s. Get your facts right.

Reverend the Hon. Dr GORDON MOYES: The Grand Prix did not deliver value for money for Victoria. The Victorian Auditor-General in a 2007 report found that spending by the anticipated big spenders did not outweigh the costs to Victorian taxpayers of staging the event. That is not about the type of cars; it is about the expected expenditure of those who come to see it. The Minister has been unable to give the right figures. For example, the touted massive television exposure worldwide was found to be a totally false claim as the audiences dropped each year. They predicted 500 million in 1996, but it was only 100 million in 2008. This sport is losing sponsors and supporters. Perhaps that is why the New South Wales Government is getting such a hard sell from the organisers. Even the on-site patronage figures are exaggerated, as they include multiple entries by people who leave the site and return, the media, the police, the security, the race teams, the catering staff, people with free passes and so on. All of them are counted in the attendance list, which was touted by organisers to be 300,000 people. The real number was the same as for any grand prix-type race around the world, that is, from 80,000 to 120,000 over three days. As far as the expected benefits of attracting tourists to Melbourne, the Auditor-General was unable to identify any benefits from the expected tourists. Visitors staying at overseas-owned establishments are not injecting money into the local economy.

The organisers boasted that restaurants and cafes would be overflowing, but that certainly did not happen for the businesses around Albert Park, which suffered a serious loss of business during the racing. In fact, that is probably the reasoning behind the section of the proposed legislation that blocks compensation claims from businesses around Homebush for the losses they are expected to suffer during the races. This is backed up by a survey of 327 traders around Albert Park that showed that 25 per cent reported increased business, 29 per cent noticed no change and 46 per cent—almost half—reported losses to their business during the racing.

Assurances that there would be a cap on government contributions at $30 million do not take into consideration other costs, which are likely to be many, such as the provision of security services; the major advertising campaign to attract people to the event; infrastructure upheaval such as resiting more than 100 light poles and electrical cables for street lighting and domestic supply; as well as the expected removal and replacement of bus shelters. The people who write to me are appalled at the way their concerns are being

ignored and belittled by both the Premier and the Minister for State Development. Their quiet neighbourhoods are being threatened with an inundation of unbearable motor noise, road chaos, crowds and the usual loutish, antisocial behaviours that accompany such spectacles, particularly when there is alcohol available.

For up to 10 weeks of the year there will be limited use of the park by citizens who have incorporated it into their daily lives: six weeks are required before the event for setting it up, and four weeks are required after the event for pulling it down. This involves work crews and their semitrailers coming and going for that period of time and it means that regular users of the park will be unable to access their usual areas, including commuter cyclists using the Bay to Bay cycleway connection to the Parramatta cycleway that passes through the Olympic Park. Residents are also concerned that they will not be able to park outside their homes when the crowds flock in and that the Olympic Park station will not be able to cater for the influx of spectators to the race. The station is far too small and not enough trains run in and out of it.

In general it has been noted that the type of people interested in V8 supercars are not big users of public transport: they want to drive their own supercar. Much more space is available for sufficient parking at Eastern Creek, particularly with the new off-ramp from the M4 and an entrance from Wallgrove Road. Residents point out that if buses are to be provided it will be yet another cost to taxpayers. People are very concerned that residential and commercial property values will decline sharply in surrounding suburbs if this goes ahead, because most people simply would not choose to live next to a racetrack. Residents wonder if they will be compensated for this fall in the value of their properties. We know the answer to that question will be no, they will not be compensated. The Minister suggested to residents that if they did not like having the race in their area they could just rent out their place during that time and leave the area like many people in Queensland apparently do. At least the Minister was admitting that people want to get away from these events if they can possibly manage it.

But that ease of mobility is not how most working or retired people's lives work. The Government's attitude is not respectful of residents and families in these areas. This is not social justice. There has been no significant public consultation and the residents have a right to be heard when they say they do not want a V8 supercar racetrack there. The Sydney Olympic Park Authority Act has strong environmental protection measures that will require special legislation to be enacted to bypass it to allow the race to proceed, and that is precisely what the proposed legislation does. The Sydney Olympic Park Authority has already voted on this issue and rejected unanimously the proposal for the race happening there, but their stance has been ignored. How can that happen? The Sydney Olympic Park Authority is the authority responsible for managing and maintaining the park as a lasting legacy for the people of New South Wales and it is not right that this decision that will devastate the park is being taken out of its hands.

Furthermore, the local councils around Sydney Olympic Park—Parramatta, Strathfield, Auburn, Ryde and three others—have wholeheartedly opposed the Government's plan. My understanding of the very basic foundational premise of the concept of democracy is that people get a voice, both directly and through their elected representatives, in what happens to them, their tax dollars and their environment as well as the actions taken by their leaders. Is that what is happening here? It is more like the following definition of bullying: to force one's own way aggressively or by intimidation without regard to the feelings of the person or people on the receiving end.

Most of my constituents are not against V8 racing—nor am I. But I am against holding it at Sydney Olympic Park when there is already a purpose-built track at Eastern Creek International Raceway, where the population density is much less. I believe that the Eastern Creek site is far preferable for this event for a number of reasons. It is an excellent facility that is already owned by the Government; it already has two large car parks and has room for more, so that any money spent there will be an investment, improving year after year the facility that is already owned by the people of New South Wales.

Eastern Creek is a specialised motor racing area already booked throughout the year by commercial organisations, trade shows, and for driver training as well as racing. It operates at a profit and the accumulated surpluses are enough to contribute to the funding for the desired resurfacing of the racetrack. There is easy vehicle access from both the M4 freeway straight into the car park and from Wallgrove Road. Using the Eastern Creek site will enable a variety of motor races to be held in different configurations without any set-up or dismantling costs involved, and it inconveniences very few local residents.

I was interested to read a V8 fan's Internet blog called V8central, which has some interesting comments that clearly show that what I have said is also the opinion of many V8 fans. The following comment was made:

> Let's face it, the track plan they have in place for Homebush is pathetic.

Another enthusiastic writer wrote:

> Wait until they see how limited the viewing is at a street circuit like Homebush.

Another comment was:

> The NSW government has no clue—they go from one bungled decision to another. If they approve a race at Homebush at least we can say they're consistent, I guess.

Another blogger wrote:

> Homebush will see the government wasting taxpayers money on an event that is unwanted by a lot of motorsport fans, environmentally unsound and has all the hallmarks of being a very boring track.

Another V8 supercars fan wrote:

> Still unbelievably frustrating as a NSW tax payer—millions of our dollars are going into a 3 day event rather than our infrastructure and permanent motorsport facilities that have a year round benefit.

If, as demonstrated by these quotes, even the V8 supercar racing fans are not excited about having the race at Homebush, then there should be a serious review of the Government's intentions. I will not support a bill that allows V8 supercar racing to be established at Sydney Olympic Park against the will of the park authority, the local councils, the local citizens and the fans of V8 supercar racing. I cannot support the bill.

The Hon. ROBERT BROWN [3.00 p.m.]: Before I get into the guts of my speech on the Homebush Motor Racing (Sydney 400) Bill 2008 I point out that this debate seems to have flushed out a lot of cultural bigotry both in this House and in the community at large. On one hand my colleague from the Christian Democratic Party, Reverend the Hon. Gordon Moyes, said that he and his supporters do not have anything against V8 car racing, but on the other hand they regard it as an anachronism reminiscent of gladiatorial games. The member is suggesting that the people of New South Wales who support V8 car racing—and there are many of them—are out of date and that they should forget it.

Many people seem to have forgotten what we are talking about. We are talking about holding a major event at a major event precinct. The 2000 Olympic Games transformed the abattoir at Homebush into a large civic precinct dotted with major sporting facilities. Members should look at the business and sporting areas at Olympic Park, which is where this event will be held—not on the grass or in the bird-breeding areas. If they did, they would note that 80 per cent to 90 per cent of the area is paved. Apart from the football stadium, the centre of the Royal Agricultural Society showground and a few other patches, the area is predominantly paved.

A comment was made about the potential pollutants flowing into the rotten old brick pit, which has a few green and gold bell frogs. They appeared miraculously in 1998. I wonder whether some of the members who made contributions to this debate have ever been to Homebush. They do not seem to know that above and adjacent to the brick pit is the P6 car park. It is at ground level and its fall is from the road to the brick pit. If pollution running into the brick pit is anticipated to be a problem as a result of three days of car racing, what has happened over the past eight years—for 365 or 366 days a year—that the P6 car park has been open? I think the pit still contains green and gold bell frogs, although storks do fly in and feed on them. Sometimes I wonder whether the people who talk about these issues understand anything about them.

That site was transformed from a saleyard and abattoir site into one of the best-equipped sporting venues in the world. There are many facilities on the site: it has large areas of green grass, walkways, cycling tracks and a dirty great football stadium that holds 80,000 people. Every year over the four-day Easter period, about 450,000 to 600,000 people visit the precinct, so members cannot argue that the transport system will not cope with a smaller event. Sydney Olympic Park is a major event precinct. The park's website has some interesting information about what is planned. A master plan to 2030 has been developed for the area. Through its staged implementation and the development of nine distinct precincts, Sydney Olympic Park will become not only a premium destination for major events and recreational and entertainment activities, but also a world-class urban centre at which people can work, live, learn and play.

I have heard a degree of cultural bigotry and wowserism in this debate that I did not think I would hear in this place. The fact that these activities can take place at the one venue and that they are not mutually exclusive is clear evidence of how the facility works. There can be gladiator sports such as an NRL football grand final and parents cycling with their children. As the master plan clearly points out, sporting events and

people can co-exist. The stadia precinct at Olympic Park is a clear reminder of the legacy of the 2000 Olympic Games. That is why the facility was built and it continues to serve as Australia's premier venue for major sporting and entertainment events. This V8 car race is designed to be a sporting and entertainment event.

Ms Sylvia Hale referred to the provisions in the bill allowing the Minister to have more than one race. If the member had ever been to a major car racing event, she would know that it is akin to a boxing event in that it has under-card events. There might be standard car events, events in which celebrities race a particular make of car or a combination of Indy car events and tin-top events offering a spectacular program over a number of days. In fact, we are told that the precinct will be further enhanced by new developments that will ensure that the venues continue to enjoy world-class status. That is the Government's plan for the precinct.

Many of the letters I have received opposing this event have come from people living at Newington, which was, of course, the athletes' village during the Olympic Games. The letters started rolling in immediately the plans were announced and, indeed, immediately after the Greens so roundly denounced the idea. No doubt that is a sheer coincidence. I must declare an interest in this sporting event. I am an affected resident because I live on the other side of the river, at Rydalmere. I have the pleasure every Friday and Saturday night of sitting out on my back verandah with my dog—

The Hon. Melinda Pavey: What sort of dog?

The Hon. ROBERT BROWN: It is a cattle dog. We breathe in the ethanol—the Castrol R—and listen to the screaming of the engines at the Parramatta Speedway. It is great. I regularly attend the speedway and I have a fantastic time. If we shut down this one-off event at Homebush, I suggest that the Parramatta City Council should be wary, because the Greens will probably start campaigning for the speedway to be shut down.

We have had representations from one local council, a group of residents and the Australian Racing Drivers Club, which has an interest in Eastern Creek. We have also heard from the race organisers. In fact, the Government arranged for the V8 supercars concept owner, the event organiser, a major tenant from the industrial precinct and officers from the Department of the Arts, Sport and Recreation to brief crossbenchers. The only member who asked questions was moi! I note that my parliamentary colleague Ms Lee Rhiannon intends to make a contribution to this debate. No doubt she will trot the Greens opposition to the event. However, given the opportunity to question these evil people who intend to despoil our environment, Ms Lee Rhiannon did not ask one question. We had the proponents there in front of us and they answered many of the questions that have been raised by various members, residents and other interested groups, but the Greens did not ask any questions. I will go through some of the issues raised.

I take on board the concerns expressed by the residents of the complex. However, I repeat that this is an international entertainment and sporting complex; it is not simply a residential village. I know the honourable member lives there. However, as I said, I live just across the river, so I also cop some of the noise. Before it was a residential complex the area housed an abattoir and it was and still is a major sporting complex. I have been to "Brickies Road" to watch young guys participating in drag races.

The Hon. Helen Westwood: I hope you are not talking about being involved in illegal activities.

The Hon. ROBERT BROWN: I did not say I took part. I would have reported it to the police—

The Hon. Tony Kelly: I think being a spectator may constitute an offence.

The Hon. ROBERT BROWN: Probably.

Ms Lee Rhiannon: That is like all the illegal shooting you do not report.

The Hon. ROBERT BROWN: That has a lot to do with V8 supercars racing1 That interjection is a perfect example of the cultural bigotry to which I referred. It appears that shooters and people who drive V8s should be kept out of sight and not heard from. That is despite the fact that many hundreds of thousands of people enjoy hunting, shooting and V8 car races. In fact, interestingly enough, in 1998 the New South Wales Shooting Association put to the Government the proposition that the brick pit should be used for exactly that purpose—the international clay target shooting events. Unfortunately, the Government did not go for that—because someone found a frog! Funny, that! The Government really wants to watch its step because, if the bill is

passed and the event goes ahead, a rare acacia boweri sapling might spring up in the middle of one of the tracks and the event would have to be stopped—because that is a rare and endangered species. It happened in Dharug just before the licence was to be issued to use it as a shooting complex. Funny, that!

Ms Lee Rhiannon: You might do well as a stand-up comic.

The Hon. ROBERT BROWN: I'm doing pretty good, aren't I?

Ms Lee Rhiannon: Yes.

The Hon. ROBERT BROWN: Do you want to see if you can do any better? You're welcome to try. Many of those opposing this event appear to be doing so on environmental grounds—at least, that is what they say. I would argue that the Government proposal contains strong mechanisms to protect the environment. The bill in fact has pre-emptive clauses requiring action to consider and protect the environment before work commences, and post-event clauses to cover any issue arising after the event. Hopefully, I have thoroughly destroyed the argument that all this ethanol will run into the brick pit and give the frogs sunburn. As I say, car park P6 has been there since 2000, with no damage to the frogs—yet! The promoter cannot commence any preparatory work without the responsible authority first being satisfied that adequate steps have been taken to minimise and prevent harm to the environment, and to minimise disruption to other users of the Sydney Olympic Park precinct.

V8 supercar racing may not be everyone's cup of tea—isn't that the understatement of the year—but, if the event does go ahead, the people will judge whether or not it is viable, simply by turning up, or not. I now turn to the argument about Eastern Creek. I have a great deal of sympathy for the operators of Eastern Creek. I have raced my Ducati motorcycle round Eastern Creek. It is a bike track, not a V8 track. The people at Eastern Creek agree that, to make it viable for the V8 supercars, they would have to build two new tracks and, for an event like that, make them contiguous.

The Hon. Ian Macdonald: At a cost of $100 million.

The Hon. ROBERT BROWN: Whatever. Whether it is $100 million or $30 million, the point is that the V8 supercars people are putting their money on the line here, as well as the Government, and risk losing it. They would say: Why would we hold an event at Eastern Creek when people do not show up there? Mention was made of the fact that the promoters lost $160,000 the last time the event was held there. That is because only 16,000 people bothered to show up. That is not a reflection on the popularity of V8 supercar racing; it is a reflection on the venue, and perhaps on the promotion. We are told that the Sydney 400 event will be much more than a race. It will be an expo-style event that will include concerts, car exhibitions, fashion displays and family zones, utilising the facilities and venues within the precinct.

Reverend the Hon. Dr Gordon Moyes: Art works and opera!

The Hon. ROBERT BROWN: Everything like that, I am sure—all to the tune of thundering V8s.

The Hon. Ian Macdonald: Well, it could be Wagner.

The Hon. ROBERT BROWN: It could be.

The Hon. Ian Macdonald: *The Ride of Valkyries*.

The Hon. ROBERT BROWN: Yes, it could be. That is the whole point of this issue. Not only do we support the race going to this precinct, but also the precinct could be said to have been almost perfectly designed for the event. It has transport access. It has huge tracts of paved areas that can be converted to racetrack. It has adequate public transport, and it certainly can handle crowds of 150,000 a day. We know that already; it has been tested and tried. The Shooters Party is well aware of the NIMBY principle. As I have said, I live on the other side of the river, so I probably will be affected by the noise—but perhaps not as much as the residents of Newington. But I am aware that the race itself is on for only a few days. And, speaking about NIMBY, we are still battling nimbyism, and the Greens, over the Hilltop Regional Shooting Complex. That battle will be interesting, but that is another story.

I spoke about the Government bringing along some of the proponents to the last Government-crossbench briefing. I put some questions to them—questions that I thought the Greens would ask.

I did not want them to be embarrassed by coming all the way here, knowing that there was huge opposition to their event, then having no-one ask any hard questions. So I asked a few. The first point raised seemed to be that the event should be at Eastern Creek. As I have said, people will not go there. The people promoting this race say they want it to be at a place where they can make some money. Reverend the Hon. Dr Gordon Moyes drew parallels with the Melbourne event, but that is a Formula 1 race. Bernie Ecclestone asks for ten times that amount of money to be put up before he will run a race on your spot. That is why the Victorian Government loses money.

There is a claim that the event at Homebush will take 16 weeks to set up and take down infrastructure. We asked the organisers, and they made the plain statement that it would be 10 weeks. It was claimed that temporary barriers in Melbourne for the Grand Prix race are now being left there permanently and that this will happen at Homebush. Organisers assured us that this would not happen. Indeed, the regulations supporting the event will specify that that cannot happen. It was put to us by the lady Mayor of Auburn that an architect living in the area showed that 830 trees would be lost. Organisers say no, it will be 142—but, for every one that is ripped out, cut down or whatever, three more will be planted. Never let the facts get in the way of a good story is the Greens motto. And those will be semi-mature trees, planted in locations nominated by the Sydney Olympic Park Authority.

There was a claim that it will cost $1.5 million per kilometre to put down the special racetrack. The fact is that 90 per cent of the pavement already exists and needs no work, and the barriers will cost about $500,000 per kilometre. A claim was made that the economic benefits have been overstated, and that costs were understated; Canberra is used as an example where big losses were made. From what was said by some who spoke on this issue, it seems they have never been to Canberra, let alone been to a race there—certainly not in the middle of winter. The Canberra race was badly planned, it was badly timed, and it was doomed to failure. Who would want to go to Canberra in the middle of winter, the middle of June, to stand outdoors and watch a car race? Obviously, no-one did. There was a claim that there will be 14 weeks of disruption for local residents. Organisers say there will be no access restrictions at all.

I note that present during the Government briefing was a major industrial tenant of the industrial complex, a representative of the ANZ Bank. Claims were being made that there would be massive disruption, job losses, skies falling—the whole nine yards! The ANZ Bank manager said he had sat down with the proponents of this race and he was satisfied that there would be no problems. In fact, the promoter stated that 90 per cent of the industrial tenants supported the race. The organisers also stated that they had sent out 8,000 letters to residents living within a radius of, I think, 6 kilometres of the event, and that they had received 2 negative replies. Again, do not let the facts get in the way of a good story! I note also that just last year the Sydney Olympic Park Business Association was proudly touting the fact that there are now about 90 businesses on site which together provide Australia with one of the most dynamic business, educational, exhibition, sporting and entertainment business precincts in the country. Sydney Olympic Park has a global reputation for excellence as an industrial site, a residential site, an environmental precinct and a major event, entertainment and exhibition precinct, all living and working together.

The Hon. Ian Macdonald: And the association supports the proposal.

The Hon. ROBERT BROWN: It is supported by those industrial and commercial tenants. I note these comments by the Sydney Olympic Park Authority chief executive officer Alan Marsh:

> Sydney Olympic Park's unique urban environment, world class infrastructure and pivotal location have helped make it one of the fastest growing areas of Sydney—

A perfect place to hold such an event. He went on to state that the master plan for the site will "ensure it is a vibrant and attractive place to live, work, learn and play for many years to come". We know the problems that arise when some of these venues become white elephants. We certainly do not want this precinct to become a white elephant. The Government has chosen to back this event and, in a way, its own future is tied to the success or failure of the Sydney 400 V8 motor race. In the current economic climate the Shooters Party will support the bill for economic and job reasons. We believe that the Government will be able to deliver on the environmental protections and on its promises to the residents and tenants that there will be no disruption to their business or their access. There will be a bit of noise; puppy dogs and pussycats might be a bit upset. My dog certainly enjoys it; he does not seem to mind.

Governments are elected to govern and to make decisions, and only the Government knows if this particular decision could be described as "courageous", a term regularly used in *Yes Minister* by Sir Humphrey

Appleby. I hope this event is a major economic success for Sydney. I hope it brings jobs and considerable enjoyment to a lot of people. I am sure it can be done without the sky is falling in. We commend the bill to the House.

Reverend the Hon. FRED NILE [3.21 p.m.]: On behalf of the Christian Democratic Party I speak on the Homebush Motor Racing (Sydney 400) Bill 2008 and congratulate the Government on its initiative in going ahead with the Sydney V8 supercars race at Sydney Olympic Park to keep New South Wales ahead of the other States, and particularly Sydney ahead of Melbourne, Brisbane and other capital cities, which campaign regularly for major events. It is important for New South Wales to take the initiative and retain events.

The Hon. Robert Brown has very ably covered many of the points I was going to make and I will not restate them. I note the campaign of misinformation to undermine this important event and to create unnecessary fears by exaggerating the impact of the event on the Homebush Bay precinct and surrounding areas. Following the recent crossbench briefing with representatives from the Eastern Creek organisation and the mayor of Auburn, it became clear that opposition was not to the event but, rather, to the event being held at Sydney Olympic Park instead of at Eastern Creek. I believe a number of local councils have run a campaign against the event merely because they want it held at Eastern Creek because, if it were, it would benefit their local communities. I am not critical of that, but one must examine the motives behind any objection.

Much of the motivation has been to have the event relocated from Sydney Olympic Park to Eastern Creek. However, the Government has no control over that. It does not own the event and the Cabinet cannot decide to move it to Eastern Creek. The promoters of the event want it held at Sydney Olympic Park and the Government has been able to negotiate a contract to that effect. The bill will facilitate the event occurring at Sydney Olympic Park. Much misinformation has been promoted, including the publication of a map suggesting that hundreds of trees would be destroyed. Some people with no connection to the event and probably no connection with the Sydney Olympic Authority produced this map. People become upset when trees are lost, but even if such misinformation were true, for every tree that is removed, three additional trees will be planted.

We must remember also that the event will be held over only three days, from 4 December to 6 December. I have received a letter suggesting that this race will affect the worldwide migration of birds. It seems extraordinary that a three-day event could do that, but that is the type of misinformation being circulated in an effort to persuade members to oppose the bill. An event was held last weekend at Eastern Creek and only 6,000 people attended. People do not attend Eastern Creek for a variety of reasons, whereas Sydney Olympic Park is an attractive venue serviced by the magnificent Homebush railway line that was built specifically for the Olympic Games. As members would be aware, I was deeply involved with two inquiries into the Olympic Games, and one aim of those inquiries was to ensure public transport was available to shift hundreds of thousands of people rapidly in and out of the area. Sydney Olympic Park has that infrastructure; Eastern Creek has none. The promoters of the event obviously recognised those positive features of Sydney Olympic Park because they expect hundreds of thousands of people to attend the event, and we hope they succeed.

From the extent of the criticism advanced, one would think that V8 supercars were going to be racing around Sydney Olympic Park every day for 365 days instead of for only three days. The birds will never know the event had even been held! The Government should not be deterred by the misinformation campaign. The bill must pass. It will ensure that V8 motor racing will continue in this State following the closure of Oran Park at the end of the year and given that Eastern Creek is not an alternative venue. The estimated cost of an upgrade of Eastern Creek is $100 million and public transport will remain a problem. It does not have the same superb infrastructure as Sydney Olympic Park, which was designed to accommodate hundreds of thousands of spectators. The bill will facilitate an event that is much more than a race. It will be an expo-style event that will include concerts, car exhibitions, fashion displays and family zones. Indeed, the event will be promoted as a family event for fathers, mothers and children. This has been a feature of recent V8 events. We are not talking about only hoons attending the event; we are talking about families going to enjoy the precinct's facilities.

The bill provides Sydney with the grand finale of the V8 season. All States and the Northern Territory have a V8 motor sports event, but this event will become a highlight of the whole year. It will outshine similar events held in Adelaide, Townsville, Bathurst and on the Gold Coast. Sydney will truly be the premier place with this event, and that is why I support it. The bill will facilitate the holding of the event. The Government may have been able to simply sign a contract and hold the event without legislation, given that events are held at Sydney Olympic Park all the time. With this bill, the Government protects the event from injunctions and harassment by the green movement and by the Greens, who are totally opposed to the event—indeed, to any event of this type being held in Sydney.

In September this year the Government announced that it supported the event. This legislation is designed to establish the authority, as occurred with the Olympic Games and World Youth Day. The bill helps to provide for a transparent and centralised planning oversight organisation to ensure the event runs efficiently. I believe the legislation will ensure that that happens. Obviously there would have been harassment, there would have been injunctions, and there would have been every action the Greens could think of to obstruct the event if the Government did not foresee those problems by setting up the authority. The Christian Democratic Party is therefore pleased to support the legislation and the event itself.

Ms LEE RHIANNON [3.31 p.m.]: I support the comments of my colleague Ms Sylvia Hale, who outlined the Greens opposition to the Homebush Motor Racing (Sydney 400) Bill 2008. It is timely to remember the origin of the V8 race at Olympic Park. What drove the Government to lure the V8 race to Olympic Park and so engage in such extreme environmental vandalism? Minister Macdonald has admitted that the idea was born at a boozy lunch. I think that should be "lunches". But this project needed political patronage. Although I disagree with the Minister, I acknowledge his dogged work in winning the support of successive premiers.

Prior to the 2007 election Premier Iemma said that he was opposed to the V8 car race being held in Sydney. At some point after the 2007 election we heard the former Premier say that he supported the event. What was more of a surprise to many was when Premier Rees came on board. Let us remember the early days of the Rees Government. When Mr Rees came to office he spoke about the new Government that he was leading. Many people expected that one of the symbols of this new Government would be that the V8 race at Olympic Park would be ditched, because the event was associated with the dying days of the dysfunctional Iemma-Costa Government. Particularly in these tough economic times, and given that the event was associated with the Iemma-Costa Government, many people simply assumed, "That will be one event that will be gone because we have a new government." But what do we see? We see that Premier Rees makes one of the first of his many mistakes by keeping the event and demonstrating that he is not really providing the leadership this State requires.

It is worth placing on record the Opposition's position. Prior to the 2007 election Peter Debnam, the then leader of the Opposition, was campaigning for the V8 car race to be held at Olympic Park. As I said, the Premier at the time, Mr Iemma, was against it. Now the Opposition is opposed to the V8 car race at Olympic Park, and it has maintained that position. I congratulate the Opposition on that. It is worth remembering the widespread opposition to this event being held at Olympic Park. I emphasise, as has my colleague Ms Sylvia Hale and other members who have raised concern about this event, that the concern is only about the event being held at Olympic Park. The Hon. Robert Brown went a fair way in ridiculing Eastern Creek, but clearly that is a venue that could have been used.

The Hon. Robert Brown: Have you ever been there, Lee?

Ms LEE RHIANNON: Yes, I have. Let us go through the widespread opposition to this event. Auburn, Parramatta, Ryde and Canada Bay councils are opposed to it. The Sydney Olympic Park Authority board members are unanimously opposed to it. The Total Environment Centre has been doing important work in this area. The nearby residents and patrons of the park have signed petitions, held large public meetings, and leafleted their communities on the issue. The Federal Labor member for Reid, Laurie Ferguson, has spoken at rallies. I congratulate the Mayor of Auburn, Irene Simms, on her work in this area. Indigenous Landscape Designs Australia and many small local businesses oppose the event. Interestingly, many local vets, including Animal Tracks at Homebush, have expressed their opposition to the event. I emphasise that because I was concerned to hear speakers ridiculing comments made by Reverend the Hon. Dr Gordon Moyes highlighting the stress the event can cause to domestic animals in the area.

Local cycling groups, Bike Australia, and wilderness and wildlife groups, have expressed their opposition to the event. Opposition to the event has also come from Save Albert Park and the Australian Racing Drivers Association. All those groups have emphasised that they are not against V8 car racing, that it is the venue they are concerned about. I also acknowledge Tracey Nelson, a member of the Save Olympic Park—No V8 Racing Committee, another group that has provided valuable input for the campaign that has developed around this issue. I thank Tracey for the research she has supplied.

Another organisation that has done valuable work is the Cumberland Business Chamber. The organisation, which covers Blacktown, Holroyd and Fairfield local government areas, has looked at the economics of the event and how it will damage much of the work that has been undertaken in parts of western

Sydney to build up the local economy. This is where we see double standards from the Government. So often the Government, at the drop of a hat, tries to accuse the Greens of damaging the local economy. Such allegations by the Government are baseless.

The Cumberland Business Chamber has set out clearly how the event will undermine important work in this area. The chamber has referred to substantial industrial precincts, including large numbers of small and medium enterprises in the automotive sector. The chamber says the yearly V8 car races that have been held in the area for some 20 years have played an important role in the development of the automotive and motor sport industrial cluster. The chamber explains how the industry cluster can promote work over many years but that it develops in a more substantial way, creating jobs that are sustainable for so many people. That is a real plus, and the chamber sees this car race as undermining its work.

With regard to where the opposition for the event has come from, of great significance is the fact that the Premier's events adviser, Mr John O'Neill, has opposed the event. It is disappointing that the Premier did not take his advice. I also acknowledge that the Labor candidate in the recent Ryde by-election, Nicole Campbell, is opposed to the event, as are many Labor rank and file members. I have referred to an extensive list of organisations and individuals who have worked hard to bring sense to this Government.

On the side of those who are promoting the event, we see that Labor has moved right into the biggest end of town. I imagine these are some of the people Minister Macdonald has had lunch with—if ever he would share those details with us. This information comes from an interview with Mr Morris Iemma in which he detailed some of the organisations backing the event. He said News Limited's chairman, John Hartigan, and the chief executive of Network Seven, David Leckie were enthusiastic backers of the event. News Limited denies it is a sponsor of the project but obviously if it was participating in meetings with Mr Iemma it certainly had a clear interest in the event.

Many of the people who have lobbied us time and time again have said how difficult it was for them to make representations to the Government first off—they just could not penetrate the wall. When the issue began to gain momentum and widespread concern developed, it was reported that Mr Macdonald had stated in the local paper that he could not understand why anyone would oppose the race, and if they did not like the noise they should rent out their house.

The Hon. Ian Macdonald: I did not say that.

Ms LEE RHIANNON: I acknowledge that the Minister has said that he did not say that. If that is the case that is good, but that is what was reported locally and added to peoples' concerns. Olympic Park is a world-class venue because of the groundbreaking work that was done in developing it as an ecological sustainable area. The August-September 2008 edition of *BIZnews*, the bimonthly magazine of the Sydney Chamber of Commerce, clearly sets out the incredible environmental significance of the area. The Olympic parklands are detailed as being the lungs of the surrounding western suburbs, a green oasis supporting a dozen ecosystems in protected marshlands, remnant bushlands and mangroves. I refer members to that publication because it clearly highlights the importance of the environmental benefits of the area, both in promoting the area economically and its integrity. The Government has also recently boasted about the importance of the area. On 12 December last year Mr Frank Sartor spoke of the Olympic Park developments in the lower House when he said:

> Sydney Olympic Park is a showcase of the Government's BASIX building sustainability index and other innovative design features. It will help to achieve the Government's State Plan targets to reduce greenhouse gas emissions and recycle water.

The Government cannot have it both ways. It cannot promote the precinct as a green icon that shows how the Government can get it right and really does care about the environment, and also have V8 Supercar races disrupt that area for 10 weeks per year—they are incompatible.

The Sydney Olympic Park Authority Act sets out tough environmental standards to secure the green reputation of the Olympic precinct generation. It states that changes to Olympic Park can only be made if they enhance its environmental values. That is where we run into problems and the very reason for the bill. The V8 Supercar races could not proceed without many of the environmental laws in the Sydney Olympic Park Authority Act being overturned. My colleague Sylvia Hale ran through all the Acts that will be swept away by the bill—that is outrageous. The bill is a form of environmental vandalism, and the Shooters Party and Reverend the Hon. Fred Nile are willing to support the Government to achieve that change.

A number of other aspects to the development should be noted. I draw the attention of members to comments by John Coates, the president of the Australian Olympic Committee and a lawyer committed to protecting Olympic intellectual property, who wrote to V8 Supercars to remind them that they are not permitted to use the word "Olympic" or suggest any Olympic association due to legislation drawn up 13 years before Sydney hosted the 2000 Olympic Games to prevent companies from using the Olympic brand for marketing purposes. I understand that Adam Firth, a lawyer for V8 Supercars, acknowledged that the Olympic Insignia Protection Act prevented V8 Supercars from even using the names of the streets where cars will race as they are named after famous Olympians and Paralympians, such as Dawn Fraser and Edwin Flack. Mr Coates also raised concerns about remarks made by Network 7 *Sunrise* host David Koch at the race launch for the V8 Supercars. Network 7 is a V8 Supercars sponsor so problems as to the management of the event have already been encountered. From now on the word "Olympic" should have nothing to do with the races.

I ask the Minister to comment in reply on how public transport will be managed in the 10 weeks of disruption either side of the event. The Greens have received representations from people worried about that and it is important that a response is placed on the record.

The Hon. Ian Macdonald: Not a problem.

Ms LEE RHIANNON: Another matter of concern is the double standard of the Government highlighted by the link between V8 Supercars and alcohol. One day after debating another Government alcohol bill, the V8 Supercar event is ushered in and that, in turn, ushers in heavy drinking—it is as simple as that. Why do I say that? Because the global spirit company, Jim Beam, has significantly increased its association with the V8 Supercar championship series by an extension of its sponsorship of the sport for a further three years. Australia's largest seller of spirits and the world's largest bourbon brand will become the official sponsor of V8 Supercars Australia and will put further resources into the sport as one of the flagship sponsors. It does not stop with Jim Beam. XXXX Gold—

The Hon. Ian Macdonald: You do not like these people, do you?

Ms LEE RHIANNON: I acknowledge the interjection by the Hon. Ian Macdonald.

The Hon. Ian Macdonald: They drink and get drunk—

Ms LEE RHIANNON: That is so insulting. You do not understand. President, the Minister does not understand and cannot engage in debate on the issues. He has to distort and manipulate an argument. I do not dislike alcohol and I do not dislike the car races. What we are talking about here—and this is what he should be willing to debate—is finding the balance.

The Hon. Ian Macdonald: Have you been to one?

Ms LEE RHIANNON: Yes, I have. I have been to them overseas.

The Hon. Ian Macdonald: F1?

Ms LEE RHIANNON: It was a long time ago and I do know if it was called F1 then, but I certainly have been to races. I have also been to Mount Panorama. When the Minister is hard up for an argument he has to say, "Have you been there?" It is like saying in a debate on a rural issue, "Have you ever milked a cow?" For the Minister to ask, "Have you ever been to a car race?" indicates that he is really hard up for an argument. The Minister should be able to do better. It would be interesting to hear from the Minister the alcohol restrictions at the event and how those restrictions will be managed.

The Hon. Ian Macdonald: That is provided for.

Ms LEE RHIANNON: Are the provisions going to be the same as they are at Mount Panorama, where the number of alcoholic items race enthusiasts can take into the camping ground every 24 hours is "restricted"—an interesting use of the word? Every day they are allowed 24 cans of beer, or 36 cans if it is light or mid-strength beer, 24 cans of pre-mixed drinks or one cask of wine. Gold membership packages at Mount Panorama include a six-hour beverage package, including beer, wine or soft drink, with a cash bar for spirits between 11.00 a.m. and 5.00 p.m. In terms of "responsible drinking" promoted by the Government those amounts are interesting. The Minister should inform the House of the V8 Supercars alcohol standards.

The number of police at this year's event at Mount Panorama tripled to 750 officers at a cost of $2 million. Who will bear that cost? How many police will be involved in this event? Will there be the whole gamut of Tasers, sniffer dogs and the tactical response group or will policing be more sensitive because the Government wants it to be a world-class event? I ask the Minister to comment on the economics of this event, in particular, the cost to the racing fraternity. It is a relevant matter to the debate. Ford and Holden invest about $1 million per year to build and run each and every supercar. That is $1 million for every car in that race. I understand that neither Ford nor Holden will guarantee its support for the race over the next five years because of the tough economic times and the popularity of V8s is on the wane.

The Minister must come clean about the level of support. I have written to the New South Wales Auditor-General asking him to review the race and the cost benefit calculations of the New South Wales Government contained in the documents held by Premier Rees using the same formula that is applied to the Australian Capital Territory and Victorian races. I hope that the Auditor-General can provide an independent assessment of the veracity of the Government's claims that the race will earn more than $100 million for New South Wales every year.

The Hon. Ian Macdonald: Over five years.

Ms LEE RHIANNON: The Minister said "Over five years", so we get $20 million a year for all this trouble. Seven years ago in this House we debated the Sydney Olympic Park Authority Bill. On many occasions Premier Carr waxed lyrical that, following the Olympics, Sydney Olympic Park precinct would be a gift from his Government to the people of Sydney to grow as a model of sustainable urban renewal. Now it will be hijacked for 10 weeks of the year and much of the area will be alienated. It is worth remembering that not only Mr Carr promoted this precinct. At the time Mr Macdonald, then a parliamentary secretary, waxed lyrical about protecting the sensitive parklands and tree plantings on the site. At the time Mr Macdonald said:

> This bill aims to ensure environmentally sound management of the Millennium Parklands, a huge new area of open space in the geographic heart of Sydney.

Seven years later Mr Macdonald has ditched that commitment and has started ripping out trees.

The Hon. Ian Macdonald: Not in the parkland.

Ms LEE RHIANNON: It is still alienating the precinct in a damaging way. Also at that time Reverend Fred Nile cited concerns of local bird watchers and said:

> There is always a danger that pressure will be put on the commercial side of the operation and that this would then bring about the neglect of Bicentennial Park and the wetlands. Will the Government give an assurance that the highest priority will be given to those sensitive wetlands by the new Sydney Olympic Park Authority?

It is a pity that Reverend Fred Nile is not present in the Chamber. What a hypocrite!

The Hon. Ian Macdonald: The race is not going to be in the wetlands.

Ms LEE RHIANNON: The result will be the alienation of the whole area. The Government cannot divide off an area to run a huge event like V8 Supercars and say it will not have an impact on the whole area. Reverend Fred Nile has been hypocritical in that seven years ago he was defending this parkland from commercial interests and now he is backing them to the hilt. It is economically, environmentally and ethnically irresponsible to bring V8 Supercars racing to Sydney Olympic Park.

The Hon. Ian Macdonald: I feel better about it every day.

Ms LEE RHIANNON: Mr Macdonald has a lot to answer for. I believe he will not come fully clean, but I am sure the story will come out eventually.

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [3.54 p.m.], in reply: I thank honourable members for their contribution to the debate. The Government is excited at the prospect of Sydney hosting the grand finale to the V8 Supercars series on a site that is tailor-made for big events. With V8s leaving Eastern Creek, Sydney was at risk of missing out on hosting a sport that is watched by millions of keen fans around the world. That fact is clear-cut. Some honourable members questioned the basis of the Government's economic modelling because it

did not cost theoretical alternatives to the proposal for Sydney Olympic Park to be used by V8 Supercars. As I have previously advised, the methodology used is based on an input-output model, an IO model, which applies multipliers to estimates of direct expenditure to estimate the total direct and flow-on effects of the event on an economy. The economy modelled may be a region, a State or a country. The department uses multipliers for the New South Wales economy supplied by the Centre for Agricultural and Regional Economics. It is a tried and tested model used by the department for a number of years to assess the economic impact of projects and events in New South Wales.

Some of the expected benefits from the event will not be purely financial. For example, V8 Supercars Australia [V8SA] will continue to develop its road safety and young driver training program, which is specifically targeted at local New South Wales schools. Following its success at Strathfield South High School on Friday 14 November 2008, a number of further visits are being planned for the new year. The Sydney 400 race event will also provide an opportunity for 25 New South Wales apprentices to participate in the TAFE motor repair program that it operates as part of the V8 race series. As well, a further 50 New South Wales TAFE trainees will have the opportunity to work across hospitality, logistics and driver mechanic support areas with the V8SA teams at the Sydney 400 race. This will provide a great experience for those seeking to establish careers in these areas.

Some honourable members questioned the process of the Government's decision to support the event. These concerns are misplaced. It is true that the Government responded quickly to avoid missing this opportunity and to meet the lead times required to secure the event in the international motor racing calendar. Contrary to suggestions from Ms Hale and the Hon. Trevor Khan, however, the proposal has been subject to much review and analysis by multiple agencies over the past six months. Numerous discussions have been held involving both the Department of State and Regional Development and the Sydney Olympic Park Authority. V8 Supercars Australia also met with the board of the Sydney Olympic Park Authority in late June 2008 and the Sydney Olympic Park Business Association. Discussions with stakeholders will be ongoing as preparations commence for the event in 2009. If the usual planning processes applied, however, the preparations for the event simply could not be finished in time. The bill ensures that the first V8 Supercars series final can go ahead as scheduled in December 2009.

As Ms Hale pointed out, the bill does not impose a maximum period of days over which the event can be run. As I have said on many occasions, however, the proposal is for the event to be held between 3 December 2009 and 6 December 2009. There is no basis for the member's concern that the Minister will authorise the promoter to have access to the park for any longer than is reasonably necessary to undertake preparations for the race, hold the authorised race events and move out. The bill also provides that the Minister must not designate the racing period without first seeking the advice of the authority. The bill allows appropriate flexibility for the Minister to determine exactly how long the promoter should have access to the park each year. As has been shown by other States that support big motor racing events—South Australia, Queensland and Victoria—and our experience in hosting the Olympics and World Youth Day, streamlining the planning process is critical to the viability of the event.

The concerns raised by Ms Hale that the proposed arrangements suffer because of the Minister's oversight of the new authority are also misplaced. There are numerous examples of governance arrangements that quite appropriately impose overall accountability on the Minister responsible for a government agency. The Sydney Olympic Park Authority is one relevant New South Wales agency that is subject to ministerial direction and control. The South Australian Motor Sports Board is also subject to the general control and direction of the Minister in that State. The Australian Grand Prix Corporation is subject to the direction and control of the relevant Victorian Minister. During the debate honourable members raised concerns about the need for a new authority.

It is clear that some decisions that must be made to ensure the Sydney 400 race gets off the ground would be better made by a special purpose authority. A broad range of interests will have to be balanced in making decisions about planning and running the event. A new authority is best placed to be able to coordinate all those different perspectives. However, the Sydney Olympic Park Authority will remain very involved in the preparations and management of this event. Its expertise will be vital in ensuring that preparations go smoothly. The bill also ensures that a representative of the Sydney Olympic Park Authority will be on the event implementation committee. Changing the process does not mean that environmental concerns will not remain a vital consideration in managing the Sydney 400 race.

There has been a considerable amount of misinformation concerning the environmental impact of the event on Sydney Olympic Park. I am advised that, for example, only a small number of trees will need to be

removed and replaced on a 3:1 ratio. The new authority will be in possession of all the relevant facts, which will enable expeditious approvals for the necessary pre-race preparations to be given, ensuring public safety and environmental values are properly taken into account before, during and after the event. The authority cannot allow the promoter to commence any preparatory work without first being satisfied that it has taken adequate steps to minimise and prevent harm to the environment and disruption to other users of the precinct.

The Government is very optimistic also that the level of disturbance to the leaseholders at Sydney Olympic Park will be minimal. The new authority will be working very hard with the promoter to ensure that its consultation with businesses uncovers and resolves any significant problems. The promoter is committed also to close and continuing consultation with the community on traffic and parking issues. During October my colleague and local member Barbara Perry, senior executives from V8 Supercars Australia and I met with representatives of Newington Residents Association to update them on the project and to hear any issues of concern. V8 Supercars Australia has distributed a newsletter to many residents in the area.

Despite the concerns raised by honourable members here today, Sydney Olympic Park was built to host large events with all the noise and people movement that is inherent with large gatherings of fans of any description. The reason the park exists is to hold major events. There are high levels of support from the operators of the park, and that makes sense. The Sydney 400 provides an unprecedented opportunity to confirm the park's place as the major events precinct in Sydney, bringing with it the potential for significant associated benefits from other industries. There is a large number of companies associated with the Sydney Olympic Park—the Sydney Olympic Business Association, the ANZ Stadium, the operators of the stadium, Acer Arena and the Royal Agricultural Society, as well as the hotels in the area.

The bill follows a process that has operated well in other jurisdictions with some appropriate modifications taking into account the particular features of the race being held in Sydney Olympic Park. This is not a new methodology for these types of events; this is very much modelled on South Australia, Victoria and Queensland. The bill provides a considerable balance between resolving the concerns of stakeholders on the one hand and the need to remove legal uncertainty so the event can proceed on the other. The balance struck by the bill will help to ensure that investment by the people of New South Wales in this event brings an estimated benefit of between $100 million and $110 million for the State's economy, stimulates local business, creates jobs and attracts tourists. I remind members that the recently audited report of the South Australian Clipsall event in March of this year indicated a net benefit to the State of more than $32 million—a very impressive contribution to the State's economy. I look forward to the race.

Reverend the Hon. Dr Gordon Moyes raised the issue of international treaties in relation to migratory birds and the issue of the green and golden bell frog. These matters will be looked at and the issues will be managed very carefully. We do not want to leave a damaged environment: we do not want to damage either the migratory birds or the green and golden bell frog. The requirements to ensure the environment's protection will be covered and reflected in the deed. In relation to the pets issue that was raised, it should be remembered that the Royal Agricultural Society lets off fireworks every night for 18 nights in a row during the Royal Easter Show. Those fireworks are extremely loud and create disruption. We acknowledge that some people could be concerned about the issue of fireworks but it will be managed the same as the other issues. In relation to the frogs I point out one great statement by Ms Lee Rhiannon in the *Daily Telegraph* not long ago when she said that the issues surrounding the frogs were not of a great first order.

Ms Lee Rhiannon: Point of order: The Minister is distorting what I said. He is making a mistake that he has often accused others of—

The PRESIDENT: Order! There is no point of order.

Ms Lee Rhiannon: —of believing the *Daily Telegraph*.

The PRESIDENT: Order! I call Ms Lee Rhiannon to order for the first time.

The Hon. IAN MACDONALD: I do not believe that this will be a major problem. We are not in the business of damaging frogs in this area and they will be a very important part of the management process. Someone said in the debate that car racing should be consigned to history like the dinosaurs. I point out that people want to race no matter what, and that is reflected in the fact that even with the development of solar cars people like to race solar cars around. Quite a large percentage of the population like racing events and that will

continue on and on. The V8s have responded to environmental issues; they are now going to use E85. I remind Reverend the Hon. Dr Gordon Moyes that in developing its new strategies for the future, General Motors Holden makes E85 one of the key points of its environmental strategies.

In response to the concern that the barriers will not be removed, I am advised that three days ago all barriers at Albert Park had been removed. In relation to double counts, they are factored in and discounted for patrons coming and going at the event. In regard to opportunities for western Sydney businesses, V8 Supercars Australia has stated that it will endeavour to source event-track overlay and other services from businesses in and around western Sydney. In relation to liquor, the appropriate conditions may be applied to a licence, which may include limits on the use of plastic cups. Those issues will be taken into account just as they are taken into account in a very systematic way at Bathurst. The Bathurst 1000 is very much a family-oriented event; many children go along to that event and there are very strong controls on alcohol. The event attracts nearly 200,000 people and I think it is an incredibly well run event. With the issue of liquor, there will always be a few people who abuse liquor, there is no question about that, but controlling it is very much part of the management plans. I refer to an interesting email sent to me by someone from the Committee To Save Olympic Park, which is obviously trying to drum up opposition for the event V8 Supercars event. The email states:

> Part of the objection to the race is a NIMBY factor.

It has worried me that a not-in-my-backyard-type approach is being taken to this very important event.

Dr John Kaye: From an anonymous email.

The Hon. IAN MACDONALD: It is not anonymous.

Dr John Kaye: Name the source.

The Hon. IAN MACDONALD: I have got the names of the people and everything.

Dr John Kaye: Table it.

The Hon. IAN MACDONALD: I am not going to table it. I will name the person who sent it. It was from a guy called Michael Coon from the Committee To Save Sydney Olympic Park from V8 Supercars. This was an email sent to people in the area to get support and it says, "Part of the objection to the race is a NIMBY factor." I think that says quite clearly that some people have opposed the race on that basis. This will be a great event for Sydney. It will contribute to our economy and I believe it will provide a further level of exposure of Sydney to not only the rest of Australia—where the calculations on spectatorship indicates up to 4 million people will view the events—but also overseas. I commend the bill to the House.

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

The House divided.

Ayes, 19

Mr Brown	Reverend Nile	Mr Tsang
Mr Catanzariti	Mr Obeid	Ms Voltz
Mr Della Bosca	Mr Robertson	Mr West
Ms Fazio	Ms Robertson	
Mr Hatzistergos	Mr Roozendaal	*Tellers,*
Mr Kelly	Ms Sharpe	Mr Veitch
Mr Macdonald	Mr Smith	Ms Westwood

Noes, 18

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

Pairs

Mr Donnelly	Mr Gallacher
Ms Griffin	Mr Pearce

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Ian Macdonald agreed to:

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by Reverend the Hon. Fred Nile agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 157 outside the Order of Precedence, relating to the Education Amendment (Educational Support for Children with Significant Learning Difficulties) Bill 2008, be called on forthwith.

Order of Business

Motion by Reverend the Hon. Fred Nile agreed to:

That Private Members' Business item No. 157 outside the Order of Precedence be called on forthwith.

EDUCATION AMENDMENT (EDUCATIONAL SUPPORT FOR CHILDREN WITH SIGNIFICANT LEARNING DIFFICULTIES) BILL 2008

Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.

Motion by Reverend the Hon. Fred Nile 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

Reverend the Hon. FRED NILE [4.18 p.m.]: I move:

That this bill be now read a second time.

I thank members for their support of this bill. It conforms with the United Nations' Convention on the Rights of the Child, Article 23, which states:

> … any child with a disability should have access to, and receive, an education in a manner conducive to achieving the fullest possible social integration and individual development.

According to the International Dyslexia Association, approximately 12 per cent of the population are hindered in this endeavour due to significant learning difficulties such as dyslexia. To date, New South Wales

government schoolchildren suffering significant learning difficulties have not always received appropriate assistance within the Department of Education and Training's Learning Assistance program. In some cases, children suffering from learning difficulties require specialised care. Hence, I have introduced this legislative measure to ensure assistance is given to government schoolchildren with special needs, which includes dyslexia, autism and so on. I wish to acknowledge the significant input of the community during the consultation period of this legislation. Those to be honoured include the many suffering parents who have contacted my office over the years. I wish to pay particular tribute to the inputs of Professor Max Colthart, Director of the Macquarie Centre for Cognitive Science, and the Academic Director of the Children's Hospital Education Research Institute, Dr Pye Twadell, and Dr Paul Whiting. Finally, and not least, I wish to thank Mr Jim Bond for his tireless efforts, over 20 years, to have assistance provided to those suffering from significant learning difficulties like dyslexia.

Reverend the Hon. Dr GORDON MOYES [4.20 p.m.]: Four and a half years ago I spoke about the need for educational support for dyslexic children. I followed that up, as can be seen in *Hansard* and on my own website, with questions and articles, as well as a second reading speech, hoping we would get some action on this private member's bill. At long last it comes before this House. Dyslexia can lead to a continuous stream of children becoming uncontrollable in school and at home through sheer frustration. Teachers may miss the signs and wrongly punish difficult children. Social conflict and unemployment follows. A disproportionate percentage of people in jail are dyslexic. In some neighbourhoods, especially in public housing estates, education is the main weapon to prevent children and teenagers from turning to a life of crime. If we do not take action, this creates a spiral of despair that leads to drug or alcohol addiction, prison, or death.

No-one has fought harder or more consistently to have dyslexia recognised as a disability and therefore eligible for educational department special support than Mr Jim Bond, a regular visitor in the public gallery, where he has waited for four and a half years for this bill to come to its final reading today. Along the way Jim has had some good victories. Recently, the New South Wales Department of Ageing, Disability and Home Care was forced to apologise for discriminating against him. Staff at the department refused to help Jim Bond complete an application form to be a member of the New South Wales Disability Council. He has had victories over a Federal department and the Australian Protective Service. The Anti-Discrimination Board ruled in favour of Jim Bond, and the director general of the department was forced to issue a written apology. It has promised to conduct staff training about such discrimination.

I have known Jim Bond for six years, I have visited him in his home, and with his urging I have become an active supporter of dyslexic people and have lobbied the State Government to consider dyslexia as a disability. One in seven Australians suffers from dyslexia. The effects of dyslexia in society include unemployment, poverty, alcoholism, drug abuse and dependency, and even family breakdowns. This legislation is long overdue. According to the International Dyslexia Association, approximately 12 per cent of the population suffer from varying degrees of dyslexia. Paediatric neurologist Dr Gordon Serfontein says that children with dyslexia suffer from what he calls the "hidden handicap". Article 23 of the United Nations Convention on the Rights of the Child States:

> Any child with a disability should have access to and receive an education in a manner conducive to achieving the fullest possible social integration and individual development.

The Department of Education and Training in the past did not recognise dyslexia as a disability and therefore did not provide appropriate support. To date, children suffering from dyslexia have been catered for under the department's Learning Assistance program, which provides one junior teacher or teacher's aide through the Support Teachers Learning Assistance program for every special education class. I would place on record my appreciation to successive Ministers of Education, including the Hon. John Della Bosca, whom I have lobbied for their encouragement. I would thank and congratulate the current Minister, the Hon. Verity Firth, who in this era of budget cutbacks achieved the impossible by having $9 million added to her portfolio in the mini-budget for special needs teachers. The package of $9 million will be spent on training 80 new full-time special education teachers to work with students with autism, mental health problems and dyslexia.

Recently, at a budget estimates committee hearing, I had the opportunity to ask the director general of the department to give certainty of this funding and asked what schools would receive an additional special needs teacher. The response to me by parents was overwhelming. I am grateful to the Minister for Education and Training and the director general for their commitment to a new era in providing for special needs teachers for children with dyslexia. In that regard, I refer honourable members to the answers given by Mr Coutts-Trotter

to the questions that I asked him, in which he indicated the money had been earmarked, and that it would be put aside. I asked about the deployment of special needs teachers, and he indicated that they were being appointed at this time. He said:

> We are developing a very detailed plan of implementation. This initiative will benefit about 265 schools. The leaders of those schools—in the first instance the principals—are being briefed in the second half of this week and then are getting into a process of planning to make sure that this is implemented well and implemented quickly, and that the children in those schools get the benefit of the initiative as they should.

He said that will be at the beginning of the first term of next year. I asked him could we be assured that the 250 schools actually would spend the money that had been allocated in the budget. Mr Coutts-Trotter replied:

> With great trust comes great accountability, and increasingly schools have very tight accountabilities for what they achieve and what they spend. We will be working in partnership with schools to support them to ensure that they have good plans for implementation. It is not merely about saying, "You must do it"; it is about working together to ensure that it happens. So we as a department will be keeping a very close eye on it and we can report upon it.

I congratulate Mr Coutts-Trotter and the Minister for the expenditure of some $9 million, which will provide 80 full-time equivalent positions. Aligned to that, I had a look last week at what they were planning to do. I really appreciate that they have a massive task on their hands, but the Government is getting into completing it. The effects of dyslexia in society are the dreadful outcomes that I have indicated. Dyslexia is a disability. The Government will now provide support for such students. I do appreciate that the Government has decided to do that. This formalises the results that the mini-budget allows. I congratulate the mover of this bill, my colleague Reverend the Hon. Fred Nile, for introducing it, and I congratulate Mr Jim Bond, who has fought for it for four and a half years. Our vote for it today completes a very long battle.

Dr JOHN KAYE [4.28 p.m.]: I rise on behalf of the Greens to support the Education Amendment (Educational Support for Children with Significant Learning Difficulties) Bill 2008. I agree with the two members who preceded me in this debate about the seriousness of learning difficulties and the impacts that those difficulties can have on a student's ability to participate in education and in long-term social, economic and cultural outcomes. Addressing learning difficulties, including dyslexia, is an extremely important social objective, and one that needs to be pursued.

The one issue that I would take with Reverend Fred Nile's speech is the implication in it that work has not been done within public education to address learning difficulties. Yes, it is true that more could have been done. And, yes, it is true that funding has been, and I suspect will continue to be, inadequate to address the needs of children who suffer from learning difficulties. But let it not be said that there have not been hundreds, if not thousands, of teachers within public education who have, in innovative, intelligent and committed ways, addressed the issues of learning difficulties. Many children have gone through public education with learning difficulties, entered public education with learning difficulties, and have left with capacities way beyond whatever they or their parents thought could ever be achieved. There are probably many in this House, as one member just indicated to me, who are in that category.

It is true also that public education has failed some children, but we should not let this bill become an opportunity to say that nothing has ever been done. For decades special teachers—learning difficulty [STLDs] and support teachers—learning assistance [STLAs] have been employed within public education. Most of them are gifted professionals and they work hard. We do not have sufficient special teachers and we need more education to deal with dyslexia, but we are making progress. Teachers and specialist teachers within the public education system have worked hard to achieve quality outcomes for many, if not all, children.

I commend Reverend the Hon. Fred Nile and the Government for reaching an agreement on this and the final wording of the bill. It is an intelligent outcome and codifies the practice of providing funds and resources for children with learning difficulties. On behalf of the Greens I commend those who have campaigned hard for this outcome. I congratulate them on their tenacity, foresight and commitment to children who are disadvantaged and who suffer from learning difficulties. I commend them for this important step towards addressing the special needs of all children with learning difficulties in public education. The Greens wholeheartedly support the bill.

The Hon. TREVOR KHAN [4.31 p.m.]: It is with great pleasure that I speak on the Education Amendment (Educational Support for Children with Significant Learning Difficulties) Bill 2008. At the outset I take this opportunity to congratulate Reverend the Hon. Fred Nile on his work on this bill, which has extended

over a considerable period of time. I acknowledge also the Deputy Leader of the Opposition, who has taken a keen interest in this matter for a long time because of dyslexia issues within his own family. To those who have experienced it, either directly or indirectly, it has a huge impact and creates considerable passion and emotion.

As a person who has suffered in a mild form from dyslexia, I have experienced first-hand the impact of learning difficulties associated with the condition. As an afflicted person, I wish to make one point very clear: for most people with dyslexia the condition is not a disability to their capacity to contribute to society, particularly when it is managed properly with early detection and intervention. As all members of this House would be aware, I studied law at a tertiary level and successfully practised law. I realised from an early stage how to cope with the reading difficulties associated with dyslexia. One does not overcome them; one learns how to navigate around the issues.

Dyslexia taught me to be meticulous in absorbing information and to learn to remember perhaps better than most people; it takes so long to read a document that one cannot miss the opportunity. I know that when working on committees some members recognise that at times I struggle to keep up with the pace because reading me takes so long. It is an ability to concentrate that gives people with dyslexia a great strength in other areas; once material is absorbed it is remembered by them far longer than by those who do not suffer from the condition. I conclude by making the point that I made earlier: I pay tribute to the many teachers who, over the years, assisted me in overcoming the condition.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.34 p.m.]: On behalf of the Government I am pleased to support the Education Amendment (Educational Support for Children with Significant Learning Difficulties) Bill 2008. I commend Reverend the Hon. Fred Nile for his interest and concern for the needs of children with learning difficulties in our schools and their families. As we have heard, the bill seeks to amend section 20 of the Education Act 1990 to include "children with significant learning difficulties" as a group of government schoolchildren with special needs to whom special or additional assistance may be provided. I am pleased that the honourable member has amended his original bill following consultation with a number of community organisations working with children with learning difficulties.

The term "dyslexia" is commonly used by parents and other professionals to describe a wide range of specific learning difficulties that impact on a student's ability to learn to read, write and spell. However, dyslexia is not the preferred terminology for groups who represent students with special needs. These groups include the New South Wales Federation of Parents and Citizens Associations, the Learning Difficulties Coalition of New South Wales, Learning Links Family Advocacy, and the Specific Learning Difficulties Association of New South Wales, which use the terms "learning difficulties" or "specific learning difficulties" to describe this group of students. "Learning difficulties" is also the preferred term for the Australian Association of Special Education.

Other New South Wales government departments, including the Department of Ageing and Disability, Home Care Services, the Department of Community Services and New South Wales Health do not include learning difficulties or dyslexia within their disability categories. Internationally, "dyslexia" is a term used to describe myriad learning difficulties not limited only to reading. There is no single definition of the term and currently there is no consensus in the literature about exactly what dyslexia is or what causes it. Most commonly, dyslexia is described in terms of its symptoms and/or in terms of what it is not.

Regardless of the diagnostic difficulties, all of us have a great deal of sympathy for children and adults struggling with these kinds of learning difficulties and for the families who work so hard to give them the best possible support in their education. The major issue with all definitions of dyslexia is that none provides an objective measure of the syndrome. The fact that there is no agreed test or diagnostic tool available to determine whether an individual's learning difficulties are due to dyslexia raises several issues around diagnosis. The International Dyslexia Association emphasises that in diagnosing dyslexia "it is very important that a persistent pattern of reading and spelling difficulties exists over a prolonged period of time". The International Dyslexia Association also acknowledges that there is no discrete test that can be used to diagnose dyslexia and recommends a battery of over three hours of testing by professionals such as psychologists, speech pathologists and educators.

In countries such as the United States of America, two critical conceptual elements within definitions of dyslexia must be addressed in any diagnosis. These elements are: first, a significant discrepancy between learning potential, typically measured by IQ, and academic performance, typically measured by standardised assessments of reading, writing and spelling; and, second, the exclusion of educational experience,

environmental circumstances, sensory impairment, intellectual impairment and emotional disorder as factors contributing to reading performance. Using this method of diagnosis of dyslexia would therefore require psychometric assessment to determine an IQ achievement discrepancy, as described previously, and assessments to exclude any sensory deficit, emotional disorder, socioeconomic disadvantage, general learning problems and factors such as interrupted school attendance.

A major problem with this model is that, by its very nature, diagnosis is delayed until about nine years of age when a discrepancy can be adequately measured. Such a delay in diagnosis has catastrophic effects and the potential to harm more children than it helps, with services being delayed until a formal diagnosis has been established. A possible consequence is that crucial early intervention will be denied while children await a formal diagnosis. Under this model it may be that children will suffer the emotional traumas of failure for two to three years before diagnosis and intervention.

The Government is opposed to any classification that would also draw a distinction between students on the basis of socioeconomic, behavioural or environmental factors. In New South Wales public schools, no diagnosis of dyslexia is required for students with reading problems to access special education programs. The $134 million Learning Assistance Program of the Department of Education and Training provides an extensive range of services to support students experiencing difficulties in basic areas of learning. This includes students with dyslexia. Students do not need a disability confirmation to access support through this non-categorical program. This specialist program is available in all public schools. The program provides 1,378 specialist support teachers to support students with learning difficulties. It is school-based and resources are allocated every three years according to identified need.

The Vinson review entitled "Inquiry into the provision of public education in NSW", and the Parkins review entitled "Review of support for students with low support needs enrolled in regular classes", which were conducted in 2002, strongly supported a non-categorical approach to supporting students with difficulties in learning, including those with dyslexia. I note that other members in this debate have referred to this.

The Government is extremely committed to further improving our support for kids who are struggling with learning difficulties. In the recent mini-budget the Government announced an additional $9 million in funding to support students with special needs and their teachers. These funds will provide the equivalent of an additional 80 full-time specialist teacher positions in 265 schools across the State in 2009. These specialist teachers will provide support for students with complex additional learning needs, including students with autism, learning difficulties such as dyslexia, and behavioural difficulties.

I am advised by my colleague the Minister for Education and Training that this new initiative is well on its way to being implemented, with principals across the State now having been briefed. I understand that principals are extremely pleased with this initiative and that the new teacher positions will be ready to go in term one next year. The Government understands the growing need in our community for support services for children with special needs. We are pleased to be able to support Reverend the Hon. Fred Nile's bill, to better recognise the needs of children with significant learning difficulties, and we commend him for his advocacy on behalf of these children and their families. I commend the bill to the House.

Reverend the Hon. FRED NILE [4.41 p.m.], in reply: I acknowledge and place on record the work of teachers in the public school system and the non-government system. I do so lest Dr John Kaye and others have interpreted my omission of any such acknowledgement as an indication that I do not appreciate what teachers have achieved over many, many years. I am aware of what they have achieved, and I acknowledge the efforts of dedicated teachers in the public schools system and in the non-government system who have given many hours, and even additional hours, to help children with special learning difficulties.

I thank members of the House for their support for the legislation. I also thank the Government for the additional funding. In particular I express my thanks to members who participated in this debate—Reverend the Hon. Dr Gordon Moyes, Dr John Kaye, the Hon. Trevor Khan and the Hon. Penny Sharpe. Additionally, I extend my thanks to the Deputy Leader of the Opposition for his encouragement and support for the legislation. 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 Reverend the Hon. Fred Nile agreed to:

That this bill be now read a third time.

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

STANDING COMMITTEE ON SOCIAL ISSUES

Reference

The Hon. IAN WEST: I inform the House that pursuant to the resolution of the House relating to the establishment of committees, on 3 December 2008 the Standing Committee on Social Issues resolved to inquire into the following terms of reference from the Minister for Housing, the Hon. David Borger:

1. That the Standing Committee on Social Issues inquire into and report on policies and programs outside of mainstream public housing that are being implemented within Australia and internationally to reduce homelessness and increase the availability of key worker accommodation and in particular:

   (a) models of low cost rental housing outside of mainstream public housing, including but not limited to cooperative housing and community housing;

   (b) methods of fast tracking the capacity of providers to deliver low-cost rental accommodation in a short time frame;

   (c) strategies to attract private sector investment in the provision of low-cost rental accommodation;

   (d) current barriers to growth in low-cost rental housing; and

   (e) strategies to avoid concentrations of disadvantage and grow cohesive communities.

2. That the Committee provide a final report to the House by the last sitting day in September 2009.

TABLING OF PAPERS

The Hon. John Hatzistergos tabled the following papers:

(1) Annual Reports (Departments) Act 1995 and Annual Reports (Statutory Bodies) Act 1984—Report of the Board of Studies and the Office of the Board of Studies.

(2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2008:

New South Wales Board of Vocational Education and Training
Vocational Education and Training Accreditation Board

Ordered to be printed on motion by the Hon. John Hatzistergos.

COURTS AND CRIMES LEGISLATION FURTHER AMENDMENT BILL 2008

Second Reading

Debate resumed from 27 November 2008.

The Hon. JOHN AJAKA [4.45 p.m.]: I lead for the Opposition on the Courts and Crimes Legislation Further Amendment Bill 2008, which specifies 28 Acts to be amended, and provides for consequential amendments to a number of other Acts and instruments, which are required to implement the transfer of jurisdiction referred to in schedule 14 to the bill. As the Attorney General indicated in his second reading speech, these miscellaneous amendments are part of the Government's regular legislative review and monitoring program. The Opposition does not oppose the bill.

The proposed amendments are extensive, and I will deal with each in turn. The bill seeks to amend the Administrative Decisions Tribunal Act 1997 so as to enable a retired judge of a New South Wales court to be appointed as a judicial member of the Administrative Decisions Tribunal. At present section 14 of the Act, read in conjunction with the section 4 definition, provides that classes of judicial officers who may act as members of the tribunal include a magistrate, a judge of the District Court, a judicial member of the Industrial Relations Commission, a judge of the Land and Environment Court, or a judge of the Supreme Court.

The proposed amendment provides that retired—as well as current—judicial officers may be appointed as a judicial member. The intention is to bring section 14 into line with section 17, which outlines the qualifications for membership and which refers to "a person who holds or has held a judicial office of this State or of the Commonwealth, another State or a Territory". As the Attorney General has noted previously, the amendment will not alter the criteria for eligibility for appointment.

The bill amends the Bail Act 1978 so as to provide for bail decisions of a superior court to be reviewed by the Court of Criminal Appeal, and to make it clear that restrictions on multiple applications for bail apply only to applications in courts of the same jurisdiction, not applications in other courts. This seeks to clarify an ambiguity in the legislation that came to light in the matter of *R v Petrovski* [2008] NSWDC 110. The matter concerned the District Court appeal from a decision of the Local Court, where the Director of Public Prosecutions submitted that the appellant had no right to argue a bail application in the District Court when an application had been argued in the Local Court and bail was refused. To illustrate, in paragraph 11 of his judgement His Honour Judge Berman, SC, states:

> … given the legislative history of s 22A , there is some confusion as to what the Parliament meant by the terms of s 22A. I do not consider that the use of the words "*a court*" where secondly appearing in s 22A, provides a clear and unmistakable basis for suggesting that the Crown's view should prevail … [the provision] applies where a person has been refused bail in one jurisdiction and then makes a further application in that same jurisdiction. It does not apply in the present circumstance where having been refused bail by a magistrate, an appellant appears before the District Court seeking bail pending his appea1.

The bill seeks to address this ambiguity by deleting the words "by a court" and in lieu thereof inserting the words "by the court" in section 22A (1) of the Act. I note the issue was also brought to our attention by Brett Thomas, a solicitor and member of and on behalf of the Criminal Courts Committee of the Law Society of New South Wales. I thank the Attorney General for remedying this matter when it was brought to his attention.

The bill amends the Births, Deaths and Marriages Registration Act 1995 so as to restrict the District Court's power to make certain orders with respect to the registration of births, and to enable a new form of birth certificate to be issued in relation to adopted persons. Section 19 (1) of the Births, Deaths and Marriages Act 1995 states that the District Court may, on application by an interested person or on its own initiative, order the registration of a birth, or the inclusion of registrable information about a birth or a child's parents, including details of the marriage of a child's parents, in the register. Section 19 (2) provides:

> If any court including any court of another State or the Commonwealth, makes a finding about a birth or a child's parents, the court may order registration of the birth or inclusion of registrable information about the birth or the parents in the Register.

Schedule 3 of the bill seeks to amend section 19 of the Act so as to restrict the District Court's power to order the registration of a birth to births occurring within, or while in transit to, New South Wales; restrict the District Court's power to order the inclusion in the Births, Deaths and Marriages Register of information about a child's birth or parents to information concerning a birth that is already registered; and remove any obligation on the Registrar of Births, Deaths and Marriages to comply with an order with respect to the registration of a birth that was made before the proposed amendment to section 19 if such an order could not lawfully be made under amended section 19. The amendment is therefore to have effect retrospectively.

Schedule 3 [3] also inserts a new section 25A into the Act. The new section enables the Registrar of Births, Deaths and Marriages to issue a certificate, in the form of an ordinary birth certificate, in relation to an adopted person. An ordinary birth certificate contains information as to a person's birth parents and their children. The new certificate will contain the corresponding information as to the person's adoptive parents and their children, without including information that indicates that the person has been adopted.

The bill seeks to amend the Confiscation of Proceeds of Crime Act 1989 so as to enable a Local Court to deal with applications for restraining orders in relation to property having a value of up to the court's jurisdictional limit when sitting in its General Division to the current limit of $60,000. Section 74 of the Confiscation of Proceeds of Crime Act 1989 currently provides that:

> (2) A Local Court may not deal with an offence under section 420 or 45A unless it is satisfied that the value of the property concerned does not exceed $10,000.

> (3) Proceedings for an offence under section 420 or 45A must, if the value of the property concerned is more than $10,000, be dealt with before the Supreme Court in its summary jurisdiction.

Schedule 4 to the bill will insert a new section 74 (5), which enables the Local Court to deal with breach offences where the tainted property does not exceed $60,000—that is the civil jurisdictional limit of the Local Court.

The bill seeks to amend the Crimes Act 1900 so as to provide that tanks and other military vehicles are "conveyances" for the purposes of the offence of taking a conveyance without the consent of its owner and to create a new offence of intentionally or recklessly destroying or damaging property in company, which carries a maximum penalty of 6 years imprisonment or 11 years if the offence involves fire or explosives. The attachment of significant penalties to the newly created offence is intended to formally enshrine in the legislation recognition of the severity of property damage offences committed in the company of others.

The bill also seeks to amend the Criminal Appeal Act 1912 so as to confer jurisdiction on the Court of Criminal Appeal to deal with appeals by offenders and the Crown against sentences imposed by the Drug Court when exercising the criminal jurisdiction of the District Court or the Local Court. It also seeks to amend the Criminal Procedure Act 1986 so as to amend section 170 of the Act to make it clear that certain provisions relating to warrants for arrest apply to warrants issued by the Local Court, District Court or Supreme Court. The amendments to section 170 do not apply to proceedings commenced before the commencement of those amendments. It also provides that the common law offence of false imprisonment is to be tried summarily in the Local Court unless either the prosecutor or the defendant elects to have the matter dealt with on indictment; it extends the provisions of that Act with respect to warrants to those issued by the District Court or the Supreme Court; and it provides for certain existing warrants to expire 20 years after they were issued.

The bill seeks to amend the Crown Prosecutors Act 1986 so as to enable the Director of Public Prosecutions to suspend a Crown Prosecutor from duty if he or she is being considered for removal from office and to withhold his or her salary in relation to the period during which he or she is under suspension. The Director of Public Prosecutions may remove a suspension imposed under this section at any time. The bill thus provides for removal from office as a discretionary, rather than mandatory, consequence of a Crown Prosecutor becoming bankrupt or mentally incapable or being absent from duty. I would ask the Attorney General to give some consideration to implementing an appeal process from a decision to suspend or dismiss for unsatisfactory performance. There may well be circumstances where the suspension or dismissal was harsh and/or unjustifiable and an appeal process will ensure fairness and natural justice.

The bill also amends the Public Defenders Act 1995 so as to maintain consistency with the provisions of the Crown Prosecutors Act 1986 in relation to the vacation of office by a Public Defender and to enable the Senior Public Defender to suspend a Public Defender from duty if he or she is being considered for removal from office. Here the Public Defender's salary may be withheld and, if the Public Defender is removed from office, salary while under suspension may be forfeited to the State. This brings the provision into line with the Crown Prosecutor's Act. Again I ask the Attorney General to give consideration to implementing an appeal process from a decision to suspend or dismiss.

The bill also seeks to amend the Drug Court Act 1998 so as to enable judges of the Supreme Court and District Court and other New South Wales courts of equivalent status to be appointed as judges of the Drug Court, such appointments currently being limited to judges of the District Court. It also seeks to amend the Dust Diseases Tribunal Act 1989 so as to enable judges of the Supreme Court and District Court and other New South Wales courts of equivalent status to be appointed as members of the Dust Diseases Tribunal, such appointments currently being limited to judges of the District Court. The proposed amendment to the Drug Court Act and the Dust Diseases Tribunal Act are intended to broaden the scope for greater use of the judicial officers and resources of specific courts. As the Attorney General stated:

> This bill makes minor amendments to give effect to the recommendations in the 2005 report of the Australian Law Reform Commission, New South Wales Law Reform Commission and the Victorian Law Reform Commission entitled "Uniform Evidence Law" and to ensure consistency with the Commonwealth Act.

The bill seeks to amend section 190 of the Evidence Act 1995 so as to bring it into line with other provisions to be inserted into that Act by the Evidence Amendment Act 2007. This will require a defendant who waives his or her right for proceedings to be conducted in accordance with strict rules of evidence to do so on the advice of an Australian legal practitioner or legal counsel; that is, by a lawyer who is entitled to practise law in Australia, rather than, as is presently the case, any lawyer.

The bill also seeks to amend sections 128 and 128A of the Evidence Act 1995 and section 33AA of the Coroners Act 1980, so as to achieve consistency of expression within those sections. It amends the Industrial Relations Act 1996 so as to provide that proceedings for contempt of the Industrial Relations Commission must be commenced within six months from when the offence was alleged to have occurred rather than twelve months, as is currently the case. A person should know where they stand within a reasonable period and not be forced to wait twelve months before the limitation period expires.

The bill amends the Land and Environment Court Act 1979 so as to provide for the exercise of the jurisdiction to be conferred on it in relation to matters arising under the Mining Act 1992 and the Petroleum Onshore Act 1991 and to restore the power of the Land and Environment Court to grant easements over land if an appeal involving the grant or modification of development consent has already been determined by the court. It amends the Local Courts Act 1982 so as to enable a person who vacates the office of magistrate to continue to hear part-heard proceedings that were commenced before the person vacated office. This is a logical step. Parties should not be forced to incur further costs and expenses in having their entire matter reheard as a result of the retirement of a magistrate. The costs thrown away may be substantial especially in matters that have already had weeks of hearing time.

The bill amends the Mental Health Act 2007 with respect to the conduct of mental health inquiries by the Mental Health Review Tribunal instead of magistrates and the qualifications for appointment of a "legal" member of the Mental Health Review Tribunal. It amends the Mental Health Criminal Procedure Act 1990 so as to make amendments consequential on the changes to mental health inquiries. The bill also amends the Mental Health Legislation Amendment Forensic Provisions Act 2008 so as to make an amendment consequential on the changes to mental health inquiries. The bill amends the Mining Act 1992 so as to transfer to the Land and Environment Court the jurisdiction currently conferred by that Act on wardens and Wardens Courts.

The Opposition is critical of the proposed changes to the mining warden provisions, as they were put forward without proper consultation. Members of the Minerals Council advised us that they were not consulted on the amendments to the Land and Environment Court Act 1979 in schedule 14 to the bill, the Mining Act 1992 in schedule 19 and the Mining Amendment Act 2008 in schedule 20. The current system is informal and inexpensive. We are advised that the amendments may disadvantage junior, small-scale miners and landholders, thereby increasing expense and inconvenience. I note that the Minerals Council has expressed its opposition to certain elements of the proposed changes and has recommended amendments. The recommendations include:

1. [That] there must be a single, dedicated official who hears and determines the jurisdiction of the Mining Warden. Given that Commissioners of the Land and Environment Court can only determine questions of fact, and not questions of law, the individual appointed to this responsibility must be a Judge so that one person can perform all the functions of the Mining Warden.

2. The Mining Warden must conduct hearings in the areas where the disputes under the Mining Warden jurisdictions arise, that is, in regional areas of NSW such as Central Western and Western NSW, the Hunter Valley and Gunnedah. Whilst the Land and Environment Court has the capacity to hold "country sittings" and has developed an "e-call over service" to address the issue of inconvenience, the delivery of these services falls well short of the convenience traditionally provided by the Mining Warden's Court. This will impose additional costs on the parties who will have to travel to Sydney for hearings.

3. The detailed case management procedures and the application of the Civil Procedure Act 2005 and the Uniform Civil Procedure Rules must not apply to mining disputes. These procedural requirements need to be examined in the interests of minimising costs for junior explorers, many of whom do not have the resources or funds available to be engaged in expensive, time consuming legal proceedings, where a far simpler model has been in place for decades.

The Opposition calls on the Government to implement these proposals and give all due consideration to the concerns of stakeholders. We emphasise the importance of thorough and extensive consultation in the legislative review and monitoring process. We ask the Attorney General to carefully monitor the effect of the amendments and, where necessary, make appropriate amendments. The bill amends the Mining Amendment Act 2008 as a consequence of the aforementioned transfer of jurisdiction to the Land and Environment Court and the Miscellaneous Acts (Local Court) Amendment Act 2007 so as to make consequential amendments. The bill amends the Petroleum (Onshore) Act 1991 so as to transfer to the Land and Environment Court the jurisdiction currently conferred by that Act on wardens and the warden's court. The bill also amends the Pharmacy Practice Act 2006 in relation to the qualifications for appointment of the chairperson and deputy chairperson of the Pharmacy Tribunal, that is, an Australian legal practitioner of at least seven years standing. The bill amends the Protected Estates Act 1983 so as to make amendments consequential on the changes that transfer mental health inquiries from magistrates to the tribunal. The tribunal may defer consideration of the capacity of persons to manage their own affairs pending provision of further information.

The bill amends the Supreme Court Act 1970 so as to extend the age restrictions relating to a retired judge being appointed as an acting judge. The Opposition points out the inconsistency in the maximum age for judges and acting judges compared with that for Crown Prosecutors. It is interesting to note that the age limit for acting judges who had retired at the compulsory retirement age of 72 years has been extended from 75 to 77 years. Yet the Attorney General was insistent on reducing the retirement age of Crown Prosecutors from 72 to 65 years. The bill also seeks to amend the Surveillance Devices Act 2007, first, to provide that certain prohibitions in the Act on the installation, use and maintenance of listening devices and optical surveillance devices do not apply to the use of a listening device or an optical surveillance device integrated into a police Taser and, secondly, to make it clear that a surveillance device warrant or retrieval warrant that authorises entry into a vehicle also authorises entry into premises adjoining or providing access to the vehicle.

The bill amends the Young Offenders Act 1997 so as to provide that the adult present when certain explanations under that Act are given to a child may be chosen by the child if he or she is 14 years or over, rather than 16 years or over, as is currently the case. As to this proposed amendment, it is argued that compared with a 16-year-old, a 14 year-old does not have the maturity or legal capacity to make such a decision. I ask the Attorney General to monitor the effects of this amendment. Finally, as I indicated earlier, the bill amends a number of Acts and instruments as a consequence of the transfer of jurisdiction to the Land and Environment Court. The Opposition accepts that the vast majority of the changes are in line with a more efficient administration of the court system. A number of changes, such as the amendments to the Bail Act, remove any doubt as to the operation of the specific section. Having made due note of our main concerns about the amendments I indicate, as I did previously, that the Opposition does not oppose the bill.

Ms LEE RHIANNON [5.05 p.m.]: The Courts and Crimes Legislation Further Amendment Bill 2008 is a mixed bag. It is typical of the bills that the Government tries to move in the final weeks of Parliament before the end of the year. It brings no credit on the Attorney General.

The Hon. John Hatzistergos: Would you have preferred 28 separate bills?

Ms LEE RHIANNON: That is not the point. The point is that the bill has been introduced with such short notice, in a week in which we are dealing with 19 pieces of legislation. It brings no credit on the Attorney General or his Government. It is not a democratic process; it is legislation by exhaustion.

The Hon. John Hatzistergos: It is hardly controversial.

Ms LEE RHIANNON: We constantly hear that mantra from the Government. How do we know it is not controversial? We do not have time to look at the legislation. That is his cover.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The member should ignore interjections.

[*Interruption*]

Ms LEE RHIANNON: That was a very interesting interjection. I do not see how it is relevant to the bill. Perhaps it is as a result of the Minister's own exhaustion. The bill before us is an omnibus bill, making changes—some good, some bad—to a huge number of Acts. It is all under the guise of, we are told, minor administrative changes to improve the operation of the court. We hear that so often. As a warning to the Minister, when we hear those words we think, "What are they up to?"

The Hon. John Hatzistergos: You couldn't think that of me.

Ms LEE RHIANNON: We do. The Minister must watch his language; it is becoming repetitious when he brings forward bills at short notice. We are told it is part of the Government's regular legislative review and monitoring program. Again, alarm bells ring. We know to read the fine detail. Buried on page 39 of this 91-page bill are amendments that abolish the Mining Warden. The Greens believe that this is far from a minor administrative adjustment. We believe that our view is supported by many of the communities we work for who are affected by mining. I will talk more on this matter later. I foreshadow the Greens will move an amendment at the Committee stage. The Greens acknowledge that the bill contains some useful amendments and clarifies courts and crime legislation.

The Greens support the provision in schedule 16 to transfer the power to conduct mental health inquiries from magistrates of the Local Court to the Mental Health Review Tribunal. Mental health is a very

complex issue and mental health inquiries can have a huge impact on the lives and liberties of the individuals involved. The Mental Health Review Tribunal is a specialist body with unique knowledge and expertise in mental health care issues. The Greens believe it is the most appropriate forum to conduct these inquiries. Shifting mental health inquiries away from the court is also an important step in removing the criminal stigma of mental health care issues when people are processed through the criminal justice system.

The Greens support moves in the bill to amend section 7 of the Surveillance Devices Act to allow cameras and audio recorders that are built into Taser guns to be used to monitor their use by the police. I hope all members would agree that these weapons should be used as little as possible. General duty police officers in New South Wales were issued with Tasers barely two months ago and already a disturbing number of allegations have been made about their misuse. General duty police officers have been using Tasers at a much higher rate than have special operations police. In four of the five initial incidents in the first two weeks the Tasers were used in the drive-stun mode, where the gun is applied directly to the skin or clothing. That is a disturbing way to use Tasers, which I hope even the Attorney General would object to. On 20 November the New South Wales Ombudsman called for a two-year freeze on further rollouts of Taser guns.

I recount an incident that occurred recently with a Taser gun. I hope all members will consider this incident; it is as informative as it is disturbing, and a reminder that the rules have to change. I understand that on 29 November a police officer threatened a protester with a Taser at a climate change protest at the Bayswater coal-fired power station during which 29 people were arrested. The protest was against the Federal Government's failure to stop Australia's greenhouse pollution increasing and concerns were raised also about the State Government. Four of the 29 people arrested were chained to the main conveyor belt inside the power station.

I received a report that a police officer had threatened to use a Taser gun on one of those four activists if he did not unchain himself from the conveyor belt. The Minister for Police has stated that the use of Tasers in New South Wales is primarily to give police a less than lethal option to subdue violent offenders. That is interesting language to contemplate: not "non-lethal" but "less than lethal". One wonders what meeting came up with that one. A man locked onto a piece of machinery on private property and immobilised is hardly a violent offender. This person was not displaying any violence at all. He did not have the use of his arms at the time and was lying on the ground, so how potentially violent and threatening could this man be? These protests are going to continue; the Government needs to clean up its act on this issue.

The Hon. John Hatzistergos: Video surveillance will help.

Ms LEE RHIANNON: I acknowledge the interjection that video surveillance will help, but surely the interjection the Minister should make, or hopefully the comment he will make in his reply, is "Yes, this is a serious incident. We will ensure that we have measures in place that prohibit police from using Taser weapons on people who are immobilised". Is that not a no-brainer? As I said, these protests will continue and the number of protesters will increase. Currently in England the large number of occupations of coal-fired power plants—non-violent actions—are expanding. For as long as we have a State Labor Government, supported by the Opposition, that is committed to coalmining and coal-fired power plants we will have more people occupying these plants. I congratulate the people who took part in the action at Bayswater. They deserve our thanks, not being struck by a Taser.

Police must be instructed not to use Tasers when members of the public are immobilised. Surely we can agree on that. The way the police officer used the Taser goes against the supposed procedures to ensure the minimum chance of bad results from the use of Tasers. I understand that the activist in question has lodged a complaint with the Ombudsman about this incident. I ask the Attorney General in his reply to comment on his assessment of the police tactics and what form of monitoring the Government would employ to ensure that police officers do not use Tasers to inappropriately threaten members of the public, particularly people engaged in peaceful protest.

The main concern of the Greens with regard to the Mining Warden is the process to abolish the Mining Warden. Schedule 14 to the bill amends the Land and Environment Court Act, the Mining Act and the Petroleum (Onshore) Act to transfer the jurisdiction of the Mining Warden to the Land and Environment Court. Mining wardens deal with disputes between miners, landholders and community members in matters such as boundaries and rights to minerals and water. Mining wardens in New South Wales date back to the early nineteenth century. It is clear that from the time mining in the coal industry and the mineral resources industry got going there have been disputes. This House very quickly would have brought forward legislation to help resolve those issues.

This bill provides a new class of proceeding in the Land and Environment Court—class 8—to deal specifically with civil disputes under the Mining Act and the Petroleum (Onshore) Act. Criminal prosecutions will be dealt with under class 5 of the jurisdiction of the Land and Environment Court. The Greens are concerned that people living in communities affected by mining, or individuals adjacent to mining leases, have been shut out of this decision. It is typical of this Government's form when it comes to handling mining issues that no consultation was conducted. In the case of mining wardens there should be consultation about transferring jurisdiction. The Attorney General has given no meaningful policy reason for abolishing the current operations of the Mining Warden, except that the Chief Mining Warden is retiring.

The Hon. John Hatzistergos: Has retired.

Ms LEE RHIANNON: The Chief Mining Warden has retired. The House deserved more explanation from the Attorney General in his second reading speech. The affected mining communities should have been consulted about how the Mining Warden's Court could operate more effectively. In the small amount of time I have had notice of this change, the Greens have attempted to consult with the New South Wales Environmental Defender's Office and members of communities affected by mining. The response is mixed, and that is to be expected; that is how it works when proper community consultation is conducted. The Government has the resources to work through these differences and, hopefully, to work to a consensus.

The Government's lack of action on mining issues is extremely disappointing—again, that is not surprising because the alienation is so deep. Its failure to protect the environment, the water resources and the air quality in mining-affected areas is also extremely disappointing. Many people tell us that they just do not hear from the Government. The inability of the Mining Warden to protect communities and the environment in mining communities is also disappointing. We are effectively coming off a low base here. Recently the Caroona Coal Action Group sought an injunction from the Mining Warden to stop BHP exploring for coal on the pristine farming land in the Gunnedah basin. I understand from people involved in this case that locals were less than satisfied with the result from the Mining Warden and that some of them felt that the procedures were skewed in favour of the mining company. We often hear about dissatisfaction with the Mining Warden's Court.

The Hon. John Hatzistergos: Point of order: The honourable member is now making reflections on the judiciary and I would ask her to refrain from doing so. She should be called to order to talk about the bill.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I uphold the point of order. The member will confine her comments to the changes to the Mining Act as they relate to the abolition of mining wardens and the transfer of that provision to the Land and Environment Court.

Ms LEE RHIANNON: Thank you, Madam Deputy-President, for your advice. The Mining Warden's Court is more informal than the Land and Environment Court. I acknowledge that that can be an advantage if it makes it easier for local community members to appear and state their concerns. However, I have spoken to people who have appeared before the Mining Warden who explained that this informality can be a double-edged sword and that, in particular, this informality has led to a lack of procedural fairness for community members and landowners who oppose mining company applications before the Mining Warden. Rather than abolishing the Mining Warden, seemingly by stealth—

The Hon. John Hatzistergos: I should just sack them. That's what I should do: sack them. You oppose the Mining Warden but you don't want the Land and Environment Court to take up the jurisdiction.

Ms LEE RHIANNON: I am not saying that. This is where the Attorney General should be willing to have a debate on the matter. Surely that is why we have the House.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The member will not respond to interjections, and the Attorney General will cease interjecting otherwise the House will be considering this part of the bill for a very long time.

Ms LEE RHIANNON: Thank you, Madam Deputy-President. Surely debating bills is the function of this House.

The Hon. John Hatzistergos: Then say something!

Ms LEE RHIANNON: I am saying something. I look forward to the Attorney General's response. The Government is abolishing the Mining Warden's Court, seemingly by stealth. It is a shame that the Government

did not take this opportunity to consult with communities and landowners about a workable system. What is wrong with that? Surely the Attorney General should be willing to respond to that suggestion. We urgently need a system in which people and the environment are on at least equal footing with the deep pockets of mining companies. The Government had the opportunity to achieve that in transferring the Mining Warden's Court to the Land and Environment Court.

The Hon. John Hatzistergos: Point of order: It is outrageous to suggest that the Mining Warden was in the deep pockets of the mining industry. That is offensive and the member must refrain from making such outrageous statements.

Ms LEE RHIANNON: That is not a point of order. The Attorney General will have an opportunity to address that issue in his reply.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I am afraid that Ms Lee Rhiannon is correct. There is no point of order.

Ms LEE RHIANNON: Thank you, Madam Deputy-President. I note that you said that you were afraid that Ms Rhiannon was correct. That sounds subjective, but it is interesting. Again, perhaps it is the result of the exhaustion that we are all suffering.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I hope the member is not canvassing my ruling.

Ms LEE RHIANNON: Certainly not. It is simply interesting that you said that you were afraid that I was right. That is an interesting way to put it. Given the general level of at best indifference and at worst dissatisfaction with the Mining Warden's Court, the Greens will not oppose the transfer of its powers to the Land and Environment Court. I note that the Attorney General stated that the Land and Environment Court will be available to travel to communities affected by mining to hear cases on site. I congratulate the Government on that. That is important and I am always pleased to have these opportunities. They are rare, but it is good when they happen. It is important because people will not have to traipse into Sydney to have matters heard and the court will be able to travel to the site to get a sense of the impact of mining on communities.

The key question that a number of people in mining-affected communities raised with me is how the Government will maintain a level of expertise to adjudicate mining issues after this transfer. I ask the Attorney General to respond to that issue. It is an important point and the transfer is about to happen. How do we ensure that that level of expertise is maintained? The Greens have every confidence in the presiding officers and staff of the Land and Environment Court. However, we also acknowledge that mining matters and the impacts on communities raise specialist issues. The Greens acknowledge the extensive expertise of the current Mining Warden, Magistrate Bailey, who has been in the position for more than a decade. I would like the Attorney General to respond to this concern in his reply. This issue warrants a detailed answer.

The Hon. John Hatzistergos: It was in my second reading speech.

Ms LEE RHIANNON: But it was not dealt with in detail. The Attorney General should deal with it more thoroughly because it could cause problems in the operation of the court. The Greens main concern about transferring the Mining Warden's jurisdiction to the Land and Environment Court is that we lose an important inquiry function. Section 334 of the Mining Act gives the Minister the power to direct a mining warden to hold a public inquiry into mining issues. Section 335 gives a mining registrar the power to refer a warden to inquire into a specific claim. These are very far-reaching powers. Section 336 provides that any inquiry held by a warden is to be conducted in public and that the warden may exercise the functions of a warden's court. This means that a mining warden has coercive powers, for example, to call mining companies before the court to give evidence on a particular matter or to subpoena a document. This is an important function and it is a shame that the Minister has rarely used it.

It is worth noting that in Victoria this year a mining warden was appointed to conduct an independent inquiry into the cause of the Yallourn main wall collapse in November 2007. Victoria has an active mining warden who is directed by the Minister to undertake inquiries that are useful to the mining industry and the community. There is a role for the Minister to make suggestions to the New South Wales Mining Warden's Court. The Greens propose that public inquiries could be held, and are long overdue, on many mining issues. For example, inquiries could be conducted into the impact of mines on air quality and health in communities

such as Muswellbrook, the impact on jobs and the local economy of the increase in mechanisation of mining, the impact of derelict mines on water quality in New South Wales, the cumulative impacts of mining on water resources, and the impact of longwall coalmining on the natural environment and water catchments.

The Greens are concerned that this far-reaching inquiry function is being abolished, and that it is being done by stealth. We will move an amendment to restore that function in Committee. It would be very concerning if the Government did not support that amendment. Why wipe out a provision that allows the Government to establish inquiries that would help to improve mining operations in this State? We are constantly told about the benefits of mining, and this amendment will retain a mechanism that will ensure that it works even more effectively. The Greens do not oppose the large majority of amendments in the bill. However, we are concerned that important functions of the Mining Warden's Court are falling through the cracks in transferring its jurisdiction to the Land and Environment Court. We look forward to the Committee stage and hearing from the Attorney General.

Reverend the Hon. FRED NILE [5.27 p.m.]: The Christian Democratic Party supports the Court and Crimes Legislation Further Amendment Bill 2008. This bill makes miscellaneous amendments to courts and crimes-related legislation. In particular, it clarifies that a retired judicial officer may be appointed as a judicial member of the Administrative Decisions Tribunal. It also provides that when a magistrate either resigns or retires from office he or she may, despite vacating office, continue to hear and determine any pending matters before him or her. It also provides that the age limit of acting judges be increased from 75 years to 77 years if the acting judge retired as a permanent judge at the statutory retirement age. The bill also makes various amendments to different crime-related legislation and some of the amendments are unique.

Schedule 5 makes two amendments to the Crimes Act, extending the definition of "conveyance" for the purposes of the offence of taking and driving a conveyance to include military vehicles. This ensures that all military vehicles such as tanks and armoured personnel carriers are protected from theft and joyriding. I hope that no-one will joyride in a tank through Sydney's suburbs. This measure raises the army's security protocols for guarding that type of equipment. An armoured vehicle has been taken from army premises. Because of the shortage of army personnel, Chubb security officers now guard Victoria Barracks and other army facilities. That may not be adequate given the recent events in Mumbai. I do not think we are anywhere near prepared to deal with a similar event in Australia.

The bill creates two new offences in the Crimes Act involving damaging property whilst in the company of another person or persons. This offence will attract a penalty of 15 years imprisonment. If fire or explosives occasion the property damage, the penalty will be 11 years imprisonment. The Christian Democratic Party supports that provision. A particularly vicious gang attack occurred at Merrylands High School. Gangs are now using gas to explode automatic teller machines. Obviously not only does this endanger the thieves but also anyone who may be nearby when the explosion occurs.

We are pleased to support the amendment of the Crown Prosecutors Act 1986 and the Public Defenders Act 1995 to ensure that crown prosecutors and public defenders can be suspended and removed from office for unsatisfactory performance as well as misconduct. Members of this House are aware of the case of Dr Patrick Power, then Deputy Senior Crown Prosecutor. It was discovered that he had child pornography on his work computer. The issue then arose as to what action could be taken against him. It became apparent that, because crown prosecutors are statutory officers appointed under the Crown Prosecutors Act, neither the Director of Public Prosecutions nor any other officer had the power to suspend Dr Power from office while allegations were being investigated. That is a serious situation because, once a report had been made, there was great urgency not only to suspend him but to prevent him removing or destroying other evidence.

It was only by accident that the evidence was found on his work computer, which I understand was being repaired. I have always been concerned that a two-day delay provided him with sufficient opportunity to destroy other incriminating evidence. My concern was not so much that that other incriminating evidence could result in a longer jail sentence for him, but more that it could provide evidence as to the identity of other people who were involved in his criminal activity. I have not yet heard of a person involved in child pornography who was not part of a network; there are always other people with whom they exchange material and so on. Obviously, because of the high position that Patrick Power held, he would have had to maintain absolute secrecy about what he was doing. I am certain that others would have been involved with him in those criminal activities. Who those people are, we will never know.

We are pleased that the bill will amend the Crown Prosecutors Act to allow the Director of Public Prosecutions to suspend crown prosecutors, deputy senior crown prosecutors and senior crown prosecutors

wherever grounds for their removal from office are suspected. I sincerely hope that it never happens again that such people will attain such very senior roles of upholding the law. I hope that the selection and promotion processes ensure that no-one, even where there is the slightest suspicion of the person's lifestyle, would ever get into those sensitive positions of enforcing the law and conducting public prosecutions on behalf of the people of New South Wales.

The Greens expressed a fear or hatred of the use by police of Taser devices. I would like to put on record that the bill will amend the Surveillance Devices Act 2007 to clarify that cameras and audio recorders built into Tasers issued to police can be used to monitor their use. To me, that is sufficient safeguard against abuse of the use of this device by a police officer. I do not anticipate that such an abuse would occur. The fact that there is a camera and audio recorder built into the Taser would be a deterrent to its wrongful use. I was interested to hear the case, raised by the Greens, about a protester and an alleged statement attributed to a police officer—a statement that may or may not be true. In that case the Taser was not used. It would be a different matter if the Taser had been used; that would give some basis to the argument put by the Greens.

However, the matter did raise in my mind an issue where protesters chain themselves to coal-loading conveyors, an act that could endanger their lives, and police have been ordered to remove the protesters. If the police are derelict in their duty, and a protester is seriously injured or killed, who would be blamed? I know the first persons to be pointing the finger at police would be the Greens. I support the police in doing all they can to encourage protesters to remove themselves where their actions endanger their own lives. So we support the bill before the House.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [5.34 p.m.]: I thank honourable members for their support of this legislation and also for the observations that they made in the context of the debate. A number of issues that have arisen invite me to reply, and I take this opportunity to do so. The Hon. John Ajaka, in his contribution, made reference to the provisions relating to the suspension of public defenders and crown prosecutors, and also the capacity to be able to remove them for unsatisfactory performance. I should indicate that there is capacity for review of these decisions by the courts, as was demonstrated in the case of Jeff Jarrett, in which a statutory appointee was the subject of removal. That action was challenged and the matter went to the High Court, which made detailed commentary on the way that that particular issue was handled.

Although, to this point, there have not been any provisions to enable the suspension of a crown prosecutor, on grounds which are enumerated in the legislation, nevertheless there has been capacity on the part of the Director of Public Prosecutions to effectively remove work that might have been undertaken by a particular crown prosecutor, and to exclude them from their chambers. These provisions make clear the capacity of the Director of Public Prosecutions, and for that matter the Senior Crown Prosecutor, to formally suspend a person in the circumstances detailed in the bill and, in certain circumstances, to make that decision on the basis of payment or non-payment. It is important that these provisions be included in the legislation. Not only do they respond to the circumstances that were detailed in the Power case; they also address an issue that arose in the Auditor-General's report of an inquiry into the office of the Director of Public Prosecutions. I should indicate, for the record, my thanks to the Office of the Director of Public Prosecutions and also to the Public Defenders Office, in particular the Senior Public Defender, for their comments and contributions in relation to the amendments contained in this legislation.

Ms Lee Rhiannon made some comments about the use by police of Tasers. Incidents like the ones outlined by the member, if in fact they took place, highlight the need for the amendment to the Surveillance Devices Act contained in this bill. The audio-visual recorder on the Taser will monitor the circumstances surrounding their use. If in fact the Taser's use is later the subject of a complaint, for example to the Ombudsman, then the recording could provide evidence that can be used in an investigation. For these reasons, the Greens should support the change. I cannot comment on the alleged incidents. I will leave that to those who are responsible for examining the complaint. So far as the legislation is concerned, I would be surprised if anyone could criticise or quibble with what the bill seeks to do.

A number of comments have been made in the debate, principally by Ms Lee Rhiannon, but also to some extent by the Hon. John Ajaka and others, about the decision to transfer the jurisdiction of the Mining Warden to the Land and Environment Court. I did give an explanation about the background to this change, and it is clear to me, from comments made in the debate, particularly by Ms Lee Rhiannon, that she either did not read what I said in the second reading debate or, alternatively, did not digest my comments.

Ms Lee Rhiannon: That is not true. It is not thorough.

The Hon. JOHN HATZISTERGOS: The fact that the reasons I gave were not referred to make it fairly clear to me that the member was not across the detail of what of what I said. The reality is that, effectively, only one person exercises the jurisdiction of the Mining Warden, and that has been the Chief Mining Warden. Magistrate Bailey, who recently retired, has been appointed as an acting magistrate and continues to fulfil the functions of the Chief Mining Warden.

One person, and one person only, effectively has exercised the specialist jurisdiction of the Mining Warden's Court. That person has now decided to retire but nevertheless continues to fulfil his functions on an acting basis. The Local Court has no other specialist expertise to carry out that work. I was disappointed that Ms Rhiannon made some reflections on the way the Mining Warden's Court has operated because, effectively, it was a criticism of an esteemed and highly regarded judicial officer. She recognised that in part in her contribution, whilst at the same time taking aim at the court that he was presiding over solely.

The Land and Environment Court is a specialist court that deals with a range of land and environment and land use matters. It is the appropriate body to include this jurisdiction but was not in the system at the time the Mining Warden's Court was first established. It is an appropriate occasion now to move the jurisdiction across. If Ms Rhiannon understood that detail, she would also understand that in transferring the jurisdiction across, we are trying to preserve the specialist nature of the jurisdiction by stating in the legislation that there will be a Commissioner for Mining, a specialist practitioner, who will be responsible for carrying out this jurisdiction.

I do not see the secret agenda referred to, the sinister nature of the changes. There is nothing strange or perverse. A number of consultations have been held with stakeholders and a number of changes have been brought into the transfer incorporating the views of stakeholders, specifically a proposal to have a Commissioner for Mining, a dedicated person who will exercise this jurisdiction. I regard the criticisms by Ms Rhiannon as perverse. On the one hand, she is happy for the jurisdiction of magistrates who deal with mental health matters to go to the Specialist Mental Health Review Tribunal. She criticises the Mining Warden's Court, praises the former Chief Mining Warden, even though he is the only person who ever presided over that court during his tenure, acknowledges the value of the Land and Environment Court, but then says there must be debate. However, if it is debate along the lines of Ms Rhiannon's last contribution, we can do without it because her previous contribution was full of nonsense and contradiction and, at the worst level, was an insult to the magistracy of the State.

I have also made it clear, if the member had bothered to read my second reading speech, that it is proposed that Acting Magistrate Bailey will transfer and act in the commissioner's role for an interim period to ensure that the transfer of jurisdiction will occur without disruption. Obviously issues will need to be addressed. It is not proposed that the change will be implemented overnight. There will need to be an appropriate handover between the Local Court and the Land and Environment Court. That change is welcome and timely. It ensures that important issues of land use affecting particular parts of western New South Wales can be dealt with by the dedicated Land and Environment Court.

I have indicated that the commissioner, who will be responsible for mining, will continue to visit, as the Chief Mining Warden has done, various locations where disputes may arise in order to determine matters as he sees fit. I respond to the comments of Ms Rhiannon with an appropriate level of concern because, in my view, they fail to appropriately recognise what I had already stated in this House with respect to the transfer and because parts were not only contradictory but also insulting to the court.

With respect to the foreshadowed amendment, the inquiry jurisdiction that Ms Lee Rhiannon refers to is not a jurisdiction that has been used. I think it is only been used once. It was inserted into the Act at a different time. It is not appropriate for the director general, or indeed a Minister, to direct judicial officers to conduct inquiries. It might have been something that existed in the old mining warden's courts in the days when mining wardens were effectively public servants, but it is certainly not consistent with a modern court, particularly specialist courts such as the Land and Environment Court.

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

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

Schedules 1 to 18 agreed to.

Ms LEE RHIANNON [5.47 p.m.]: I move:

Page 50, schedule 19. Insert after line 2:

[48] Part 17, Division 3A

Insert before Division 4 of Part 17:

Division 3A Inquiries into matters arising under this Act

376A Competent authorities

In this Division, ***competent authority*** means:

(a) a judge or other member of a court or tribunal, or

(b) a person holding such qualifications as are prescribed by the regulations.

376B Minister may direct inquiries generally

The Minister may direct that an inquiry be held by a competent authority in relation to any matter arising under or in connection with this Act, other than a matter in respect of which jurisdiction is conferred on the Land and Environment Court by this Act.

376C Director-General may direct inquiries with respect to mineral claims

The Director-General may direct that an inquiry be held by a competent authority in relation to:

(a) any question as to whether Division 2 of Part 9 has been complied with by an applicant for a mineral claim, and

(b) any question as to whether Division 3 of Part 9 has been contravened by the granting of a mineral claim.

376D Procedure on inquiry

(1) If, by or under this Division, a competent authority is required to inquire into any matter, the competent authority may for that purpose hold an inquiry into that matter and into all reasonably incidental matters.

(2) The inquiry is to be conducted in public.

(3) A competent authority that consists of a judge or other member of a court or tribunal may, for the purposes of the inquiry, exercise the powers of that court or tribunal with respect to the attendance of witnesses and the production of documents and other evidence.

(4) After the conclusion of the inquiry, the competent authority is to furnish the Minister or Director-General, as the case requires, with a report on its findings.

376E No appeals against findings in an inquiry

No appeal lies from a competent authority's findings in an inquiry.

This amendment restores the power of the Minister and the director general to direct inquiries to be held into mining issues. I explored some of these issues during debate on the second reading. Members should support the amendment because the bill removes from the Mining Act the power of the mining inquiry. Perhaps it is an oversight by the Government; we are trying to reinsert it. The amendment inserts new part 17, division 3A. New section 376B provides that the Minister may direct that a competent authority hold an inquiry in relation to any matter arising under the Mining Act. New section 376C provides that the director general may direct that a competent authority hold an inquiry in relation to specific mining claims. These are the same inquiry powers that exist under the current Act.

New section 376A defines a competent authority as a judge, a commissioner from the Land and Environment Court, a tribunal member from the Administrative Decisions Tribunal, or some other qualified person. This will give the Minister the discretion to appoint the most appropriate authority to hear the matter. The Attorney will argue that the power is not necessary because it was rarely or never used. We have not been able to find an inquiry that was undertaken by the Mining Warden's Court. A lack of use of that power should be an embarrassment to the Government, not a reason to ditch the power altogether.

I put to members: How could you argue against maintaining a provision that has been in existence for well over a century, in this era when mining is so important to the economy that it is becoming controversial in many aspects of our society? A provision that allows us to hold these inquiries and achieve an evidence-based approach to the way mining in this State is handled would be useful, so why ditch a provision that is already there?

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [5.50 p.m.]: The Greens have moved an amendment to the mining warden provisions that gives the director general inquisitorial powers similar to those that were previously possessed by the Mining Warden but have been changed in the transfer of the jurisdiction to the Land and Environment Court. One problem with the amendment is that it allows the director general to direct the court to undertake an inquiry, and it is inappropriate for the Executive to direct the court in this way. The main issues that the Mining Warden dealt with were disputes over land use agreements. I am advised that there was only been one occasion in the last five years on which the inquiries power was utilised by the Mining Warden.

If the director general, or for that matter the Minister, wants to arrange an inquiry, they can do so using the proper vehicles. This provision in the mining warden legislation is really a remnant of a former time when magistrates were effectively public servants. These days judicial officers are not public servants. It is not appropriate to have a power such as this directing a judicial officer to conduct an inquiry on behalf of the Executive Government. The Government will not support the Greens amendment.

The Hon. JOHN AJAKA [5.51 p.m.]: I note the comments of Ms Lee Rhiannon and the Attorney General. Put simply, this new material was handed to the Opposition very recently. The Opposition has not had the opportunity to go through the material and give appropriate consideration to its effect. I am surprised that the amendment was not given to us earlier, if Ms Lee Rhiannon believes it is such an important matter for members to consider. Accordingly, the Opposition does not support the amendment.

Ms LEE RHIANNON [5.52 p.m.]: With regard to the comments of the Hon. John Ajaka, the second reading of the bill took place last week, so I agree that we have had the usual five days. But the Hon. John Ajaka is aware of the enormous load of legislation members are trying to get through. It is therefore disappointing that he criticises the Greens in this way, when he knows the pressures that members are operating under at the present time. I apologise to the Hon. John Ajaka that the Opposition did not get the amendments sooner. I wish we had more time to debate all this material more thoroughly, so we could have a better debate and achieve better outcomes.

The Hon. Duncan Gay: If we had as many staff as you, it would be a bit easier too.

Ms LEE RHIANNON: The interjection opens up some interesting—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Is the member speaking to the amendment?

Ms LEE RHIANNON: I am speaking to the amendment, most definitely. A comment has been made about the difficulty in assessing these amendments, and that is obviously relevant to the debate. Considering the waning fortunes of The Nationals, I think that is what is more relevant to this debate than the Opposition's staffing numbers.

The Hon. Duncan Gay: You couldn't shoot the Government.

Ms LEE RHIANNON: I shoot the Government more than you do, Duncan—and you know that.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I am reluctant to call members to order at this stage of proceedings, but we will deal with the bill more quickly if members cease interjecting.

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

Greens amendment negatived.

Schedule 19 agreed to.

Schedules 20 to 29 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. John Hatzistergos agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. John Hatzistergos agreed to:

That this bill be now read a third time.

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

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL 2008

Second Reading

Debate resumed from 27 November 2008.

The Hon. DAVID CLARKE [5.56 p.m.]: The Crimes (Administration of Sentences) Amendment Bill 2008 relates to the management of our State's correctional facilities and to offenders held in those facilities, and the Opposition does not oppose it. The bill will establish and provide for the management and administration of a new facility for offenders to be called a "residential facility" that will accommodate certain inmates prior to their release from custody as well as other offenders, subject to non-custodial orders or parole orders. The Commissioner of Corrective Services will be given the care of, direction, control and management of such facilities and will have the power to appoint persons to supervise, on a day-to-day basis, the residents of these facilities.

The bill will extend powers for the seizure, forfeiture and destruction of property unlawfully brought into a correctional centre. Specifically, it will allow for the Commissioner of Corrective Services to confiscate any property unlawfully in the possession of an inmate, and provides for such property to become the property of the State and subject to disposal as the commissioner directs. Amendments are made to clarify and confirm that immigration detainees under the Commonwealth's Migration Act 1958 and persons sentenced to imprisonment under the Commonwealth's Defence Force Discipline Act 1982 may be held in correctional centres.

The bill makes a number of changes to the rules relating to parole. Specifically, it provides that members appointed to the Parole Authority, both judicial and community members, may be appointed for a period of up to three years, instead of the present three-year term. Additionally, the maximum number of community members who may attend a Parole Authority meeting, other than a general meeting, will be reduced from four to two, with no change to the number of community members comprising the pool of people who can be called on to attend meetings.

The current provision whereby a victim of a serious offender is entitled to be given access to all documents held by the Parole Authority in respect of the offender relating to the measures the offender has

taken, or is taking, to address his or her offending behaviour is amended so as to provide that an agent, authorised in writing by the victim and the commissioner, may access the documents on the victim's behalf. However, the victim may revoke such authorisation in writing to the commissioner at any time. The bill proposes that an inmate who is not released on parole upon reaching his or her parole eligibility date becomes eligible for release on parole on each anniversary of that parole eligibility date, and no sooner.

The bill makes amendments pertaining to the operation of community service orders. The present situation where a community service order remains in force until the offender has performed the required number of hours of work, unless sooner revoked, will be altered so that a community service order expires if the relevant maximum period expires, even if that occurs before the inmate has completed the required number of hours of work.

There is a change to the current provisions relating to circumstances in which money must be held for an inmate. The bill removes the requirement that money received by a correctional officer or other staff member on an inmate's behalf must be deposited in an authorised deposit-taking institution and held for the inmate, if it is lawful for the inmate to receive that money while in custody. One significant amendment provides that the regulations may require any of the functions of the Series Offenders Review Council that relate to segregated and protective custody of inmates to be exercised by the chairperson alone. This will ensure that issues of a highly sensitive nature relating to serious offenders, such as issues involving intelligence provided by an international justice and security agencies, would be dealt with by a judicial member.

Other noteworthy amendments of the Crimes (Administration of Sentences) Act 1999 proposed by the bill provides for correctional staff to be tested for steroids, as well as alcohol and prohibited drugs, and allows a person in custody under 18 years of age who is being transferred to a juvenile correctional centre to be held temporarily in a children's detention centre if is necessary or convenient to do so. The bill will amend the Children (Detention Centres) Act 1997 to provide further circumstances in which a detainee aged between 18 and 21 years may not be detained in a children's detention centre.

This is a constructive bill. The creation of residential facilities should serve to provide greater flexibility and assistance in the rehabilitation process of offenders. The bill will assist also in greater supervision of a new designation of serious offenders to be known as "extreme high risk restricted". It will allow greater control in restricting such inmates from influencing other inmates in illegal activity. A number of the provisions contained in this bill clearly go to serve that purpose. The bill will bring a greater clarity and effectiveness to the administration of the justice system. It will restrict the opportunities of serious offenders to pervert the justice system. It will assist in the process of rehabilitation of offenders. For those reasons the Opposition does not oppose the bill.

Ms SYLVIA HALE [6.01 p.m.]: I speak to the Crimes (Administration of Sentences) Amendment Bill 2008 on behalf of the Greens. The Greens do not oppose this bill but we have major misgivings about some of its provisions. I foreshadow that I will seek to amend the bill to prevent young adults from being sent to adult jails and to oppose the reduction in certain circumstances of the Serious Offender Review Council to one person.

First, I wish to register the Greens strong support for those elements of the bill that are aimed at reducing recidivism, particularly of young indigenous offenders. I commend the Minister and the Government on the instigation of new residential facilities for offenders and for those either on parole or on pre-release programs. The Minister knows that this State has a terrible offence and incarceration rate for Aboriginal men, women and juveniles. Indeed, the Minister referred to such statistics in his second reading speech. He also knows that New South Wales's average recidivism rate is worse than the Australian average. Clearly, compared with other States such as Victoria, we are doing something wrong with our post-release strategies. We are also doing something wrong in our society in the first place because we know that societal disadvantage, poverty, unemployment and/or lack of meaningful activity, lack of education and parental disadvantage lead to increased rates of offending among those communities.

The Greens are pleased to see a semi-progressive element in this bill: the establishing of facilities designed to reduce the risk of re-offending and, importantly, to provide residential accommodation, education and diversionary programs for people who are about to be released or have been released. To this end the bill adds a new definition of "residential facility" and a new division 7, which allows for the gazettal of new residential facilities. That division specifies that the facilities are for an approved class of inmates prior to their

release from custody and for other persons who are the subject of non-custodial orders such as community service orders, good behaviour bonds, suspended sentences, and so forth. Some of the persons in the facility will be inmates and some will be non-custodial residents.

The division also provides for the appointment of managers and residential facility officers, some of whom will exercise traditional guard duties, and others whose task will be the running of programs. We note that the proposed Balund-A Program for northern New South Wales will be based on the model of the Yetta Dhinnakkal facility at Brewarrina. According to a Department of Corrective Services document the program will include:

> Significant interaction with Aboriginal elders, Aboriginal and non-Aboriginal communities and with members of various Government and non-government organizations; e.g., Department of Infrastructure, Planning and Natural Resources, National Parks and Wildlife Services, Rural Bush Fire Services, WIRES, Pasture Protection Board, New South Wales Fisheries DOCS, Housing and Department of Agriculture.

Further:

> The program will provide residents with the opportunity to participate in a broad range of supervised activities, which will incorporate, local and Aboriginal community needs. The program structure, therefore, involves a heavy reliance upon consultation with Aboriginal and non-Aboriginal communities in order to reflect these needs.

We know that one predictor of reoffending is the unavailability of affordable or stable accommodation. By providing residential facilities, and using evidence-based policy procedures, one would expect that the rate of reoffending could be reduced. In addition, access to diversionary programs—especially drug and alcohol programs—and education and training should reduce the likelihood of re-incarceration.

The creation of alternative paths of interaction and involvement in the community are essential if offenders are to be persuaded to move away from crime. Punishment should only be one part of the jail process. Rehabilitation and giving people something else to do with their lives is not a strong point in New South Wales. Compared with the systems of other States, our prison system is good at reducing recidivism. Instead of creating conditions where people will reoffend, we must go that extra length for those with poor education and skills to try to integrate them into meaningful activity, and this is by no means a simple process.

The Greens recognise that the residential programs referred to in the bill will not work for everyone, but evidence shows that the sooner the intervention is made the less the likelihood of reoffending. We know the more time people spend in jail for lesser-order crimes the more likely they are to end up returning to jail as they get older. Equally, we know that homelessness can lead to reoffending. The Greens thoroughly support a constructive approach, as opposed to draconian "lock em up and throwaway the key" approach, because we want to try to reduce recidivism rather than pander to the shock jocks and tabloids.

The bill clarifies that the New South Wales Department of Corrective Services can jail certain classes of person who are subject to jailing under Commonwealth laws. The first class of person consists of persons subject to a warrant under the Commonwealth Defence Force Discipline Act 1982, where an authorised officer has committed a member of the armed forces to a correctional centre. The second class of person is a detainee within the meaning of the Commonwealth Migration Act 1958; namely, someone who is detained in a detention centre or in a prison or remand centre or, according to that odious Act, is detained on a vessel or in any other place the Commonwealth Government nominates.

This amendment simply makes clear that the New South Wales Government continues its support for the Howard-Rudd gulags for asylum seekers, and removes any doubt as to whether the State's jails can be used to detain people not actually convicted of any crime. It is ironic as we approach the sixtieth anniversary of the Declaration of Human Rights that this State Labor Government should see fit to connive in the forced incarceration of asylum seekers who have sought to rely on the protections spelled out under that declaration. I note the Rudd Government has stopped jailing people on Nauru and is speeding up the processing of refugees, but it still locks up asylum seekers. Just this week three Senators, including Greens Senator Sarah Hanson-Young and Liberal Senators Alan Eggleston and Pietro Georgiou, issued a dissenting inquiry report that called for a maximum 30-day detention period for asylum seekers, unless there was clear evidence as to why they should be detained for a longer period. I congratulate them on that dissenting report.

I will not attempt to amend this provision of the bill because Commonwealth legislation already implies any prison in Australia can be used to incarcerate asylum seekers. There is little point trying to amend New South Wales law until the Commonwealth Migration Act is amended. It is an Act that permits almost endless

incarceration, and it makes little difference if that detention is within a detention centre such as Baxter or at Villawood or in a New South Wales jail. Significantly the definition of "convicted inmate" in this bill does not include a person who is a detainee under the Migration Act because those detainees are not guilty of any crime, and have not been convicted of a crime. This should demonstrate how wrong the major party policies are on mandatory detention for asylum seekers. We hope that the review of the current arrangements will result in changes to the Commonwealth law.

Another group of provisions allows the Commissioner of Corrective Services to order convicted inmates to carry out work inside the correctional centre, outside the centre but inside the grounds, or outside the centre. Yet another section provides that judicial members and community members appointed to the State Parole Authority may be appointed for a period of up to three years rather than for a period of three years, as is currently the case. The Minister has said that this will allow greater flexibility in relation to appointments. The Greens are concerned about the changes to the term of appointment of people to the State Parole Authority from three years to a period of up to three years. We believe that this could lead to politicisation of the appointment. It may happen that appointees are appointed for a series of short terms according to the whim of the commissioner or Minister. Appointees who either the Minister or the commissioner regards as failing to adopt the prevailing line may be removed before their three-year term is completed.

Another significant group of provisions has been introduced in anticipation of the introduction of a new designation for certain prisoners. These changes to the Act are intended to accompany the new designation. In particular, the amendments are designed to restrict the supply to such prisoners of money that is paid by Corrective Services for work undertaken in prisons or, if prisoners cannot work due to their designation, to money that is paid to prisoners by Corrective Services regardless. The bill provides that money other than that paid by Corrective Services will be designated as unlawful for a prisoner to hold and will be returned to the giver or retained by the Crown. There seem to have been cases of outside sources funnelling money to prisoners or money being paid on behalf of one prisoner to another. In the latter case, the prisoner receiving the money may act as an agent for the person giving the money. The issue is not about being able to spend money in prison. Prisoners' spending is restricted to buy-ups. The issue is more about the ability to influence prisoners to do something.

I have been told by a senior official of Corrective Services about occasions when acts were performed outside a prison at the behest of an individual in prison. The individual in prison had influenced another prisoner who, in turn, asked a family member to carry out the act. Another outcome of the payment of money may be the standing over of, or violence directed at, a prisoner in another part of the jail or, indeed, a person outside. The Greens accept that this may be a problem. But if money is to be confiscated or otherwise withheld, it is essential that such decisions be subject to proper oversight. I foreshadow that I will move an amendment to the bill to ensure that proper oversight is exercised via the Serious Offender Review Council. The Minister proposes a new designation of extreme high risk restricted [EHRR]. The new designation puts another layer of control on top of the designations already available. The classification EHRR designates an inmate as an extreme high-risk security inmate if the Commissioner is of the opinion that the inmate constitutes a danger to other people or is a threat to good order and security. In his second reading speech the Minister said that the extra designation of extreme high risk restricted will give the commissioner:

> … more scope to crack down on inmates who attempt to influence other inmates to take part in illegal activities and subversive activities whilst in custody.

The Minister leaves the creation of the designation and relevant rules to the regulations. As is so often the case with Government legislation, the detail is left to regulations that rarely, if ever, are available at the time that legislation is debated. The new designation is in addition to designations currently available. The current classification system provides for category AA and category A1. These classifications are reserved for prisoners who, for example, may have been convicted of terrorism or other serious offences and are to be subject to physical confinement at all times. It has been suggested that the extra layer of surveillance and control in addition to the existing physical confinement regime is needed because a very small number of inmates—some convicted in relation to organised crime activities—are using their sway and access to money from outside to influence others to act for them, either inside or outside the prison system. The Minister estimates that 0.6 per cent of all prisoners will come under the proposed new designation. Clearly, when the details of the classification regime are gazetted, we will scrutinise them closely. But it is essential that there be proper oversight of how the designation is enforced so that a change to an inmate's designation cannot be arbitrarily imposed at the behest of one person acting alone. That is simply not acceptable.

A further grouping of amendments in the bill allows a community service order to be extended beyond the maximum period of 18 months. At present, if an order is to be extended, one has to seek the approval of a

court before the order expires. Under the provisions in the bill, an application for extension may be made even after expiration of the order. There is no limitation on how long after expiration an extension of the order can be sought. One would hope that a court would not entertain an extension application that was made many months or even years after the expiration of the order, but certainly no limitation is contained in the bill. One would hope also that a court would take into account any genuine reasons that an individual encountered in attempting to comply with an order. It would have been far preferable for the bill to provide a maximum period after which applications could not be made.

The Greens do not support the reduction in membership of the Serious Offenders Review Council from three people to one person. Three people should continue to be responsible for designating an inmate as high risk or extreme high risk restricted. We have every confidence in the members of the review council to do their job and to handle sensitive information, even information provided by ASIO or other security services. One assumes they may already be party to such information, as they have dealt with inmates held on remand who have been charged with terrorist offences or offences involving Interpol. I have been informed that the council members are subject to an ASIO clearance. I will expand on these issues in Committee. A series of amendments to the Children Detention Centres Act 1987 enable the mandatory jailing of 18- to 21-year-olds in an adult prison when certain arrest warrants are issued. The Government's position is that these young people are adults and should go to adult jails, and that programs for young offenders are provided in those jails. I reiterate the Greens view that the discretion to determine where juveniles and young adults are housed should remain with the judiciary, rather than juveniles and young adults being sacrificed to the Government's budgetary exigencies.

The bill proposes to make a number of amendments to matters relating to the parole of offenders and the constitution of the State Parole Authority. Registered victims of a serious offender are currently provided with an entitlement, should they choose to exercise it, to access all documents held by the State Parole Authority in relation to the offender and the measures the offender has taken or is taking to address his or her offending behaviour. The Government argues that victims should be able to appoint an agent to do this on their behalf. The Government's proposal could give rise to vigilantism by proxy. The right to obtain this information was given to victims because they had suffered as a result of the crime. A better provision would be to permit an agent to be appointed only when the victim of crime cannot access the State Parole Authority for some reason, or when the victim suffers from a legal or physical disability. The Greens also believe that it is a retrograde step to reduce four to two the number of community members on the State Parole Authority who must be present at meetings, even though community members can attend up to six meetings each year should they wish to do so.

Other amendments that relate to parole dates and prison officers being tested for steroids as well as drugs and alcohol are relatively minor. The Greens oppose many aspects of the bill. As is often the case with Government legislation, this bill is a curate's egg—good in parts but woeful in others. Because the various aspects are all rolled into one piece of legislation, it becomes difficult to disentangle the threads and vote according to one's conscience and policies. Whilst the Greens oppose many aspects of the bill, we are reluctant to vote against it because of its positive features, such as the creation of new residential facilities that may reduce recidivism.

In regard to the question of creating a new classification of extreme high risk restricted, there may be some argument for restrictions of money movements if an inmate is using that money to enlist others inside or outside a prison to commit offences. But the Greens do not see the necessity to create a new designation the details of which are not subject to debate because they are contained in the forthcoming regulations.

Reverend the Hon. FRED NILE [6.19 p.m.]: On behalf of the Christian Democratic Party I am very pleased to support the Crimes (Administration of Sentences) Amendment Bill 2008. Many positive aspects of this bill conform to the policies of our party, so we are very pleased to support them. The first aspect of the legislation in developing a wider range of residential centres is to provide special attention for Aboriginal persons who have been breaking the law and have been placed in a correctional centre, and to find suitable locations for them where they can be supported.

I am very pleased about the development of the residential centre at Tabulam on the far North Coast of New South Wales, an area I have visited many times. There are many law-abiding Aboriginal communities in that area, and some are very active Christian communities. We can all be extremely proud of the way those communities care for their villages. They have no drug or alcohol problems, and they take a pride in their community by keeping them clean and tidy, without the rubbish and car wrecks that we see lying about in other communities. I am very pleased about the development of this program. More than 1,900 inmates, or 21 per cent of all inmates, in New South Wales currently held in correctional centres are Aboriginal. Statistics show that

20 per cent of males and 30 per cent of females in correctional centres are Aboriginal, and that the male Aboriginal prison rate is 16 times higher than that for non-Aboriginal males and is 28 times higher for females. Also, more than 2,800 Aboriginal offenders—16 per cent—are supervised in the community.

Further attention must be paid to the Aboriginal community, and this Government is introducing residential centres to encourage rehabilitation amongst Aboriginal offenders so they can be restored to their communities with a law-abiding attitude and a respect for the law, which is often the key to the problem. We are pleased also that in developing these residential centres the legislation provides crisis accommodation that will be available for community offender support programs for up to 14 days for offenders whose accommodation arrangements suddenly break down in the community.

Community offender support program centres also provide an opportunity to stabilise and enhance the supervision of offenders who may be experiencing difficulties in adjusting to lawful community life. We know it is a major problem that when people are released from a correctional facility they often find it difficult to relate to normal community lifestyle and attitudes. This program will be very valuable and positive in addressing that issue. I note that the legislation provides for testing of correctional officers. There is obviously a priority to ensure that inmates do not have drugs in their possession, but I was interested to see the provision extend to the testing of correctional officers.

It is important that prison officers be tested for alcohol and prohibited drugs, but it is important also that they be tested for steroids, and this bill will provide the legislative mechanism for that to occur. Additional powers will be given to correctional officers to search prisoners for contraband such as drugs and alcohol, and to conduct drug and alcohol testing. This provision is most necessary and we fully support it. We note also the new designation that this legislation will provide of extreme high risk restricted [EHRR] prisoners. Currently, 19,750 inmates are in full-time custody in New South Wales, of which the Commissioner of Corrective Services has designated 101 to be high-security or extreme high-security inmates. They account for about only 1 per cent of the inmate population, but they constitute a danger to other people and a threat to good order and security.

In that regard evidence suggests that inmates from an Islamic terrorist background, even though they have been incarcerated, are still very active in that ideology and are seeking to recruit other prisoners to their cause. In fact, some have been successful in instilling a very violent, vindictive attitude in other prisoners, so that they are a threat to other inmates and to the community should they ever be released. We support the new designation of "extreme high risk restricted" and the isolation of very dangerous, high-risk prisoners to prevent them from recruiting other prisoners to their terrorist group by intimidation or enticements and to stop them threatening correctional officers and other prisoners. I know the Government is aware of this problem and has responded by moving such prisoners to different prisons to break up any groups that have started to form. The Christian Democratic Party supports the bill.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [6.26 p.m.], in reply: I will first address some of the issues raised by Ms Sylvia Hale in regard to the Crimes (Administration of Sentences) Amendment Bill 2008. Ms Sylvia Hale indicated that the provisions in the legislation concerning immigration deportees or detainees were evidence that the State Government supports the Howard Government's detention of asylum seekers. I do not think she really believed it but she said it. It is the Government's view, and this has been made quite clear, that immigration detainees are not to be subject to imprisonment: it is inappropriate that they be detained in correctional centres unless there are exceptional circumstances. That issue was confirmed also by the Council of Corrective Services Ministers some time ago when delegates resolved that State and Territory jurisdictions would not accept detainees who have not been charged with a criminal offence, unless there are exceptional circumstances. Corrections departments will accept for not more than seven days persons who have not been charged with a criminal offence only in exceptional circumstances. Potential deportees whose sentences are completed will be held for only three months from the date of completion of their sentence unless there are exceptional circumstances.

Since the commencement of that policy by the Council of Corrective Services Ministers—with the exception of the incident that occurred in January 2003 in which the department accepted 15 inmates who participated in riots and were alleged to have attempted to escape from Villawood—the department has not held a considerable number of immigration detainees in correctional centres at any time. We have sought an agreement from the Commonwealth for the maintenance and transfer of immigration detainees and the exchange of information for the purposes of managing immigration detention. However, finalisation of that agreement has been stalled pending legislative amendments to the Immigration Act. If and when finalised, formal arrangements

will provide for the detention and transfer, and exchange of information in relation to those persons and for the payment of an immigration detention service fee by the Commonwealth to the Department of Corrective Services.

Ms Hale made mention of the proposed changes to allow agents of victims access to the records of offenders. The proposed amendment to section 193A does not trespass on an inmate's personal rights and liberties. It builds on the existing provisions, which already allow a victim of a serious offender to access documents held by the State Parole Authority in relation to an offender for whom that person is a registered victim. Victims are limited in respect of the documents that they may access in that they may access only those documents that indicate measures the offender has taken or is taking to address his or her offending behaviour.

Recently the department received a request for access to documents under section 193A from a man claiming to be a family representative of several victims of a certain offender. The man was not related to the family and was not registered as a victim under the Act. The department facilitated the request by asking for written proof from the victims that the man was authorised to represent the family. Upon receipt of that authorisation, the department accepted him as a registered victim rather than as an agent. He was then able to travel to the State Parole Authority office and inspect documents on behalf of the victims who could not make the journey. The department is concerned that should this situation arise in the future doubt may be cast on its ability to accept people as agents or family representatives. This doubt may arise because under section 256 the definition of "victim" includes a family representative of a victim of an offender if the victim is dead or suffering any incapacity, or in such circumstances as may be prescribed by the regulations.

This bill makes amendments to provide that a family representative, or representatives if there are multiple victims of one family who may wish to be individually represented, is a person authorised in writing by a registered victim or victims to act as an agent—that is, as a representative—of that victim or victims and is approved by the Commissioner of Corrective Services to do so. This amendment protects the privacy rights of offenders by establishing a process whereby agents can formally be authorised by objective criteria. It is envisaged that in most cases the agent would indeed be a relative of a victim or would be engaged in a professional capacity to represent the victim. I will address the other issues that Ms Hale has raised in Committee.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

Ms SYLVIA HALE [6.35 p.m.], by leave: I move Greens amendments Nos 1 and 2:

No. 1 Page 7, schedule 1 [25] and [26], lines 8-23. Omit all the words on those lines.

No. 2 Page 12, schedule 1 [39], lines 8-12. Omit all the words on those lines.

These amendments omit the clause of the bill that reduces the Serious Offenders Review Council to one person in certain circumstances. The Greens believe that this provision is unnecessary. Most reviews are carried out by a minimum of three, and for good reasons. The council reviews classifications and designations, placement of serious offenders and developmental programs for those offenders. The Minister wishes to remove the community and official representatives, and leave the judicial member with total control. Significantly the review council:

> ... reviews segregated and protective custody directions under Division 2 of Part 2, that is when someone has been segregated for more than 14 days, and
>
> makes recommendations to the Minister with respect to the transfer of juvenile inmates from juvenile correctional centres to adult correctional centres under Division 3A of Part 2.

The Greens do not support delegating all these functions to a single person, which would be the effect of this legislation. It would leave it to the regulations and it specifies that one person may review "a specified class of inmate". That gives the sole member virtual carte blanche. The Minister stated:

> In certain circumstances information that has caused the inmate to be placed in segregated or protective custody may be so sensitive—for example, it may be intelligence provided by international justice agencies that may have international implications and/or repercussions—that it is preferable that only a judicial member convene and conduct the hearing and be privy to the restricted, sensitive information.

The Greens do not accept that as an explanation and that is not what the clause provides. There is no restriction on matters where, for example, ASIO is involved. In any case, the Greens assume those currently on the review council are now dealing with serious offenders who may be subject to charges relating to terrorism or serious crimes. Surely the members of the Serious Offenders Review Council can be trusted to take their role very seriously and are bound by confidentiality. Are they in fact the recipient of ASIO briefings now? The Minister's office could not provide any definitive information about that. This section is obviously intended to apply to those inmates who will be categorised as extreme high risk restricted, but it could extend to other classes of inmates as well. Clearly, the Government wants to do away with the three-person review process. This section is unacceptable to the Greens. We have every confidence in the ordinary and community members of the Serious Offenders Review Council. They have been appointed because they are trusted to do their job and to be privy to sensitive information, including any information provided by security agencies, whether Australian or international.

Let us remember that the advice provided by these agencies is not always correct. I cite the absolutely useless effort of the Australian Federal Police in relation to Mohammed Haneef. If members were to read the transcripts of the interrogations, they would find they are embarrassing. That was followed by a Federal Minister, acting as the sole judge and jury, deciding to lock up Haneef in any way he could—whether in a jail or a detention centre. The Minister could not accept that he had completely overstepped his powers. Moreover, the Australian Federal Police and the Minister actively ignored the advice of the British police in regard to Haneef's alleged involvement. That is another reason we need oversight. There are sanctions for breaching confidentiality and revealing classified material, and one assumes those on the review council are already bound by rules and are subject to sanctions for breaching those rules. I commend Greens amendments Nos 1 and 2 to the Committee.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [6.38 p.m.]: The delegation of decision-making powers to the chairperson or judicial member of the Serious Offenders' Review Council is not a new legislative concept. Existing subsection 197 (3) of the Crimes (Administration of Sentences) Act 1999 already provides for the chairperson or a judicial member nominated by the chairperson to perform functions of the review council with respect to segregated and protective custody review hearings under part 2 of division 2 of the Act. Presently, the chairperson of the review council alone also makes the initial determination as to whether the review council should proceed with a segregated or protective custody review hearing.

In regard to inmates who may be designated extreme high risk restricted, the bill provides that a judicial member of the review council must sit alone when deliberating and determining an inmate's segregated or protective custody review hearing. This is necessary having regard to the potentially politically sensitive nature of the security information—for example, ASIO or Interpol documents or intelligence data about inmates who may be designated extreme high risk restricted that may have international implications and/or repercussions. As former judges, the judicial members of the council will have the requisite substantial experience in dealing with any security information that may be relevant to the extreme high risk restricted inmate's segregated or protective custody review hearing.

Community members of the Serious Offenders Review Council are not in the same position to deal with security information as judicial members as they have not had the requisite experience to develop the same level of sensitivity and discretion when dealing with such issues. The current judicial chairperson of the Serious Offenders Review Council is the Hon. David Levine, QC. He was called to the Bar in 1971 and was appointed a judge of the District Court in 1987 and subsequently a justice of the Supreme Court in 1992. As a justice of the Common Law Division of the Supreme Court, he has a wealth of experience in making decisions relating to sensitive and confidential documents and security information, including determining covert surveillance and listening devices applications.

On top of this, Justice Levine recently headed the military board of inquiry into the helicopter accident on the deck of the HMAS *Kanimbla* when it was posted off the coast of Fiji in November 2006—the so-called Black Hawk inquiry. In order to undertake this task, the judge was subject to vigorous security checks by the Australian Department of Defence and received a high-level security clearance. It is therefore the position of this Government that it is appropriate that a judicial member sitting alone determines segregated or protective custody review hearings involving extreme high-risk restricted inmates.

Contrary to the suggestion of Ms Hale, not all Serious Offenders Review Council members are already subject to an ASIO clearance. Whilst all members could potentially undertake security clearance procedures, at

this point the only person who has done so is the chairperson of the Serious Offenders Review Council, the Hon. David Levine. The member also misunderstood items [25] and [26]. The provisions relate only to segregated and protective custody, and a specified class of inmate. The Government has made it clear on several occasions that the intent of these provisions will relate only to the new extreme high-risk restricted designation of inmate.

The Hon. DAVID CLARKE [6.41 p.m.]: The Opposition supports the provisions that the Greens amendments seek to delete, so it will certainly not support the amendments.

Reverend the Hon. FRED NILE [6.41 p.m.]: The Christian Democratic Party does not support the amendments. We believe the provisions in the bill are effective and should be retained in the bill.

Question—That Greens amendments Nos 1 and 2 be agreed to—put.

The Committee divided.

Ayes, 4

Mr Cohen
Dr Kaye

Tellers,
Ms Hale
Ms Rhiannon

Noes, 26

Mr Brown	Mr Kelly	Mr Robertson
Mr Catanzariti	Mr Khan	Ms Robertson
Mr Clarke	Mr Lynn	Ms Sharpe
Mr Colless	Mr Mason-Cox	Mr Smith
Ms Cusack	Reverend Dr Moyes	Ms Voltz
Ms Fazio	Reverend Nile	Mr West
Ms Ficarra	Ms Parker	*Tellers,*
Mr Gay	Mrs Pavey	Mr Harwin
Mr Hatzistergos	Mr Primrose	Mr Veitch

Question resolved in the negative.

Greens amendments Nos 1 and 2 negatived.

Schedule 1 agreed to.

Ms SYLVIA HALE [6.49 p.m.], by leave: I move Greens amendments Nos 3 and 4 in globo:

No. 3 Page 13, schedule 2.1 [1]-[3], lines 4-14. Omit all the words on those lines.

No. 4 Page 13, schedule 2.1 [5], lines 27-33. Omit all the words on those lines.

The Government's bill makes certain amendments to the Children (Detention Centres) Act 1987 by adding two new subsections to section 9A (2). It adds two further types of warrants to those warrants that are currently listed that lead to a young offender aged between 18 and 21 years being sent to an adult prison. The first is when a young offender does not appear before the Parole Authority or there is an interim suspension of a parole order. The second is if a young offender escapes from a detention centre. In these instances, the young person is automatically sent to an adult jail.

The Minister wishes to remove the discretion of the court in those circumstances. Juvenile detention centres are overcrowded and the Minister could regard it as expedient for more young offenders to be sent to an adult jail. Certainly the Government is of the view that when offenders turn 18 they belong in adult jails. However, some discretion should be left to the courts. We know that young people are impetuous; evidence abounds that their brains do not mature until they are 25 years of age or thereabouts.

When young people escape from a juvenile detention centre they often go home, where they are picked up. If someone escapes or misses a parole hearing and is then arrested, at least now a judge can take into account

all the circumstances. The judge may recommend that the person be returned to a juvenile detention centre or be sent to an adult prison. These provisions would result in a "one strike and you're out" or, rather, "you're in an adult jail" type policy. The Greens would prefer that the judicial discretion be retained. There may be times when it is reasonable to keep an 18-year-old in a juvenile detention centre and other times when it is best to move him or her to an adult jail, depending upon the individual circumstances.

The Greens suspect that the move to place a greater number of 18- to 21-year-old offenders in adult jails is driven by cost cutting and overcrowding in juvenile detention centres. That is not a good basis for policy. I quote from an article in the *Australian* dated 30 November 2008, which states:

> Juvenile justice centres across the state are often at peak capacity, forcing police to hold young offenders in cells until beds can be found.

It is reported that the Department of Juvenile Justice is paying police $100.10 an hour to hold these young people and an extra $20.90 to transport them. A total of 130 juveniles were held in police cells between July and October this year. Although most were held for only a few hours it cost the State $17,060 this financial year. Not surprisingly, the Police Association is not too happy about this. Juvenile Justice recently determined to close the Keelong Juvenile Justice Centre, which services the South Coast area of the State. Given this situation, it is difficult not to interpret these provisions as simply facilitating the transfer of more young offenders into adult jails in order to take pressure off the juvenile detention system. I commend Greens amendments Nos 3 and 4 to the Committee.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [6.52 p.m.]: The Government does not support these amendments. I make the point that in the category of 18- to 21-year-olds, the Department of Corrective Services manages more offenders than the Department of Juvenile Justice. This bill seeks an amendment to the Children (Detention Centres) Act 1987 to extend the operation of section 9A and to clarify that a person between 18 and 21 years who is arrested pursuant to one of these warrants or orders is not to be detained in a children's detention centre.

It is intended to streamline the administrative application of existing provisions around the transfer of detainees to the adult correctional system. The proposed amendment clarifies that a returning parolee or other adult, 18 to 25, does not have to be physically returned to a detention centre but may be transferred to serve the rest of his or her sentence in a correctional centre without having to be physically admitted to the detention centre beforehand. That is the issue. When these persons are arrested on warrants, they have to be put into the nearest detention centre, even though a correctional centre may be in close proximity. A recent example is a 23-year-old returning parolee who had spent four months in an adult correctional centre being admitted to a detention centre for three days pending transfer to a correctional centre.

This Government has long recognised that the rehabilitative needs of juveniles differ from those of adults and that to admit a young person to a detention centre is an unsettling process that often involves unnecessary administrative, supervisory and transport resources. The presence of adult detainees in the juvenile system has the potential to undermine the capacity of the Department of Juvenile Justice to focus on its core business, that is, the detention, care and rehabilitation of young offenders aged between the ages of 10 and 17.

The Hon. DAVID CLARKE [6.54 p.m.]: For the same reasons given by the Minister, the Opposition opposes these amendments.

Reverend the Hon. FRED NILE [6.55 p.m.]: The Christian Democratic Party also opposes the amendments. We believe the provision in the bill is a good one. Once a person is over 18 years, he or she should be in an adult prison, not a juvenile detention centre. If juveniles who are coming up to 18 years of age are told that they will be sent to an adult prison if they escape and are caught, it may act as a deterrent to them escaping from a detention centre.

Question—That Greens amendments Nos 3 and 4 be agreed to—put.

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

The Committee divided.

Ayes, 4

Mr Cohen
Dr Kaye

Tellers,
Ms Hale
Ms Rhiannon

Noes, 26

Mr Brown	Mr Kelly	Mr Robertson
Mr Catanzariti	Mr Khan	Ms Robertson
Mr Clarke	Mr Lynn	Ms Sharpe
Mr Colless	Mr Mason-Cox	Mr Smith
Ms Cusack	Reverend Dr Moyes	Ms Voltz
Ms Fazio	Reverend Nile	Mr West
Ms Ficarra	Ms Parker	*Tellers,*
Mr Gay	Mrs Pavey	Mr Harwin
Mr Hatzistergos	Mr Primrose	Mr Veitch

Question resolved in the negative.

Greens amendments Nos 3 and 4 negatived.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. John Hatzistergos agreed to:

That the report be now adopted.

Report adopted.

Third Reading

Motion by the Hon. John Hatzistergos agreed to:

That this bill be now read a third time.

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

[*The President left the chair at 7.01 p.m. The House resumed at 8.15 p.m.*]

TABLING OF PAPERS

The Hon. John Hatzistergos tabled the following paper:

Annual Reports (Statutory Bodies) Act 1984—Report of the New South Wales Institute of Sport for the year ended 30 June 2008

Order to be printed on motion by the Hon. John Hatzistergos.

FINES FURTHER AMENDMENT BILL 2008

Second Reading

Debate resumed from 27 November 2008.

The Hon. MELINDA PAVEY [8.15 p.m.]: The Fines Further Amendment Bill 2008 seeks to amend the Fines Act 1996 to address deficiencies in the current system of administering and recovering fines and penalty notices. The primary objects of the bill are to enhance the recovery of court fines and penalty notices—through measures such as the provision of a broader range of payment instalment options—and to ensure fairness and controllability in the fine and penalty notice enforcement regime. The Opposition does not oppose the bill.

In recent years, a number of inquiries and reports have highlighted a lack of flexibility in the present system, particularly for vulnerable people such as the homeless, and people with mental illness and intellectual disabilities. The Attorney General has previously referred, for instance, to the October 2006 report of the Sentencing Council on the effectiveness of fines as a sentencing option. The most disturbing problem exposed by the 2006 report was secondary offending, which occurs when people continue to drive after having their licence or vehicle registration suspended or cancelled due to fine default. This is particularly problematic in rural areas due to a lack of viable public transport.

I turn to the text of the bill. The bill permits persons in receipt of certain Government benefits to elect to pay fines in regular instalments from those benefits. Proposed section 100 (1A) provides that despite subsection (1) an application for time to pay a fine may be made by a person in receipt of a Government benefit in respect of a fine before a fine enforcement order is made in the matter. New Section 100 (3A) provides that the State Debt Recovery Office may allow a person in receipt of a Government benefit to pay the fine in instalments, as a regular direct debit from that benefit, if, first, it is satisfied that adequate arrangements are in place for such a regular payment to be made, and, second, it agrees to the fine being paid in this manner. The rationale for implementing a more flexible payment scheme is to improve the recovery rate for fines and penalties by welfare recipients.

Further, proposed section 14 (1A) provides the circumstances for when a court fine enforcement order may be made. The changes outlined in schedule 1 essentially allow for the early referral of a court fine or penalty notice to the State Debt Recovery Office in order to utilise Centrepay in entering time-to-pay arrangements. The bill provides for the giving of official cautions in certain circumstances as an alternative to issuing a penalty notice. Proposed section 19A provides that an appropriate officer may give an official caution, rather than issue a penalty notice, if the officer believes, first, on reasonable grounds that the person has committed an offence under a statutory provision for which a penalty notice may be issued, and, second, that it is appropriate in the circumstances to give an official caution.

The primary safeguard in this process takes the form of the relevant applicable guidelines, for which the officer must have regard when exercising the discretionary power under proposed Section 19A (l). Section 19B provides that an official caution does not affect the power of an agency to issue a penalty notice. This new provision introduces fairness and consistency in the fine administration and enforcement processes. It also introduces a greater degree of flexibility through broadening the scope of the appropriate officer's discretion in making a determination on the issuance of cautions and penalty notices. It enables such officers to take into account the particular circumstances of vulnerable individuals, thereby minimising, and in some cases eliminating, the harsh and sometimes disproportionate impact of fine enforcement.

The bill provides for an internal review of a decision to issue a penalty notice in certain circumstances. Proposed sections 24A to 24J introduce a standard process for the review of penalty notices. Proposed section 24A (1) provides that an application may be made by or on behalf of any person for a review of the decision to issue a penalty notice in respect of the person. New section 24B outlines the circumstances in which an agency is not required to conduct a review. Those circumstances include, first, where the agency notifies the applicant within 10 days after receiving the application that it has decided not to conduct a review under this division and provides reasons for its decision; second, a review of the decision has already been conducted under this division; and third, such other circumstances as may be prescribed by the regulations.

An agency may review a decision on its own motion per proposed section 24H (1). Proposed section 24H (2) provides that if a review agency withdraws a penalty notice on its own notion after the amount under

the penalty notice, or a penalty reminder notice in respect of the offence to which the penalty notice relates, has been paid, no person is liable to any further proceedings for the alleged offence. The new section 24E amendments provide that a reviewing agency may confirm the decision to issue a penalty notice or may withdraw the penalty notice on the following grounds: the penalty notice was issued contrary to law; the issue of the penalty notice involved a mistake of identity; the conduct for which the penalty notice was issued should be excused having regard to exceptional circumstances relating to the offence; the recipient of the penalty notice has a mental illness, intellectual disability or cognitive impairment, or is homeless, and that condition results in the person being unable either to understand that the conduct constitutes an offence or to control the conduct; or an official caution should have been given in place of the penalty notice, having regard to the relevant guidelines under section 19A and any other ground prescribed by the regulations.

This initial scheme responds to the recommendations set out by the Sentencing Council that all issuing agencies be empowered to conduct internal reviews of penalty notices, and that the grounds for review be clearly identified. Accordingly, before the internal review provisions come into force the Government will make regulations that clarify which penalty notices will be subject to the internal review process under the Fines Act.

The bill provides for a review of a decision to issue a penalty notice before a penalty notice enforcement order is annulled in certain circumstances if no internal review of the decision has taken place. The bill adds a new provision regarding the review of penalty notices after enforcement action has taken place. By this time a person no longer has the right to elect to have the matter dealt with by the court. The only exception to this rule is where the person was unable to exercise the right to court-elect before the enforcement order was made. In those cases the enforcement order is annulled and the State Debt Recovery Office must refer the matter to the court, which can be time consuming and expensive.

The bill accordingly amends section 49A of the Fines Act to provide that where an enforcement order is eligible for annulment, the State Debt Recovery Office or the issuing agency must review the original penalty notice to first determine if withdrawal is available, rather than simply referring the matter to court. Under proposed section 49A (l), before the State Penalty Debt Recovery Office annuls a penalty notice enforcement order it has to seek a review of the decision to issue each penalty notice to which the penalty notice enforcement order applies, if it has a reason to suspect that the penalty notice should be withdrawn, having regard to any of the matters set out in Section 24E(2), and a review of the decision to issue the penalty notice has not been conducted under this section or division 2A.

The bill provides for the trial of a scheme to allow persons belonging to certain vulnerable groups to mitigate a fine by undertaking activities under a work and development order. The trial scheme will operate for two years and strict eligibility criteria will apply. Agencies may make or adopt their own guidelines, provided they are consistent with those made by the Attorney General. Sections 99F and 99G provide that if a work and development order requires unpaid work to be carried out, the person performing the work, any person for whose benefit that work is performed, any person who directs or supervises the work, and any person who owns or occupies the premises or land on which that work is performed, are protected from civil liability in relation to that work. The person undertaking that work is not considered to be employed by, or to be in a contract of service with, the Crown or any other person. This scheme will enable these groups to attend to their fines by doing unpaid work for charitable organisations or by participating in certain activities.

This approach provides vulnerable people with a chance to pay their debts in a manner that meets their ability to pay. Disadvantaged people will be able to work off their fines rather than becoming secondary offenders because of financial inability to pay the original fine. The community, through charitable organisations such as the Salvation Army, St Vincent de Paul Society and Youth off the Streets, will benefit and many kids in country communities will benefit. On one of my travels through country New South Wales I met a young unemployed man who did not have much of a future to look forward to. He could not get his licence, he could not drive a car, and he could he get a job because of the escalated fines he had received for being caught riding his bike without a helmet.

That law was introduced by the then Minister for Roads, Deputy Premier and Leader of The Nationals, Wal Murray, to protect the children on our streets when riding their bikes. It was an unintended consequence that vulnerable kids would find themselves without much of a future because of the escalated fines received from being caught riding their bikes without wearing helmets. This is a win-win situation for the community and such vulnerable people because they can work their fines off and contribute to the community through a variety of organisations. The scheme is not limited to work for charities, but may also involve an order requiring the offenders to complete educational, vocational or life skills courses, counselling, drug and alcohol treatment, or a mentoring program if the person is under the age of 25.

The bill extends the power to write off fines to enable fines to be partially written off under proposed Section 101. The bill also amends the Crimes (Administration of Sentences) Act 1999 to permit information obtained in the administration of that Act to be disclosed to the State Debt Recovery Office. It also amends the Fines Regulation 2005 to provide for the waiver, postponement or refund of costs and fees, to provide that an internal review of a decision to issue a penalty notice is not required if the penalty notice was issued by a police officer, and to provide for a trial period for work and development orders and the maximum number of such orders that may be made during that period. It also amends the Road Transport (Driver Licensing) Act 1998 and regulations under that Act to create separate offences in relation to suspended or cancelled driver licences where the suspension or cancellation occurs under the principal Act.

The proposed amendments seek to address a lack of flexibility in the present system for vulnerable people, particularly the homeless, people with a mental illness and people with intellectual disabilities. These groups need to be specifically catered for because they fall under the category of the disadvantaged and therefore need to be dealt with separately. As previously stated, the Opposition does not oppose the bill.

Ms LEE RHIANNON [8.28 p.m.]: The Greens support the Fines Further Amendment Bill 2008 and note it is largely welcomed by welfare and social justice advocacy groups as a step forward in providing alternatives to the payment of outstanding fines by disadvantaged people in our society. However, the fines system in New South Wales still impacts disproportionately on people living in poverty, the homeless, indigenous people and disadvantaged young people—people who are socially and economically disadvantaged. The Greens acknowledge that the Government has made improvements by creating more options for clearing fine debts, and that is excellent news. Given the difficult circumstances of many disadvantaged families living in poverty, young people, unemployed people, prisoners and homeless people, the Greens feel that more charitable solutions are needed to address the burden of unpaid fines.

Earlier this year the Greens supported the Fines Amendment Bill, which made advances to reduce the burden of unpaid fines on severely disadvantaged people, such as allowing people to pay their fines by instalment. This bill is another step forward. However, given that one of the aims of the amendments is to divert vulnerable groups out of the fines system and reduce the burden of unpaid fines on the most disadvantaged people in our society, we would prefer even less onerous alternatives to paying fines where it can be shown that the fines pose an unacceptable obstacle or that paying the fines is simply unachievable. We are not convinced that community work or programs as an alternative to paying off fines are adequate solutions for some of the disadvantaged people that the bill is designed to serve.

Under the bill fines still will impact disproportionately on homeless people and people living in poverty. Homeless people and especially young homeless people and young indigenous people can receive a disproportionate number of fines because they are more visible and attract the notice of issuing officers. Homeless people can accrue significant debts and they may have trouble interacting with the debt payments system and accessing legal advice about their fines. The Greens advocate a more equitable fines system based on income. Many of the advocacy groups, including the Public Interest Advocacy Centre, the Shopfront Youth Legal Centre and the Youth Justice Coalition, pushed for this system in their submissions to the Sentencing Council's review of fines. We wanted to see included in the bill a new system of proportional penalties that gave people on low incomes a concession rate for fines.

As it stands, the flat fine system in New South Wales unfairly targets low-income groups. The sound principle that a penalty for an offence should be applied to all people equally leads to the logical conclusion that fines should be proportional. It is grossly unfair that a person raising a family on $20,000 a year pays the same $400 fine for an offence as a person raising a family on $120,000 a year. The fine is crippling for the low-income family, but merely an inconvenience for the high-income family. Many public transport fines exceed the weekly income of people living on pensions. Getting a $300 or $400 fine could throw out the budget of a low-income family for months. The immediate impact is that the family will cut any discretionary spending on the children, such as paying for a haircut or school excursion or replacing an old pair of sneakers.

Becoming overwhelmed by the enormous hurdle of unpaid fines can lead people who are living on very low incomes to become repeat offenders. There is very little incentive for people to avoid being fined again for an offence if they know they can never afford to pay the fine. The Greens want further amendments to the bill that ensure the economic burden of fines are similar for all offenders. At present there are virtually no differential fines given to young people and other vulnerable groups in our community. I understand that RailCorp is currently the only agency that imposes a differentiated fine amount—$50 as opposed to $200 for a person under 18 caught travelling on a train without a ticket. But it does not stop State Rail Authority officers

from issuing fines for other offences. If a young person is caught without a ticket on a platform the fine is not differentiated. It is a $200 fine for everyone. I ask the Minister whether it has looked at the issue of differential fines and whether there are plans to extend it to other agencies.

The economic burden of fines is still a big problem for disadvantaged young people. Many young people living in youth refuges have thousands of dollars worth of fines hanging over their heads. Young people are less likely to be able to advocate on their own behalf and to be aware of their options for appealing fines. The Greens do not believe that fining a young person for committing an offence offers much in the way of rehabilitation or deterrence from reoffending. Instead it can make young people feel alienated from authority and place enormous financial burden and stress on young people who often have a genuine inability to pay their fines. It is totally inappropriate to apply a revenue raising approach to disadvantaged young people. It only serves to further marginalise them.

The Greens are pleased that the Government has introduced a cautionary approach to issuing fines. This bill gives an appropriate officer the power to issue an offender with a caution rather than a penalty notice. That is a good initiative. In the case of disadvantaged young people this provision undermines the ability of these cautionary powers to divert them away from the fine and penalty notice system. The Greens will move an amendment in Committee to remove the clause that states that an official caution does not affect the power of an appropriate officer of an agency to issue a fine or take further action once a caution is issued.

In proposing this amendment the Greens have drawn on the concerns of social justice groups who made submissions to the Sentencing Council review, including the Homeless Persons Legal Centre, the Youth Justice Coalition and the Youth Action and Policy Association, as well as the Sentencing Council's own 2006 report. That report found that giving fines to disadvantaged people who were unable to pay their existing fines led to greater interaction with the justice system. The review mechanisms for fines have been broadened. That is a good measure. However, the Greens are concerned that the drafting of this section of the bill is too broad and could result in an agency or a fines processing officer deciding not to proceed with a request to review a fine without having reviewed the case at all.

Under this bill an agency, under a heavy workload, potentially could send out pro forma letters to applicants saying it will not review their fines. They could draft a list of potential reasons why the case will not be reviewed. If an agency has to look at each application on its merit in order to decide if it will review the penalty notice, is that not a review process in itself? Why include a clause for circumstances where an agency is not required to conduct a review, when some level of review must be undertaken for each application? My staff were advised that the intent of this clause was to allow agencies to defer the review of a fine to another agency or the State Debt Recovery Office. That may well be the case. But the opening created by this broad drafting of the legislation creates the potential for abuse of the system and should be addressed. The Greens will move an amendment in Committee to remove the clause that creates circumstances for not reviewing an application to waiver a fine.

I understand the Attorney General's office has consulted widely on this bill. I congratulate the Government for doing so. I acknowledge that the bill makes genuine improvements to the system of fines and penalty notices. But there is more to do for the most marginalised people in our society who are unfairly and harshly disadvantaged by the burden of unpaid fines. I would be interested in the Minister's assessment on whether the marginalised people in our society are unfairly disadvantaged by the fines system, despite this bill. The Greens commend the bill to the House and look forward to the debate continuing at the Committee stage.

Reverend the Hon. FRED NILE [8.37 p.m.]: The Christian Democratic Party supports the Fines Further Amendment Bill 2008. The purpose of the bill is to improve the system of court fines and penalty notices to make it fairer for vulnerable groups such as homeless people, people with a mental illness or intellectual disability and those facing severe financial hardship. I note that 17,000 offences under 97 separate laws in New South Wales can result in the issuing of a penalty notice. Those offences include breaching water restrictions, riding bicycles on the footpath and parking offences. The total number of penalty notices has risen dramatically in recent years. In 2005, 78,000 court fines and 2.6 million new penalty notices were processed by the special office handling these matters, and that figure relates only to the people who failed to pay their fines or requested an extension. The question in my mind is how many people are issued with penalty notices given that the State Debt Recovery Office processes 2.6 million new penalty notices and only for those who did not respond or seek an extension? The total must be far higher, and in that regard I believe that many of the fines relate to the use of speed cameras in Sydney.

The bill also amends the Road Transport (Driver Licensing) Act 1998 to create a specific offence of driving whilst suspended as a result of a fine default. If a person does not pay a fine, eventually his or her licence can be suspended and in due course even cancelled. This will enable the Government to collect better data on the extent of secondary offending due to a fine default. It will also enable the monitoring of reforms that are contained in the bill. We note also that penalty notices can be withdrawn on a number of grounds: if the penalty notice was issued contrary to law, and if the issue of the penalty notice involved a mistake of identity. For example, a person may seek a review on the ground that his or her vehicle was stolen at the time the offence was committed. Alternatively, a person could claim that he or she was not driving the vehicle at the time the offence occurred, as happened in a very prominent case in Sydney recently involving former Federal Court judge Marcus Einfeld, who made a number of false statements under oath that another person was driving his vehicle when it was caught by a speed camera exceeding the speed limit. That case involved an offence of making a false statement, and that is why Mr Einfeld is in so much trouble today—he has been found guilty of attempting to pervert the course of justice. Everyone should be discouraged from making such claims.

We support a number of positive aspects of the bill, particularly the new Work and Development Order Scheme, which will allow vulnerable people to pay off their fines by undertaking unpaid work with or on behalf of an approved organisation. This relates to providing support to the Salvation Army, the St Vincent de Paul organisation or similar charities, seeking mental health or other medical treatment, accepting educational—both occasional or life skills courses—financial or drug and/or alcohol counselling, or undertaking a mentoring program for people under the age of 25. We support the compassionate use of those provisions to assist those who are in genuine need, to ensure that they are not used to assist people to evade their responsibilities or to encourage lawbreaking. We support the bill.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [8.43 p.m.], in reply: I thank honourable members for their contributions to the debate on the Fines Further Amendment Bill 2008. A number of members made reference in the debate to secondary offending. I make the point that the issues that this bill addresses in terms of secondary offending are an important part of the Government's State Plan strategy for reducing recidivism, combined with the other initiatives that we debated earlier today in relation to the new community offenders services program centres, which are directed at ensuring that those who are released from custody on parole or other community based orders have an opportunity to be able to address their issues without necessarily remaining in custody.

A number of members spoke quite passionately and commendably about the matters that this bill attempts to address. It is important that I address some of the concerns, particularly those raised by Ms Lee Rhiannon. In her contribution she indicated that the Government needs to provide better alternatives to dealing with fines and debt than those proposed in this bill, particularly with regard to the work development order scheme provided in the Act. It is important to draw the attention of members to the fact that the bill not only provides for work development orders; it also allows people to pay their fines by instalments, the giving of cautions, the conducting of agency review of fines and extensions, and the write-offs of the State Debt Recovery Office. It provides a range of different and flexible options to deal with fine debt specifically in relation to issues raised by the member about persons who are impecunious or do not have the same financial resources, and the disproportionate impact that a fine may have on those persons. It is important to note that this bill extends the power of the State Debt Recovery Office.

Currently the State Debt Recovery Office may, on the application of a fine defaulter or at its own discretion, write off an unpaid fine if it is satisfied that due to any or all of the financial, medical or personal circumstances of the defaulter, the fine defaulter does not have sufficient means to pay the fine, is not likely to have sufficient means to pay the fine and the enforcement action has not been or is unlikely to be successful in satisfying the fine, and that the fine defaulter is not suitable to be the subject of the community service order. This discretion is currently exercised in a limited number of cases where people are suffering acute hardship. Under the current scheme the State Debt Recovery Office may either write off the entire amount or put the offender on time to pay. I recognise that these two options are not sufficiently flexible to deal with the situations that may arise. In some cases it may be more appropriate to write off only part of the person's outstanding debt and to require a payment of the remainder of that debt.

The bill amends the Fines Act to enable the State Debt Recovery Office to write off part of a person's fine debt and to enable the hardship review board to review the State Debt Recovery Office's decisions and to direct the State Debt Recovery Office to write off an unpaid fine. So the bill makes amendments to allow the State Debt Recovery Office to partially write off a fine, and even if the State Debt Recovery Office does not do that, the Hardship Review Board has the capacity to direct the State Debt Recovery Office to this effect.

Nevertheless, Ms Lee Rhiannon raises the issues of differential fines more broadly. I suppose she would argue why should someone necessarily have to go through that process, and the Government recognises that there may be issues in this regard. Amongst its response to the report of the Sentencing Council and the Ombudsman's report and the other stakeholders the Government has provided a reference to the Law Reform Commission to consider even more reform in this area. We are not suggesting in the slightest that this is the end of the process. The terms of reference, which are publicly announced, include in paragraph 5:

> whether penalty notices should be issued to children and young people having regard to their limited earning capacity and the requirements for them to attend school at the age of 15. If so:
>
> (a) whether the penalty amounts for children and young people should be set at a rate different to adults,
>
> (b) whether children and young people should be subject to a shorter conditional "good behaviour" period following a write-off of their fines, and
>
> (c) whether the licence sanction scheme under the Fines Act 1990 should apply to children and young people.

Amongst a range of matters that the Law Reform Commission has been asked to consider is the issue of differential fines in relation to that subcategory of persons.

I take this opportunity to pay tribute to all those who have been working very hard and diligently over the past couple of years in particular to reach this point. It is very satisfying, particularly for members of the Sentencing Council, who give up their time away from busy jobs to participate in such forums in order to see the fruits of their deliberations reflected in legislation. We have seen that with the sexual offences legislation that we passed yesterday and we are now seeing it with this legislation. It emphasises yet again the valuable work that organisations such as the Sentencing Council perform on behalf of the community of New South Wales.

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

Motion agreed to.

Bill read a second time

In Committee

Clauses 1 to 5 agreed to.

Ms LEE RHIANNON [8.50 p.m.]: I move Greens amendment No. 1:

No. 1 Page 5, schedule 1 [8], proposed section 19B, lines 24–32. Omit all words on those lines.

This amendment removes the clause providing that an official caution does not affect the power of an appropriate officer or agency to issue a fine or to take further action once a caution has been issued. It leaves the matter open as to how the agency guidelines formalise the process of issuing a caution. The Greens are not trying to make the cautionary system more onerous, but rather to ensure that it meets one of the most important intended aims of diverting young offenders away from receiving an undue number of penalty notices at train stations and other public places and racking up thousands of dollars of fines for what on balance can be relatively minor offences. Having listened to the Minister and the Opposition spokesperson, I felt there was a common sentiment about relieving the burden on people who accumulate excessive fines and ensuring that they are not then pulled into the judicial system. They should be able to access measures that effectively help them to rebuild their lives. This amendment was drafted to provide a mechanism for marginalised people to avoid fines, which would cause them further difficulties and greater alienation from our society.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [8.52 p.m.]: Whilst I acknowledge the sincerity of Ms lee Rhiannon's sentiments, it is important that the Committee focus on what this provision seeks to achieve. The bill provides for an official caution. If a person is committing multiple offences, a caution is not an appropriate means of addressing that behaviour. If a person is racking up fines as suggested and is having difficulty paying, one of the other options available should be examined. This is an important safeguard and it ensures that an appropriate balance is struck. An officer may issue an official caution for a number of reasons. However, after further evidence comes to light a person's conduct might be deemed more serious than originally thought—for example, there may be

evidence of a serious pollution offence in the case of an environmental law. An officer might discover that the person has committed numerous offences of the same nature and that therefore warrants a more serious response than a caution. To provide for situations like that, the bill preserves the power of officers to issue notices.

I must make the point that if this safeguard did not exist, there would be a chilling effect on the issuing of cautions. Officers and agencies would be reluctant to use the caution provisions for fear of being hamstrung down the line. Of course, there are statutory time limits for other actions that apply. Further action would have to be taken within six months for summary offences and within 12 months for traffic-related offences. It is important to ensure that we have this element of discretion to maintain the integrity of the system and a proper balance. We must ensure that those who are committing multiple offences are not issued with cautions, because clearly that process has not worked. We must also ensure that, notwithstanding the circumstances envisaged at the time, if the situation proves on further reflection to be much more serious, the officer has the opportunity then to take more elevated action. For those reasons, whilst I acknowledge the sentiments behind Ms Lee Rhiannon's amendment, the Government cannot support it.

The Hon. MELINDA PAVEY [8.54 p.m.]: For the very good reasons outlined by the Attorney General, the Opposition will not support the Greens amendment. Officers must have discretion in their handling of these situations. I fear that if there were no going back on a decision to issue a caution and if repeated offences were revealed, officers may be less inclined to issue cautions to those who deserve them. The Greens amendment might achieve the opposite from what they hope to achieve.

One element of the bill is community-based sentencing options for rural and remote areas and disadvantaged populations as addressed by the Standing Committee on Law and Justice report of 2006. The committee was chaired by the Hon. Christine Robertson—a country resident—who was supported by the Hon. David Clarke, the Hon. Rick Colless, the Hon. Greg Donnelly, the Hon. Amanda Fazio and Ms Lee Rhiannon. The committee produced a substantial report on community-based sentencing and difficulties with regard to remote and regional access. The committee received extensive evidence about the relationship between the penalties for unpaid fines and mandatory disqualification of drivers licences. So many issues were raised during the inquiry that the committee's last recommendation was that the Government undertake a multi-agency project to examine the issues relating to fine default and drivers licences brought before the committee during the inquiry and described in the report. It is worth mentioning that what we are dealing with tonight commenced some time ago before a committee of this House.

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

Greens amendment No. 1 negatived.

Ms LEE RHIANNON [8.57 p.m.]: I move Greens amendment No. 2:

No. 2 Page 6, schedule 1 [10], proposed section 24B (1) (a), lines 33–36. Omit all words on those lines.

This amendment removes the special circumstances whereby an agency that receives an application to waive a fine can notify an applicant within 10 days that it does not plan to conduct a review of the decision to issue a penalty notice. The Greens amendment would ensure that every application made to an agency to review a decision is given fair and due consideration. It recognises that every matter raised must undergo some level of review to determine the merit of the case. As I said in the second reading debate, under the proposed bill, an agency that has a heavy workload could use form letters to advise applicants that their fines will not be reviewed. There must be procedural fairness in the system and that is what the Greens are aiming to achieve. Given that the agency must examine each application to determine its merit and to decide whether the penalty notice will be reviewed, the clause creates an unnecessary opening for agencies to dodge their responsibilities. The Greens amendment seeks to address that issue. I urge members to support this amendment.

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Justice, and Minister for Industrial Relations) [8.59 p.m.]: Again, I acknowledge the sentiments behind this proposal, although again I have to make it quite clear that the Government is unable to support it. The provision contained in section 24B (1) (a) allows an agency that receives an application for review of a penalty notice not to conduct that review under the Fines Act, if it advises the applicant within 10 days and gives reasons for its decision. The intention of this provision is to allow agencies, in some circumstances, not to follow the standard procedure under the Fines Act. This gives agencies flexibility of opting out in specific circumstances, rather than choosing to be excluded altogether under the regulations.

Currently, in New South Wales, penalty notices can be issued by law enforcement administrative authorities for approximately 17,000 different offences under 100 separate laws. In 2005 there were 2.6 million new penalty notices processed by the State Debt Recovery Office. The standard review procedure, which the bill proposes to insert in the Fines Act, will not be appropriate in every one of those circumstances. For example, if the application for review made by an applicant alleges misconduct on the part of the issuing officer, that is not a matter that can be dealt with in the standard review time frame, and it is not a matter that can be dealt with through the standard review process, because the time is simply too short to allow proper investigation of the matter. This provision gives some flexibility to enable agencies to follow a different path in situations where the standard procedure is not appropriate, provided they write back to applicants and advise them how their applications for review will be dealt with.

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

Amendment negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. John Hatzistergos agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. John Hatzistergos agreed to:

That this bill now read a third time.

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

HOMEBUSH MOTOR RACING (SYDNEY 400) BILL 2008

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

INSTITUTE OF TEACHERS AMENDMENT BILL 2008

Second Reading

Debate resumed from 2 December 2008.

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.04 p.m.], in reply: I thank honourable members for their contributions to the debate. As an amendment is to be dealt with in Committee, I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

Dr JOHN KAYE [9.06 p.m.], by leave: I move Greens amendments 1 and 2 in globo:

No. 1 Page 4, schedule 1 [8], proposed section 24 (2) (c), line 33. Insert "in the 5-year period immediately before the revocation" after "once".

No. 2 Page 5, schedule 1 [8], proposed section 24 (2) (c), line 2. Insert "that involves an act or conduct that would reflect adversely on a teacher's professional standing or integrity or suitability or competence to teach" after "paragraph".

These amendments go to proposed section 24 (2) (c). It refers to the ability of an accreditation authority to revoke accreditation on grounds referred to as non-serious, where the grounds are by way of a repeat offence. It is left to the regulations to define what is meant by non-serious in relation to those issues. The Greens raise no objection to the concept of an accreditation authority withdrawing accreditation from a repeat offender on the basis of matters that are non-serious, provided that the definition of non-serious goes to the issue of teacher professionalism, and provided the provision within the Act is not used to penalise teachers for things that happened a long time in their past.

We understand that the intention of the section was exactly that, and that it was never the intention of the Government, the institute or those who drafted this legislation that it would be used in the latter circumstance. We would feel more comfortable if the provision were amended as we propose. To that end, we propose two amendments. Greens amendment No. 1 limits the period of applicability of the non-serious offences to the previous five years. That will mean a non-serious offence committed 10, 15 or 20 years ago will not be relevant on the issue of revocation.

The second amendment seeks to modify the prescription of the class of non-serious offences by regulation, confining it to those that involve an act or conduct that would reflect adversely on a teacher's professional standing or integrity or suitability or competence to teach. The amendment seeks to confine the class of non-serious offences to those that speak directly to a teacher's professionalism, competence or ability to teach. Matters not so relevant would not be grounds for dismissal for repeat non-serious offences. We are not seeking to do that in respect of section 2 (b), which talks about serious offences. I think there is a commonly held understanding of what serious would mean in that instance. I commend the amendments.

The Hon. ROBYN PARKER [9.09 p.m.]: The Greens amendments are sensible. Indeed, the Legislation Review Committee considered this matter. An outstanding teacher should not be penalised for having committed a minor offence that has no relevance to teaching ability, and contact with children or parents in the community. The Institute of Teaching should have regard to a teacher's accreditation, his or her professionalism and standards. Obviously it would be entirely different if the offence were serious and it impacted adversely on teaching ability, and contact with children or parents in the community. The Opposition supports these sensible amendments, which tighten up the legislation, rather than leaving the matters to the vagaries of regulations.

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.11 p.m.]: The Government supports the amendments. Dr John Kaye has acknowledged that it was never the intention of the Government not to deal with these matters. We are happy to support these amendments because we believe they conform with the intent of the bill. No-one is interested in losing fantastic teachers for prior indiscretions. The Government is about providing the best teachers for the kids of New South Wales. The Government is happy to support the amendments.

Question—That Greens amendments Nos 1 and 2 be agreed to—put and resolved in the affirmative.

Greens Amendments Nos 1 and 2 agreed to.

Schedule 1 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be now adopted.

Report adopted.

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

SUPERANNUATION ADMINISTRATION AMENDMENT (CHIEF EXECUTIVE) BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.14 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

Leave granted.

The bill amends the Superannuation Administration Act and the Public Sector Employment and Management Act 2002 to remove the position of the chief executive officer of State Super from the Chief Executive Service.

Current arrangements for State Super under part 3.1 of the Public Sector Employment and Management Act 2002 are inflexible and operate to the financial disadvantage of the State.

State Super has been attempting to recruit, unsuccessfully, a new chief executive officer for over 12 months. In the current investment environment the State requires the best investment advice available.

Current legislation restricts the Government's ability to competitively recruit a suitably qualified chief executive officer for State Super, which is the largest superannuation fund in Australia.

At 30 June 2008 the investment portfolio of State Super was $34.2 billion, of which $10.7 billion is member funds, and the remainder, $23.5 billion, represents the State's employer contributions.

The investment performance of State Super materially impacts the value of State sector net financial liabilities.

In particular, unfunded superannuation liabilities and the State's ability to meet the fiscal target of fully funding superannuation liabilities by 2030 is the primary long-term focus of State Super's investment performance.

Further, if State Super does not meet long-term investment earnings targets additional funding will be required from the budget to meet superannuation liabilities.

For example, if the future investment earnings of STC are 0.1 per cent less than the target rate of return the cash contribution by the budget towards superannuation liabilities would need to be increased by approximately $800 million over the period to 2030.

Within the above context it is critical that State Super be in a position to recruit a suitable chief executive with the ability to manage the State's largest portfolio of financial assets.

I commend the bill to the House.

The Hon. MATTHEW MASON-COX [9.15 p.m.]: It is my pleasure to lead on the Superannuation Administration Amendment (Chief Executive) Bill 2008. I inform the House that the Coalition opposes the bill for a range of reasons, most of which have been dealt with in great detail in the other place by the shadow Minister for Finance. The bill seeks to enable the chief executive officer of SAS Trustee Corporation, known as State Super or STC, to be appointed under terms and conditions set by the STC board with ministerial approval, rather than through the Chief Executive Service under terms and conditions set by the Statutory and Other Officers Remuneration Tribunal.

It is a poor principle to have a single piece of legislation for one appointment. I note that the bill will require the State to pay a salary that exceeds the current maximum for chief executive officers under the State Executive Service regime. However, I quickly point out that this is not a cost issue; indeed, the Opposition supports paying the market rate for this very important position. Nevertheless, we believe this should be exacted under the existing terms and conditions of the Statutory and Other Officers Remuneration Tribunal. I note that currently the chief executive officer of the SAS Trustee Corporation, known as State Super, is employed under terms and conditions set by the Chief Executive Service under the Public Sector Employment and Management Act 2002.

I also note that the object of this bill is to enable the chief executive officer of State Super to be appointed by the STC board on terms and conditions set by the board, with approval from the Minister. In order to achieve this objective, schedule 1 to the bill provides for the amendment of the Superannuation Administration Act 1996, while schedule 2 amends the Public Sector Employment and Management Act 2002. The Chief Executive Service and the Senior Executive Service were established in the New South Wales public sector in 1989. They include eight remuneration levels, which are set by the Statutory and Other Officers Remuneration Tribunal. The maximum package under these remuneration levels is $428,900, including allowances. These remuneration levels are reviewed annually and were last increased on 1 October this year, with the chief executive officer level rising by 5.3 per cent, which is certainly not in line with the Government's wages policy of which we are all very aware.

I note that the Statutory and Other Officers Remuneration Tribunal can also make special determinations on issues referred by the Minister. The Opposition has a range of concerns about the bill. The primary concern centres on the fact that this bill effectively takes the appointment of chief executive officer of State Super out of the hands of the Statutory and Other Officers Remuneration Tribunal. This provides for unchecked ministerial appointments on any terms for this position. Doing this under one piece of legislation is messy, to say the least. One wonders how many similar bills might be introduced if this is the type of approach taken on matters of this nature.

The Opposition acknowledges the fact that the market for this position is restricted. Whilst the bill enables the current maximum salary of $430,000 to be exceeded, it is probably appropriate in the context of the extremely competitive market for these highly sought after executives. I make it very clear this is not a cost issue. The Opposition strongly supports market-based pay. The Opposition also strongly supports employing the best people from the market to look after the superannuation assets of the State. However, we believe that these matters should be determined within the existing framework. The Statutory and Other Officers Remuneration Tribunal has a mechanism for special determinations. The Opposition is at a loss to understand why these provisions are not being used in this case. Why do we need a special bill to ensure that the chief executive officer of State Super can be employed at whatever rate the Minister deems desirable?

The responsibilities of the chief executive officer of State Super are enormous. The chief executive officer is responsible for managing an investment portfolio in excess of $34.2 billion. Over the past 12 months, while the role has been vacant, the value of superannuation in the New South Wales public sector has been collapsing. Indeed, First State Super has accumulated losses of 6.8 per cent, which is slightly higher than the industry average of 6.4 per cent, or equivalent to almost $1 billion, which is significant in the context of the assets of that fund.

In the mini-budget the unfunded superannuation liabilities were increased by $7 billion over the forward estimates period. The fact that this very senior and important position has not been filled in the past 12 months has no doubt contributed to the loss in the superannuation assets of this State over that period. One might argue that the Government's failure to fill the position has indirectly let down the teachers, police officers, nurses and firefighters of this State, in that their superannuation has performed perhaps less well than it might otherwise have done. In the past 12 months the global financial crisis has had a very significant impact. Indeed, one has only to consider the fall in the All Ordinaries, which 12 months ago opened at 6,419 points and last week closed at 3,397 points, a very significant loss indeed. The Dow Jones has fallen by a similar amount.

Whilst the Opposition applauds the need to move quickly and to provide appropriate market separation for the services and responsibilities of the chief executive officer of State Super, we are always very cautious in respect of any matters that involve the Minister for Finance. One need only consider the involvement of the Minister for Finance in other serious issues. We need to ensure that the public administration of this State is beyond reproach. In that regard, I reiterate that the Opposition opposes the bill. The Government has failed to recruit a chief executive officer of State Super for more than 12 months, and during that time the superannuation of public sector workers has been falling rather dramatically.

The Statutory and Other Officers Remuneration Tribunal is the appropriate body to determine the remuneration for public sector chief executive officers, and there is a special mechanism in place to deal with the circumstances of this case. The Opposition also opposes bypassing the existing process established by legislation, as provided by the bill. We consider the idea of a single law for one appointment to be inappropriate in these circumstances.

Dr JOHN KAYE [9.25 p.m.]: The Superannuation Administration Amendment (Chief Executive) Bill 2008 will remove the cap on the salary package for the chief executive officer of State Super, also known as the SAS Trustee Corporation. The Government in introducing this legislation has argued that the $428,900 salary at the top of the Senior Executive Service level is insufficient to attract a suitably qualified candidate to manage the $34 billion investment portfolio. The Greens oppose the legislation because we believe that the evidence shows that quality public sector managers can be found without mega-salaries. We oppose it also because it has the potential to open the door for executive hyper-salaries for the State's senior bureaucrats. In Committee the Greens will move an amendment to cap the chief executive officer's salary at less than 20 times the minimum wage.

The bill is introduced in an environment in which Australians are increasingly concerned about the growing gap between the income of the super wealthy, super highly remunerated chief executive officers and Australians who are on a wage. A 2006 Roy Morgan survey found that 84 per cent of Australians felt that chief executives were overpaid and that only 15 per cent of Australians believed that company executives had high standards of ethics and honesty. It is not just the public who are rightly concerned about the spectacular increase in chief executive officers' pay; it is also shareholders, who are increasingly voting down executive pay package proposals that are in many cases preposterous. Even the Prime Minister, Kevin Rudd, said on 16 October this year, "It's necessary, I believe, to get a better set of rules in place to rein in any executive greed." Kevin Rudd then announced:

> The Australian Government will also now be examining with APRA what domestic policy actions would be appropriate in pursuit of this objective—ie to deal with the problem of executive remuneration to financial institutions.

Even Malcolm Turnbull, the now Leader of the Opposition, said at the time:

> The level of executive salaries is incomprehensible to the vast majority of people. It has become excessive in my view.

That is an extraordinary statement coming from a man who, in his day, saw the positive side of a fairly spectacular remuneration package. Malcolm Turnbull went on to say:

> The shareholders of these banks and other institutions have really got to ask themselves whether they're getting value from these salaries.

So what is all the fuss about? Why are people—including Kevin Rudd and Malcolm Turnbull, and 84 per cent of the Australian population—getting so hot under the collar about chief executive salaries? Let us have a look at what these people are being paid. The average annual reported remuneration of the 100 highest paid chief executive officers of Australian companies is $4 million. That sounds like a lot of money—and indeed it is, 80 times more than the average annual full-time wage of $56,000. Not only is it a spectacularly huge amount 80 times the average full-time wage but also it is growing in a way that is completely unbelievable.

In 1992 the average highest paid Australian chief executive officer earned just 22 times the average weekly earnings, by 2007 that figure had risen to 80 times. The gap between average wage earners and highly remunerated chief executive officers is growing in a spectacular fashion, and is creating concern amongst Australians about the increasing divisions within our society, the increasing impoverishment of the average income earner, and the increasing aggregation of wealth in the hands of a small number of high-income earners. It is not just when measured as a component of the average wage; it is how the figures present when measured as a proportion of the minimum wage.

In 2007 the Commonwealth-established minimum wage was $27,150 per year. I ask members present—none of whom earns less than $129,000 per year—what it would be like to support themselves and possibly a family on $27,150 per year. It is preposterous that in a civilised society we still maintain an unbearably low minimum wage of $27,150 per year. It becomes doubly preposterous when you compare it with the 300 highest paid chief executive officers who, on average, are paid 94 times the minimum wage. It is even more preposterous when you look at the top 100 chief executive officers who are paid 140 times the minimum wage.

It is not just about the huge payouts given to chief executive officers; it is also about the appalling impoverishment of those people in Australia, a wealthy and successful society, that are still paid at ridiculously low levels. It is also about the difference between them and the tension it places on the society, the tension it places on the notion of social justice, and the tension it places on the notion of social cohesion created by the gap between the 100 highest paid chief executive officers, which is 140 times the minimum wage, and minimum wage earners. It is a society that is hell-bent on allowing a small number of people to aggregate a large amount of wealth and to keep a large number of people highly impoverished. If people do not share a concern about social justice, surely these pay rates must raise alarms about what it means to social cohesion as we move forward in what is going to be a very tricky twenty-first century.

Another aspect of the pay rates of chief executive officers is the increased use of short-term incentives—some of which are substantial for risk-taking behaviour—which are partly responsible for the financial collapse. The idea that chief executive officers who receive massive short-term rewards for improving the performance of their companies in the short term can afford to run away from the company when the chooks come home to roost financially is driving a standard of corporate behaviour that simply is pushing the world to the brink of financial collapse.

The $34 billion State superannuation investment needs to be managed by a chief executive officer with the appropriate skills to do so and the Greens accept that many of our members, many members in this Chamber and many people in society rely on the performance of the chief executive officer. Despite the ruling philosophy that started in the 1970s and has played out all the way through to this decade, there is no evidence that increasing the remuneration of a chief executive officer lifts the performance of a company. The only way the Government can justify busting the pay cap on the superannuation service is if it can provide evidence that paying mega salaries to chief executive officers will improve the performance of the corporation.

A 2003 study by Professor John Shields from Sydney University showed that there was no evidence that lifting the remuneration of a chief executive officer increased the performance of a company. He also provided a large number of examples where the remuneration of chief executive officers increased substantially, but the performance of the companies declined. At the other end of the extreme is the global corporation Toyota. The Japanese chief executive officer of Toyota, who is also the global chief executive officer, earns less than $1 million per year. In the corporate world $1 million per year is a small amount when compared with the earnings of Mr Phillip Green of Babcock and Brown Infrastructure who, in 2007, was paid $17 million. His company is now on the verge of bankruptcy. Mr Sol Trujillo is paid $11.8 million to not build a broadband service for us. Mr Allan Moss from Macquarie Bank was paid $33.9 million in 2007. None of those corporations is travelling well and every one of them has been taken into stormy waters by its chief executive officer and, in all cases, his team.

Toyota has an annual turnover that is far greater than the State's superannuation fund and its chief executive officer earns less than $1 million per year. He runs the world's most profitable car manufacturer—possibly the only profitable carmaker left in the world—and the one with the best long-term profit forecasts. Compare the salary of the Toyota chief executive with that of the three American car-manufacturing giants to see how disconnected the salaries of chief executive officers become from the rest of the world. Recently the three American chief executive officers flew from Detroit to Washington in their corporate jets to plead for money and they did not even jet share.

The Hon. Penny Sharpe: A very crook look.

Dr JOHN KAYE: The Parliamentary Secretary tells me it is a very crook look and I agree with her entirely. It shows how disconnected people on those salaries become from the plight of the average American or average Australian. What is more significant is that those chief executive officers on their mega salaries have taken the American car manufacturing industry to the brink of extinction. Paying a substantial salary does not guarantee quality: paying a substantial salary guarantees greed. Greed and good decision making are not the same thing and if there is one lesson that society should learn from the collapse of the global financial system it is that greed and sensible decision making are not one and the same thing.

With people like President-Elect Barack Obama, French President Nicolas Sarkozy and United Kingdom Prime Minister Gordon Brown making a break from the past, the Greens hoped that the New South Wales Government and the New South Wales Opposition would have learned a lesson. Unfortunately they are both still addicted to the idea that the growing gap between average and minimum salaries and the salaries of chief executive officers is tolerable and acceptable.

The Hon. Charlie Lynn: What about Bill Gates?

Dr JOHN KAYE: I do not think Mr Gates is a chief executive officer.

The Hon. Charlie Lynn: His foundation gives about $240 million a month to—

The SPEAKER: Order! The member with the call will address is remarks through the Chair and confine his remarks to the bill.

Dr JOHN KAYE: Good for Mr Gates. But what the Greens and the academic studies say is that there is no substantial correlation between wealth and capacity. The Government is now getting into the game of the chief executive officers by busting the top salary for the State superannuation staff with what is effectively an unlimited offer. As it stands there is nothing to stop the State's superannuation from falling into the hands of a man like Sol Trujillo who, as I have said, currently commands a salary of $11.8 million. IOFF Holdings Ltd, a similarly sized investment fund with funds under management of about the same size, pays its chief executive officer Tony Robinson more than $1.5 million per year. That admittedly puts him at the lower end of the Murdochs, Mosses, Lowys, and Wal King and Greg Clarke from Lend Lease, but nonetheless he is well above what the Greens would consider to be an acceptable ratio to minimum and average salaries.

The Government currently employs a large number of highly talented people within the senior executive service who are paid a maximum of $428,900 a year. The Government employs an even greater number of exceptionally talented people at salaries exceptionally less. The Government—or the people of New South Wales—employs a large number of people who have a strong handle on how to manage such funds. It is an extraordinary proposition that for the management of these funds we should break away from the traditional public service and go to the Gordon Gekko world of greed is good to attract highly paid executives. Governments around Australia and the world wring their hands, mop their brows and talk about the economic crisis, yet senior executive salaries are soaring.

When we have an opportunity to use the public sector as a leader in breaking away from this appalling tradition of rising senior executive salaries we blow it. Instead of saying we will work harder to find an appropriate person to run the State Super investment, we say we will join the market to find the 400 greediest people in Australia. As I foreshadowed, the Greens will move amendments to cap the salary of this position. It will be a chance for us to discuss an appropriate ratio between senior executives who run investment corporations and average Australians who struggle to make a living on the minimum wage. In the past the public sector has shown leadership on issues such as equal pay for women, flexible working hours and maternity leave. It is time the public sector showed leadership on busting this plague of greed that has gripped corporate Australia and gives a new direction that is based on public service, not greed. The Greens do not support this legislation.

The Hon. PENNY SHARPE (Parliamentary Secretary) [9.41 p.m.], in reply: I thank members for their contributions to this debate. I am surprised that the Liberal Party opposes the bill. Let me be clear about the intent of the bill. It is the case that State Super is in charge of a significant amount of assets in this State. It is the case that this position has been advertised for the past 12 months and a suitable candidate has not been found at the offered rate of remuneration. It is the case that New South Wales is the financial hub of Australia. This is the most competitive place in Australia to recruit quality people in financial services. This bill tries to overcome this problem and work towards getting the right person to manage the superannuation fund, which is in control of the financial future of many of our very hardworking public servants.

This bill will allow State Super to appoint a chief executive officer [CEO] with a remuneration that could exceed chief executive rates. The bill will allow State Super to appoint the CEO it judges to be the best person for the organisation. State Super has found that it needs to be able to offer competitive and flexible remuneration to a prospective CEO. Let us not pretend, as the Greens have tried to put, that we are talking about employing a person on a multimillion-dollar salary. That is simply not the case and it is a complete distortion of the purpose of the bill. I am advised that the position has been independently valued. To employ this person will cost nowhere near even $1 million. We are trying to put in place a practical way to achieve the best outcome for the State and to get the right person for the job. To do so we need greater flexibility. It is important to note that the bill will provide legislative authority for the board of State Super to determine the employment conditions of the CEO. That is an important oversight element.

The PRESIDENT: Order! I ask members to reduce the level of audible conversation. The Parliamentary Secretary may proceed.

The Hon. PENNY SHARPE: I was hoping that members would want to listen. There is an important safeguard in the bill in that the person who gets the job has to sign off the final package with the Treasurer. Tonight's debate has been bizarre. The Liberals are not supporting it; the Greens are completely distorting the purpose of the bill. The Nationals are just sitting around—I am not sure what they are doing. State Super's investment performance has a material impact on the State's financial position. Therefore, recruitment of the best-qualified CEO also will benefit the State. We have had independent advice on how much people in these positions should be paid. We are operating in the most competitive market in Australia to attract people in the finance industry. It is not the case that we are looking at paying this person a multimillion-dollar contract or that we are appealing to greed. We are just trying to get the right person for the job. This bill will deliver that. I commend the bill to the House.

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

The House divided.

Ayes, 19

Mr Brown	Reverend Nile	Mr Tsang
Mr Catanzariti	Mr Obeid	Ms Voltz
Mr Della Bosca	Mr Robertson	Mr West
Ms Fazio	Ms Robertson	
Mr Hatzistergos	Mr Roozendaal	*Tellers,*
Mr Kelly	Ms Sharpe	Mr Veitch
Mr Macdonald	Mr Smith	Ms Westwood

Noes, 18

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

Pairs

Mr Donnelly	Mr Ajaka
Ms Griffin	Mr Pearce

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

Dr JOHN KAYE [9.54 p.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

No. 1 Page 3, schedule 1 [3]. Insert after line 15:

(5) The Minister must not grant concurrence to a determination of the terms and conditions of employment if the total remuneration package is more than 20 times the total of the minimum wage and superannuation guarantee amount under the law of the Commonwealth.

No. 2 Page 3, schedule 1 [3]. Insert before line 16:

(6) The Minister must not grant concurrence to a determination of the terms and conditions of employment if the determination includes short-term incentive payments.

These amendments seek to place a limit on how much the chief executive officer of the State Superannuation Fund can be paid and it is expressed as a multiple of the total minimum wage and superannuation guarantee amount under the Commonwealth law by a factor of 20 times. Twenty times seems to be a very large number but, as I said in the second reading debate, 20 times is relatively small when compared with the top 300 chief executive officers in Australia who are paid 94 times the minimum wage and the top 100 chief executive officers in Australia who are paid 140 times the minimum wage.

The argument from the Government will no doubt be that it just wants a wage where it can attract the appropriate person out of the market. Unfortunately, the Government cannot have it both ways. It cannot say on one hand it will not pay mega salaries but on the other hand say that it is going to attract the appropriate person out of the market, because that would mean inevitably it would need to pay competitive salaries which would be at least in the order of $1.5 million—

The Hon. Penny Sharpe: Where did you get that?

Dr JOHN KAYE: The Parliamentary Secretary asks me where I got that. We looked for comparable size investment funds and a comparable size investment fund was IOOF, which has about the same number of funds under management and it pays its chief executive officer, Mr Tony Robertson, about $1.5 million a year. I am quite happy with the proposition that if the Minister says the Government is not going to pay $1.5 million year but instead it will pay somewhere in a more reasonable range, then let the bill specify that range.

Instead of sitting here and saying I am wrong, let the Parliamentary Secretary put her amendments where her mouth is and let her amend our amendment. Maybe she wants to raise the figure of 20 times to 30 times or 40 times, but when she does so she needs to be okay about fronting up to those Australians who are earning $28,000 a year and saying to them, "This is absolutely fine. We are quite happy about paying a senior public servant 40 or 50 times what you are earning because we cannot attract somebody otherwise".

The Hon. Penny Sharpe: That is a distortion.

Dr JOHN KAYE: If it is not 30 or 40 times I ask the Parliamentary Secretary—who says I am distorting the situation—whether she is prepared to say exactly how many times the Commonwealth minimum wage and superannuation guarantee amount will be the cap? Mr Trevor Khan is advising the Parliamentary Secretary not to say. That is fine, but what the Opposition is saying is "We are quite happy to have it uncapped. We are quite happy to see $1.5 million go out the door.

The CHAIR (The Hon. Amanda Fazio): Order! There are too many interjections. The member with the call should not respond to interjections, and he certainly should not respond to comments being made in a private discussion between members of the Government and members of the Opposition. The member will speak to the amendments before the Chair.

Dr JOHN KAYE: I appreciate your guidance, Madam Chair, on the fact that conversations between the Government and the Opposition are private. The second amendment we move enjoins the Minister to not grant concurrence to a determination of the terms and conditions of employment if the determination includes short-term incentive payments. What we are seeking to do is to take away from the remuneration package of the State superannuation investment fund the drivers that cause risk-taking behaviour.

As I said in the second reading debate, the Greens' concern is that one thing that has driven the global meltdown has been precisely the problem of chief executive officers saying, "Okay, I can take a risky decision here. I will make a lot of money out my short-term incentive payments and I will walk away", and when the chooks come home to roost the company goes belly up. The last thing we want is to provide incentives to chief executive officers of this $34 billion investment to take risks with what is essentially public money. The Greens urge members to support this amendment. If they do not, that is fine, but they need to be able to say how much they will accept the chief executive officer—a senior public servant—being paid. I commend the amendments to the House.

The Hon. MATTHEW MASON-COX [10.00 p.m.]: I understand the import of the Greens amendments. While they are well intentioned, the Opposition believes they are misguided. We oppose the amendments and reiterate our view that we support market-based pay rates determined by the existing Statutory and Other Officers Remuneration Tribunal framework. We believe this bill is a very poor precedent indeed.

The Hon. PENNY SHARPE (Parliamentary Secretary) [10.01 p.m.]: The Government does not support this amendment. The State Superannuation Fund is the largest superannuation fund in Australia. As members have said, it has over $30 billion of funds invested. The chief executive officer has a major responsibility to manage those funds on behalf of the New South Wales taxpayers and State Government employees. It is a unique position and may require a salary package greater than that paid to Senior Executive Service officers.

The effect of the Greens amendment would be to negate what the bill is trying to achieve. The suggestion that the Government is trying to pay someone more than $1 million is wrong. I confirm that the amount envisaged and suggested by the independent review is far less $1 million. It is simply a distortion to suggest that that is what the Government is trying to do—that is, to fuel greed. As I said, this bill is designed to attract the right person in a very competitive market for this very important job. The current arrangement is not flexible enough to allow the Government to deliver that result. We have already waited 12 months, which is too long; we need to get the right person as soon as possible and this legislation will provide the Government with the flexibility to do so.

If incentive payments were used—and there is no guarantee at this point that they will be—they would be paid to reward above-average performance over the medium term only if the return is in the first or second quartile—that is, in the top 50 per cent. If an incentive payment were made, it would be paid periodically through the life of the chief executive officer's five-year contract if deemed appropriate by the board. I reiterate that the Treasurer will oversight this process and he must sign off on the salary package. The Government does not support these amendments.

Dr JOHN KAYE [10.04 p.m.]: I thank the Hon. Matthew Mason-Cox for his comment that the amendments come from a good place. He says that the Opposition supports the concept of market-based pay. One would need evidence to prove that market-based pay improves the performance of chief executive officers and therefore corporations. That evidence does not exist. There is a body of perceived wisdom in our society that we must pay mega salaries to get superstars to perform. However, there is no hard, cold, substantiated statistical evidence to prove that increasing chief executive officer salaries will improve the performance of a corporation. The Opposition's view on this issue is based on an ideological brief; it is not founded on science or evidence.

The Parliamentary Secretary stated that the chief executive officer's package would be less than $1 million. The problem is that if the Government wants to go into the market and attract someone to manage $34 billion it will have to pay more than $1 million. If the Parliamentary Secretary thinks the package will be less than $1 million, the Greens challenge the Government to amend the legislation to include a $1 million cap. The Parliamentary Secretary says the Greens are distorting the meaning of the legislation. We are not; we are reading it as it is written—as black-letter law. There is no salary cap. Whether the incentive payment is made over the short term or the long term makes no difference. It will still encourage risk-taking behaviour—the sort of behaviour that results in the sort of mess confronting the global economy. The Greens commend the amendments to the Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [10.06 p.m.]: As I have pointed out, an independent evaluation has been undertaken to determine the salary package. The Greens have admitted that they have looked at a few company reports and worked out on the back of an envelope that the package will be about $1.5 million. I have assured them that that is not the case. It is simply wrong to suggest that the Government is looking to pay such a large amount. It is looking for the right payment for the right person in a public sector job. It is wrong to suggest that the Government has not used evidence and that there is some secret agenda to promote greed in the New South Wales public service or to distort recruitment practices. This is just not true.

Question—That Greens amendments Nos 1 and 2 be agreed to—put.

The Committee divided.

Ayes, 5

Mr Cohen	*Tellers,*
Ms Hale	Dr Kaye
Ms Rhiannon	Reverend Dr Moyes

Noes, 24

Mr Catanzariti	Reverend Nile	Mr Tsang
Mr Clarke	Mr Obeid	Ms Voltz
Mr Colless	Ms Parker	Mr West
Ms Cusack	Mrs Pavey	Ms Westwood
Ms Ficarra	Mr Primrose	
Miss Gardiner	Mr Robertson	
Mr Khan	Ms Robertson	*Tellers,*
Mr Lynn	Mr Roozendaal	Mr Harwin
Mr Mason-Cox	Ms Sharpe	Mr Veitch

Question resolved in the negative.

Greens amendments Nos 1 and 2 negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

COMBAT SPORTS BILL 2008

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [10.16 p.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

Leave granted.

The Combat Sports Bill 2008 will establish a broader regulatory coverage of combat sports and will create a Combat Sports Authority to replace the existing Boxing Authority of New South Wales. The definitions of "combat sports" used in the new Act will extend the existing regulatory coverage of boxing, kickboxing and wrestling to include a range of other sports which have risen to prominence since the existing Boxing and Wrestling Control Act 1986 was introduced. These include sports with names like Muay Thai, mixed martial arts, and cage fighting. The advent of these sports, while they might not be to everyone's taste, has required a response to ensure that the competitors are not exposed to unnecessary risk.

Some of these sports have vague and ad hoc sets of rules, which present some concerns regarding governance of the sports, and any discipline which their associations exercise over the conduct of their contests. A significant change under the new legislation is the removal of the exclusion of women from competing in amateur and professional boxing and kickboxing in New South

Wales. We are also increasing significantly the penalties applying to the conduct of illegal contests, that is, those operating without permits. At present some combat sports are simply not named in the existing legislation and accordingly cannot be regulated to ensure the maximum safety possible for the competitors.

In 1986 the Wran Government introduced the Boxing and Wrestling Control Act, in the process establishing a new approach to the regulation of those sports. This approach was aimed at addressing a number of significant issues of concern at that time. To address the health and safety needs of competitors, the Boxing and Wrestling Control Act of 1986 established the New South Wales Boxing Authority, with responsibilities including: supervising the sport, to ensure that boxers were properly medically supervised, both at contests and during intervening periods; and ensuring that all matches had a doctor in attendance and that promoters, managers, trainers, seconds and others were included within the coverage of the Act as registered "industry participants". The principles established in the Boxing and Wrestling Control Act 1986 will continue in the new Act. The seven members of the Boxing Authority have managed the sport of professional boxing very effectively. As part of their role, they attend the promotions, check the fitting of the gloves and ensure that all activities relating to the preparation of the boxers, including supervision of activities in the change rooms, are managed properly.

By capturing a range of other sports within the coverage of legislation, the New South Wales Government will be ensuring that those same safety standards are maintained across the combat sports industry. The sport of boxing includes as its primary activity, the directing of blows to the head of the opponent. Consequently, there has been a policy for over a decade in this State that children younger than 14 years cannot take part in competitive boxing matches. This policy reflects medical advice relating to the development of the brain in young people, and the need to protect young competitors. There has been disquiet among some members of the boxing industry regarding this policy. I, and my predecessors in the Sport and Recreation portfolio, as well as other Ministers and successive Premiers, have had representations made to us to remove the policy. I can state today that this policy will continue, and that appropriate age rules will be applied to other combat sports in which there is a significant factor of impacts to the head.

Another issue which has been contentious at times concerns the participation of women as competitors in boxing and kickboxing. In 1986, it was a matter of general public agreement that it was not appropriate for women to compete in these sports. Times have moved on and this position is seen as discriminatory and inconsistent with community attitudes and Government policy generally. The Government has had to consider the issues which would arise if we continued to exclude women from the opportunity to compete in boxing and kickboxing. As women are already competing in some of the sports which will fall within the purview of this new legislation, it is appropriate to remove all of the gender based exclusions.

Recent events have highlighted the need for effective management of crowds at contests and for rules of conduct for the entourages that increasingly accompany competitors to the venues for combat sports. The Boxing Authority of New South Wales is currently considering those issues and the new authority, in partnership with NSW Police and the Department of Arts, Sport and Recreation, will have to address those issues as one of its first tasks.

Through the changes outlined in this legislation, the Combat Sports Authority will have increased powers in addressing a range of breaches. The new Authority may refer matters for prosecution where an offender is unregistered. It may also impose penalties on any registered combatants or industry participants who fail to fulfil their obligations to conduct themselves in a professional manner.

For some people currently involved in combat sports, the new legislation will represent a change in the way they operate. Previously, in some combat sports, there was no legislative requirement for registration, no insistence on proper matching of opponents, no need to ensure the attendance of a doctor at all promotion and no clear understanding of the responsibilities of officials and other participants at contests. This is not to say that the promoters of combat sports events have been operating irresponsibly, but they have previously operated outside the regulatory system and this must be addressed. The Department of the Arts, Sport and Recreation has initiated discussions with industry representatives, to advise them of the regulatory requirements and to assist them with the transition. This process will continue over the next 12 months, and they will be required to register as from the beginning of calendar year 2010. In the meantime, participants in the industry will be able to work toward fulfilling the requirement for first-aid training to negotiate with medical practitioners to provide the necessary supervision at contests and to develop a sound working relationship with the Combat Sports Authority.

A feature of this new legislation is to institute permanent registration of combat sport combatants and participants. This matter has been a longstanding concern of the Boxing Authority. This registration system will operate in a similar way to that in the greyhound racing legislation, by ensuring that no loopholes can be found by unscrupulous characters attempting to operate outside the system. I take this opportunity to express my appreciation to past and present members of the Boxing Authority of New South Wales for their professionalism and dedication to managing the sport. I hope that they will seek to continue their involvement in the new regulatory system; I can assure them that we will need their expertise as it develops.

Boxing is still the largest combat sport in Australia, in terms of numbers of registered combatants, frequency and geographic distribution of contests. New South Wales has the most boxing contests, nearly half the national total per annum. Our approach will continue to include ensuring the attendance of at least one authority official at each boxing contest. Where female combatants are involved, female officials will also be required.

Following passage of the legislation, the new Combat Sports Authority will be established, with nine members—an additional two over the number currently on the Boxing Authority. The membership of the authority will include at least two members drawn from combat sports outside the realm of boxing and, for the first time, will including female members.

I now turn to some of the transitional arrangements associated with these changes. The authority will continue to receive administrative support from the Department of the Arts, Sport and Recreation. Following passage of the legislation, the department will initiate recruitment and accreditation of officials, initially through a process of seeking expressions of interest. The Combat Sports Regulation will be developed, and will list those sports to be subject to the regulatory system, including sports in which there is currently no government regulation such as Muay Thai, cage fighting, extreme fighting, mixed martial arts and others.

For women currently involved in any form of combat sports, it removes a restriction on their activity, and they may then choose to compete in boxing or kickboxing. Women who are New South Wales residents and currently involved in interstate travel in order to compete in boxing and kickboxing will be able to register and compete in their home State. For women newly entering the industry, there will be a wider range of options for their involvement.

For the Combat Sports industry, an anomaly will be removed, whereby women are currently prevented from competing in boxing and kickboxing in New South Wales, whereas no government regulation currently applies to their competing in other combat sports. Some combat sports will be subject to government regulation where none previously existed, there will be greater scrutiny of the conduct of those sports, and stronger requirements for supervision of medical issues and the conduct of promotions generally. Female officials will be identified, accredited and trained as necessary.

More facilities suitable for women will be required at venues, and only suitably-equipped venues will be permitted to stage events including female combatants. Some issues are expected to arise relating to the conduct of events, including the attire to be worn by women. This will be managed by including requirements consistent with international practice in the conditions of permits applying to such events.

The change in legislation will address a longstanding policy issue which has seen advocacy by a number of organisations including Women Sport and Recreation New South Wales and individuals including the former Federal Sex Discrimination Commissioner and State members of Parliament. This is important legislation that will bring New South Wales in line with the rest of the States and Territories. I commend the bill to the House.

The Hon. TREVOR KHAN [10.16 p.m.]: I lead for the Opposition on the Combat Sports Bill 2008 and can indicate that the Opposition will not oppose the bill. The Opposition is not comfortable with the bill or indeed certain of the activities that it seeks to regulate. Nevertheless, we understand the appropriateness of regulating the sports covered by the bill. The overview of the bill states:

The object of this Bill is to replace the *Boxing and Wrestling Control Act 1986* (the repealed Act) with legislation that provides for the regulation of the conduct of professional combat sports, and wrestling and amateur combat sport contests, and in particular:

(a) to enable regulations to be made extending the definition of combat sport to cover combative sports in addition to fist fighting and kick boxing, which are already covered by the repealed Act, thereby widening the ambit of the proposed Act, and

(b) to replace the Boxing Authority of New South Wales with a new body to be called the Combat Sports Authority of New South Wales (the Authority), and

(c) to enable the Authority to control the industry by an enhanced system of registration of combatants (including, for example, boxers) and other industry participants (including, for example, promoters and trainers), and

(d) to provide a series of controls through the registration system, including by way of the following:

(i) registration of combatants and other industry participants on a permanent rather than an annual basis,

(ii) imposing conditions on registration,

(iii) imposing fines,

(iv) suspension or cancellation of registration, and

(e) to provide an additional control by empowering the Authority to disqualify persons from participating in activities relating to the industry, and

(f) to remove the prohibition on women from registration as boxers and taking part in boxing contests, and

(g) to increase the penalties for certain offences.

New South Wales is the only State in Australia that has a ban on female boxing and kickboxing. This is discriminatory, and women who choose to participate in that activity have to travel interstate to compete. The bill will allow females in New South Wales to compete in boxing or kickboxing for the first time. The bill also extends to other sports that come under the broad term combat sports. In this way, some combat sports are being regulated for the first time, and the Opposition supports this.

The Opposition has identified nine primary functions of this bill. They are as follows: first, males and females between the ages of 18 and 36 are eligible to compete in combat sports. A certificate of fitness will be required and must not be more than a week old. Second, the phrase "combat sports" is an umbrella term used to describe any sport that involves any fist-fighting activity. It also covers martial arts as well as any sport that requires punching, striking, kicking, hitting and grappling. Therefore, sports including boxing, kickboxing, cage fighting, mixed martial arts and Muay Thai are covered in this bill. Third, as a result of this, previously unregulated combat sports such as Muay Thai and cage fighting will now be regulated.

Fourth, registering with the soon-to-be-formed Combat Sports Authority is compulsory for all competitors. This will replace the current Boxing Authority of New South Wales and competitors must be registered by the beginning of 2010. The registration of competitors is designed to make sure that they are properly matched, as well as ensuring safety. Fifth, the Combat Sports Authority will have nine members, an increase of two on the current organisation. Two members will be recruited from areas other than boxing. For the first time females may join the board. Sixth, the presence of at least one authority official will be required at each boxing contest. In the case of female participation, a female official will be present. Seventh, a medical practitioner will be present at any contest.

Eighth, all promoters, managers, seconds and other participants in the industry must be registered as industry participants to ensure that people cannot operate outside the system. Ninth, existing age rules have not changed. Registrants still need to be between the ages of 18 to 36 to register. People over 36 will be required to provide detailed medical reports for consideration of continuing registration. The bill offers sensible regulation of what can be dangerous sporting activities. It is the Opposition's position that proper regulation of these activities makes them considerably safer. We feel this bill provides that regulatory framework. For those reasons the Opposition will not oppose the bill.

Reverend the Hon. FRED NILE [10.21 p.m.]: I speak on the Combat Sports Bill 2008. The bill replaces the Boxing and Wrestling Control Act 1986 with the new Combat Sports Act. I would have preferred the Government to retain the word "boxing" in the title of the bill because the word "combat" has a connotation of military and aggression. These activities are meant to be sports, so I question the use of the term because I do not believe it is helpful. I am also concerned that women will be able to compete in both boxing and kickboxing from the ages of 18 to 36 when previously they were prohibited from competing in New South Wales. I understand that this measure is supported by the boxing fraternity in New South Wales and is not a political decision.

The Government stated that recent representations had generally supported the removal of the exclusions, but who made those representations? I know that individual women spoke on television about their desire to become involved in boxing, but I am not aware of any groundswell in the community demanding change. I question the wisdom of the change, in the same way that I question the wisdom of women taking part in the military in infantry combat units, in the commandos, the Special Air Service, and so on. I am concerned about future health problems if women take up boxing or kickboxing, which is very popular in Thailand and other countries, because of its possible adverse effects, especially with respect to their breasts. I wonder whether hitting or kicking in that area will increase the incidence of breast cancer, because constant bruising often results in the growth of cancer in the body. I have nothing against regulation of these sports because that is necessary.

I support the Combat Sports Authority. The membership of that authority will increase to nine, with inclusion of one female member, and will be given strong powers. At least under this bill these sports will be regulated and hopefully this will prevent the illegal contests that happen overseas and possibly in Australia. The role of the authority will be to ensure that these sporting activities are legal, so for that reason there is some value in that regulation. I support the bill with those reservations.

Mr IAN COHEN [10.25 p.m.]: On behalf of the Greens I rise to debate the Combat Sports Bill 2008. I must admit that I find this bill considerably vexing and I warn this House that I may engage in what Mr Robert Brown earlier today termed cultural bigotry. Today I was shown a number of videos on the Ultimate Fighting Championship [UFC], a mixed martial arts contest based in the United States of America, with competitions occurring in Canada, Europe and Japan. The contest involves two combatants fighting in a fenced or caged arena with thinly padded gloves, little more than knuckle protection. According to some sources, mixed martial arts and cage fighting are becoming the fastest growing sports in the United States, the United Kingdom and Japan.

After having viewed some of these fights, I must say that I am repulsed by their sickening brutality. Senator John McCain has appropriately labelled this form of fighting as human cockfighting. I am greatly concerned about the legitimisation and normalisation of such boundless brutality and violence inherent in no holds barred cage fights. The last thing we need in a society that is fighting an uphill battle against community violence is televised bloodlust beaming into New South Wales living rooms. As culturally abhorrent as I find this form of fighting, the decision on whether this State gives it legitimacy and regulates it must turn on a need to balance personal autonomy and the welfare of society's citizens. It raises the question of why society will

accept consent to some forms of violence or assault and not others. To highlight the tensions, I draw on the comments of Lord Templeman in the House of Lords case *R v Brown* (1993), which some members may be familiar with, to illuminate this point;

> In earlier days some other forms of violence were lawful and when they ceased to be lawful they were tolerated until well into the nineteenth century. Duelling and fighting were at first lawful and then tolerated provided the protagonists were voluntary participants. But, where the results of these activities were the maiming of one of the participants, the defence of consent never availed the aggressor. A maim was bodily harm whereby a man was deprived of the use of any member of his body which he needed to use in order to fight but a bodily injury was not a maim merely because it was a disfigurement. The act of maim was unlawful because the King was deprived of the services of an able-bodied citizen for the defence of the realm. Violence which maimed was unlawful despite consent to the activity which produced the maiming.

I think the quote nicely encapsulates the counterbalancing considerations of personal autonomy and community health. The same themes are relevant to this bill. On one end of the spectrum we have the need to respect personal autonomy. We must remember that personal autonomy is not absolute and that government intervenes in the lives of its citizens on a range of issues including drug use, end-of-life decisions, health decisions, interactions with the environment, intestacy processes, and the list goes on. An evaluation of personal autonomy—a right to engage in activities such as professional boxing, wrestling or cage fighting—could lead us to a conclusion that combatants who voluntarily consent to participation in a sport, where the primary objective is to inflict injury, are well within their right to make such a choice. Liberal individualism ascribes to reasonable women and men the capacity to make decisions about how they live their life.

It has also been pointed out to me by the Hon. Lynda Voltz that participation in some of the sports we are discussing enhances personal self-esteem and general fitness. I acknowledge the position of the Hon. Lynda Voltz, and that properly supervised and administered training and contests can be beneficial to those participants. We should not stand in the way of people who want to participate willingly in boxing, wrestling and kickboxing contests and training, and deny them an important part of their self-identity. Currently the personal autonomy of women is constrained in relation to participation in boxing and wrestling sports. Looking back at the original debate on the Boxing and Wrestling Control Act, the then Minister for Sport and Recreation, Mr Cleary, delivered such sterling lines as: "Part of the reason is that the spectacle of women attacking each other is simply not acceptable to a majority of people in our community." The then Minister also stated:

> There is another risk to which women are particularly vulnerable. That is the risk of becoming freaks in some sort of roman circus disguised as a sporting contest.

Under the current Act, women participating in boxing and wrestling events are forced across the border where women have already been emancipated from the remnants of twentieth century sexism. I agree that the banning of women from participating in boxing and wrestling sports is discriminatory and has only led to our New South Wales female fighters crossing the border to fight in professional contests. I support this aspect of the bill. In balancing personal autonomy—freedom to participate in activities such as cage fighting and mixed martial arts contests—we must consider the health implications of the particularly violent brands of fighting addressed in this bill. The Australian Medical Association [AMA] position statement clearly enunciates an opposition to all forms of boxing. Specifically, the AMA recommends a prohibition on all forms of boxing for people under 18 years.

The AMA position is not without medical evidence. The "Hospitalised Sports Injury, Australia 2002-03", published by the Australian Institute of Health and Welfare, has reviewed a number of injury studies in martial arts and boxing. In a Victorian study of professional kickboxers examining medical data between 1985 and 2001, evidence indicated that the injury rate was 22 per cent, or 250.6 injuries per 1,000 fight participations. The statistics also reveal that the 15-to-24 age bracket has the highest level of martial art participation. We constantly hear about the adverse impacts of alcohol use on young developing minds, yet there appears to be a glaring lack of concern for young people participating in combat sports and the impact on their developing bodies—and minds, I might add.

Personally, I think 14 years is too young for an adolescent to be participating in some of the more extreme, violent combat sports such as cage fighting. When I was a kid we had wrestlers like Killer Kowalski, whom members may remember. These wrestlers belonged to Actors Equity. I used to keenly watch them on Saturday at midday. Applying this paradigm of balancing and managing health and safety with personal autonomy, I want to consider how the bill aims to regulate this new expanded range of combat sports. Part 2 of the bill establishes registration of combatants with the new authority and part 3 requires industry participants—which may include, but is not limited to, promoters, managers, match makers, trainers, judges or referees—to also be registered with the new authority. Establishing a central administration body is an essential component to ensuring that particular regulatory standards are complied with.

Under proposed section 9 (1) (a) (ii) the authority must be satisfied that a combatant applicant is a fit and proper person to be registered in a particular prescribed class. How they are fit enough to withstand multiple blows of a bare fist or elbow to the head is absolutely beyond me. The phrase "fit and proper" is often used in assessments made by professional boards, whether it be lawyers, doctors or police officers. It would be interesting to consider what "fit and proper" means in the context of combatant applicants. Does it denote a particular physical or psychological state, or could it be used to bar combatants with criminal records from registration? Perhaps the Parliamentary Secretary can respond as to whether the authority will be given guidelines on what constitutes "fit and proper" in the context before us and whether any appeals against authority decisions to not register a person under the current legislation have been made.

Part 7 outlines the decisions of the new authority which are reviewable by the Administrative Decisions Tribunal. In particular, proposed section 59 (b) and (d) allow the tribunal to review an authority decision of who is fit and proper. The requirement of combatants to complete annual returns is also an important feature of the registration process and will provide the authority with the necessary information to make informed decisions about combatant health. Part 4 of the bill establishes a permit system for professional combat sport contests. Under proposed section 36 the new authority has the power to make a determination on the issuance of a permit for a professional combat sports contest. If the new authority grants a permit for a professional contest, it is required to notify the Commissioner of Police about the details pertaining to the permit.

Division 3 of part 4 is probably the most important aspect of the bill. Proposed section 39 requires a combatant to undergo a medical examination 24 hours prior to participating in a contest. Provisions within the division also provide penalties for promoters that allow combatants to participate in contests without complying with proposed section 39. A number of guidelines and processes for the new authority will be further elaborated in regulation, making it difficult to evaluate the precise rules and provisions for the different fighting styles or classes. Coming from a philosophical culture of non-violence and representing a party that holds non-violence as a core tenet makes evaluating this bill challenging.

I note that the dangers of allowing the more extreme combat sports, such as cage fighting, to flourish in some sort of black market, underground activity may drive a more extreme brand of fighting and have adverse impacts on participants. At present there are no real laws directly outlawing cage fighting. The consent defence will, in most instances, give a participant facing an assault charge an easy way to circumvent police attempts to crack down on cage fighting. This defence was examined in the context of boxing in the 1976 case of *Pallante v Stadiums Pty Ltd*. The difficulty in regulation is that legitimisation may have broader societal impacts. Sometimes people will undertake actions that are contrary to fundamental human rights. The fact that the majority is undertaking this activity does not give governments a moral authority and justification to regulate and normalise a particular activity.

Are we, in our privileged position, merely placed here to reflect societal values at the lowest common denominator, or should we as legislators take responsibility to lead the values of society? As such, even if we accept boxing, wrestling and kickboxing as acceptable, bare fisted cage fighting, male and female, adolescent or adult, is barbaric and I believe it should be banned. I cannot see how having a doctor supervise the fight and be on standby outside the cage can mitigate or ameliorate the extreme bodily damage inflicted in the normal course of this brutal pastime. In balancing the personal autonomy and health of New South Wales citizens, the permanent adverse health impacts on participants should justify an understandable incursion of personal autonomy.

I believe that in normalising cage fighting we are paying a greater societal price. This is not just a debate about regulation versus non-regulation, and that regulation is better because it aims to deliver some degree of protection to the health of participants. A culture that trains in the debasement of the original concept of martial arts should not be supported by the House. The Greens understand the general principles and intent of the bill, but we cannot support or condone such extreme violence as is endemic to cage fighting.

Reverend the Hon. Dr GORDON MOYES [10.38 p.m.]: I find myself in complete agreement with Mr Ian Cohen as I speak on the Combat Sports Bill 2008. The Christian Democratic Party accepts that it is important that all riders of motorbikes and bicycles wear helmets. There is a reason why we limit the activities of some people for their own good. For example, there is a reason why society has outlawed dog and bear fighting. There is a reason why we decide that cock fighting is not acceptable in our society. And there is a reason why gladiatorial combat ended. It was always regarded as a sign of a civilised society for a society to avoid the types of gladiatorial combat which ended in the injury or death of people.

In the State of New South Wales it was once possible to shoot one another in duelling, and there are historical examples in the first 25 years of this colony of people duelling and shooting one another. There are reasons why the Marquis of Queensberry rules were brought into being. There are reasons why bare-knuckle boxing was outlawed throughout the British Empire. There are reasons why the Australian Medical Association tried to stop boxing in Australia. Anyone who saw the pathetic state of that once great athlete Muhammad Ali at the opening of the Los Angeles Olympic Games will understand why it is important to protect the head area. I am also in favour of continuing the ban on women participating in boxing, although I have a great deal of sympathy for getting rid of sexist bans.

There are reasons why boxing has been regulated and kickboxing has been outlawed in some countries of the world. We now have regulated cage fighting on our doorstep. I have watched some of the films—which are available on the Internet—that have been sent to me to see what cage fighting involves. There is nothing that I have ever witnessed between human beings that is so violent and aggressive as cage fighting. It seems to me that the real problem is the mental state of the people watching it rather than that of the people engaged in it.

I grew up thinking that boxing and wrestling were very important, and my mother insisted that I should learn them properly. For years I attended the Young Men's Christian Association [YMCA] and participated in both sports. To this day I still think the Greco-Roman type wrestling that we have in the Olympics is a very fine sport but I really shudder when I come to think of young people being involved in these very hard kinds of contact sports. Is it a civilised society that permits this? Have we not grown beyond this kind of blood sport where we have socially approved violence? Why is it that we are applauding more aggression and violence? Why is it that we, as a supposedly intellectual community and as a group of people of legislative ability, want to support extreme combat sports? We all agree on the psychological influence that violence on television games has upon young people in particular, and yet a bill such as this is introduced. I want to place on record my own unease about all of this.

There is a very interesting historical insight. In the year 314 AD in the Colosseum in Rome there were gladiators seeking to kill each other for the amusement of the crowd. An old man by the name of Telemachus stood up, raised his hands and cried, "In the name of Christ, stop." Telemachus sought to separate some of the gladiators. One of the gladiators took his sword and struck Telemachus in the side of the neck, cutting through his artery. He fell to the ground and his blood soaked into the sand of the Colosseum. Someone then got up and left, and then more left, and dozens left, and hundreds left, then 20,000 people in silence moved out of the Colosseum. The fact is that never again in the Colosseum were such blood sports ever allowed. If you go to the Colosseum today, you will find a giant wooden cross and underneath are the words, "In the spirit of this cross lies the hope of the world." I do not believe we solve any social injustice by increasing violence.

The Hon. LYNDA VOLTZ [10.43 p.m.]: I support the Combats Sports Bill 2008 and I wish to respond to a few of the issues raised in this debate. Cage fighting, Muay Thai and extreme fighting are all currently legitimate sports in New South Wales. Combat sports such as extreme fighting and Muay Thai need regulation, just as boxing has been regulated. Let me explain the current situation for the benefit of members. The Act specifies that boxing and wrestling and all other combat sports are unregulated, including cage fighting, extreme fighting and Muay Thai. The Government does not want those sports to continue to be unregulated although legitimate in New South Wales so that police cannot intervene and medical authorities cannot perform medical checks before and after events in order to protect those who participate in such sports. It is important that we legislate and regulate what are currently legal sports in the State of New South Wales.

Reverend the Hon. FRED NILE: The Government should prohibit cage fighting.

The Hon. LYNDA VOLTZ: At the moment we want to regulate the sports. New South Wales is home to some of the world's Muay Thai champions. It is a legitimate sport that is competed in across the world. But the Government's first concern is to ensure that these combat sports are properly regulated. There is no regulation of the promotion of the sport either. For example, women are prohibited from participating in boxing and wrestling matches yet they can participate in cage fighting, Muay Thai and extreme fighting. The Government wants to remove one of the last pieces of discriminatory legislation in New South that applies to women. I understand the concerns that have been raised by some members and I realise that many people have concern about these sports. Although they not pretty sports, they are currently legitimate sports in New South Wales.

Reverend the Hon. Fred Nile: They are not prohibited but they are not legal.

The Hon. LYNDA VOLTZ: No, they are legal but they are not regulated. The bill will regulate them and bring them under control to ensure protection for those who participate in and promote such events in New South Wales. I urge members to support the bill.

The Hon. HENRY TSANG (Parliamentary Secretary) [10.46 p.m.], in reply: I thank members for their contribution to this debate. In reply to the debate I shall review the main issues addressed in the bill. The name of the new legislation will be the Combat Sports Act 2008. The Combat Sports Authority of New South Wales will replace the Boxing Authority of New South Wales. The regulation will list all the sports to be covered by the new regulatory system. For the first time sports such as Muay Thai, martial arts and cage fighting will be subject to government regulation.

The new legislation will ensure proper conduct of combat sports contests, including medical supervision and the application of other safety measures. The exclusions in the existing Act relating to women competing in boxing and kickboxing are removed in the new Act. The Combat Sports Authority will include female members. The age restrictions currently operating in the regulation of boxing and kickboxing will continue by use of policies applying to conditions of permit for combat sports contest. Other age restrictions will be considered on a case-by-case basis for each of the combat sports identified in the Act and the regulation. Registration of combatants and industry participants will be permanent.

A transitional period will apply to sports that are newly captured within the regulatory system, during which time there will be consultations regarding their incorporation into the system. Agreements will be established between the Combat Sports Authority, the Department of Arts, Sport and Recreation and the New South Wales Police Force regarding the responsibilities of each party in enforcing the regulatory system. Agreements will also be reached on the questions raised by Mr Ian Cohen as to what defines "fit and proper". My understanding is that over the next 12 months there will be detailed discussions on the regulatory regime. The main consideration really is safety and preventing the exploitation of participants. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

RETIREMENT VILLAGES AMENDMENT BILL 2008

Second Reading

Debate resumed from 2 December 2008.

The Hon. PENNY SHARPE (Parliamentary Secretary) [10.50 p.m.], in reply: I thank honourable members for their contributions to the debate. It is clear that many issues will be discussed during the Committee stage. However, the Government wishes to place on record a number of issues that were raised during the debate. As honourable members have heard, the primary aim of the Retirement Villages Amendment Bill is to provide distinct and much-needed benefits to retirement village residents and greater accountability and transparency in relation to the operation of retirement villages. The bill will provide for the holding of annual general meetings so that residents will have an opportunity to ask questions of the operator, allow for a reduction in the compliance burden for small villages conditional on residents' consent, stop residents from having to pay for village budget deficits but provide for the distribution of budget surpluses, provide stronger protection for residents' financial interests, provide for enhanced safety within a village, ensure ready access to a

village is available to emergency and home care services, create a register of New South Wales retirement villages, provide a settling-in period for new residents, allow residents greater rights to make changes to their residences, and clarify and update investigation compliance and enforcement powers.

All these amendments have been the subject of extensive consultation with the retirement village residents groups, the village operators and other retirement village organisations. I commend the tremendous efforts and assistance provided by these key stakeholders. Their knowledge and advice played a key role in the development and finalisation of this reform package. When concerns were raised after the bill had been introduced in Parliament, the Government responded and undertook further consultation with these stakeholders. Industry stakeholders have played a key role in the development of the Government's amendments to be moved in Committee. The Government is committed to maintaining this positive and productive working relationship. Some of the amendments will require supporting regulations and the Government will seek the advice of these stakeholders as part of the development of these regulations.

Operators will no longer have to seek the consent of residents for increases in recurrent charges that are at or below the rate of inflation. The Government believes this is an incentive to operators to keep their costs down, and that should help those residents on fixed incomes struggling to meet rising costs. A concern for many residents and their families is the ongoing charges that they remain liable to pay, although they have moved out of a village or passed away. It can be more onerous on those who have moved to a nursing home or hostel and face paying two lots of fees.

Currently where a resident is not an owner or registered long-term leaseholder the maximum period that charges can continue is six months from the time they vacate the premises. The bill will reduce the period to six weeks, which will encourage operators to take all reasonable steps to find another resident as soon as possible. Registered interest holders, including owners, currently face paying these ongoing fees indefinitely until the unit is sold. The bill significantly improves the situation of these residents by capping the length of time they are solely responsible for these fees to 42 days. After this time they will be required to pay only a share of these fees, the same proportion they will share in the capital gains from the sale of their unit. Should an existing contract contain a more favourable time frame for the resident, that time frame will prevail.

One issue raised by the Opposition during the second reading debate was the claim that the bill favours operators. The primary aim of the bill always has been to provide greater protection for retirement village residents. The Hon. Catherine Cusack pointed to numerous provisions that will be of clear benefit to residents. I can assure honourable members that all changes to the exposure draft were made in direct response to concerns raised by stakeholders during the consultation process. I also draw the Hon. Catherine Cusack's attention to the answer given to her question at the estimates hearing on 16 October 2008 by the Deputy Commissioner of Fair Trading, who said under oath that the department has been under no pressure or direction in preparing options for the Government on the amendment bill and that any suggestion that public servants were being influenced inappropriately was incorrect.

Claims were also made about different categories of residents. The Opposition's claims that the reforms are fundamentally flawed are contrary to its support for many provisions in the bill. Its claims are a gross exaggeration. Of course, retirement village residents who own their unit are on a different legal footing from residents who do not own their unit. The bill acknowledges these differences and seeks to address them appropriately. As the law stands, residents who are not registered interest holders could risk losing out financially should a village go bankrupt. That is why the statutory charge is being introduced for these types of residents. However, the legal rights that derive from ownership rights for long-term leases provide another form of protection for registered interest holders. Furthermore, it is simply untrue to state that the bill overrides favourable conditions in village contracts. As previously stated, transitional provisions in the amendment bill allow for contracts with more favourable terms to prevail.

The Opposition also made a claim about governance arrangements for budget consent processes. This amendment was in a 2006 consultation draft version of the bill that was publicly released for comment. It attracted little or no comment or concern. The intention of the amendment is to encourage operators to keep fees at or below the rate of inflation, as affordability is seen as the main concern of residents. The current efforts of residents to pinpoint possible savings or errors in their budgets relate only to larger proposed increases, that is, increases above the consumer price index. Residents would be better served if there were an incentive for operators to keep their charges and any increases to charges low. Large private sector villages, such as Henry Kendall, more commonly experience proposed increases well above the inflation rate. Therefore, those residents would benefit from such an incentive.

Existing protections in the Act prevent services and facilities from being varied without resident consent. There is no change to the list of items that cannot be included in a budget, such as capital replacement. There is also nothing to prevent operators and residents committees from continuing to liaise and consult in the development of draft budgets in the spirit of co-operation. Another Opposition claim was that there is a lack of effective consumer framework. Existing laws already provide a range of measures designed to protect village residents. The contents of the amendment bill represent a significant enhancement of those provisions. This package of reforms will provide greater transparency and accountability and will be of direct benefit to residents. There is a wide range of freely available information for senior citizens, such as the Fair Trading information booklet entitled *Retirement Village Living*. This booklet explains the different types of retirement villages that can be found in the industry and outlines some basic rights under the Act. It is aimed primarily at prospective residents and must be given out by operators to anyone who expresses an interest in becoming a resident.

Residents can also contact Fair Trading on the fair trading line, 13 32 20, for free advice, or call the Fair Trading specialist support unit on 1800 625 963, which is a toll-free number. I note that the Opposition on the one hand praises the grey power efforts of retirement village residents but on the other implies that elderly people cannot possibly understand and navigate these arrangements. That is an insult to the experience and intelligence of older Australians. Another issue that has been raised is in relation to disclosure documents. Existing laws already contain a mandatory requirement for the provision of detailed disclosure documents for potential retirement village residents. The document must contain information on the size of the village, the type of premises, the care facilities available, the owner of the village land, who manages the village, whether there is an established residents committee, detailed financial information, contents of village contracts, recurrent charges, entry costs, departure fees and so on. As we have already outlined, the new requirements will provide for a less detailed general inquiry document to be provided to people who are just making initial inquiries. The requirements for more detailed disclosure documents be provided to potential residents will remain. All this information is vital for potential incoming residents. The Government finds it curious that the Hon. Catherine Cusack is suggesting on the one hand that there is too much information for residents to comprehend and on the other there is not enough for them to be properly informed.

The 90-day settling-in period has also attracted some attention and some degree of misunderstanding, which can be clarified easily. If new residents seek to make use of the 90-day settling-in period and leave their retirement village unit, this will not have any impact whatsoever on the rights of the prior residents of that same unit to receive their full financial entitlements. The operator will still be obligated to pay the prior resident the appropriate amounts at the appropriate date, as will be required by their village contract under retirement village laws. Existing residents have no reason to worry; the settling-in period will benefit the incoming resident, with no disadvantage for the former resident.

On the issue of the village register, the Opposition proposes allowing a village operator 12 months to notify the Registrar General that land is being used for a retirement village, whereas the bill provides for this to be done within three months. This is a simple notification requirement and it is certainly not onerous. Retirement village operators are already well aware of this proposal. The village operators will be given advance notice before the requirement comes into effect and should have no difficulty meeting the three-month timeframe provided in the bill. The Opposition has suggested that the fee for registration will be $2,000. This is simply not true. Existing fees for similar procedures are less than $100. This is another embellishment that the Government does not accept. It is hard to comprehend how the Opposition's amendment, which quadruples the period for villagers to register, will expedite the finalisation of the register.

In relation to the statutory charge for non-registered interest holders, throughout the development of the bill it has been recognised that non-registered interest holders are more vulnerable in cases of insolvency and require improved protection. The review process explored a range of options to safeguard ingoing contributions and it was concluded that a statutory charge was necessary for residents with a licence or a lease who paid an ingoing contribution but who had no registered interest in the property, unlike registered leaseholders. There are similar provisions in counterpart legislation in Queensland, Western Australia and Victoria. Registered interest holders already have a form of protection because they have a registered interest in the property. Nevertheless, the effect of this in practice will continue to be monitored after the amendments commence operation and the issue can be re-examined, if necessary, to ensure that this approach provides effective safeguards for all residents.

The Hon. Catherine Cusack spent quite a lot of time speaking about the case of Mrs Phillips. I am informed that the New South Wales Office of Fair Trading has launched an investigation into this matter to

determine whether there are grounds for taking action. If Mrs Phillips has been charged incorrectly, as the commissioner has previously advised her family she can also seek restitution through the Consumer, Trader and Tenancy Tribunal. Depending on what evidence may be uncovered by this investigation, one possible option for dealing with this matter would be for the Commissioner of Fair Trading to take action on behalf of Mrs Phillips under section 190 of the Retirement Villages Act. Mrs Phillips also would have to give her consent for any action to be taken by the commissioner. It is not intended that these powers under the Retirement Villages Act be exercised lightly.

The Opposition also referred to a matter in Albury. We do not have full details about that case and without those details it is not possible to respond. However, if the Hon. Catherine Cusack or the local member has not already brought this matter to the attention of the Office of Fair Trading, the Government urges them to do so as a matter of urgency. Generally, should disputes or problems arise, residents can also access the mediation services provided by Fair Trading or apply to the Consumer, Trader and Tenancy Tribunal.

In relation to budget information processes, the amendment relating to increases below the consumer price index was contained in the 2006 draft exposure bill following significant support and submissions on the 2000 review. As stated, its intention is to encourage operators to keep fees at or below the rate of inflation as affordability is usually the resident's main concern. To provide more clarification on this matter, where an increase in recurrent charges is to be less than the consumer price index, the residents still have to be given the budget 60 days before the financial year commences, as required by section 112 of the Act. The budget must itemise the way the recurrent charges are going to be spent. There is also a regulation-making power to require the operator to provide any other information that is prescribed.

Residents still continue to receive annual audited financial accounts that show how much was paid in recurrent charges and what it was spent on. Furthermore, operators cannot vary any facilities or services that may affect the budget or the level of services without the consent of residents, or residents will be able to take them to the tribunal. In relation to information and advice for residents and members of Parliament I can advise the following. As part of the implementation of this package of reforms the Government will ensure that a targeted education and information program is provided for residents and operators. A key feature of this campaign will be a travelling road show that will visit areas where retirement villages are located. Plain English publications will be developed and circulated, and free information sources, such as the Fair Trading website, will be updated with relevant information on all aspects of the new measures.

The Government remains committed to listening to the concerns of residents and will continue to find ways to improve the ability of residents to exercise their lawful rights. The Opposition may not be aware that the Government already has established sources of guidance and advice for retirement village residents. For free advice and guidance, residents can call Fair Trading. I inform the Opposition that, in light of the Victorian example that the Hon. Catherine Cusack raised, the New South Wales Government will spend $387,000 over the next three years to support information and advocacy services for residents and prospective residents through the Aged-Care Rights Service.

I understand that at the most recent meeting of the Retirement Villages Advisory Council some of the council members who are themselves retirement village residents expressed deep concern about the misinformation that had been circulated regarding the amendment bill. The Opposition is rightly to be held responsible for fostering a campaign that set out to frighten elderly members of our community in a totally self-serving manner just before the recent by-elections. There is no question that this is a complex piece of legislation. However, the Opposition's statement that there is little to guide parliamentarians about the bill is simply not true. The report on the review of the Retirement Villages Act has been available since 2005 and contains detailed information about the reforms. The amendment bill itself contains a lengthy explanatory note—

[*Interruption*]

Is the Hon. Catherine Cusack saying that she has not been able to read 28 pages since 2005?

The Hon. Catherine Cusack: It is four years ago. It was November 2004.

The Hon. PENNY SHARPE: I am hoping that you have read it.

The Hon. Catherine Cusack: I have.

The Hon. PENNY SHARPE: The amendment bill contains a lengthy explanatory note regarding all the provisions. In conclusion I again thank honourable members for their contributions to this debate. I know that residents and operators are keen to see this reform package passed by the State Parliament so that planning for the implementation of these measures can begin. I put on record the Minister's thanks to the staff of the Office of Fair Trading—in particular, Leanne Porter, Gaby Mangos and Warren McAllister for their efforts in this lengthy process. There is much good news in this bill, which I commend to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.10 p.m.], by leave: I move Government amendment Nos 1 to 22 in globo:

No. 1 Page 3, schedule 1 [2]. Insert after line 13:

> ***capital maintenance*** means works carried out for the purpose of repairing or maintaining an item of capital and includes works prescribed by the regulations as being capital maintenance, but does not include works that are prescribed by the regulations as not being capital maintenance.
>
> ***capital replacement*** means works carried out for the purpose of replacing an item of capital, but does not include capital maintenance.

No. 2 Page 3, schedule 1 [3], line 32. Insert " **"capital replacement"** " after "**definitions of"**.

No. 3 Page 25, schedule 1 [63], proposed section 92 (2), lines 25–27. Omit all words on those lines.

No. 4 Page 26, schedule 1 [63], proposed section 93 (4), lines 27–30. Omit all words on those lines.

No. 5 Page 27, schedule 1 [63], proposed section 94 (3), line 7. Omit "the maintenance of or replacing any". Insert instead "capital maintenance or capital replacement in respect of an".

No. 6 Page 27, schedule 1 [63], proposed section 95 (1), line 13. Omit "maintenance". Insert instead "capital maintenance or capital replacement in respect".

No. 7 Page 27, schedule 1 [63], proposed section 95 (1), line 15. Omit ", or replace any such item,".

No. 8 Page 27, schedule 1 [63], proposed section 95 (2), line 20. Omit "Except as provided by subsection (3), a". Insert instead "A".

No. 9 Page 27, schedule 1 [63], proposed section 95 (3), lines 25–31. Omit all words on those lines.

No. 10 Pages 28 and 29, schedule 1 [63], proposed section 97, line 16 on page 28 to line 21 on page 29. Omit all words on those lines. Insert instead:

> **97 Funding of certain capital maintenance and capital replacement**
>
> (1) The operator of a retirement village may fund the cost of capital maintenance in respect of which the operator is responsible from the following sources:
>
> (a) the capital works fund for the retirement village (if any),
>
> (b) recurrent charges.
>
> (2) The operator of a retirement village must bear the cost of capital replacement in respect of an item of capital for which the operator is responsible.
>
> (3) This section does not authorise the funding of any of the following from the capital works fund or recurrent charges for the retirement village:
>
> (a) the construction of a new building or a new stage of the retirement village,
>
> (b) any work arising from the breach of a statutory warranty (within the meaning of the *Home Building Act 1989*) in respect of which proceedings may be commenced under Part 2C of that Act,

(c) the depreciation of items of capital,

(d) the refurbishment of vacant residential premises within the retirement village,

(e) such other things as may be prescribed by the regulations.

No. 11 Page 29, schedule 1 [63], proposed section 98, lines 22–32. Omit all words on those lines.

No. 12 Pages 29 to 31, schedule 1 [63], proposed section 99, line 33 on page 29 to line 9 on page 31. Omit all words on those lines. Insert instead:

99 Capital maintenance to be included in proposed annual budget

(1) This section applies only if:

(a) the operator of the retirement village is required to supply the residents of the retirement village with a proposed annual budget, and

(b) the operator proposes to use any recurrent charges or any part of the capital works fund (if any) for the retirement village to fund capital maintenance.

(2) The operator of a retirement village must, in the proposed annual budget:

(a) list each item of capital maintenance that is proposed to be carried out, and

(b) specify, in respect of each item, the expected cost, and

(c) include, in respect of each item, any quotes that the operator has obtained, and

(d) include provision for urgent capital maintenance.

No. 13 Page 31, schedule 1 [63], proposed section 100 (1), line 13. Omit "and replacement".

No. 14 Page 31, schedule 1 [63], proposed section 100 (5) (a), lines 30 and 31. Omit "and replacement in accordance with a proposal under section 99".

No. 15 Page 31, schedule 1 [63], proposed section 100 (5) (b), line 35. Omit "and replacement".

No. 16 Page 32, schedule 1 [63], proposed section 100 (8) (b), line 14. Omit "and replacement".

No. 17 Page 37, schedule 1 [81], lines 13 and 14. Omit all words on those lines. Insert instead:

(7) The residents of a retirement village may consent to not being supplied with a proposed annual budget if, in the year in which the consent is given, the total amount of the recurrent charges that are to be collected for the year does not exceed $50,000 or such other amount as may be prescribed by the regulations.

No. 18 Page 37, schedule 1 [81], lines 19–21. Omit all words on those lines. Insert instead:

(9) Consent given under subsection (7) remains in force until such time as:

(a) the consent is revoked by a resolution of the residents of the village, or

(b) the total of the recurrent charges to be collected for a financial year to which the consent relates exceeds $50,000 or such other amount as may be prescribed by the regulations.

No. 19 Page 41, schedule 1 [103], lines 4–16. Omit all words on those lines. Insert instead:

[103] Section 119 (2) (a) (i) and (ii)

Omit the subparagraphs. Insert instead:

(i) details of the income and expenditure of the village during the financial year, including income and expenditure of the capital works fund (if any),

(ii) details of the balance of the capital works fund (if any),

No. 20 Page 65, schedule 1 [167], proposed clause 24 of schedule 4, lines 1–7. Omit all words on those lines.

No. 21 Page 65, schedule 1 [167], proposed clause 25 of schedule 4, lines 13–15. Omit "held by the operator and may be used by the operator to fund the operator's proportion of any capital maintenance and replacement". Insert instead "paid to the operator of the retirement village".

No. 22 Page 67, schedule 1 [167], proposed clause 28 of schedule 4, lines 2–7. Omit all words on those lines. Insert instead:

28 Amendments relating to annual budgets

(1) A statement of proposed expenditure or a statement of approved expenditure under this Act (as in force immediately before the repeal of the definition of ***statement of approved expenditure*** in section 4 (1)) is taken, on that repeal, to be a proposed annual budget or approved annual budget respectively.

(2) An amendment made by the 2008 amending Act does not affect expenditure from recurrent charges of a retirement village that was approved, in accordance with this Act, by the residents of the retirement village before the commencement of that amendment. Any such expenditure may be made after that commencement from the recurrent charges of the retirement village.

The primary aim of the Retirement Villages Amendment Bill is to benefit the existing residents of retirement villages. As explained in the second reading speech, these amendments have been drafted to take account of concerns expressed by retirement village residents. Key stakeholders, including the Retirement Villages Residents Association, the Retirement Village Association and the Aged and Community Services Association, have expressed their support for these amendments. The amendments concern only how the cost of maintenance and replacement of capital items are to be shared between residents and operators. In summary, the basis of the existing arrangements in the Retirement Villages Act will be retained, but will be integrated with significant new proposals. The outcome of the integration of the current system and the new proposals will be a straightforward process for determining who is liable to pay for maintenance and replacement of capital items in villages.

The Government's amendments do not completely remove the bill's capital works reforms. Essentially, the Government's amendments will remove from the bill a requirement for residents to contribute to the cost of capital replacement. However, they will also remove the restriction on residents' responsibilities for funding capital maintenance costs. That will return the legislation to the current situation, where residents pay 100 per cent of the cost of capital maintenance through recurrent charges or the capital works fund. Other beneficial reforms will be retained, including providing for residents to be reimbursed by the operator for any urgent repairs they need to arrange in their unit. The Government's amendment also retains provisions that prevent residents from being required to pay recurrent charges for defective building work, new building work, depreciation and refurbishment of dwellings within the village.

A regulation-making power will be added to enable clearer definitions to be developed to reduce disputes about what is maintenance and what is replacement, and about fixed and non-fixed capital items. The provision in the bill that requires operators to replace an item of capital if it is not practical to maintain is also retained. Retirement village operators will be required to include details of all proposed capital maintenance for each financial year in the annual budget. Resident consent for the proposed expenditure will have to be sought as part of the budget approval process. In addition to a list of proposed works, the budget will have to provide a detailed breakdown of expected costs, and any quotes obtained must be provided to the residents with the proposed budget. The impact of these changes will be that residents will have a much greater say in decisions about capital repairs and maintenance. Residents will be protected from cost blowouts because operators will not be able to spend money on capital maintenance unless residents are in favour of such expenditure. In the interests of fairness and equity, should difficulties arise, both residents and operators will be entitled to apply to the Consumer, Trader and Tenancy Tribunal to address problems concerning the capital maintenance proposal. I commend these amendments to the Committee.

The CHAIR (The Hon. Amanda Fazio): Two Government amendments that have been moved are in conflict with other amendments to be moved later. When we get to the end of this section, I will put all of the Government amendments in relation to which there is no conflict, and we will hold the other two over until the other amendments are before the Committee.

Ms SYLVIA HALE [11.14 p.m.]: Which amendments are in conflict?

The CHAIR (The Hon. Amanda Fazio): Government amendment No. 10 and Opposition amendment No. 9, and Opposition amendment No. 11 and Government amendment No. 15. Liberal Party amendment No. 21 is in conflict with Greens amendment No. 4. I will explain that later.

The Hon. CATHERINE CUSACK [11.14 p.m.]: The Parliamentary Secretary indicated that residents could apply to the Consumer, Trader and Tenancy Tribunal if they dispute an item. How can that occur if the budget consent process is not required and has been suspended because the operator has increased the budget by the CPI or less? I am happy to await a response on that.

Ms SYLVIA HALE [11.15 p.m.]: The Greens support the thrust of the Government's amendments. Clearly, the Greens, the Coalition, the Shooters Party and the Christian Democratic Party agree that the provisions in the bill that transfer up to 50 per cent of capital replacement costs to residents are unfair. The multi-partisan consensus about those provisions should indicate just how wrong the Government's proposals

were. Government amendment No. 1 inserts new definitions of "capital maintenance" and "capital replacement". Once again, the detail is left to the regulations. The Greens do not oppose this amendment because it provides at least a general definition of both. Later amendments provide that the operator will continue to be responsible for capital replacement.

Government amendments Nos 2 to 9 are largely consequential. Government amendment No. 10 is the key amendment that removes the 50 per cent of capital replacement charge provision. It deletes that clause and replaces it with one that specifies that "the operator of a retirement village must bear the cost of capital replacement". The Greens are inclined to support that amendment. However, I will have to examine Opposition amendment No. 9. Government amendment No. 11 deletes section 98, which provides that registered interest holders must split costs with owners for maintenance or replacement of capital items within their premises. The Greens support the amendment. We also support amendment No. 12, which is consequential and flows on from the capital maintenance charges. In effect, there is no need for residents to see a capital replacement plan because residents will not have to contribute any money to the plan. Government amendments Nos 13 to 16 are largely consequential and the Greens support them.

Government amendments Nos 17 and 18 allow residents to opt out of seeing a budget if they so choose where recurrent charges do not exceed $50,000. The Greens do not oppose this amendment because it applies to small villages. We have not heard any specific opposition to that provision from residents. The Greens support this amendment because we believe it is formulated in a slightly better way than the Government's original version. According to this version, when recurrent charges exceed $50,000 residents would be obliged to review budgets. The Greens also support Government amendments Nos 19 and 20. Government amendment No. 21 provides that any funds held in a capital replacement fund for a retirement village that is dissolved by subclause (1) are to be paid to the operator of a retirement village. Does that mean the operator is paid the capital replacement fund as a one-off diversion of money? What is the justification for that amendment? Is it consequential because it refers to the operators' portion of capital replacement, which is now redundant? A general question is: Why does the money not go to the capital works fund? We would support Government amendment No. 22.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.20 p.m.]: I am advised that amendment No. 21 is a consequential amendment. I will seek advice on why the money is not to go into the fund and get back to the member.

The Hon. CATHERINE CUSACK [11.20 p.m.]: The Opposition welcomes the Government's backflip on its disgraceful attempt to impose on residents the responsibility to pay 50 per cent of capital and capital replacement costs. That proposal, of course, would have overridden everybody's contracts. It is unprecedented in Australia to require one person to pay for another person's property, but that would have been the effect of the Government's proposal. The Government, in a sense, flatters the Opposition in saying that it is the Coalition's fault that the Government had to move the amendment as a result of our so-called campaign of misinformation. The Opposition has not taken a backward step on this issue, and it is very proud of its role. However, I must inform the Government that the impetus was very much a grassroots movement by residents. Our campaign resulted from going out and asking residents their opinion on the Government's proposal. We got very robust feedback and were given our marching orders on this issue.

I am given to understand that many of the complaints made by residents took the Government by surprise. I am staggered by that suggestion, because the very first village I went to gave me feedback in terms that were just as robust as those of the next village, and the next village and every other village after that. I am astonished that, after five years of alleged consultation, the Government was amazed that the residents did not want its proposal. That suggests there must have been something incredibly wrong with the consultation process. It is strange that the Government blames a campaign of misinformation, but in the next breath points out that all stakeholders agree that its amendment is very good. I will not belabour the point; I think the amendment speaks for itself.

A number of issues continue to concern the Opposition. The Government has said that residents cannot be charged for matters that can otherwise be dealt with under building warranty claims. I draw a problem to the attention of the Government, which relates to construction of a new retirement village where the developer who builds the village is also the owner as well as the operator. In that circumstance, a huge conflict of interest arises where the operator makes a claim against the builder of the village alleging building defects. That arises because the operator is the same person who built the village in the first place. In that situation, suddenly the operator

does not think a building defect is claimable under warranty, and residents suddenly find these repair costs appearing in their bills. In one of Sydney's largest villages at Constitution Hill this is a very vexed issue. It has been going on for a couple of years now. It is a matter that the residents need assistance with.

The Parliamentary Secretary referred to funding being provided over three years to the Aged-care Rights Service [TARS]. I think the Aged-care Rights Service is the organisation that the Minister was referring to. That organisation is already funded to provide legal advice to residents, but its resources are terribly overstretched. The Parliamentary Secretary may not know how overstretched this meagre resource is for all of the residents, but people liked Mrs Clare Phillips, whom the Parliamentary Secretary referred to earlier, certainly has been complaining to the Department of Fair Trading. She drew the attention of Fair Trading to this matter on a number of occasions in 2006, but no help was forthcoming. I thank the Minister for now organising an investigation into the matter. An investigation certainly is warranted. I presume that Fair Trading, like TARS, is overrun and that is why so many needy cases are turned away, and explains why the contest between the residents and the developer/owner is so unequal.

The Government said recurrent funding being made available to TARS would facilitate communication of this new legislation. That thinking is flawed. That is not enough; the Government needs to do more to make that happen. In Victoria the level of funding was over and above legal advocacy for people taking complaints to tribunals. What the Government has said tonight, with all due respect, is not at all comparable with Victorian funding, which was one-off funding to facilitate very significant legislative change. That was a very good idea. I appreciate that times are tough for the Government, but without some effort over and above what is being funded for legal advocacy no-one will understand or be able to avail themselves of these changes.

I think the Minister's office will confirm that as my amendments become available from Parliamentary Counsel, they have been forwarded almost immediately to the Minister's office—certainly, as soon as I have opened the email. In addition, I have provided the Government with a schedule on how I propose to proceed. I very much regret that the Government has not reciprocated the cooperative and constructive approach, as is demonstrated by the fact that all these amendments are moved in globo. So forgive my struggling to come to grips with so many amendments being debated together. I ask the Parliamentary Secretary: What is the effect of the Government's amendments on registered interest holders' responsibility to pay for refurbishment costs and capital replacement costs within their own premises?

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.27 p.m.]: The provision not allowing home warranty costs to be charged through recurrent charges ensures that residents cannot be charged for work that comes under a statutory warranty under the Home Building Act. The problem to which the member referred will be resolved by this provision. I ask the Hon. Catherine Cusack to repeat the question.

The Hon. CATHERINE CUSACK [11.28 p.m.]: In this instance the operator is the same entity as, or is closely related to, another company that is part of a network of companies running the village, and the operator is the person who built the village. If there is a building defect, the onus falls on the builder to rectify the problem. The operator, in making a decision as to whether it is a building defect, or whether the cost needs to be charged to residents, is not able to make an independent decision because the operator and builder are one and the same person. The operator is not to charge residents for home warranty matters, but the operator is making that determination. In this particular village there is a very serious disagreement over, for example, cracks in the wall, which clearly are construction defects. But because the person who constructed the village is the same person who is operating the village, the operator is denying responsibility and in fact will not even discuss the matter any more with the residents. Cracks in the wall are but one example of a number of building defects in that village. I also ask the Parliamentary Secretary whether a response has been provided in relation to the approvals process, when the budget process has been suspended because the operator has increased recurrent expenditure by CPI or less.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.30 p.m.]: The operator is responsible for capital replacement inside units. Maintenance is covered by recurrent charges. Residents cannot be required to pay for refurbishment. When vacating, they are only liable for damage beyond fair wear and tear.

The Hon. CATHERINE CUSACK: So it is the status quo?

The Hon. PENNY SHARPE: Yes.

The Hon. CATHERINE CUSACK [11.30 p.m.]: I am yet to receive an answer in relation to the budget. What is the situation for approving capital maintenance budget under the new provisions if the operator increases the recurrent charge by the consumer price index or less?

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.30 p.m.]: Where an increase in the recurrent charge is less than the consumer price index, residents will still have to be given the budget 60 days before the financial year commences, as required by section 112 of the Act. The budget must itemise the way in which the recurrent charges are going to be spent. There is also a regulation-making power to require the operator to provide other information that is prescribed. Residents will continue to receive annual audited financial accounts that show how much was paid in recurrent charges and what it was spent on. Operators cannot vary any facilities or services that may affect the budget or the level of services without the consent of residents. If they choose to do so, or try to do so, the residents will be able to take them to the tribunal.

The Hon. CATHERINE CUSACK [11.31 p.m.]: In the event that the amounts are not varied but that different projects are allocated—for instance, a project is completed so the maintenance budget the next year will contain different projects—I want to clarify that nothing concerning the budget process is different in relation to these matters; that if the budget is suspended, all of those formal processes are suspended.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.31 p.m.]: My advice is yes.

The Hon. CATHERINE CUSACK [11.32 p.m.]: In which case, I will express my reservations about the matter and deal with it later. The Opposition intended to move a large number of amendments in different terms to the Government's amendments. Our amendments sought to revert to the status quo. The matter is very complex because the Government's changes ran like veins through the bill, which is why it has been a complex task for the Government to reverse the proposal that residents were to pay 50 per cent of capital replacement. Therefore, the Opposition will not proceed with the circulated amendments, which I have not yet moved. The Opposition defers to the Government and accepts the Minister's assurance that the situation will revert to the status quo. That was made clear in the Ministers media release. I note that the Parliamentary Secretary referred to differences in the status quo, in that it enables the processes to fit in with unrelated changes that impact on this issue. On that basis, and with my expertise, I am bound to accept the Minister's word and state that the Opposition does not oppose the amendments.

Ms SYLVIA HALE [11.33 p.m.]: In the interests of trying to understand what is happening, would Ms Cusack indicate which amendments will not be proceeding?

The Hon. CATHERINE CUSACK [11.33 p.m.]: Opposition amendments relating to capital maintenance charges on sheet C2008-87A, which were circulated a couple of weeks ago. An additional set of amendments by the Opposition on sheet C2008-111A have been circulated, and these deal with other amendments. In conclusion, I have a submission about Henry Kendall Gardens entitled "Notes and Queries on 2008 Amendment Bill", which is an excellent critique on the problems associated with the proposal that we are in the throes of changing. It was written by Bryan McGrath, the president of the residents committee at Henry Kendall Gardens Retirement Village. It is a very detailed and intelligent guide to the problems in the proposal we are now overturning. I seek leave to incorporate this document in *Hansard*.

Leave granted.

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HENRY KENDALL GARDENS

NOTES AND QUERIES ON 2008 AMENDMENT BILL

capital replacement fund—now dissolved. Does this mean that if entry fees are paid for capital replacement the operator is not required to use these funds for capital replacement? Any ingoing contribution paid by a resident for the purpose of "capital replacement" should be quarantined and used solely for that purpose, or does the omission of Section 95 mean that the operator can no longer charge an ingoing contribution for capital replacement.

registered interest holder—under 7 1, (c) must have long term lease and at least 50 per cent of capital gain. If both these criteria are not contained in the lease, does this mean that the operator is responsible for the maintenance of the residence internally and externally, or only for the internal maintenance

capital gain—where a "discount" or "deferred payment" is given at the time of purchase but is to be paid from the proceeds of the sale, which figure is used to calculate the capital gain, the difference between the "gross" price before the discount or deferred payment is taken into account, or the "net" price that is actually paid and the incoming "sale" price?

proxies—the limit of two proxies may be suitable for a small village, but for a large village this could cause problems. The number of proxies under the current Act (5) is a reasonable number. The Act is also silent as to how the ballot

is to be conducted, by post or at a duly called meeting of residents. If the proxies are "closed" proxies i.e. an instruction to vote in a particular way, then why should there be any limitation on proxies, and why could they not vest in the chairman?

capital maintenance and replacement—.

Section 92 Interpretation

(1) In this Division, an item of capital for which an operator of a retirement village is responsible means any item of capital within the retirement village other than an item of capital:

(a) that is owned by a resident of the retirement village, or

(b) that is association property under a community land scheme or common property under a strata scheme, or

(b) that is of a class prescribed by the regulations for the purposes of this section.

"*item of capital*" means:

(a) any building or structure in a retirement village, and

(b) any plant, machinery or equipment used in the operation of the village, and

(c) any part of the infrastructure of the village, and

(d) any other item prescribed by the regulations, but does not include any item excluded from this definition by the regulations.

There should be a definition of "infrastructure" or at least ensure that this is covered in the regulations, as it is possible that there could be some disagreement as to what constitutes "infrastructure". e.g. landscaping, gardens, lawns and any other asset or item that exists at the time of entry into the village, or becomes part of the village ambience should all be included as infrastructure.

Section 92—covers items that are to be considered as urgent maintenance items and can be carried out by the resident in certain circumstance and be reimbursed by the operator.

However along with this section and following sections it would appear that it is necessary for the operator to obtain residents approval under S99 before any work can be carried out that would be paid from resident funds. While Section 99 (2) (d) allows for a provision for urgent capital maintenance and replacement this does not appear to allow for an "emergency" as distinct from "urgent".

While it is appreciated that the residents' consent should be obtained before any major works are carried out, there should be some allowance made for emergencies.

Section 97 (1)—The operator of a retirement village may, in accordance with a proposal that is consented to under Section 99, fund up to 50 per cent or such other proportion as may be prescribed by the regulations, of the cost of capital maintenance or replacement from the following sources:

(a) the capital works fund for the retirement village if any,,

(b) recurrent charges.

If this Section is to remain as is, then after the words (……by the regulations) a further amendment should be made that would limit the amount paid by residents to no more than the 50 per cent as stated in the first part of the Section.

Section 97(2)—allows for 100 per cent of capital maintenance and replacement to be paid from the capital works fund or recurrent charges where the operator does not charge ingoing contributions or departure fees. Does this mean that as long as there is one contract in existence with either of these conditions, then this clause does not apply? Is it possible for a corporation to arrange its affairs so that the operating entity receives no ingoing or outgoing contributions and so leave the residents 100 per cent liable for all capital maintenance and replacement?

Section 97 (3)—does not allow payment from residents' funds for certain capital maintenance and replacement including roads and footpaths. This would seem to indicate that operators are to be encouraged to carry out this type of infrastructure to a reasonable standard so that residents do not have to pay for excessive maintenance. The regulations should ensure that where there is infrastructure of similar importance within a village it is covered under this section.

For example in Henry Kendall Gardens there are retaining walls that are up to 10m high and should be included in either the Act or the Regulations as being payable from operators funds as this type of infrastructure would be in the same category as roads and footpaths. Various rulings from the Tribunal have indicated that there are other costs that are not to be paid from recurrent charges i.e. payroll tax, and these should also be included in this Section or be contained in the Regulations.

Section 97 (4)—states that—For the avoidance of doubt, capital maintenance or replacement is not carried out in accordance with a proposal consented to under section 99 if:

(a) the proportion of the actual cost of carrying out the maintenance or replacement of an item of capital funded from the sources referred to in subsection 1, exceeds the proportion specified in the proposal, or

(b) the amount paid for the maintenance or replacement of an item of capital from the sources referred to in subsection (1), exceeds the amount to be paid from those sources under the proposal.

From a practical point of view this is going to happen.

What is the situation if this situation arises? Is the operator responsible for the full amount, or will it need to be taken to the Tribunal?

Section 98—states that registered interest holders and operators are to share capital maintenance and replacement within the residence in the same proportion as they share capital gain. For an existing resident this is limited to $1,000 p.a. under clause 24 of Division 4. This would seem to be excessive where there are two residents sharing the residence as this would mean that a total of $2000 p.a. would be payable.

This should be $1,000 per dwelling and not $1,000 per resident.

Section 99—is clear in what is required by the operator to enable them to carry out any capital maintenance or replacement, but there does not appear to be any allowance made for some unforseen emergencies that may arise. See above.

Section 105A—allows for the increase of recurrent charges without obtaining the residents consent where the increase does not exceed the CPI. This is quite acceptable, but should not extend to an automatic approval of the proposed annual budget as Stated in Section 114 (8)

Section 112 (1)—requires the operator to supply a proposed annual budget at least 60 days before the commencement of the financial year, and Section 112 (4) (b) advising that if the residents do not give their consent, the operator may expend the money in accordance with an order from the Tribunal. However Section 114 (8) says that the residents are taken to have consented to the proposed annual budget where the recurrent charges have been varied in accordance with Section 105A. This appears to be poor drafting. It is also considered that residents should in all cases be in a position to give consent to any proposed annual budget unless a special resolution under Section 112 (7) has been passed by the residents, as it is the only way in which residents have any knowledge of what the operator is proposing to carry out and what expenses are being incurred e.g. "administration" charges made by the operator could become out of hand without the residents knowledge.

Section 101—indicates what insurance cover is required to be taken out to cover damage to capital within the village, but if the damage is such that a resident could be without a residence for some time, should the policy include accommodation costs until they can return to their residence?

Section 118/119—Quarterly accounts are to be supplied within 28 days unless the recurrent charges do not exceed $50,000 for the year. This is an improvement on the existing Act but does not go far enough. Accounts should be supplied monthly, within 28 days, for larger retirement villages that have recurrent charges that exceed, say $1m or, possibly, a specified number of residences or residents.

Section 119 (2) The audited accounts must include but are not limited to:

(a) the following particulars:

(i) details of the income and expenditure of the village during the financial year, including income and expenditure of the capital works fund if any,

(ii) details of the balance of the capital works fund if any

The fact that in many cases the accounts to be audited are kept in a different State to that of the auditor could also make the work of the auditor more onerous.

With the current uncertainty within the financial sector at the present time, and the fact that the operator has sole accesses to residents levy bank accounts, it could be considered that it is time that the recurrent charges paid by residents should be treated as trust funds.

Also of some concern is where there is a carried forward surplus. This should be reconciled in some way e.g. by reference to the village bank account and the reconciliation of the debtors account where the accounts are prepared under the accrual system and there are outstanding recurrent charges.

At the present time there is no contact between the auditor and the residents of the village. As the residents are paying the cost of the auditor, the auditor should be reporting to the residents committee if any, and not solely to the operator.

While the "Independent Audit Report" attached to the yearly audited accounts is addressed "To the residents of Henry Kendall Gardens" there is no actual contact with the committee.

There appears to be no safeguard as to what charges are passed through "Administration Fees" or "General Expenses" in the annual budget, particularly where there are more than one retirement village being administered by the same group.

The auditor should have access to this information as it could clearly be of some concern particularly where the annual budget is approaching $2m as Henry Kendall Gardens is.

The current practice as far as the auditor is concerned seems to be that as long as the various accounts agree, within reason, with the approved budget, the accounts are acceptable.

Section 120B—allows for any surplus to be disposed of in two ways:

The surplus is to be carried forward to the account for the next year, or

(1) residents consent to spend the surplus, or

(2) residents elect to distribute the surplus between existing residents.

How is this surplus carried forward?

Does it increase the amount available in the next year's budget, even though the surplus would not be known at the time the budget is prepared?

Can the operator expend the surplus in the current year, on items of expense that were under budget in the previous year, and so contributed to the surplus?

There should be a further provision to allow the resident to transfer any surplus to the "Capital Works Fund".

An "Accumulated Fund" account should be created to hold any surplus until it is determined on the best manner of expenditure. The balance of this fund should form part of the audit.

There should also be a provision that allows any surplus funds Accumulated Funds, to be placed in an investment account under the same conditions as the capital works fund.

Part 3 Clause 5—States that a ballot for a special resolution is to be in accordance with the regulations. These regulations should be reasonably flexible to enable a vote to be taken in a manner that suits each particular village.

Division 4 Clause 25—provides for the dissolution of any capital replacement fund. Such funds are to be held by the operator and can be used to fund the operators share of any capital maintenance or replacement.

It would appear that if the operator receives any ingoing contributions for capital replacement in the future, then it is not a requirement to expend these funds on capital replacement.

Where any incoming resident is required to pay an incoming contribution for capital replacement, then those funds should be used for that purpose.

GENERAL ACCOUNTING PROCEDURES

It would appear that the preparation of the monthly accounts is going to be significantly more difficult under the proposed amendments than under the current Act.

At present all accounts are paid from the one account, the residents levy account.

However, if the residents are to pay only 50 per cent of the costs how will this be handled?

Will the account be paid in full by the operator and recover the residents share from the levy account or will the account be paid in full from the levy account and the operator reimburse the residents?

It would not be realistic for two cheques to be drawn, one from each bank account.

Either way, it will be difficult to keep track of all the payment made and ensure that there are no "administration fees" or "service fees" added by the operator to the account to be paid by the residents.

When considered with **Section 99 (2)** and **Section 97 (4)** the situation could become very difficult to police and would appear to place a greater burden on the auditor to ensure that the residents funds are being properly accounted for.

The CHAIR (The Hon. Amanda Fazio): Order! I propose to put the Government amendments that have been moved in globo, apart from amendments 10 and 15, which are in conflict with other amendments yet to be moved.

Government amendments Nos 1 to 9 agreed to.

Government amendments Nos 11 to 14 agreed to.

Government amendments Nos 16 to 22 agreed to.

The Hon. CATHERINE CUSACK [11.37 p.m.]: I move Opposition amendment No. 1:

No. 1 Page 4, schedule 1 [9], lines 24–29. Omit all words on those lines.

The Opposition will move 20 amendments and, to assist the Committee, I will move various amendments in globo and give relatively concise statements explaining the amendments as we progress through them. I will also make a short statement concerning all the amendments. The amendments have not appeared from thin air. They are the result of consultation with residents and were initiated by residents, with the exception of two, which I move on the advice of the Aged Care Services Association, an association that represents the not-for-profit sector. All stakeholders, including the residents, support these two amendments.

The Legislative Council is not controlled by the Government, which holds 19 of the 42 seats in this place. This is because voters elected crossbench members to ensure that legislation—and precisely this type of legislation—could be scrutinised on its merits, on principle, and on the basis of public interest. The whole world can see that the New South Wales Labor Government has fallen hostage to many of the lures of money, property and power that flow from political donations and patronage. The bill personifies the problem. We believe we have made the case, gathered the evidence, and every step of the way reflected the interests and views of the affected constituency. The one safeguard retirement village residents have is the Legislative Council. We are the community's voice, ensuring a check on the propensity of governments and executives to abuse their power.

I regret to inform the House that I have been advised by the Shooters Party that its members, the Hon. Robert Brown, MLC, and the Hon. Roy Smith, MLC, have made the sweeping decision to reject all these amendments. It has nothing to do with the facts so diligently and carefully assembled by the residents. It has nothing to do with the merit of the arguments laid out in detail yesterday before the House, although I was assured those arguments would be considered. It is now blindingly obvious, following last night's contribution by the Hon. Robert Brown, that the Shooters Party members are not interested.

The Hon. Robert Brown says he finds the Minister's approach to this legislation refreshing and he trusts her to consult the residents. I have complete contempt for that position. Nobody else in the whole of New South Wales trusts this Government. Its form on this legislation has been that five Fair Trading Ministers have taken five years to reach this pathetic point of selling out to developers. I do not trust this Government, and neither do the residents, who are bruised and despondent, and disillusioned that a statement made by them in support of the amendments would have been abused in the way it was by the Hon. Robert Brown yesterday. The Shooters Party has no right to dismiss the interests of the residents with such airy ease, when the party was elected to do a job—really to advocate the interests of those, like the residents, who feel alienated from the system and let down by the vested interests.

Tonight it is the Shooters Party members who let the residents down. They let their voters down, and they let the Legislative Council down because we cannot perform our proper role even when 20 of us—the Liberals, the Nationals, the Greens and Reverend the Hon. Dr Gordon Moyes—band together on principle. It is that stand we have taken that thrusts the Shooters into a position of power to say, "Eenie, meenie, miney, mo"—to have residents scuttling after them, doffing their hats and pleading for help, and, on the other hand, to have a Minister with a nice smile taking them into her confidence. I say to those members: I imagine that it is a heady experience. But I stress that they are enjoying that role on the shoulders of others, the people who voted for them and the other members of this House who are taking a principled position. I cannot respect what is being done with the opportunity that was presented to the Shooters Party, particularly with regard to these amendments. Many people would envy the chance to stand up and to do the right thing. But instead we are told that the residents need the developers and that the Minister's approach is "refreshing".

I have at no time held out any hope that Reverend the Hon. Fred Nile would lift his finger to help the retirement village residents in their battle against the conjoined forces of the developer lobby and the Labor Government. His speech last night was littered with factual errors. He claimed to be pleased, for example, that the statutory charge is being introduced to protect residents, especially "given the financial pressure on a number of operators who have invested in these villages, such as Macquarie Bank". Of course, the residents in the

for-profit villages are precisely the ones we are trying to help. They are the registered interest holders. They get no protection at all under this bill; they have been specifically excluded. They are second-class consumers. But will Reverend the Hon. Fred Nile look down upon us from the giddy heights of his office as Assistant Deputy-Speaker, elected by the Labor Party, and will he grace us with his vote to give effect to the exact same initiative that only last night he argued was necessary? Of course, he will not.

I realise the bitterness of my words. Tonight I am bitter—not only as a Liberal who supports the personal rights and inherent dignity of residents but as a parliamentarian who wants to believe that there can be integrity in our work, that it can make a difference, and that all those people who have been lobbying us and working with us have not completely wasted their time, that the whole thing was not a farce and a sham in the first place. I am dismayed by the resilience of the power of the rich vested interests who control this Labor Government and, through their friends on the crossbenches, now hold sway in the Legislative Council. The Government claims it has spent five years consulting residents. This is, of course, complete fiction. I use as an example—and this is directly related to amendment No. 1—public housing tenants of New South Wales, who have been specifically excluded from the protections of the Retirement Villages Act under this bill. They have not been consulted about the bill at all. The first they knew of it was when this provision appeared in the bill. Nobody knows whose idea it was, including the residents. The Minister did not refer to it in her second reading speech.

The Opposition is opposed to this provision, and we move this amendment because we believe the bill is part of a pattern of legislation over the past year to excise public housing tenants from equal consideration under the Landlord and Tenant Act and the Consumer, Trader and Tenancy Tribunal Act, whereby the Department of Housing now has its own little kingdom separate from everyone else. I suspect the affected Department of Housing tenants who are protesting this discrimination have committed the sin of living in the safe Liberal seat of Willoughby.

The Hon. Penny Sharpe: It's not that safe.

The Hon. CATHERINE CUSACK: I assure members it is a little safer than Strathfield. If they lived in the marginal seat of Strathfield, I bet my life that they would not be yanked into third-class status in the eyes of the law.

The CHAIR (The Hon. Amanda Fazio): Order! The member should not be delivering a second reading speech at this time. If the member were to confine her remarks to amendments under consideration and not make broad comments, her contribution would be within the standing orders.

The Hon. CATHERINE CUSACK: The bill proposes to exclude public housing residents in joint venture villages from being protected by the Retirement Villages Act. We wish to delete that provision so that public housing residents have the same protections as other consumers.

Ms SYLVIA HALE [11.47 p.m.]: I start my contribution by endorsing the remarks of the Hon. Catherine Cusack about the processes that have occurred in relation to the bill. It has been quite an extraordinary experience, in which Reverend the Hon. Dr Gordon Moyes, the Hon. Catherine Cusack and staff from my office have all worked harmoniously to try to come up with amendments that would meet the best interests of the residents of retirement villages. The Greens have no specific view of residents of retirement villages being a particular constituency which we wish to woo. We simply believe they are people who deserve a fair go. We also believe they are people who—by their intense lobbying, their preparedness to look at the minutiae of the bill, and their willingness to come up with constructive comments on it—deserve great respect.

The Government's choice to back down on the most glaring fault in the bill—and I believe that this is what the Shooters have implied in what they have had to say so far—is not a reason to suggest that the Government should go no further, that somehow it has made a sufficient concession. Clearly the Government's having dealt with the major flaw in the bill does not mean that the other flaws—and they are numerous—should be ignored or should be left to the Government to be dealt with later on. I have seen, particularly some years ago when the House was debating—

The CHAIR (The Hon. Amanda Fazio): Order! Is the member speaking to Opposition amendment No. 1?

Ms SYLVIA HALE: I will conclude my preliminary remarks. Liberal Party amendment No. 1 will have the effect of maintaining the status quo so that where a resident is living in a joint venture village where the

Aboriginal Housing Office or the New South Wales Land and Housing Corporation is a party, all residents, according to the amendment, will come under the Retirement Villages Act, rather than under the Aboriginal Housing Office or be subjected to the Residential Tenancies Act. Residents of a retirement village should come under the retirement village legislation. It is appropriate that they be treated even-handedly and be given the same rights, privileges and responsibilities as all other residents within that village.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.50 p.m.]: There has been a reasonable amount of latitude given to some of the preliminary comments from members on some issues that were quite astounding. The Government has extensively talked about the consultation that has taken place. The suggestion by the Opposition that the Government is acting inappropriately in relation to the balance between residents and operators is simply outrageous.

I remind Opposition members that the comments made under oath by the Deputy Commission of Fair Trading during the estimates process made it very clear that that is not the case. It is also the case that the Opposition has moved amendments that are clearly pro-operator amendments, and to suggest that this is all about residents is simply false. The suggestion that the Government is under the thumb of the operators as a result of political donations is simply not the case. The Government has undertaken extensive consultation and the bill improves the lot of residents a great deal. The Government finds it pretty galling given the Opposition's irresponsible position and grandstanding in relation to the alcohol bill in the past 24-hours.

The Opposition amendment proposes to remove the amendment of the bill to section 5(3)(e) of the Act, the purpose of which was simply to clarify the application of the Act to social housing tenancies. The Act does not, and should not, apply to these tenancies that are covered under tenancy law. The provision in the current Act is somewhat unclear in its reference to accommodation, as identified by Ms Sylvia Hale, and provided pursuant to a joint venture between the Aboriginal Housing Office or the New South Wales Land and Housing Corporation and another person or body. The bill makes it clear that regardless of whether the accommodation is provided pursuant to a joint venture, any tenancy agreement with the Aboriginal Housing Office or the New South Wales Land and Housing Corporation is not covered by the Retirement Villages Act. Residents who have a contract with a joint venture partner in a retirement village will continue to be covered by the Act as they are now. The Opposition amendment seeks to remove this amendment from the bill so as to retain what is potentially confusing wording in the current provision. The Government opposes the amendment.

The Hon. CATHERINE CUSACK [11.52 p.m.]: I make this offer to the Government. If the Government can produce any evidence of when the change to the Retirement Villages Act was discussed with the affected residents, being public housing residents of retirement villages, I will withdraw my amendment. The Government is keen to assure the House that there has been consultation with residents about the bill. I am asking the Government if it ever told or asked the affected residents about this change in the bill? I have a pile of letters that were sent by the residents to the Minister in alarm that this had occurred and those letters have not been replied to. If a shred of evidence of consultation with those residents, and the outcome of that, can be produced then I will withdraw the amendment, but I suspect that the Government cannot produce such evidence.

Ms SYLVIA HALE [11.53 p.m.]: Whilst the Parliamentary Secretary is determining whether she can find a shred of evidence, may I say on the question of consultation with the residents that the Parliamentary Secretary asked how the Government could possibly be said to be introducing any part of the bill at the behest of donors to the Labor Party. I point out to the Parliamentary Secretary that in none of the recommendations of the reviews of the Act or in the first draft exposure bill was there any reference to residents having to come up with 50 per cent of the capital maintenance costs. But lo and behold, immediately after the $1,000 per head dinner at the Aria, what pops up in the bill is precisely that provision. I think it is beyond belief, and it treats with contempt the intelligence of not only the members of this House, but the broader retirement village community, for anyone to believe that it is a sheer coincidence that suddenly one morning the Minister woke up and had a good idea. If she did, it was one of the worst ideas she has ever had.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.55 p.m.]: I thank Ms Sylvia Hale for that somewhat repetitive and less than helpful input. There has been consultation on the bill and every stakeholder has had an opportunity. The exposure draft was publicly released in November 2006 and all affected residents had the opportunity to comment on it. It is simply wrong for Ms Sylvia Hale to lay false accusations around the intent of the bill and the motivations of the Government, particularly given that we have just passed the very amendment that she claims to have such a problem with.

Reverend the Hon. Dr GORDON MOYES [11.56 p.m.]: I inform the Parliamentary Secretary that I was part of the discussions with the Minister on these issues, together with members of her staff. When I went

to that meeting and asked the Minister had there been consultation with the residents of retirement villages her answer was, "We have had full consultation with members of the Retirement Village Association but not with residents." The association are those who are responsible for the ownership and proprietorship of the villages and there had been full consultation with them. At the point of my asking both the bureaucrats from the Minister's department and the Minister it was indicated that there was no consultation with residents. I actually took along members of the Retirement Village Residents Association—that was the first meeting that had been conducted between bureaucrats and the Minister and the residents.

Reverend the Hon. FRED NILE [11.57 p.m.]: Just in case my silence is taken as agreement, I wish to say I am deeply offended by the remarks of the Hon. Catherine Cusack. I am the Assistant President, not the Assistant Speaker. The lower House has a Speaker: this House has a President. The Hon. Catherine Cusack should know that by now. If the member wishes crossbench support for her amendments she should not insult members of this House. I have never insulted her and I do not appreciate her insulting me, my motives or my values.

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

The Committee divided.

Ayes, 18

Mr Ajaka	Dr Kaye	Mr Pearce
Mr Clarke	Mr Khan	Ms Rhiannon
Mr Cohen	Mr Lynn	
Ms Cusack	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	*Tellers,*
Mr Gay	Ms Parker	Mr Colless
Ms Hale	Mrs Pavey	Mr Harwin

Noes, 19

Mr Brown	Mr Obeid	Mr Tsang
Mr Catanzariti	Mr Primrose	Ms Voltz
Mr Della Bosca	Mr Robertson	Mr West
Mr Hatzistergos	Ms Robertson	
Mr Kelly	Mr Roozendaal	*Tellers,*
Mr Macdonald	Ms Sharpe	Mr Veitch
Reverend Nile	Mr Smith	Ms Westwood

Pairs

Mr Gallacher	Mr Donnelly
Miss Gardiner	Ms Griffin

Question resolved in the negative.

Opposition amendment No. 1 negatived.

The Hon. CATHERINE CUSACK [12.05 a.m.], by leave: I move Opposition amendments Nos 3, 39, 26 and 35 in globo:

No. 3 Page 10, schedule 1 [32], proposed section 24A (2) (a), line 12. Omit "3 months". Insert instead "12 months".

No. 39 Page 67, schedule 1 [167]. Insert after line 24:

31 Registration of existing retirement villages

A notice lodged under section 24A within 12 months after the commencement of that section, in respect of a retirement village that was operating immediately before that commencement, is not required to be accompanied by the fee referred to in section 24A (4) (b) or (c).

No. 26 Page 43, schedule 1 [108], proposed section 120A, lines 15 and 16. Omit "23 November 2006". Insert instead "the commencement of this Division".

No. 35 Page 63, schedule 1 [167], proposed clause 19 of schedule 4, line 12. Omit "23 November 2006". Insert instead "the commencement of Division 7 of Part 7 as inserted by the 2008 amending Act".

Amendments Nos 3 and 39 deal with the establishment of a lands register. The bill proposes that all villages register within three months and pay an unknown fee, estimated to be up to $2,000 by the Aged and Community Services Association. Amendment No. 3 seeks to extend the time for existing villages to 12 months and gives an amnesty on the fee if registration occurs within that time. Villages and existing residents that do not fully benefit from the change should not be required to meet the cost. This amendment was suggested by the Aged and Community Services Association and supported by the Retirement Village Association and the residents. Amendments Nos 26 and 35 deal with the treatment of past deficits. The bill is retrospective in its treatment of past deficits to November 2006. This anomaly arises because the draft bill was originally introduced in November 2006, and it has taken so long to reach this point. The charitable sector has said it creates huge paperwork complications and requested that it not be retrospective. The residents association did not object.

The CHAIR (The Hon. Amanda Fazio): Order! Members will reduce the level of audible conversation.

Ms SYLVIA HALE [12.07 p.m.]: I seek a point of clarification. The Opposition has not moved its amendment No. 2, but rather amendment No. 3. Will we be able to go back to amendment No. 2?

The CHAIR (The Hon. Amanda Fazio): Yes, the groupings of the Opposition amendments are by topic, not necessarily by number. They are all accounted for and we will go backwards and forwards until all amendments have been dealt with.

Ms SYLVIA HALE: The Greens have reservations about these amendments. Amendment No. 3, which is an amnesty from the registration fee, gives operators 12 months rather than 3 months to register. I understand that Ms Cusack believes that there are organisations that are not even aware they are retirement villages and it could be difficult for them to register within the requisite 3 months. However, we have reservations about that amendment. As to the amendment that removes retrospectivity from section 120A, which deals with deficits, I do not believe a sufficiently good case has been made out about how difficult it would be to make this provision retrospective to November 2006. Any date that is selected is arbitrary and I do not think that it is an unreasonable requirement for any retirement village that has kept reasonable accounts to go back two years. It means that there would be refunds to residents, admittedly some of whom would have died. Merely because it is administratively difficult does not make it an inappropriate thing to do. I believe it is probably better to remain with the original provision of the bill. The Greens are not happy with these amendments.

Reverend the Hon. FRED NILE [12.10 a.m.]: I speak to Opposition amendment No. 3 and will clarify some of the remarks made earlier by the Hon. Catherine Cusack and other members. During the long preparation for this legislation many residents of retirement villages lobbied us. As I normally do, I then discussed those residents' concerns directly with the Minister and with members of the Minister's staff on several occasions. Those discussions resulted in 20 amendments that the Government will move during this Committee stage to assist the residents. There is no political purpose—that may be the role of the Opposition. That is how I operate to improve the legislation on behalf of the residents. The Government is well aware of residents' concerns, which have been communicated to it through me and other members of this House. That is our duty. On all issues we take residents' concerns to the Government, we debate them and we urge the Government to amend the legislation to satisfy those concerns. That has happened with a number of bills, and it has happened with this bill also.

The Hon. PENNY SHARPE (Parliamentary Secretary) [12.12 a.m.]: The amendment proposes to allow village operators 12 months to notify the Registrar-General that land is being used for a retirement village, whereas the bill provides for this to be done within three months. This is a simple notification requirement and it is certainly not onerous. Retirement village operators are well aware of this proposal, as I would suggest they are well aware that they are retirement village operators. Village operators will be given advance notice before this requirement comes into effect and should have no difficulty meeting the three-month time frame provided for in the bill. The Government does not support the amendment. The Opposition's claim that there is going to be a $2,000 charge to register is pure fiction. That is just not the case. As I have previously advised, the charge is expected to be around $100.

Opposition—That Opposition amendments Nos 3, 39, 26 and 35 be agreed to—put and resolved in the negative.

Opposition amendments Nos 3, 39, 26 and 35 negatived.

Ms SYLVIA HALE [12.14 a.m.]: The Greens will not move Greens amendment No. 1. The Opposition amendment is more comprehensive.

The Hon. CATHERINE CUSACK [12.14 a.m.]: I seek leave to move Opposition amendments Nos 2, 21, 23, 24, 25, 4, 5, 6, 7 and 42 in globo.

The CHAIR (The Hon. Amanda Fazio): Order! Opposition amendment No. 21 is in conflict with Greens amendment No. 4. If leave is granted to move the amendments in globo then Ms Hale can move Greens amendment No. 4 also and we will vote on amendment No. 21 separately from the other Opposition amendments. Is leave granted?

Leave granted.

The Hon. CATHERINE CUSACK [12.14 a.m.]: I move Liberal Party amendments Nos 2, 21, 23, 24, 25, 4, 5, 6, 7 and 42 in globo:

No. 2 Page 9, schedule 1 [25], lines 2 and 3. Omit all words on those lines. Insert instead:

Omit "the most recent quarterly accounts".

Insert instead "if the operator is required to provide the residents with monthly accounts—the most recent monthly accounts".

No. 21 Page 40, schedule 1 [101], proposed section 118 (3) and (4), lines 19–32. Omit all words on those lines. Insert instead:

[101] Section 118 (3)–(5)

Omit the subsections. Insert instead:

(3) Within 14 days after the end of the month to which the monthly accounts relate, or such other period as may be prescribed by the regulations, the operator of a retirement village must provide the Residents Committee (if any) with a copy of the monthly accounts of the income and expenditure of the village.

Maximum penalty: 20 penalty units.

(4) If, more than 14 days after the end of the month to which the monthly accounts relate, a resident of the retirement village requests that the operator provide a copy of the monthly accounts of the income and expenditure for the retirement village, the operator must provide a copy of the accounts for the resident within 7 days after receiving the request.

(5) The monthly accounts are not required to be audited.

No. 23 Page 42, schedule 1 [106], proposed section 119B, line 26. Omit "**Quarterly accounts**". Insert instead "**Monthly accounts**".

No. 24 Page 42, schedule 1 [106], proposed section 119B (1), lines 29 and 30. Omit "quarterly accounts". Insert instead "monthly accounts".

No. 25 Page 42, schedule 1 [106], proposed section 119B (1) (b), line 36. Omit "quarterly accounts". Insert instead "monthly accounts".

No. 4 Page 20, schedule 1 [52], lines 8–21. Omit all words on those lines.

No. 5 Page 21, schedule 1 [53], proposed section 72A. Insert after line 13:

(6) The Residents Committee of a retirement village may request that the auditor of the annual accounts of the retirement village attend the annual management meeting of the retirement village.

(7) If the Residents Committee for a retirement village requests that the auditor of the annual accounts attend the annual management meeting the operator of the retirement village must take reasonable steps to enable the auditor to attend the annual management meeting.

No. 6 Page 22, schedule 1. Insert after line 34:

[56] Section 75 (3A)

Insert after section 75 (3):

(3A) Subsection (2) does not apply to an auditor attending the annual management meeting of a retirement village at the request of the Residents Committee for the retirement village under section 72A (6).

No. 7 Page 23, schedule 1 [59], lines 21–28. Omit all words on those lines.

No. 42 Page 68, schedule 1 [167], proposed clause 35 of schedule 4, lines 19–25. Omit all words on those lines.

Amendments Nos 2, 21, 23, 24 and 25 relate to monthly accounts. The bill provides for quarterly accounts to be given to residents committees and we are seeking to shift to monthly accounts. I emphasise that these accounts do not have to be audited. Any ordinary business would be functioning with a monthly set of accounts and it is a simple requirement for the operator to make those available to the residents committee. This amendment was particularly proposed by Henry Kendall Gardens, where the recurrent budget of the village is around $2 million. In other words, the village is very interested in following the relationship between the budget and the expenditure on a month-by-month basis. That village was able to detect more than $30,000 worth of errors. It worked cooperatively with the operator, and the money was refunded to the residents. The village considered that waiting for quarterly accounts and then being one month in arrears means a wait of up to four months after the expenditure has occurred, which is too long with a budget that size. A number of villages have budgets in excess of $2 million.

Amendment No. 4 relates to residents committees. The bill proposes three-year term limits. We oppose term limits being imposed and believe that residents should be permitted to set their own committee rules. We do not believe it is appropriate for this bill to be so prescriptive as to dictate to residents how they ought to run their committees and fill their positions. One resident commented to me that if there are three-year management contracts and they have to rotate out of their positions then maybe we should rotate too. Smaller villages, in particular, will find it very onerous to get people to fill these positions.

Amendments Nos 5 and 6 seek to give residents the right to speak in person to the auditor of the accounts. We propose that resident committees be given the right to request the attendance of the auditor at the annual management committee meeting to answer questions. After all, residents pay the auditor's fees and should have the right to meet him in person if they have questions. This is a request that the auditor appear. There is provision in the amendment that if the auditor is unavailable the meeting can be adjourned. If the auditor fails to appear, obviously nothing can be done about that. But I believe by putting that provision in the legislation it will send villages the very strong message that they should be allowed to speak to their auditor.

Amendments Nos 7 and 42 also deal with residents committees. Residents currently have a maximum of five proxies each and the bill seeks to limit the number of proxies to two. This will cause hardship and complications, especially for larger villages that rely on the use of proxies to ensure that meetings are fully representative. There is no valid reason for changing the current system. The Government has not indicated that there are any problems with the system and certainly I have not encountered any complaints, only concern about what is going to happen. One large village I visited indicated the huge administrative effort involved in going around and consulting with everybody and getting proxies before a meeting.

In the regulations under the current Act there is a prescribed form for proxies—it amazes me that meeting forms and so forth can be so prescribed in legislation. The form provides for what I refer to as closed and open proxies. This means that the person can either give his or her proxy to someone at the meeting to act on his or her behalf or direct the person's votes on the following matters only. The residents were interested to know whether that ability to give a directed vote would be covered by this cap. Can these proxy forms be circulated to village residents before a meeting to discuss, for example, whether the bowling green or the tennis court should be repaired? If they were circulated, people could indicate a preference one way or the other and then lodge that preference with the chairperson. On the other hand, are they prevented from participating in the vote because of the cap? There does not appear to be any provision in the legislation for closed or open proxies. I support the amendments.

Ms SYLVIA HALE [12.20 a.m.]: Madam Chair, originally you said there was a conflict between Greens amendment No. 4 and Opposition amendment No. 21. I will not proceed with Greens amendment No. 4 because monthly is probably better than quarterly. I am happy if the Hon. Catherine Cusack wishes to include that in her amendments.

The CHAIR (The Hon. Amanda Fazio): It is included already.

Ms SYLVIA HALE [12.21 a.m.]: Amendment No. 2 requires that monthly rather than quarterly accounts be given to the residents committee if the operator is required to provide them. Amendment No. 21 provides that accounts should be given to a residents committee on a monthly rather than quarterly basis and requires that such accounts should be provided within 14 days after the end of the month, rather than 28 days. The Greens support that amendment. Amendments Nos 23 to 25 also require monthly rather than quarterly accounts. Amendment No. 4 deals with the membership of a residents committee. Although the Greens concede that entrenchment of office-bearers is not desirable, I have heard another side to this argument from some residents. In smaller villages people sometimes do end up being office-bearers for years because fewer people are prepared to act in those roles and there is a small pool of residents from which to draw.

The argument put to the Greens is that residents can prescribe a maximum term in their residents committee constitution. Although the Government is trying stop people from staying in office for more than three years, a resident could seek election to another executive position if he or she wished to remain involved. The clause does not necessarily prevent the entrenchment of a resident or a group of residents. There are obviously two sides to the argument. One's inclination is to support the status quo. However, because there are differing views among residents on this question, and the Coalition amendment reflects the most recent advice from the Retirement Village Residents Association, the Greens support the amendment.

Amendment No. 5 provides that a residents committee can request that the auditor of the accounts attend the annual management meeting of the retirement village and the operator must take reasonable steps to facilitate that. Amendment No. 6 makes it clear that the auditor can be present during any vote at the annual management meeting if the residents committee has made such a request. Amendment No. 7 deals with the limitations of proxies. The amendment restores the status quo; that is, a maximum of five proxies. The Coalition argues that it may not be practical to limit the number of proxies to two, because the proxy may be closed. In that case the residents would indicate the way they wished their vote to be cast by ticking a box or boxes in the same way that shareholders do at a shareholders' meeting. The amendment does not address the problem, because the legislation now spells out that no-one can hold the proxies of more than five residents at any time.

Clearly, the Government has not dealt with the situation of a plebiscite where closed proxies are used. The Coalition amendments do not achieve that either. One is confronted with deciding whether it is better the devil we know than the devil we do not know. Given that the Greens are inclined to support the bulk of Ms Cusack's amendments, we will probably support this amendment. However, we will be very interested to see how the legislation works, and we hope that in the course of its ongoing consultations with residents after the legislation is enacted the Government will examine these provisions to establish their effectiveness in practice.

The Hon. CATHERINE CUSACK [12.24 a.m.]: The status quo involving open and closed proxies is functioning sufficiently well in the villages. My amendment seeks to maintain the status quo. I raised the issue of closed or directed proxies because they are already listed in the regulations and prescribed in schedule 9 [37] (1). It appears to follow in the legislation that director proxies will be limited to two—that is, it is not limited to the proxies given to the chair. It is nonsensical to limit the number of closed proxies to two, but that will be the effect of the legislation as it stands. The Coalition's amendment maintains the status quo with regard to residents committees.

The Hon. PENNY SHARPE (Parliamentary Secretary) [12.25 a.m.]: Complaints about the level of prescription in one part of the form are ironic given that several of the amendments prescribe many more issues and make the process more difficult. A Coalition amendment replaces the current requirement to provide quarterly accounts to village residents with a requirement to provide monthly accounts. That would create a significantly greater compliance burden for operators with no evidence of any additional benefits flowing to residents. The existing requirement to provide quarterly accounts ensures that residents have access to relevant information. The Government believes that this amendment is unnecessary and is potentially counterproductive. It serves no real purpose and it will increase the amount of paper that is sent to residents. The Government will not support the amendment.

It is clear from the consultations that different people have different views about the time limit for office-bearers. The level of complexity and the number of proposed amendments to this legislation demonstrate that we cannot be all things to all people. The Government is trying to find a reasonable balance and it believes it has achieved that. The Coalition proposes to delete the three-year limit on residents holding the same office on

a residents committee. The Government strongly opposes this amendment. Submissions to the review of the Retirement Villages Act strongly supported the introduction of a limit. The three-year limit as proposed in the bill will encourage more village residents to become involved in their residents committees.

It will also encourage succession planning for office-bearers and reduce the likelihood of individuals finding themselves stuck in the same position for an extended period. By encouraging more regular turnover of office-bearers, the proposed three-year limit will also help prevent a clique from taking control of a residents committee and abusing its position, or individual office-bearers from pushing a personal agenda, which the review found can happen from time to time. The proposed amendment goes against the views expressed by many residents in their submissions to the review, and the Government will not be supporting that amendment.

This proposal is to provide that the residents committee can request that the auditor of the annual accounts attend the annual management meeting of the retirement village. The Government believes that this is a useless amendment and it will only result in increased costs to residents. The bill already requires the operator to answer any reasonable questions. If a question is asked at the annual management meeting that the operator needs to ask the auditor, the operator can take the question on notice and provide a response in writing to all residents. Speakers have already explained the amendment relating to limits on proxies, and that is basically a reduction from five to two. The Government supports the reduction in proxies to two.

We believe that the proposal to retain the status quo basically enhances the potential for voting blocks to be established due to individual residents harvesting proxy votes. Our change is about trying to break that down. This practice needs to be addressed to reduce the potential for cliques taking over residents committees and abusing an inquiry. This issue arose during consultations on the bill. Some residents took the trouble of raising specific concerns about this issue in their submissions to the review. The Government believes that the Opposition's amendments are unreasonable. I would like people to note that, in addition to the reduction in proxies from five to two, there is also a provision for residents to elect to employ postal votes for any specific matters. That is probably a much more appropriate way of dealing with these matters; individuals can have the opportunity to talk amongst themselves and vote on specific proposals. The Government does not support the amendments.

Question—That Opposition amendments Nos 2, 4, 5, 6, 7, 21, 23, 24, 25 and 42 be agreed to—put.

The Committee divided.

Ayes, 17

Mr Ajaka	Mr Gay	Ms Parker
Mr Clarke	Ms Hale	Mrs Pavey
Mr Cohen	Dr Kaye	Ms Rhiannon
Ms Cusack	Mr Khan	*Tellers,*
Ms Ficarra	Mr Lynn	Mr Colless
Mr Gallacher	Mr Mason-Cox	Mr Harwin

Noes, 20

Mr Brown	Reverend Nile	Mr Smith
Mr Catanzariti	Mr Obeid	Mr Tsang
Mr Della Bosca	Mr Primrose	Ms Voltz
Mr Hatzistergos	Mr Robertson	Mr West
Mr Kelly	Ms Robertson	*Tellers,*
Mr Macdonald	Mr Roozendaal	Mr Veitch
Reverend Dr Moyes	Ms Sharpe	Ms Westwood

Pairs

Miss Gardiner	Mr Donnelly
Mr Pearce	Ms Griffin

Question resolved in the negative.

Opposition amendments Nos 2, 4, 5, 6, 7, 21, 23, 24, 25 and 42 negatived.

Ms SYLVIA HALE [12.40 a.m.]: I move Greens amendment No. 2:

No. 2 Page 24, schedule 1 [62], proposed section 87B, line 34. Insert "and the consent of the residents of the retirement village concerned" after "Director-General".

As the bill stands, once an administrator has been appointed to a village, that administrator would have power to vary the budget and any recurrent charges. Amendment No. 2 requires that residents must consent to any variance proposed by an administrator. It might be said that residents will refuse to agree to any variation but, where a village is in such dire straits that an administrator has had to be appointed, I do not believe residents will be so irrational or so unconcerned about their long-term future in a residence and any money that they have at stake, that they would automatically refuse to agree to any suggestion by an administrator as to a variation either in the budget or in recurrent charges. It is an important matter of principle that, rather than impose these charges on residents, the administrator should be required to consult with residents with a view to coming to joint agreements.

The Hon. PENNY SHARPE (Parliamentary Secretary) [12.42 a.m.]: The Government opposes the amendment. The Greens proposal will require the consent of residents, in addition to the consent of the Director General of Fair Trading, before an administrator can vary the terms of a village contract. The amendment in the bill already provides that the director general can give consent only if the change made to the village contract is done to help find a new village operator, if required, or to ensure the ongoing financial viability of the village for the benefit of the residents.

The Government's approach to this matter provides a few safeguards at the appropriate level. The Government's aim is to ensure that, should an administrator be appointed to a village in financial distress, the village will have the greatest opportunity to continue operating. For a village in financial hardship to survive, there needs to be some flexibility for an administrator. Ultimately, this flexibility could be of significant benefit to residents as it could save a village in financial distress, thereby avoiding the forced relocation of the residents.

The Hon. CATHERINE CUSACK [12.43 a.m.]: The Opposition will not support this Greens amendment. The Commissioner of Fair Trading is a public official, and therefore there are special accountabilities in place. An appointment would be made in circumstances of emergency, and many ordinary provisions just might not be practical. On balance, we support the administrator having those additional powers.

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

Amendment negatived.

The Hon. CATHERINE CUSACK [12.44 a.m.]: I seek leave to move Opposition amendments Nos 8, 11, 27, 12, 13, 14, 15, 37, 16, 38, 17, 43, 18, 19, 41, 22 and 20 in globo.

The CHAIR (The Hon. Amanda Fazio): Order! Before that leave is given I point out that Government amendment No. 15 is already before the Chair, and that it is in conflict with Liberal Party amendment No. 11. If leave is granted to deal with the amendments in globo, when the Chamber comes to vote on them, it would need to vote on Government amendment No. 15 first, then vote on all the Liberal amendments except for No. 20 because there has been a request that that be voted on separately.

The Hon. CATHERINE CUSACK [12.45 a.m.], by leave: I move Opposition amendments Nos 8, 11, 27, 12, 13, 14, 15, 37, 16, 38, 17, 43, 18, 19, 41, 22 and 20 in globo:

No. 8 Page 26, schedule 1 [63], proposed section 93 (2), line 22. Omit "may" insert instead "must".

No. 11 Page 31, schedule 1 [63], proposed section 100 (5) (b), lines 32–37. Omit all words on those lines. Insert instead:

(b) in accordance with a proposal consented to by the residents that the operator distribute the whole, or any part of, the capital works fund to the residents if:

(i) the amount distributed is not required to fund capital maintenance and replacement, and

(ii) each resident is to receive a proportion of the amount distributed that is equal to the proportion that was paid by the resident of the total of the recurrent charges collected in the year in which the proposal is made.

No. 27 Page 43, schedule 1 [108], proposed section 120B (1) (b), lines 24–26. Omit all words on those lines. Insert instead:

(b) the residents of the village consent to a proposal that:

(i) the operator distribute the whole, or any part of, the surplus to the residents, and

(ii) each resident is to receive a proportion of the amount distributed that is equal to the proportion that was paid by the resident of the total of the recurrent charges collected in the year in which the proposal is made.

No. 12 Pages 33–35, schedule 1 [66] and [67], line 28 on page 33 to line 10 on page 35. Omit all words on those lines.

No. 13 Page 35, schedule 1 [68], proposed section 106 (2) (c), lines 14 and 15. Omit "exceeding the variation in the Consumer Price Index or the prescribed rate or amount (if any)".

No. 14 Page 35, schedule 1 [70] and [71], lines 20–32. Omit all words on those lines.

No. 15 Page 37, schedule 1. Insert after line 6:

[79] Section 112 (1A)

Insert after section 112 (1):

(1A) A proposed annual budget must not make provision for or with respect to the payment of payroll tax for which the operator of the retirement village is liable under the *Payroll Tax Act 2007*.

No. 37 Page 67, schedule 1 [167]. Insert after line 7:

29 Operators payroll tax liability not to be included in proposed annual budget

Section 112 (1A) (as inserted by the 2008 amending Act) applies only in respect of a proposed annual budget for a financial year commencing on or after the day that is 3 months after that insertion.

No. 16 Page 37, schedule 1. Insert after line 8:

[80] Section 112 (2A)

Insert after section 112 (2):

(2A) A proposed annual budget must not make provision for or with respect to the funding of the cost of insurance for common areas within the retirement village.

No. 38 Page 67, schedule 1 [167]. Insert before line 8:

29 Insurance for common areas not to be included in proposed annual budget

Section 112 (2A) (as inserted by the 2008 amending Act) applies only in respect of a proposed annual budget for a financial year commencing on or after the day that is 3 months after that insertion.

No. 17 Page 37, schedule 1. Insert before line 9:

[80] Section 112 (4) (c1)

Insert after section 112 (4) (c):

(c1) briefly explaining, in a case where the proposed annual budget makes provision for administrative costs associated with providing services to residents:

(i) the nature of the administrative costs, and

(ii) an estimate of the number of residents receiving the benefit of each of the services concerned, and

No. 43 Page 68, schedule 1 [167]. Insert after line 30:

37 Proposed annual budget to include details of administrative costs

Section 112 (4) (c1), as inserted by the 2008 amending Act, applies only in respect of a proposed annual budget for a financial year commencing on or after the day that is 3 months after that insertion.

No. 18 Page 37, schedule 1. Insert after line 30:

[82] Section 112:

Insert after section 112:

112A Budget meeting to be held by operator

(1) This section applies to the operator of a retirement village if the operator is required to supply the residents of a retirement village with a proposed annual budget.

(2) The operator of a retirement village must hold, in each financial year of the retirement village, a budget meeting in accordance with this section.

Maximum penalty: 20 penalty units.

(3) The budget meeting must be held not more than 21 days after the operator supplies the proposed annual budget to the residents of the retirement village.

(4) Sections 72A (3)–(9) and 72B apply to a budget meeting in the same way as they apply to an annual management meeting.

No. 19 Page 38, schedule 1. Insert after line 10:

[87] Section 114 (4A)

Insert after section 114 (4):

(4A) The residents may consent to a proposed annual budget at, the budget meeting referred to in section 112A or a later meeting, but may not consent before the budget meeting.

No. 41 Page 68, schedule 1 [167]. Insert after line 18:

35 Holding of first budget meeting

Section 112A (as inserted by the 2008 amending Act) applies to each financial year for a retirement village commencing after the insertion of that section.

No. 22 Page 41, schedule 1. Insert after line 19:

[105] Section 119 (5)

Omit the subsection. Insert instead:

(5) If the operator of a retirement village is the operator of 2 or more retirement villages, the operator must, when providing the audited accounts to the residents of a particular village, provide only the accounts that relate to that village.

No. 20 Page 38, schedule 1 [87], proposed section 114 (8), lines 11–18. Omit all words on those lines.

Amendment 8 relates to capital replacement. If it is not practical to maintain an item in accordance with this section, the operator, in the words of the Act, may replace the item. The amendment will replace the word "may" with the word "must". I emphasise that this relates to items that are classed as urgent under the Act, or that have been approved for purchase under section 99. The word "may" virtually renders the entire provision in the Act useless.

Amendments 11 and 27 relate to distribution of capital and recurrent surpluses. The bill provides that a surplus may be distributed back to residents in equal shares. Our amendment proposes a fairer method of distributing surpluses, that is, in proportions equal to the contributions made by each of the residents. In a retirement village, residents contribute to the recurrent budget in different proportions, according to the nature of the residence and the number of occupants in the residence. If there is a surplus in the budget, it is only fair that that surplus be distributed back to residents in proportions similar to the contributions they made. Frankly, people feel that the provision in the bill is a mistake, and that the Government proposes returning the surplus in equal shares to residents. I presume that means that married couples will get double the amount returned to a single person, on the basis that all portions are equal. The Opposition's amendment seeks basic fairness in the redistribution of surpluses, and that applies to both capital and recurrent surpluses.

Amendments 12, 13 and 14 concern the Government's proposal to authorise operators to increase the recurrent budget by up to the consumer price index, without first obtaining the approval of residents. The Opposition is moving to delete that provision from the bill. We are unhappy with the use of the consumer price index, which is defined in the bill as Sydney CPI, which we understand is the standard practice of the Australian Bureau of Statistics. What is in a basket of goods for indexation for the purposes of Sydney CPI—which will include alcohol, cigarettes, tolls and a number of other items—are clearly inappropriate for rural retirement villages; they do not properly reflect the cost of their basket of goods. That is a poor way of looking at movements in costs and, more significantly, movements in people's capacity to pay, because movements in the consumer price index can be wildly in excess of movements in the average wage—and, of course, the average wage is the index that is used to determine changes in the pension.

So we are not happy with that method, and we are not happy with operators having that responsibility. A consequence of that is residents' right to give consent to a budget. This relates to amendment 20. The

consequence of giving the operator the power to increase recurrent costs without reference back to residents means that, in effect, the entire budget process now can be suspended. The operator no longer needs to negotiate the budget to show residents quotations for work or have a formal meeting together to have residents' consent. This will deny residents the right to challenge the costs in the budget and appeal to the Consumer, Trader and Tenancy Tribunal [CTTT], as long as the operator obviously keeps them with the items. I note that the bill contains other flexibility measures that will make that even more challenging. Certain items cannot be challenged at the CTTT. We are moving to restore a resident's right to negotiate and consent to the budget.

In relation to amendments Nos 15 and 37 on payroll tax, the Opposition proposes new clauses prohibiting operators from cost-shifting payroll tax onto residents. This is an incredibly sore point in retirement villages. It reflects the movement of the for-profit sector—big businesses taking over small retirement villages. All of a sudden residents have in their next year's budget a 6 per cent cost for payroll tax. It is a cost to business. It does not reflect a cost of a service to residents. In many cases they have not had to pay it before. I regret to inform the House that the CTTT is making inconsistent rulings on that matter. Some residents who appeal at the tribunal get a ruling that it is not a service, that they do not have to pay and that it should be taken out of their budget. In relation to other villages, the CTTT makes different rulings. The CTTT is not a court of law and does not give precedent. An operator might lose one ruling in the CTTT, but that does not prevent another operator and another village going to the CTTT in relation to that village. We now have trench warfare, village by village, trying to exempt payroll tax.

I refer also to insurance in common areas of properties. I know that in relation to insurance some large operators argue about the great benefits of being with a big company with cheaper insurance, et cetera. A retirement village in Banora Point recently wrote that the operator reduced its cost of insurance. It has insurance for the common area, with which they do not agree anyway, and the cost of that insurance has been reduced. However, the excess has increased from $100 to $1,000. The village has been hit by graffiti attacks and, with the $1,000 excess, it is not willing to clean up the graffiti. The village is a mess all because it has got the wrong insurance policy. Residents prefer the owner to take responsibility; that type of incident would not occur.

Amendments Nos 17 and 43 ask that the budget detail administrative costs. The Opposition proposes new clauses requiring operators to explain these costs, and the number of residents who are benefiting from those expenditures in administration. In relation to budget meetings, the Opposition supports the Government's proposals for more transparency at annual management meetings. We wish to replicate those requirements at budget meetings. In other words, we want operators to attend and answer questions at that meeting for the budget which, of course, will be reinstated under other amendments that we will move. In relation to operators who have more than one village, Opposition amendment No. 22 requires that the operator must prepare separate budgets and accounts for each individual village. The operator must not hand out as budget documents to residents combined accounts for a number of villages. Residents should be able to see how their money is being spent in their village. We know that a number of very large village complexes are broken up into a group. It is strongly the wish of the residents that they have their own budget for their own village.

Ms SYLVIA HALE [12.53 a.m.]: I believe that every member of this House should support this group of amendments. In many instances it is almost self-evident as to why residents should be entitled to the benefit of these amendments. Amendment No. 8 deals with the obligations of the operator with respect to certain capital maintenance or replacement. Operators are tempted to patch up and repair an old item when, indeed, it should be replaced. The amendment says that if it is not practical to maintain an item of capital, the operator must, rather than may, replace the item. I would be hard pressed to find anyone who could possibly disagree with that proposal. Amendment No. 11 relates to the fair distribution of the capital works fund. I agree with Ms Cusack if, indeed, the money will be distributed on a pro rata basis—that is, in proportion to the money that has been contributed rather than being a simple equal divisions of the fund. That is also fair. I would find it difficult to understand why anyone would disagree with that.

Amendments Nos 12, 13 and 14 deal with automatic budget increases by consumer price index, a provision that applies also in relation to residential parks. Just last week a forum of residential park residents was held. The forum was so large that it filled the theatrette and overflowed into an adjoining room. By far the sorest point—and what really united the people attending—was the fact that park operators were imposing automatic consumer price index increases. The residents felt that this was totally unfair because there was no need on the part of the park operators to justify in any way those increases. Of course, many people in residential parks may be on more restricted incomes than those in retirement villages, though I am not sure that that really is a case.

They found that it was very unfair and they had lost the requirement that the operator should have to justify any increase, rather it was something that was just being imposed automatically. If it is such a source of discontent amongst residential park residents one can be sure that residents of retirement villages will be equally unhappy with it. I believe that operators of villages should have to give notice of a variation and any recurrent charge should be subject to challenge if the residents have a case to make, even if that increase is less than the consumer price index. If it were challenged obviously it would be incumbent on residents to produce the evidence that such an increase is exorbitant or unwarranted.

The amendments that deal with payroll tax and insurance are self-evident and equally supportable. If we are genuinely committed to village residents being made fully aware of the financial position of the accounts, it is self-evident that where an operator owns two or more villages the accounts that are provided should relate specifically to that village where the residents are living, as set out in amendment No. 22. The process would not be transparent if that were not the case. Amendment No. 20 is consequential on those amendments that residents have to consent to the budget. In this case, if people are going to oppose the amendments, they should stand up and explain to the Committee the source of their objections.

The Hon. PENNY SHARPE (Parliamentary Secretary) [1.00 a.m.]: I will explain the Government's source of the objection to the amendments. I will go through them in turn and will not redescribe them, as they have now been described twice. Opposition amendment No. 8 refers to capital replacement. The Government believes that this amendment has little practical effect and will oppose it. Opposition amendment No. 11 relates to capital works funds. The Opposition proposes that if a surplus in the capital works fund is to be distributed to residents, it is to be distributed in proportion to the recurrent charges paid by each resident and not in equal shares. This ignores the fact that residents pay different amounts for recurrent charges but they may not pay different amounts for maintenance through those recurrent charges, which often vary according to the level of personal services chosen by individuals.

The arrangements for dealing with the possible distribution of any capital works funds surplus have already been discussed with the residents groups and operators. The Government's proposals in the amendment bill reflect the outcome of these discussions. There has been considerable consultation and there are divergent views from many different groups. The bill seeks to find the right balance. It is the Government's strong view that its amendment bill reflects the outcome of the discussions and strikes the right balance. Many of the amendments do nothing more than circumvent the consultations and agreements reached by the Government.

Opposition amendment Nos 12, 13 and 14 relate to recurrent charges. Residential park residents and retirement village residents are not in the same position. Park residents are tenants and pay market rent for their sites. Market forces of supply and demand determine the rents. On the other hand, recurrent charges can be charged only to cover the actual costs of running and maintaining retirement villages. They cannot automatically increase recurrent charges by the consumer price index; they can only do so if the cost of the village is increased by this amount. The majority of submissions to the review of the Act supported allowing operators to increase recurrent charges moderately, without the need to always seek the consent of residents. The amendment bill provides that if the proposed increase is less than the consumer price index, 14 days notice must be given to residents.

It is important to note that if the proposed increase is more than the consumer price index, 60 days notice is still required and residents' consent must still be obtained, as in the current Act. The amendments in the bill do not override any existing formula for increasing recurrent charges that may be contained in village contracts. Where there is no fixed formula in the village contracts for increasing recurrent charges, these charges cannot be increased more than once in any 12-month period. The Government believes that the amendment bill provides a more efficient process for increasing recurrent charges while also retaining protection for residents against arbitrary or excessive increases. I also comment on the concept that the budget process is suspended. When the increases are less than the consumer price index, the budget processes are not suspended. Operators must still give the budget to residents 60 days prior; they must include a list of what is included and provide any quotes, if they are available.

Opposition amendment No. 20 is consequential on Opposition amendments Nos 12, 13 and 14. With respect to Opposition amendment No. 15 and consequential amendment No. 37, which is the proposal by the Opposition to prohibit operators from including the cost of payroll tax as part of the village budget, the Government believes the amendment is redundant. The Retirement Villages Act already provides for the items to be prohibited in village budgets. Under section 12 (3) (b) regulations can be made prescribing matters that

cannot be included in a village budget. The Government has committed to full consultation with residents in developing new regulations and assures members that matters, such as payroll tax, will be included in these discussions.

With respect to insurance, the proposal is to prohibit operators from including the cost of insurance for common areas as part of the village budget. This amendment is redundant for the same reason as Opposition amendment No. 15. The Retirement Villages Act provides for items to be prohibited and these will be dealt with under regulation. It is also important to remember that with company title and strata title retirement villages, insurance is the responsibility of the relevant association or owners corporation and cannot be passed on to the operator. This amendment may give rise to conflicts within these laws.

With respect to Opposition amendment No. 17, which relates to budgeted items and administrative costs, the Government believes that the amendment is redundant. Under section 112 (4) (e) of the Retirement Villages Act, regulations can be made prescribing what information must be included in a village budget. This could include details of administrative costs associated with providing services to residents. Finally, Opposition amendment No. 27 deals with a budget surplus. The amendment proposes that if a budget surplus is to be distributed to residents, it is to be distributed in proportion to the recurrent charges paid by each resident and not equally. The Government's proposed new arrangements for dealing with any budget surplus have already been discussed with residents, residents groups and operators. The bill reflects the outcomes of these discussions and we do not wish to change it.

The Hon. CATHERINE CUSACK [1.06 a.m.]: That is very disappointing news on the distribution of surpluses. I note repeated references to issues being sorted out in the regulations, which are yet to be drafted. I will not recap all those issues and I thank members for their contributions. With respect to Opposition amendment No. 20 dealing with budgets to be consented to by residents, I request a separate vote on that amendment. With respect to why the budget is so important and why I use the term that "the budget will be suspended", clause 87 inserts a new section 114 (8), which states, "insert after section 114 (7):

> Subsections (1) to (6) do not apply and the residents are taken to have consented to the proposed annual budget if the recurrent charges payable by the residents:
>
> (a) have not varied; or
>
> (b) have been varied in accordance with section 104 (1) (a) or 105 (a).

That refers to increases of consumer price index or less. This means that subsections (1) to (6) no longer apply. The subsections of section 114 of the Act that have been suspended will be:

> (1) The operator of a retirement village must (whether by way of a notice referred to in section 112 or otherwise) seek the consent of the residents of the village to the expenditure itemised in the statement of proposed expenditure.
>
> Maximum penalty: 100 penalty units.
>
> (2) The operator must provide such information in relation to the proposed expenditure as the Residents Committee (or, if there is no Residents Committee elected for the village, any resident) reasonably requests for the purpose of deciding whether consent should be given to the statement.
>
> (3) Without limiting subsection (2), it is reasonable for the Residents Committee or a resident to request to see quotations for any work proposed to be carried out or for any service or facility proposed to be provided.
>
> (4) The residents concerned must, within 30 days after receiving a request for consent to a statement of proposed expenditure (or an amended statement):
>
> (a) meet, consider and vote on the statement, and
>
> (b) advise the operator that they consent, or do not consent (as the case may·be) to the statement, and
>
> (c) if they do not consent to the statement-specify the item or items in the statement to which they object.
>
> (5) If the operator is not advised as required by subsection (4) (b), the residents are taken to have refused consent to the statement.
>
> (6) If the operator fails to seek the consent of the residents, the residents are taken to have refused consent to the statement.

All of those sections will be suspended in the event of the operator increasing the recurrent charge by the consumer price index or less. I stand by my statement that the budget process is being suspended. This will be an incredibly serious matter when word gets out to the villages. The operator will tell them because, frankly,

there is no funding and no community education campaign from this. All the processes will end as long as the operator keeps recurrent charges at or under the CPI. The Government is taking a huge step, possibly larger than it realises, in this bill.

The CHAIR (The Hon. Amanda Fazio): Before the Committee are amendments moved in globo by the Hon. Catherine Cusack, and Government amendment No. 15, which is in conflict with Opposition amendment No. 11. There has been a request to move Opposition amendment No. 20 separately. I propose to put the remaining Opposition amendments that have been moved in globo and then deal with the two separate amendments. Amendments Nos 11 and 20 will be dealt with later, and the remainder will be dealt with together.

Question—That Opposition amendments Nos 8, 12, 13, 14, 15, 16, 17, 18, 19, 22, 27, 37, 38, 41 and 43 be agreed to—put.

The Committee divided.

Ayes, 17

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Clarke	Ms Hale	Mr Pearce
Mr Cohen	Dr Kaye	Ms Rhiannon
Ms Cusack	Mr Lynn	*Tellers,*
Ms Ficarra	Mr Mason-Cox	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 20

Mr Brown	Reverend Nile	Mr Smith
Mr Catanzariti	Mr Obeid	Mr Tsang
Mr Della Bosca	Mr Primrose	Ms Voltz
Mr Hatzistergos	Mr Robertson	Mr West
Mr Kelly	Ms Robertson	*Tellers,*
Mr Macdonald	Mr Roozendaal	Mr Veitch
Reverend Dr Moyes	Ms Sharpe	Ms Westwood

Pairs

Mr Gallacher	Mr Donnelly
Mr Khan	Ms Griffin

Question resolved in the negative.

Opposition amendments Nos 8, 12, 13, 14, 15, 16, 17, 18, 19, 22, 27, 37, 38, 41, and 43 negatived.

Question—That Opposition amendment No. 20 be agreed—put.

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

The Committee divided.

Ayes, 17

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Clarke	Ms Hale	Mr Pearce
Mr Cohen	Dr Kaye	Ms Rhiannon
Ms Cusack	Mr Lynn	*Tellers,*
Ms Ficarra	Mr Mason-Cox	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 20

Mr Brown	Reverend Nile	Mr Smith
Mr Catanzariti	Mr Obeid	Mr Tsang
Mr Della Bosca	Mr Primrose	Ms Voltz
Mr Hatzistergos	Mr Robertson	Mr West
Mr Kelly	Ms Robertson	*Tellers,*
Mr Macdonald	Mr Roozendaal	Mr Veitch
Reverend Dr Moyes	Ms Sharpe	Ms Westwood

Pairs

Mr Gallacher	Mr Donnelly
Mr Khan	Ms Griffin

Question resolved in the negative.

Opposition amendment No. 20 negatived.

The CHAIR (The Hon. Amanda Fazio): Order! The next amendment the Committee will vote on is Government amendment No. 15, which was moved earlier. That amendment is in conflict with Opposition amendment No. 11. I will now put Government amendment No. 15. If it is successful, Opposition amendment No. 11, which has already been moved and spoken to, will lapse.

Question—That Government amendment No. 15 be agreed to—put and resolved in the affirmative.

Government amendment No. 15 agreed to.

Opposition amendment No. 11 lapsed.

The Hon. CATHERINE CUSACK [1.23 a.m.], by leave: I move Opposition amendments Nos 9, 28, 29, 30, 32, 33, and 34 in globo:

No. 9 Page 28, schedule 1 [63], proposed section 97 (3) (a), lines 34 and 35. Omit all words on those lines.

No. 28 Pages 47 and 48, schedule 1 [122]–[128], line 8 on page 47 to line 8 on page 48. Omit all words on those lines. Insert instead:

[122] Section 152 Recurrent charges in respect of general services: registered interest holders

Omit the section.

[123] Section 153 Recurrent charges in respect of general services

Omit "who is not the owner of the premises" from section 153 (1).

[124] Sections 153 (2) (c)–(e), 159 (2) (d) (i) and (ii) and 160 (2) (c)–(e)

Omit "delivered up vacant possession of the premises to the operator" wherever occurring.

Insert instead "permanently vacated the premises".

[125] Sections 153 (2) (d), 159 (2) (d) (ii) and 160 (2) (d)

Omit "vacant possession was delivered" wherever occurring.

Insert instead "the former occupant permanently vacated the premises".

No. 32 Page 62, schedule 1 [167], proposed clauses 17 and 18 of schedule 4, lines 7–24. Omit all words on those lines. Insert instead:

17 Liability of former occupant of residential premises for recurrent charges

No. 33 Page 62, schedule 1 [167], proposed clause 18 of schedule 4, lines 26–28. Omit "who is not a registered interest holder in relation to those premises and who had vacated the premises before the amendment of section 153 (2) (e)". Insert instead "who had vacated the premises before the amendment of section 153 (1)".

No. 34 Page 62, schedule 1 [167], proposed clause 18 of schedule 4. Insert after line 29:

(2) Section 153, as amended by the 2008 amending Act and modified by this clause, extends to a person to whom this clause applies.

No. 29 Page 52, schedule 1 [149], proposed section 182A, line 18. Omit "(other than a registered interest holder)".

No. 30 Page 52, schedule 1 [149], proposed section 182A (3), lines 26–29. Omit all words on those lines.

The bill treats registered interest holders as second-class consumers. Amendments Nos 28, 32, 33 and 34 deal with the way recurrent charges are levied on registered interest holders in retirement villages. Under the bill registered interest holders, who are mainly long-term leaseholders in the for-profit sector, are being denied the protection of a 42-day cap on recurrent charges after their residence is vacated. After 42 days registered interest holders will have to pay in proportion to capital gains. This will override contracts that specify a six-month gap or less. If a resident dies, the recurrent charges cease immediately. This will be overtaken by the legislation, which will blow that out to a 40-day cap and the resident's estate will be liable in that situation. The amendments seek to give all consumers the same protection of an absolute 42-day cap unless their contract specifies an earlier date.

Amendments 29 and 30 deal with registered interest holders being excluded from the statutory charge. The bill provides for a statutory charge to give security to a resident's incoming contribution, which is often his or her life savings, in the event of a village operator going bankrupt. This will give registered interest holders priority over the banks, as happens in Victoria and New Zealand. However, registered interest holders are excluded from this protection. The majority of residents in the for-profit sector will have inferior protection. While the residents have a registered interest in their leases, it is not above the banks. Some groups of residents, even within the same village, have no interest in the property but the Government imposes upon them a statutory charge that puts them ahead of the banks. Residents in the village who have a registered interest will be below the banks. Of course, that is not a very good place to be when the operator has gone bankrupt. Why not give everyone the same protection? The Opposition amendments will ensure equality for all residents.

The CHAIR (The Hon. Amanda Fazio): Order! There are two other amendments to be moved that are in conflict with some of the Opposition amendments. The first is Greens amendment No. 5 and the second is Christian Democratic Party amendment No. 1. At this stage I ask Ms Sylvia Hale to move Greens amendment No. 5.

Ms SYLVIA HALE [1.27 a.m.]: It had been my intention to move Greens amendments Nos 5 to 8 in globo, but I gather that is no longer possible. As the Greens amendments are very similar to the Hon. Catherine Cusack's amendments, I will not move Greens amendments Nos 5, 6 or 7.

Reverend the Hon. FRED NILE [1.27 a.m.]: I move Christian Democratic Party amendment No. 1:

No. 1 Page 62, schedule 1 [167], proposed clause 17 of schedule 4, line 20. Omit "6 months". Insert instead "42 days".

As honourable members know, the bill has made a significant difference to residents who have vacated their unit but are paying ongoing recurrent charges while they wait for their unit to be sold. A number of such cases have been brought to the attention of the House during this debate. This follows on from reforms to the Retirement Villages Act in 2004 that prevented operators from charging for personal services as soon as a resident permanently vacates a village. This means that all charges previously payable for personal services, including meals, cleaning and other personal care services, must cease at that point. The former resident's recurrent charges are significantly reduced when these costs are taken out. Anyone who suspects they are being overcharged in spite of this protection can take the matter to the Consumer, Trader and Tenancy Tribunal.

Under the bill the length of time a resident has to pay ongoing charges for the vacant unit will be cut from six months to 42 days, excepting registered interest holders, who will only continue to pay a proportion of the ongoing charges after 42 days on the same basis as they share in the capital gains. This reflects the different contracts signed by registered interest holders, which includes residents who own their strata or company title units. The operator will have to pay the remainder of these charges. This provides a significant incentive for operators to get the unit sold.

This change will apply to both new and existing contracts. The bill as drafted includes a transitional clause for residents who move out before the new law commences. Its purpose was to allow operators to adjust their charges, which create an additional cost that must come out of their own funds, not recurrent funds. However, after discussions with the residents, and with the Government's support, I have moved this amendment, which will provide further improvement for the benefit of residents who have already vacated their unit when the Act commences, as it will reduce the period from six months to 42 days. I am very pleased to move this amendment and I urge members of the Committee to support it.

The Hon. CATHERINE CUSACK [1.30 a.m.]: The amendment suggested by Reverend the Hon. Fred Nile is an improvement in that it reduces the cap from six months to 42 days. I guess the key difference between what he is proposing and what we are proposing is that we want an absolute cap where all of the charges cease at 42 days, whereas under Reverend the Hon. Fred Nile's amendment the charges will continue but in proportion with the share of capital gain. In many of these villages it is 50 per cent. Certainly in the case that is probably most familiar to us all, that of Clare Phillips, it is 50 per cent, and that can continue forever.

I have to inform the Committee that I have visited many villages and seen newer contracts where it is clear to me that operators are anticipating this change to the legislation. I am encountering contracts in which the residents are receiving 100 per cent of the capital gain, but the annual drawdown, which is the incoming contribution that they are required to pay each year, used to be 2.5 per cent a year capped at maybe 10 years, which is 25 per cent. It is now 7 per cent a year for five years, which is 35 per cent, and in some of these villages there is a compulsory marketing fee of 4 per cent, making a drawdown of 39 per cent, which is then imposed on the sale price of the residence when it is sold. In that scenario the operator is getting a big share of the capital gain because the drawdown is on the sale price not on the incoming contribution, yet the resident's amount is technically in accordance with the Act in containing 100 per cent of the capital gain.

I realise people may find that a little hard to follow given the lateness of the hour, but I assure members that it is very easy to circumvent the intentions of the Act. Indeed, there is a whole new crop of residents coming through with these contracts. While this amendment is better than the six-month cap and it certainly brings the 42 days in line with the non-registered interest holders—and we certainly welcome anything that simplifies matters—we would like to see the two clauses completely merged so that people have exactly the same rights and the charges stop after 42 days. Until we put that cap on I am sorry to say that these big companies—members need to realise that we are talking about a company in Australia's top 200 and they have a massive in-house legal department—will find creative ways around the legislation all the time. Until we get equality we will have a situation in which the legislation cannot be completely effective for these consumers.

The Hon. PENNY SHARPE (Parliamentary Secretary) [1.32 a.m.]: The Government supports the Christian Democratic Party's amendment. This issue has been highlighted by recent reports on residents vacating retirement villages who are required to pay ongoing fees. In some cases this can take some time and some people have experienced difficulty in onselling their units. The Government moved some years ago to stop operators charging for personal services once residents vacated a unit. The bill now before us will significantly reduce the length of time residents must pay ongoing charges, in many cases to just six weeks. The bill as drafted included a transitional period for units that have been vacated before the Act commenced. However, following discussions on the issue of recurrent charges, including strong representations on behalf of residents by Reverend the Hon. Fred Nile, the Government has resolved to accept this amendment.

Ms Lee Rhiannon: How can you live with yourself saying that?

The Hon. PENNY SHARPE: Credit where credit is due. It is very simple. We acknowledge that this will deliver.

The CHAIR (The Hon. Amanda Fazio): Order! I remind Ms Lee Rhiannon that she should not be interjecting.

The Hon. PENNY SHARPE: We acknowledge that we will deliver further improvements for residents in this situation while ensuring the bill also delivers workable and balanced outcomes and creates a fair and level playing field for residents and operators from the day the Act commences. The Government opposes the amendments moved by the Opposition. The Government believes it is not appropriate to apply the same requirements to both categories of village residents and to do so would be unfair as there are significant differences between the rights and responsibilities of registered interest holders and non-registered interest holders. The amendment in the bill slashes the length of time that former residents who were not registered

interest holders have to pay for recurrent charges from 6 months to 42 days. These residents do not stand to derive any further benefits after they leave the village. In contrast, registered interest holders are generally entitled to a share of any capital gain on their unit. Under this arrangement they are like quasi owners of their premises. The right to a share in capital gains arises only in the case of ownership or long-term leasehold of a village unit and does not apply to non-registered interest holders.

The bill provides that registered interest holders will pay for a proportion of the ongoing recurrent charges once the initial 42-day period has passed. These remaining recurrent charges are to be shared between the former resident and the operator in the same proportion as they are to the share in the capital gain on the unit. The operator will have to pay their share of the charges from their own money and cannot use residents' recurrent charges for this purpose, giving a strong incentive for them to get the unit sold as quickly as possible.

The proposed amendments in the bill have been discussed extensively with residents groups and operators. The Government's proposals attempt to strike a fair and workable balance based on these discussions. The Opposition raised the case of Mrs Phillips and I dealt with this issue earlier. Mrs Phillips' circumstances are very unfortunate, but it is my advice that they are also quite unusual and we are actually looking further into that case.

Opposition amendment No. 29, which is about protection of ingoing contributions, proposes to extend the Government's proposed statutory charge to registered interest holders as well as non-registered interest holders. This amendment is not warranted without further investigation and proper legal advice. The Government notes that the financial interests of registered interest holders are already protected by virtue of their ownership of their residence or the rights afforded by a long-term lease. To apply the statutory charge to this group of residents could be a duplication and could potentially create legal complexity and associated problems. The Government believes that to force this change without knowing whether this could create unintended consequences is unwise. We are concerned that this is a complex issue that requires further consideration before we are able to agree to the amendment.

Ms SYLVIA HALE [1.36 a.m.]: Sometimes this Government just takes your breath away with its cynical approach to the legislation that comes to this place. When Reverend Fred Nile moved his amendment I said to Ms Rhiannon, who was sitting next to me, "I bet the Government supports it." You could tell the Government would support it. It really is pathetic. Here we have three people, two from the Shooters Party and the Reverend Fred Nile, about whom—

The CHAIR (The Hon. Amanda Fazio): Order! Is Ms Sylvia Hale speaking to any of the amendments before the Chair?

Ms SYLVIA HALE: Yes. I am saying that in relation to the amendment moved by Ms Cusack, as I have already indicated, the Greens believe that the registered interest holders should be treated on a level playing field with other residents of the villages. I suppose when Reverend Fred Nile produced the amendment one's initial response, if one is motivated by some form of political point scoring as the Government so often is and the Shooters Party appears to be, would be simply to vote it down. Of course, if one had some concern about the welfare of the registered interest holders, one could well be obliged to support it. I am saying it is reprehensible for the Government to so blatantly and cynically agree to these amendments from people who have so far contributed absolutely nothing to this debate tonight.

Reverend the Hon. FRED NILE [1.38 a.m.]: I made this comment earlier. We negotiated many of the amendments that became the Government's amendments. I could have moved them or the Government could have moved them. For simplicity's sake we proceeded on the basis that the Government would move them. We negotiated those amendments. That is why they have been accepted and moved. The member should be pleased those amendments were moved. Is Ms Lee Rhiannon unhappy with the amendments the Government moved?

Ms Lee Rhiannon: We know how you operate.

The CHAIR (The Hon. Amanda Fazio): Order! I am reluctant to start calling members to order at this late stage. Ms Lee Rhiannon will cease interjecting.

The Hon. CATHERINE CUSACK [1.40 a.m.]: Reverend the Hon. Fred Nile, which amendments did you negotiate with the Government? There has only been the one amendment announced by the Government in the media that it would return to the status quo on the capital maintenance agreements. When you speak of the amendments that you negotiated, are you referring to that matter?

Reverend the Hon. Fred Nile: I am referring to that matter, yes.

The Hon. CATHERINE CUSACK: Were there additional amendments?

Reverend the Hon. Fred Nile: I said I would not support the bill until that amendment was moved.

Question—That Opposition amendments Nos 28, 32, 33, 34, 29 and 30 be agreed to—put.

The Committee divided.

Ayes, 18

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

Noes, 19

Mr Brown	Mr Obeid	Mr Tsang
Mr Catanzariti	Mr Primrose	Ms Voltz
Mr Della Bosca	Mr Robertson	Mr West
Mr Hatzistergos	Ms Robertson	
Mr Kelly	Mr Roozendaal	*Tellers,*
Mr Macdonald	Ms Sharpe	Mr Veitch
Reverend Nile	Mr Smith	Ms Westwood

Pairs

Mr Gallacher	Mr Donnelly
Mr Pearce	Ms Griffin

Question resolved in the negative.

Opposition amendments Nos 28 to 30 and 32 to 34 negatived.

Question—That Government amendment No. 10 be agreed to—put and resolved in the affirmative.

Government amendment No. 10 agreed to.

The Hon. CATHERINE CUSACK [1.48 a.m.]: I move Opposition amendment No. 31:

No. 31 Page 62, schedule 1 [167], proposed clause 17 of schedule 4, lines 14–20. Omit all words on those lines. Insert instead:

(2) If a former occupant of residential premises in a retirement village was still liable to pay recurrent charges in respect of those premises immediately before the commencement of section 152 (3) (as inserted by the 2008 amending Act), a reference in section 152 (3) (a) to the 42 days immediately after the former occupant permanently vacated the premises is to be read as a reference to:

(a) if the former occupant permanently vacated the premises 6 months or more before the commencement of section 152 (3), the period from the vacation of those premises until the commencement of that subsection, or

(b) if the former occupant permanently vacated the premises less than 6 months before the commencement of that subsection:

(i) the period of 6 months immediately after the former occupant vacated the premises, or

(ii) the period from the vacation of those premises until 42 days immediately after the commencement of that subsection,

whichever period ends earlier.

My amendment seeks to correct a deficiency that we perceive in a transitional arrangement at the back of the bill. That relates to the cap. Those who have vacated their premises and who are in the process of continuing to pay their recurrent fee would be charged a proportion of the capital share that they have in the property. They will not benefit from this provision because we believe that modifications should be made to the transitional provision.

The Opposition will not call for a division on this amendment, which I moved in support of the Government's position. I ask Reverend the Hon. Fred Nile, who developed these amendments, to explain whether it would benefit future registered interest holders who have vacated their office and not only those paying the full amount who vacated their premises within the time limit, or those who vacated their premises some time ago, as in the example of Claire Phillips. I ask Reverend the Hon. Fred Nile whether he could explain the transitional arrangements for registered interest holders under the 42-day cap that he has proposed.

Reverend the Hon. Fred Nile: As per the bill; as per the legislation.

The Hon. CATHERINE CUSACK: If a registered interest holder in the situation of Claire Phillips left three years ago and the property has still not sold, how would Reverend the Hon. Fred Nile's amendment benefit a person in her position?

Reverend the Hon. Fred Nile: That is what I believe would be a benefit to her. That is what I believe.

The Hon. CATHERINE CUSACK: I am trying to ascertain—

Reverend the Hon. Fred Nile: Would you like me to debate it with you?

The Hon. CATHERINE CUSACK: I am not seeking to debate it; I am seeking to clarify what would be the effect on the recurrent payment that she needs to make.

Reverend the Hon. Fred Nile: That would be worked out between her and the operator.

The Hon. CATHERINE CUSACK: In proportion with her share of the capital gain?

Reverend the Hon. Fred Nile: So far as I am aware, but I am not a lawyer.

The Hon. CATHERINE CUSACK: I am trying to understand the amendment moved by Reverend the Hon. Fred Nile. When will it be effective?

Reverend the Hon. Fred Nile: I read that out when I introduced my amendment.

The Hon. CATHERINE CUSACK: With respect, Reverend the Hon. Fred Nile referred to prospective residents. Residents who move out in future will have the 40-day cap. My question relates to all those people who have already been out for some time. Let us say that they have already vacated or that they will vacate before the commencement of this provision. They have been paying this recurrent charge. What will happen to them? I moved Opposition amendment No. 31 to try to ensure that they are covered. That seems to me to be the only question that relates to your amendment.

Reverend the Hon. Fred Nile: I believe my amendment will affect those services.

The CHAIR (The Hon. Amanda Fazio): We have before us two amendments—Christian Democratic Party amendment No. 1 moved by Reverend the Hon. Fred Nile, and Opposition amendment No. 31 moved by the Hon. Catherine Cusack. As they are in conflict I propose to put them in the order in which they were moved. If Christian Democratic Party amendment No. 1 is agreed to, Opposition amendment No. 31 will lapse.

Question—That Christian Democratic Party amendment No. 1 be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 1 agreed to.

Opposition amendment No. 31 lapsed.

The CHAIR (The Hon. Amanda Fazio): Order! Opposition amendment No. 31 will lapse. The Committee did not deal with Opposition amendment No. 44, but that will be dealt with after the Committee has dealt with Greens amendments 3, 9, 10, 11 and 12.

Ms SYLVIA HALE [1.54 a.m.], by leave: I move Greens amendments Nos 3, 9, 10, 11 and 12 in globo:

No. 3 Page 38, schedule 1 [90], proposed section 115A, lines 26–30. Omit all words on those lines.

No. 9 Page 65, schedule 1 [167], proposed clause 26 of schedule 4, lines 26 and 27. Omit "on or after 23 November 2006".

No. 10 Page 65, schedule 1 [167], proposed clause 26 of schedule 4. Insert after line 27:

(b) the purchase of the item was required or effected by the resident's village contract, and

(c) the item is a fixture of the premises to which the village contract relates, and

No. 11 Page 65, schedule 1 [167], proposed clause 26 of schedule 4, lines 28–30. Omit "for which the operator would be responsible (within the meaning of section 92, as substituted by the 2008 amending Act)". Insert instead "in respect of which the operator would be required to bear the costs of depreciation and capital replacement under section 92".

No. 12 Page 68, schedule 1 [167], proposed clause 34 of schedule 4, lines 14–18. Omit all words on those lines. Insert instead:

Section 72A (1) (as inserted by the 2008 amending Act) applies to each financial year for a retirement village commencing after the insertion of that subsection.

Greens amendment No. 3 will omit section 115A, which deals with the proposed annual budget. The proposed annual budget may provide for contingencies as the regulations may limit the amount that a proposed annual budget may allocate for contingencies. Residents have approached us and said that they believe an operator may allocate thousands of dollars in a budget for what he or she claims to be contingencies. At present there is no provision for contingencies in the Act. The source of the residents' problem is that the regulation that would limit the amount of those contingencies has not yet been made known to anyone, and no doubt it has not yet been determined.

However, residents believe that it is probably safer to retain the status quo rather than introduce an element about which there is insufficient knowledge. Much of the substance of Greens amendments Nos 9, 10 and 11 has already been debated. Greens amendment No. 12 is a transitional provision that avoids confusion about when an operator is to hold a meeting after the legislation is enacted in respect of section 72. It specifies that the operator is to hold an annual management meeting.

The Hon. PENNY SHARPE (Parliamentary Secretary) [1.56 a.m.]: The Government does not support the Greens amendments. The Greens proposal will remove any allowance for limits to be placed on budget contingencies. The Government believes that this will give operators unrestricted leeway in regard to how much money is allocated for contingencies in a draft budget. This proposal would be of no clear benefit to village residents and could even be to their greater detriment. The Government believes that the Greens have not fully considered the full impact of this proposed amendment. The Government has already committed to consulting with retirement village residents groups in developing the regulations, which will include consultation on whether there should be limitations on the amounts that can be allocated towards budget contingencies.

Greens amendment No. 9 and subsequent amendments Nos 10 and 11 deal with the sale of capital items to residents. The provisions in the amendment bill address a loophole in existing laws where operators seek to absolve themselves of the responsibility for replacing capital items by selling them to the incoming resident under the village contract. Under this reform, the Government is providing transitional arrangements so that certain residents will be able to be reimbursed for the cost of capital items previously purchased. However, allowing for unlimited retrospectivity of this proposal could lead to significant difficulties, and it is both realistic and reasonable to choose a specific cut-off date. That cut-off date of 23 November 2006 was chosen because, at that time, the consultation draft Retirement Villages Amendment Bill contained a proposal that was publicly released.

On that date, residents and operators were unequivocally made aware of the Government's intentions regarding this matter. Greens amendments Nos 10 and 11 are consequential to Greens amendment No. 9. The Government opposes both those amendments. Greens amendment No. 12 refers to the holding of the first annual management meeting. Greens amendment No. 12 will remove the Government's transitional provision requiring an annual management meeting to be held if the financial year of a village ended within two months of the commencement of the amendment. The Government believes that this is a rigid and prescriptive approach to the holding of annual management meetings. This proposal may see some residents having to wait more than 12 months after the law is changed for their first annual meeting to be held. The Government does not believe that the Greens amendments are reasonable and it will not support them.

Question—That Greens amendments Nos 3, 9, 10, 11 and 12 be agreed to—put and resolved in the negative.

Greens amendments Nos 3, 9, 10, 11 and 12 negatived.

Schedule 1 as amended agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

STATE REVENUE AND OTHER LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2008

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

Motion by the Hon. Tony Kelly agreed to:

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

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

ADJOURNMENT

The Hon. TONY KELLY (Minister for Police, Minister for Lands, and Minister for Emergency Services) [2.02 a.m.]: I move:

That this House do now adjourn.

SCHOOL STUDENT TRANSPORT SCHEME

The Hon. MATTHEW MASON-COX [2.02 a.m.]: Members would be aware of this Labor Government's appalling decision in the mini-budget to cut free school travel for almost 700,000 students across

New South Wales. As a result, New South Wales families now will be forced to pay up to $180 a year to transport their children to and from school. The axing of free school student transport will hit families in the hip pocket when they can least afford it. It also will put school children's safety at risk, as some children will have to walk to school or wait for their parents to pick them up, and no doubt this will create more congestion around our schools. I was incredulous to hear that the Labor member for Monaro, Steve Whan, thinks that slugging families up to $180 per year is, in his words, "fair" or that most people in Monaro think it is reasonable to pay for a service that should be free for their children but for Labor's economic incompetence. I have not personally met anyone in Monaro who thinks it is reasonable to pay for what was previously a free school bus service for children. I challenge Steve Whan to produce evidence to support his outrageous statements. Members can rest assured that he is not trumpeting these misleading statements in Monaro. It is another case of saying one thing in Sydney and another in Monaro.

It is clear that Steve Whan is simply out of touch with his electorate. Families are struggling in difficult economic times, and he thinks it is fine to slug them again for school travel. The changes to the school student travel scheme are another classic case of policy on the run from a desperate New South Wales Labor Government. Little or no thought has been given to who will collect the co-payments. Will it be schools, bus operators or someone else? The schools will have to be involved in the collection of the co-payment in some way, as they possess the database of student information. Most bus operators do not have the necessary shopfronts to easily administer collection of the co-payment. In any case, the Government has not proposed any compensation or allowance for the costs that will be incurred in respect of the collection of the co-payment. This will be simply collateral damage from what can only be characterised as an ill-conceived policy proposal from the Government.

Another aspect of the proposed co-payment that the Government has failed to properly consider is the position of students who reside in New South Wales but attend schools in the Australian Capital Territory. In recent estimates hearings, the Director General of Transport insisted that existing cross-border arrangements would ensure the proper collection and payment of the co-payment by the Australian Capital Territory to New South Wales. Anyone familiar with endemic Australian Capital Territory and New South Wales cross-border disputes in areas such as health and disability services will be sceptical of the Government's ability to deliver on this front. Time will no doubt tell. Another example of collateral damage from this half-baked proposal is the likely reduction in other services provided by local bus operators. This arises from the fact that the current student transport scheme provides an important cross-subsidy, which enables local bus companies, such as Deane's Business and Transborder Express, to underpin other services provided to the Monaro community.

I recently visited some of these local bus operators only to be told that the Government had not consulted them in respect of the proposed changes. That is hardly surprising. These operators have been part of the Government's bus reform project for over five years, yet they had these changes sprung on them in the Sunday newspapers. It first appeared that years of negotiation had gone up in smoke, with no clarity whatsoever on their recently signed contracts and whether they would be honoured by the Government. The Government has since failed to provide operators with certainty on these important operational issues. Bus operators are still in the dark on how the proposed co-payment will be collected and whether their existing contracts will be subject to changes in the future. I call on the Government to provide the industry with clarity on all aspects of the proposed co-payment. I note that these transport cuts are just another example of New South Wales Labor's lack of priorities.

Steve Whan and his colleagues are happy to spend millions staging the V8 Supercars at Homebush and supporting the Mardi Gras, but they will not support these essential services to local families. Sadly, these cuts also target families who can least afford it. They come on top of Labor's cut to the $50 back-to-school allowance and other cuts in the mini-budget. In contrast, the New South Wales Liberal-Nationals will restore free travel for schoolchildren across New South Wales. This will ease the burden on hardworking families and promote safety in our communities. I encourage all families to send New South Wales Labor and Steve Whan in particular the message that they should not be forced to bear the consequences of 13 years of Labor's incompetence and mismanagement. I encourage members of the public to lodge their protest against the New South Wales Labor Government's harsh school student travel cuts by signing the online petition now at *www.savestudenttravel.com.au.*

INTERNATIONAL DAY OF PEOPLE WITH A DISABILITY

Mr IAN COHEN [2.07 a.m.]: Today I attended a concert in Martin Place celebrating the International Day of People with a Disability. Having been organised by the New South Wales Department of Ageing, Disability and Homecare, the event was a great opportunity to reflect on the amazing achievements of people

with disabilites and their capacity for full participation in all aspects of society. The celebration included square dancing with the assistance of guide dogs and a song that communicated that guidance dogs are working dogs and should not be patted. These wonderful, friendly and well-trained guide dogs combine loyal friendship with an ability to significantly expand their owner's opportunities for mobility in society. Yet while they are beautiful animals, the slogan clearly was, "Stop, don't touch that dog, he's a working dog."

The New South Wales Young Australian of the Year 2009, Paralympian Kurt Feamley, OAM, who is an ambassador of the Don't Dis my Ability program, provided inspiring words during the event. Kurt has demonstrated the heights of achievement with his monumental drive and pursuit of sporting excellence. Kurt brought home one gold medal, two silver medals and a bronze medal from the recent Beijing Paralympics. While Kurt is a driven and motivated individual, he still acknowledges that simple tasks such as catching a taxi or flying on a plane can pose difficulties. Kurt's comments are very much supported by a range of investigations undertaken by the Public Interest Advocacy Centre, which outline the barriers that persist within our society, causing reduced mobility and personal liberties.

On this day I also want to acknowledge another individual who has contributed so much to the community and the New South Wales political scene. General Purpose Standing Committee No. 2 members who participated in the inquiry into the program of appliances for disabled people [PADP] will be familiar with Greg Killeen. Greg travelled to Canberra today as a finalist in the Community Contribution category of the National Disability Awards. Greg has quadriplegia from an acquired spinal cord injury and lives in the community with the support of government and non-government services, and his family. He continually advocates for the implementation and/or appropriate funding of services and facilities to support and meet the needs of people with a disability to enable them to live in the community and contribute to society as fully participating citizens and to achieve a quality of life with which they are comfortable.

Greg is a1so an active member on numerous government and non-government management and advisory committees. His role varies between being the consumer and the organisational representative on committees relating to disability access, community services, assistive technology, home modifications and maintenance, equipment and local environment issues. He is currently working for SCI Australia Pty Ltd as its Policy and Advocacy Officer. As an advocate, Greg has made significant inroads into the New South Wales political process and is an excellent representative for people with a disability, with a tireless passion to achieve equality and opportunity. One simple statement that Greg has said to me and my office staff on repeated occasions is:

> Inappropriate funding of disability and community services that denies people with a disability from reaching their potential is false economy.

Surprisingly, I think Greg's thinking and argument is starting to penetrate the bureaucratic number crunchers, with the Department of Ageing, Disability and Home Care [DADHC] holding strong to its budget allocation through the razor gang's mini-budget. Reducing funding for disability services is a lose-lose situation. Inadequate funding destroys fundamental human rights, removes assistance for workforce participation and creates service delivery inefficiency. Moving forward, I hope that today's celebration of the accomplishments of people with disabilities refocuses Australia's attention on harmonising our legal system with the principles assented to in the Convention on the Rights of Persons with Disabilities. So many people I meet with disabilities, such as Greg and others, are truly inspiring. Daily they triumph against seemingly insurmountable odds with such strength of spirit. People with disabilities can lead the way for the rest of the population.

UNIVERSAL DECLARATION OF HUMAN RIGHTS SIXTIETH ANNIVERSARY

The Hon. IAN WEST [2.11 a.m.]: In exactly one week it will be 60 years since nation states through the United Nations proclaimed the Universal Declaration of Human Rights. The declaration has been variously described as "the international Magna Carta of all mankind" and "arguably the most important document ever reduced to writing, whether on paper, papyrus, vellum or tablets of stone." These appraisals of the declaration by Eleanor Roosevelt and former Australian High Court judge Mary Gaudron are testament to the optimism the declaration evokes. But the document is not a list of high ideals that are of no relevance to the real world. The declaration was born out of one of the most unstable periods in human history. Imperialism gave rise to the First World War, unbridled capitalism brought about the Depression, and totalitarianism led to the Second World War. The drafters of the declaration had seen firsthand mankind's worst failures and were best placed to come

up with a formula to ensure that the conditions that led to widespread hardship and countless deaths should not recur. The rights enshrined in the declaration guarantee not only oppression but also that the causes of oppression should not be allowed to flourish. One example is Article 25 of the declaration, which states:

> Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The drafters understood that the absence of such rights led ultimately to the extremities of totalitarianism, conflict and suffering. Articles such as these reflect the practical and commonsense view Australia brought to the United Nations and the drafting of the declaration. Australia's representative and Secretary General of the United Nations at the passing of the declaration, Bert Evatt, said peace could not be assured merely by the prevention of war, but by the prevention of inequalities that led to war. Evatt said:

> Real stability in the post-war world can be achieved only by carefully building an organisation that will do its utmost to assure the peoples of the world a full opportunity of living in freedom from want, as well as in freedom from external aggression.

As governments deal with the current economic crisis it would be wise of them to consider the rights enshrined in the declaration and the reasons behind them. As well as economic rights, the declaration also enshrines political rights and contains articles covering items such as freedom of expression and freedom of association. For people like Evatt those political rights were vital to the democracy he fostered and in which he lived, and were to be defended no matter how unpopular. It was Evatt as Leader of the Opposition who took up the cause when Liberal Prime Minister Robert Menzies first tried to ban the Communist Party through legislation and then through referendum.

Evatt took the side of the communists before the High Court and then led the campaign against Menzies' referendum. This was a brave move for a leader of a major political party as Menzies' plans were assumed to be supported by a great majority of Australians. A Gallup opinion poll in July 1951, two months before the referendum enabling the Government to legislate on the Communist Party, found that 80 per cent of Australians were in favour of Menzies' constitutional amendment. But Evatt was vindicated in both instances, successfully challenging the legislation and convincing Australia to vote against Menzies' proposal. For Evatt it was not a matter of defending communists but of protecting the political rights that underpin a liberal democracy. As High Court Justice Michael Kirby wrote in 1992:

> Perhaps it took the blinkers of a lawyer or of an international humanitarian, imbued with the words of the common law and the Universal Declaration of Human Rights, to press on against all odds. The choice for Evatt on this issue was between darkness and the light. The clarity of the right side gave Evatt an increasing fervour and conviction.

No doubt Evatt's view of something like the Australian Building and Construction Industry Improvement Act, which seriously curtails the civil rights of workers in the construction industry, and its enforcer, the Australian Building and Construction Commission, would be just as stark. As the sixtieth anniversary of the declaration approaches I encourage members to read the declaration and reflect on its importance to the stability and peace of the world.

MENAI ELECTORATE INFRASTRUCTURE

The Hon. MARIE FICARRA [2.16 a.m.]: On behalf of the thousands of hardworking residents and families in the Menai electorate I convey to the House our concerns about Labor's neglect of their area. They are rightfully frustrated that the Labor Government has failed to serve their needs and interests. It is apparent that Labor is interested in Menai only around election time, when it makes many announcements and promises but then fails to deliver. It is clear that Labor has failed in Menai to introduce long-term solutions, services and infrastructure for the betterment of the community. The people of Menai have been treated with arrogance and contempt by Labor, which has taken this electorate and its people for granted for far too long. They deserve better than cheap political spin.

The Alfords Point Bridge is another example of Labor's election spin. The $60 million improvement of the bridge was supposed to overcome major problems with traffic gridlock but all it achieved was moving traffic congestion down the road a mere 150 metres. In effect, this project has cost taxpayers $350,000 a metre and failed to overcome the problem. I must also ask: When will Labor complete the bridge at Henry Lawson Drive to stop the accidents and fatalities that have occurred in that area? Population growth in the region has been encouraged by this Government, but supportive road infrastructure to service thousands of families has not occurred under Labor.

Another woeful example of Labor's incompetence in Menai is its failure to ensure adequate policing, particularly to stop street drag-racing, vandalism and graffiti-related crime. What will Labor do to stop these problems in Old Ferry Road, Illawong; Brushwood Drive, Alfords Point; and Hall Drive, Menai? Instead of Labor adhering to its promises to ensure extra police and patrols, Menai has only a single police car at its one-man shopfront station. This car is called away regularly to other areas of the shire, leaving 45,000 people without a police patrol. The Moorebank part of the Menai electorate also has suffered under Labor's neglect. Labor closed its police station when it failed to renew the lease on the property. Labor promised to provide a new police station, but instead introduced only a one-man shopfront station at Menai. What is Labor going to do to ensure police assistance for the Rural Fire Service and State Emergency Services [SES] this year during the fire season?

The people of Moorebank have been let down also by Labor, with its failure to fulfil its promise to ensure commuter parking at Holsworthy station adding further pressure to Heathcote Road and causing travel nightmares for the people of Sandy Point, Pleasure Point and Voyager Point. It is a very slow journey to the station due to the poor condition of Heathcote Road and the associated traffic. Moorebank and Holsworthy schools have been neglected and I call upon Labor to increase the level of maintenance and install security fences at all schools in the area that do not have this necessary protection.

Many of Labor's decisions have impacted adversely on the people of Menai. It has the highest number of young people aged 7 to 15 years, and the decision by Labor to take away the school student transport scheme has really hit families hard. Due to the Menai area being gridlocked and the roads in chaos, this decision will put even more cars on the roads and cause further mayhem. The Coalition is committed to saving the scheme when it returns to office. I congratulate Liberal Party members Councillor Steve Simpson, the former Liberal candidate for Menai, and Councillor Melanie Gibbons, who continue to fight hard for the people of Menai and to compel this Government to take action. Let us ensure that action takes place now and that the people of Menai do not have to wait until the next election for their needs to be recognised and addressed.

DEATH OF DOUGLAS JUSTIN MARKELL, MUMBAI TERRORIST ATTACK VICTIM

Reverend the Hon. Dr GORDON MOYES [2.20 a.m.]: The shocking attack in Mumbai on two hotels and some other public places, which resulted in nearly 200 deaths and hundreds of injured, shocked the world. When we learned of the deaths of Australians in the attack we all felt involved—as we did following the Australian deaths that occurred in the New York Twin Towers attack, and with the tragedies in Bali the following year. I was particularly dismayed to hear of the murder of my friend Doug Markell and the bullet wound to his wife Alison on 29 November. When the terrorists attacked the Taj Mahal Palace, Doug and his wife were enjoying a holiday just prior to his retirement. I understand that he and his wife were told to stay in their hotel but they feared the worst and bravely made a break for it. They were gunned down by some 20 young terrorists who rampaged through India's financial capital, targeting tourists with bullets and grenades. They were shot in cold blood in the corridor, with Mrs Markell shot in the leg and her husband shot dead.

Doug Markell was a 71-year-old businessman and Woollahra councillor. His motto was "Work to live, not live to work", and his legacy was a life of community service. He was a tall, proud and upstanding man even at 71, who could be described as a real old-fashioned gentleman. Despite an impeccable business pedigree as a chartered accountant, merchant banker and company director, family and community service were always his two passions. Doug and Alison were the parents of two sons, Charles and David, who immediately flew to India to be with their mother, who had been taken to the Australian embassy to recover from her bullet wound.

When Doug first ran as an independent for Sydney's Woollahra Council in 1991 and was looking for running mates he said that the self-interested need not apply. He said, "We want to encourage candidates who are primarily interested in serving the local community." Our mutual friend John Young, who had known Mr Markell for 45 years, said he was an enormously warm man who loved travel, fishing, cars, bridge and his beloved Wallabies, who they would follow interstate to watch. Doug was a charming man with a great community spirit. He served as a councillor with Woollahra from 1991 to 1995 and was Deputy Mayor in 1994 and 1995. He was an avid Sydney Swans fan, a vintage car collector and an active skier. Doug was President of the Sydney Probus Club and was the chief executive officer of office supplies company Zions Systems until 2000, when he took on the role of chairman. His business was extremely successful and was largely based on his own excellent sense of management processes. Opposition Leader Malcolm Turnbull said he was deeply saddened that a Sydney man who played a leading role in his local community had been killed in the Mumbai terrorist attacks. Mr Turnbull told reporters in Sydney:

> He played a leading role in our community in the suburbs of Sydney and I'm very deeply saddened by his death. Our prayers and condolences go to his family as indeed they go to all the families of those killed or injured in this dreadful, murderous outbreak of terrorism.

I knew Doug and Alison for 20 years during my membership of the Rotary Club of Sydney. We were directors on the board of the club for many years and became close colleagues. During my service as Vice President of the club we became very close. Doug joined our club in 1983 and over 25 years held several positions as director, assistant honorary treasurer and president's aide.

Then when I was elected as President of this largest Rotary Club in Australia in 1993 and 1994, I thought of Doug immediately as my presidential aide. We were to raise $800,000 together and were very hands-on with a number of important community projects. Doug was essential in seeing that all my presidential duties were completed effectively and efficiently. He was the perfect president's aide, with a smile and greeting for everyone on arrival each week. The meetings certainly ran very smoothly while he held this position. He was the epitome of Rotary's motto "Service above self". I pay tribute to a remarkable friend and colleague and a fellow member of the Rotary Club of Sydney. Our thoughts and prayers go to the family and friends of all the victims at this difficult time. Doug Markell's funeral will be held next Thursday 11 December at St Stephen's Church, Macquarie Street, opposite Parliament House.

NARRANDERA VOLUNTEER RESCUE ASSOCIATION FORTIETH ANNIVERSARY

The Hon. MICHAEL VEITCH [2.25 a.m.]: On Saturday 15 November I had the immense honour to represent the Premier at the fortieth anniversary of the Narrandera Volunteer Rescue Association. It was 40 years ago, in November 1968, when the local community came together to form the Narrandera Volunteer Rescue Association after a tragic drowning at Berembed weir. Donations from clubs and the local community allowed the club to purchase some basic equipment, including a wooden dinghy. In October 1969 representatives from the Narrandera Volunteer Rescue Association travelled to the New South Wales Police Academy in Sydney and met with members from Wagga Wagga, Albury and Dubbo, which formed the New South Wales Volunteer Rescue Association. Members may remember the late Max Walters from Dubbo who was part of the establishment of the New South Wales Volunteer Rescue Association and would have been at that meeting.

When the squad's first vehicle was obtained it was a long-wheelbase Land Rover, which was used to launch and retrieve boats during floods and drowning incidents. Following a generous donation from the Narrandera RSL, the club's first boat and equipment shed was built. Previously all equipment had been stored at members' private residences. Currently the shed is used as a training room for the squad. Grants have been obtained from the Government to fit out the room with air conditioning, carpets, tables and electronic training aids. The largest recorded flood to hit Narrandera occurred in 1974, and the volunteer rescue association was active in delivering food and mail to isolated properties up to 50 kilometres from town, transporting a bride to her wedding, evacuating a female resident suffering from a spider bite, and transporting electricians to restore power to surrounding rural properties. In April 1988 the club became incorporated as the Narrandera Volunteer Rescue Association and has continued to grow ever since.

In recent years the squad has responded to calls for assistance outside its area. The first instance was the Thredbo landslide, with the squad providing four operators to the site and another at the Volunteer Rescue Association State Operations Centre. Then came the outbreak of Newcastle disease in the poultry industry at Mangrove Mountain in 1999. The squad responded to the request for assistance and provided four members. During the exotic disease outbreak Sydney was hit by a huge hailstorm that caused extensive damage. Immediately after Mangrove Mountain the Land Rover left Sydney with three different members to help repair destroyed properties. The vehicles have been upgraded and the range of communications, lighting, catering and rescue equipment has expanded considerably. The headquarters have been extended numerous times, with the most recent extension in 2005. Construction costs were met with $44,000 in funding from the Volunteer Rescue Association Capital Grants Program, with the squad members raising the outstanding $80,000.

But it is in the local community that the squad does its most valuable work. Members work actively with fellow emergency service organisations and often assist the ambulance service with challenging patient transfers or the police with search tasks or crime scene lighting. In this financial year the Government recognised its precious work by providing a grant of $1.26 million to the New South Wales Volunteer Rescue Association, in addition to the $340,000 funding provided through NSW Maritime to assist with the operation of the Volunteer Rescue Association's marine members. From modest beginnings 40 years ago, the Narrandera Volunteer Rescue Association has grown to be a well-equipped and professionally run organisation dealing in daily search and rescue. It is a wonderful organisation with fantastic people.

I particularly mention a long-term member of the squad, Mr Wal Lingen, who has been the secretary of the Narrandera Volunteer Rescue Association for the past 13 years while remaining an active member of the

squad. He is the State Emergency Services local controller and a member of at least two rural bush fire brigades. Recently he was recognised for his long and distinguished service by being awarded the Emergency Service Medal.

The squad's work is often hazardous and performed in the very worst conditions. The members deserve our utmost praise for providing services on a voluntary basis. It is important to recognise members who provide these services, leave their workplaces and give up time they would otherwise spend with families and friends to help others in need. At the dinner I had great pleasure in presenting medals to a number of the members. I feel it is important for the House to acknowledge them: Ted Bryon, Doug Crocker, Herb Fisher, Geoff Guymer, Bob Vidler, Drew Vidler, Bryan Dobson, Graham Baldwin, Paul Morsanuto, Warren Boyce, Bryan Hatherly, Dave Maunder, Cheryl Davies, Kevin Barber, Geoff Burridge, Keith Mathieson, Llewellyn Tuckett, and Brett Robinson.

KENDALL BAY MARINA

The Hon. DON HARWIN [2.30 a.m.]: On Monday 24 November 2008 it was my pleasure to attend a meeting organised by the Breakfast Point Residents Group in its packed community hall to protest against the proposal for a 177-berth marina in Kendall Bay. The residents feel that there are all sorts of problems with the scale of the project, including traffic, noise and parking. The meeting also heard an excellent presentation on the sedimentation problem in Kendall Bay resulting from the former industrial use of the site. Considerable remediation is required.

The marina has been called by the Minister for Planning under the much-criticised part 3A of the Environmental Planning and Assessment Act as a project of State significance. As a result, the City of Canada Bay council, including its three Liberal councillors, Megna, Cestar and McCaffrey, unanimously resolved to oppose the project. But unfortunately they are no longer the consent authority under the provisions of the Act.

I addressed the meeting on behalf of the Leader of the Opposition and I was accompanied by Councillor Helen McCaffrey to the meeting. I made it clear that the City of Canada Bay council would reclaim its right to make the decision over this project upon our election to government, given the Coalition's policy to scrap part 3A. But unfortunately it looks as though this may not be soon enough for the Breakfast Point community: the Minister for Planning is likely to make her decision in the next 12 months. Already NSW Maritime has given its consent to the use of Kendall Bay.

Sadly, the member for Drummoyne was missing in action. She was not present at the meeting. As the residents made very clear to me, she is not backing the Breakfast Point community in its opposition to the project. That is a matter of grave concern to them, and to me. I look forward to working with the Breakfast Point community to help them reclaim local control over their local affairs.

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

Motion agreed to.

The House adjourned at 2.32 a.m. on Thursday 4 December 2008 until 11.00 a.m. the same day.