

LEGISLATIVE COUNCIL

Wednesday, 4 May 2016

The PRESIDENT (The Hon. Donald Thomas Harwin) took the chair at 11:00.

The PRESIDENT read the prayers.

Address

HER MAJESTY QUEEN ELIZABETH II

The PRESIDENT: I report the receipt of a letter from the Official Secretary to the Governor reporting a communication from Mr Edward Young, Deputy Private Secretary to Her Majesty the Queen:

Sandringham House

9th January 2016

Dear Governor,

Thank you for your letter of 16th September to Sir Christopher Geidt enclosing an Address from members of the Parliament of New South Wales to The Queen, on the occasion of Her Majesty becoming the Longest Reigning Monarch.

I have shown your letter and the enclosed Address to The Queen, who was pleased to receive it. This message comes to you and all members of the Parliament of New South Wales with Her Majesty's thanks and good wishes.

Yours sincerely,

Edward Young
The Deputy Private Secretary to The Queen

Bills

ELECTRICITY SUPPLY AMENDMENT (ADVANCED METERS) BILL 2016

CRIMES (DOMESTIC AND PERSONAL VIOLENCE) AMENDMENT (NATIONAL DOMESTIC VIOLENCE ORDERS RECOGNITION) BILL 2016

FAIR TRADING AMENDMENT (FUEL PRICE TRANSPARENCY) BILL 2016

ASSISTED REPRODUCTIVE TECHNOLOGY AMENDMENT BILL 2016

BIOFUELS AMENDMENT BILL 2016

Assent

The PRESIDENT: I report the receipt of messages from His Excellency assenting to the above-named bills.

Members

DEATH OF THE HON. NATHANAEL MONTGOMERY ORR, FORMER MEMBER OF THE LEGISLATIVE COUNCIL

The PRESIDENT: I announce the death on 16 April 2016 of the Hon. Nathanael Montgomery Orr, aged 98 years, a member of this House from 1976 to 1984. On behalf of the House I have extended to his family the deep sympathy of the Legislative Council in the loss sustained. I ask members and officers to kindly stand as a mark of respect.

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

Bills

CRIMES (SERIOUS CRIME PREVENTION ORDERS) BILL 2016
CRIMINAL LEGISLATION AMENDMENT (ORGANISED CRIME AND PUBLIC SAFETY) BILL
2016

First Reading

Bills received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (11:03): I move:

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

Motion agreed to.

The Hon. DUNCAN GAY: I move:

That the second reading stand an order of the day for a later hour of the sitting.

Motion agreed to.

Announcements

CENTENARY OF FIRST WORLD WAR

The PRESIDENT: The beginning of May 1916 found Australia's troops steadily arriving in France and being deployed across the Western Front. The Battle of Verdun was raging, with the Germans undertaking a major successful offensive west of the Meuse. This battle continued without the direct involvement of Australian troops, but the build up to the momentous Battle of the Somme was quietly taking place. In mid-April, Australia suffered its first losses on the Western Front when two officers and 72 men of the 9th (Queensland) Battalion were killed or wounded by German shellfire which destroyed a farmhouse in which they were sheltering.

May 4 was to see the Germans formally abandon, although only temporarily, their commitment to unrestricted submarine warfare. In Ireland, the leaders of the Easter Uprising were being executed; in secret negotiations, Sir Mark Sykes for the British and Francois George-Picot for the French were planning to redraw the boundaries of the Middle East. Both events were to have profound consequences for world history lasting to this very day.

On the home front dissent was brewing within the Labor Party as Prime Minister Hughes started to agitate for conscription. The States were starting to enforce 6.00 p.m. closing of hotels, and early meetings were convened which would lead shortly to the formation of the Returned Sailors' and Soldiers' Imperial League of Australia, a forerunner of the RSL. Sydney was recovering from the Liverpool Riot where troops had mutinied against conditions at the Casula Camp leading to a riot resulting, sadly, in one soldier being shot dead at Central Railway Station. In many ways this period was one of ominous quiet before the impending storm both on the Western Front and the home front. Lest we forget.

Members

REGISTER OF DISCLOSURES BY MEMBERS

The PRESIDENT: Pursuant to the Constitution (Disclosures by Members) Regulation 1983, I table a copy of the Supplementary Ordinary Returns by members of the Legislative Council for the period 1 July 2015 to 31 December 2015 and Discretionary Returns submitted since October 2015, furnished to me by the Clerk.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (11:07): I move:

That the document be printed.

Motion agreed to.

Motions

**NSW ASSOCIATION OF JEWISH EX-SERVICEMEN AND WOMEN WREATH LAYING
CEREMONY**

The Hon. DAVID CLARKE (11:08): I move:

- (1) That this House notes that:
- (a) on Sunday 17 April 2016, an Anzac Day commemoration and wreath laying ceremony organised by the New South Wales Association of Jewish Ex-Servicemen and Women was held at the Sydney Jewish Museum and New South Wales Jewish War Memorial, Darlinghurst; and
 - (b) those who attended as guests included:
 - (i) Colonel Mike Kelly, AM, [Ret'd], former Australian Army legal officer and federal parliamentarian, who addressed the event;
 - (ii) the Hon. Scott Farlow, MLC, representing the Hon. Mike Baird, MP, Premier;
 - (iii) the Hon. Greg Donnelly, MLC, representing Mr Luke Foley, MP, Leader of the Opposition;
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (v) representatives of the Returned and Services League of New South Wales, Legacy and other ex-servicemen and women's organisations; and
 - (vi) representatives of numerous Jewish community groups.
- (2) That this House commends the New South Wales Association of Jewish Ex-Servicemen and Women for its long and ongoing service to members of Australia's ex-servicemen and women's community.

Motion agreed to.

SAINT FLORIAN'S DAY

The Hon. SCOTT FARLOW (11:08): I move:

- (1) That this House notes that:
- (a) St Florian's Day, celebrated on 4 May each year, is a significant day for firefighters;
 - (b) St Florian, the patron saint of firefighters, was the first known commander of a firefighting squad in the Roman Empire and, like many of the brave firefighters who go out to protect our communities, lost his life in service; and
 - (c) St Florian's Day is celebrated the world over, notably as International Firefighters' Day.
- (2) That this House notes that:
- (a) the 2016 St Florian's Day Honours and Awards Ceremony took place on Sunday 1 May 2016 at Bankstown District Sports Club;
 - (b) those who attended the ceremony included:
 - (i) Commissioner Greg Mullins, AFSM;
 - (ii) Deputy Chief Executive Rosemary Milkins, PSM;
 - (iii) Acting Deputy Commissioner Jim Hamilton, AFSM;
 - (iv) Director Metropolitan Operations Rob McNeil, AFSM;
 - (v) Director Community Safety Mark Whybro, AFSM;
 - (vi) Acting Director Education & Training Graeme Finney, OAM;
 - (vii) Area Commander Metropolitan East Marcus Baker, AFSM;
 - (viii) the Hon. Scott Farlow, MLC, representing the Minister for Emergency Services, the Hon. David Elliott, MP; and
 - (c) the awards serve to honour Fire and Rescue NSW [FRNSW] staff and members of the public who have been nominated to receive due recognition for their courage and determination, and that the awards given include Humanitarian Overseas Service Medals and awards from the FRNSW Honours and Awards Committee.
- (3) This House congratulates:
- (a) the recipients of the Humanitarian Overseas Service Medal—Japan Deployment:
 - (i) Assistant Commissioner Rob McNeil of North Narrabeen;
 - (ii) Superintendent Ian Krimmer of Turramurra;
 - (iii) Superintendent Kim Reeson of Glenbrook;
 - (iv) Inspector Tim Fox of Sefton;
 - (v) Inspector Gary Meagher of Kirrawee;
 - (vi) Station Officer Clayton Allison of Bulli;
 - (vii) Station Officer Brett Butler of Cromer;
 - (viii) Station Officer David Cross of Barden Ridge;

- (ix) Station Officer Rodney Davis of Heathcote;
- (x) Station Officer Gregory Faulkner of Farmborough Heights;
- (xi) Station Officer Bruce Fitzpatrick of Smithfield;
- (xii) Station Officer Russell Turner of Cranebrook;
- (xiii) Station Officer Craig Vincent of Kirrawee;
- (xiv) Station Officer Jason Wood of Bondi;
- (xv) Leading Firefighter Michael Packham of Heathcote;
- (xvi) Senior Firefighter Adam Campbell of Macquarie Fields;
- (xvii) Senior Firefighter Justin Clarke of Emu Heights;
- (xviii) Senior Firefighter Jeffrey Fell of Wilberforce;
- (xvix) Senior Firefighter Anthony Hatch of Griffith;
- (xx) Senior Firefighter Darren Johnson of Farmborough Heights;
- (xxi) Senior Firefighter Michael McHugh of Schofields;
- (xxii) Senior Firefighter Anthony Northbrook-Hine of Mount Colah;
- (xxiii) Senior Firefighter Pavel Novotny of Woollooware;
- (xxiv) Senior Firefighter Peter Watson of Bowral;
- (xxv) Senior Firefighter Dirk Zeikenheiner of Erina Heights; and
- (xxvi) Senior Firefighter Richard Stevens of Woollahra.
- (b) the recipient of the Commendation for Courageous Action, Station Officer Darren Bofinger of Caringbah;
- (c) the recipients of the Commissioner's Commendation:
 - (i) Nabil Bardouh of Berala;
 - (ii) David Campbell of Glebe; and
 - (iii) Bunny Kahaki of Dulwich Hill.
- (d) the recipient of the Commendation for Meritorious Service, Chief Superintendent Greg Buckley of Leichhardt; and
- (e) the recipient of the Resuscitation Award, Senior Firefighter Guy Fleming of Collaroy.
- (4) That this House commends not only the award recipients, but all the brave firefighters and members of our community who put their lives on the line.

Motion agreed to.

INTERNATIONAL DAY OF MOURNING

The Hon. GREG DONNELLY (11:09): I move:

- (1) That this House notes that:
 - (a) 28 April each year is recognised around the world as International Day of Mourning;
 - (b) the tradition was established in 1984 by the Canadian Union of Public Employees; and
 - (c) this memorial day provides the opportunity for communities to pause and reflect on workers killed, disabled and injured through workplace incidents or occupational disease.
- (2) That this House notes that:
 - (a) in this State the peak union body, Unions NSW organised the first International Day of Mourning event in 1996, which was held outside the promenade of St Mary's Cathedral and was called the Lilly for Life Day;
 - (b) a memorial day service has been held on 28 April each year since the inaugural event;
 - (c) in recent years the memorial day service has been held at Reflection Park, Little Pier Street, Darling Harbour, and in other locations in New South Wales;
 - (d) this year the International Day of Mourning memorial service was once again organised involving Unions NSW and SafeWork NSW;
 - (e) special guests who addressed the service included:
 - (i) Professor the Hon. Dame Marie Bashir, AD, CVO;
 - (ii) the Hon. Victor Dominello, MP, Minister for Innovation and Better Regulation;
 - (iii) Mr Anthony Lean, Deputy Secretary Better Regulation; and

- (iv) the Hon. Luke Foley, MP, Leader of the Opposition.
- (f) reflections and prayers were given by Father John Boyle, St Bernadette's Parish, Castle Hill, Reverend Bill Crews, Exodus Foundation and Imam Omar Habbouche, Lakemba Mosque;
- (g) Mr Alan Brown spoke on behalf of the families present and about the tragic death of his son, Mr Patrick Brown, four years ago as a result of a workplace accident;
- (h) those present, including a number of MLAs and MLCs who added "memory cards" and flowers to the Memory Lines sculpture in honour of the deceased, included:
 - (i) the Hon. Adam Searle, MLC, Leader of the Opposition in the Legislative Council;
 - (ii) Ms Tania Mihailuk, MP, shadow Minister for Family and Community Services;
 - (iii) the Hon. Greg Donnelly, MLC, Deputy Opposition Whip in the Legislative Council;
 - (iv) the Hon. John Robertson, MP, member for Blacktown;
 - (v) the Hon. Courtney Houssos, MLC;
 - (vi) Ms Jo Haylen, MP, member for Summer Hill;
 - (vii) Mr Damien Tudehope, MP, member for Epping; and
 - (viii) Revd the Hon. Fred Nile, MLC, Assistant President of the Legislative Council; and
- (i) also present were the Hon. Barrie Unsworth, former Premier, and the Hon. Carl Scully, former Police Minister.
- (3) That this House notes that:
 - (a) as at 20 April 2016, 41 Australian workers have been killed while at work; and
 - (b) work-related fatalities in New South Wales were 228 in 2010, 224 in 2011, 229 in 2012, 197 in 2013, 188 in 2014 and 193 in 2015.
- (4) That this House acknowledges the tragic impact on individuals, families and the community at large arising from workplace deaths, and that greater effort must be made by employers, unions and governments to create healthier and safer workplaces with the explicit objective of eliminating all work-related fatalities.
- (5) That this House congratulates and thanks Unions NSW and SafeWork NSW for their solemn service, in particular Mr Mark Morey, Secretary of Unions NSW, and Ms Rita Mallia, President of Unions NSW.

Motion agreed to.

MS FAYE DRUETT, OAM

The Hon. SOPHIE COTSIS (11:09): I move:

- (1) That this House notes the passing on Thursday 4 February 2016 of Ms Faye Druett, OAM.
- (2) That this House notes the extraordinary contribution Ms Druett made to advancing the rights of people with disability in New South Wales throughout her career, including by:
 - (a) developing new services to support people with disability living independently while at Home Care NSW during the 1980s;
 - (b) working as the Senior Advisor to the Director of Equal Opportunity in Public Employment in the New South Wales public service;
 - (c) contributing to the development and implementation of the Disability Services Act 1993 and the Community Services (Complaints, Reviews and Monitoring) Act 1993 while serving as Executive Officer of the Disability Council NSW;
 - (d) serving as part of the first disability rights team at the Australian Human Rights Commission during the launch and implementation of the Disability Discrimination Act 1992 (Cth);
 - (e) helping to found People with Disability Australia [PWDA] in 1981 and serving as a board member and Chief Executive Officer of PWDA;
 - (f) assisting individual people with a disability through her work as a member of the NSW Civil and Administrative Tribunal, Guardianship Division;
 - (g) supporting the development of the Aboriginal Disability Network NSW;
 - (h) managing the Women's Unit at the AIDS Council of NSW and making connections between people with disability, people living with HIV, lesbian, gay, bisexual, transgender, intersex and queer people; and
 - (i) advancing the interests of people with disability internationally by participating in delegations to the World Assembly of Disabled Peoples International and through her involvement in the Pacific Disability Forum.
- (3) That this House expresses its condolences to Ms Druett's friends and family for their loss.

Motion agreed to.

THE BATTLE OF CRETE AND GREEK CAMPAIGN

The Hon. SOPHIE COTSIS (11:09): I move.

- (1) That this House notes that:
- (a) the Battle of Crete and the Greek Campaign took place in April and May 1941, with Australian and Greek forces fighting side-by-side to defend freedom and democracy;
 - (b) on Saturday 16 April 2016 a wreath-laying ceremony took place at the Sydney Cenotaph in Martin Place to commemorate the 75th anniversary of the Battle of Crete and the Greek Campaign;
 - (c) the ceremony was attended by over 100 wreath-layers, including representatives from the New South Wales and Australian parliaments, the Greek Orthodox and Anglican clergy, the Greek Orthodox community of New South Wales, mayors and councillors, diplomatic representatives, military officers, veterans, families, community groups and schools;
 - (d) seven members of the Hellenic Presidential Guard, known as the Evzones, travelled to Australia to participate in the commemoration of the Battle of Crete and the Greek Campaign and the Anzac Day march;
 - (e) the Evzones are an elite military unit whose duties include guarding Greece's Tomb of the Unknown Soldier, the Presidential Mansion and the gate of Evzones Camp in Athens;
 - (f) the presence of the Evzones in Australia is a high honour which signifies the strength and importance of the enduring ties between Greece and Australia; and
 - (g) many events have been held to commemorate the 75th anniversary of the Battle of Crete and the Greek Campaign, including:
 - (i) the Battle of Crete Ball hosted by the Cretan Association of Sydney on Saturday 16 April 2016;
 - (ii) a memorial service held at the Greek Orthodox Archdiocese of Australia on Sunday 17 April 2016; and
 - (iii) a forum held at the Hellenic Club of Sydney on Tuesday 19 April 2016 with Lieutenant General Konstantinos Gkatzogiannis, the Chief of Staff of the Hellenic National Defence General Staff.
- (2) That this House congratulates:
- (a) Chairman James Jordan and Secretary Nick Andriotakis of the Joint Committee for the Commemoration of the Battle of Crete and the Greek Campaign for their work integrating the Evzones into events held to commemorate the 75th anniversary for the Battle of Crete and the Greek Campaign;
 - (b) the Joint Committee for the Commemoration of the Battle of Crete and the Greek Campaign for its tireless efforts commemorating the important shared history of Greece and Australia;
 - (c) Dr Stavros Kyrimis, Consul General of Greece in Sydney, for his assistance bringing the Evzones to Sydney and his dedicated contribution to strengthening relations between Australia and Greece;
 - (d) Mr Graham Athanaseris, Chairman of the Cultural Committee of the Hellenic Club of Sydney, Mr John Comino, President of the Hellenic Club of Sydney and the Board of the Hellenic Club of Sydney for their vision in bringing the Evzones to Sydney and their work in furthering relations between Greece and Australia, in particular the Australian-Greek community, through integrating the Evzones in key events, including their participation as a Guard of Honour at the Sydney Cenotaph and in the Anzac Day march;
 - (e) Mr Arthur Balayannis, Chief Executive Officer of the Hellenic Club of Sydney, Sophie Balayannis and the staff of the Hellenic Club for their efforts organising a successful visit by the Evzones;
 - (f) the Cretan Association of Sydney for hosting the Battle of Crete Ball on 16 April 2016;
 - (g) the Greek Orthodox Archdiocese of Australia, All Saints Greek Orthodox Church Belmore and St Spyridon Greek Orthodox Church Kingsford, for their role welcoming the Evzones to community events and church services;
 - (h) organisations who welcomed the Evzones during their visit, including St Basil's NSW/ACT and the Estia Foundation;
 - (i) the principals, teachers and students of Earlwood Public School, Bexley North Primary School, Sans Souci Public School and St Spyridon College who welcomed the Evzones;
 - (j) Mr Glenn Kolomeitz, State Secretary and Chief Executive Officer of the Returned and Services League of Australia New South Wales Branch (NSW RSL), for his work supporting the visits of Evzones;
 - (k) the Board of the NSW RSL, who permitted the Evzones to guard the Sydney Cenotaph on three occasions;
 - (l) Mr Bill Kotsovolos, President of the Greek RSL sub branch for his assistance in liaising with the NSW RSL;
 - (m) Warrant Officer Class One Stephen Chiesa, Regimental Sergeant Major, for his work to integrate the Evzones into the 75th anniversary of the Anzac Battle of Crete and the Greek Campaign wreath-laying service at the Sydney Cenotaph;
 - (n) Commander Iain Watt and Warrant Officer Class One Jason Veitch, Regimental Sergeant Major, for welcoming the Evzones to Lamia Barracks in Holsworthy for an olive tree planting ceremony;

- (o) Mr Kevin Sumption, Director and Chief Executive Officer of the Australian National Maritime Museum, who welcomed the Evzones to the exhibition entitled "Anzacs of Greece: Then and Now";
- (p) New South Wales parliamentarians who attended a briefing with the Evzones and Lieutenant General Gkatzogiannis at Parliament House on 19 April 2016;
- (q) Mr Phillip Heads, General Manager of Communications at the Sydney Cricket and Sports Ground Trust, and Mr Jaymes Boland-Rudder, Head of Government Relations and Campaign Management for the National Rugby League, for their work incorporating "Anzac of Greece" Mr Alf Carpenter, a veteran of the Battle of Crete and the Greece campaign, into the pre-game commemoration for the ANZAC Day Cup;
- (r) Mr Brad Wright, Light Rail Activation Program Manager at Transport for NSW, for his work creating and installing the "Anzacs of Greece" large format photographic display along George Street, Sydney;
- (s) the NSW Police Force and Transport for NSW for facilitating traffic control for the Evzones during their march to the Sydney Cenotaph;
- (t) Councillor Angela Vithoulkas and the City of Sydney Council for assisting in liaising with Transport for NSW;
- (u) Mrs Helleni Katsaros and the management and staff of the Grace Hotel for their hospitality and assistance during the Evzones' stay;
- (v) Professor Vrasidas Karalis from the University of Sydney, Ms Liz Kaydos from the Lemnos 1915 Commemorative Committee and Macquarie University for their assistance during the visit of the Evzones;
- (w) Mr Vic Alhadeff, Chief Executive Officer of the NSW Jewish Board of Deputies, who facilitated a visit by the Evzones to the Sydney Jewish Museum;
- (x) Mr Colin Farrell, Chief Executive Officer of the Ramsgate RSL Memorial Club, who welcomed the Evzones to the exhibition entitled "Courage, Sacrifice, Mateship, Philotimo: Commemorating the 75th Anniversary of The Battles of Greece & Crete";
- (y) Mr Louis Tullis for volunteering his services over 14 days transporting the Evzones; and
- (z) media organisations which covered the Evzones visit, including SBS, the *Greek Herald*, *O Kosmos*, *Neos Kosmos*, *Greek City*, the *Daily Telegraph* and 2MM Radio.

Motion agreed to.

GOSFORD LIBRARY

Mr SCOT MacDONALD (11:09): I move:

That this House notes that:

- (a) on 28 March 2016, the Deputy Premier, the Hon. Troy Grant, MP, announced \$181,827 in government funding for Gosford Library;
- (b) the funding was delivered through the Government's Public Library Infrastructure program, which will allocate \$15 million over four years to enhance library services and facilities in New South Wales;
- (c) Gosford Library will use the funding to purchase computers, tablet charge-bars and a new print management and reservation system; and
- (d) this additional technology will improve the services that Gosford Library delivers to the benefit of all residents of the Central Coast.

Motion agreed to.

RENEW NEWCASTLE

Mr SCOT MacDONALD (11:11): I move:

(1) That this House notes that:

- (a) since 2008, Renew Newcastle has been supported by the Government to activate empty buildings across the Newcastle central business district;
- (b) in April 2015, the Government provided \$25,000 to support Renew Newcastle in 2016; and
- (c) Renew Newcastle is currently supporting 59 projects across the Newcastle central business district, including:
 - (i) The Emporium, an arcade of boutique stores filled with Newcastle's creative talent, operating in the Hunter Street Mall, and
 - (ii) Benny Rizzo, a public printing service run by Newcastle freelance graphic designer Mr Ben Mitchell.

(2). That this House:

- (a) thanks Renew Newcastle General Manager Mr Chris Saunders, founder Mr Marcus Westbury and all staff at Renew Newcastle for their contribution to Newcastle; and

- (b) notes the success of Renew Newcastle's past and current projects.

Motion agreed to.

ETHNIC COMMUNITIES COUNCIL OF NEWCASTLE AND THE HUNTER REGION

Mr SCOT MacDONALD (11:11): I move:

- (1) That this House notes that:
- (a) the Ethnic Communities Council of Newcastle and the Hunter Region operates a multicultural men's shed on its premises in Waratah, Newcastle;
 - (b) the Government awarded a \$15,000 Unity Grant to the Council in April 2016 to enable it to fit out a trailer to create a mobile men's shed;
 - (c) the mobile men's shed will travel to households, retirement villages and community centres in and around Newcastle to undertake maintenance work;
 - (d) the mobile men's shed will focus on assisting those in need in the community who would otherwise not be able to afford to maintain their property; and
 - (e) key priority areas for the 2015/16 Unity Grants were to combat racism, build intergenerational understanding, build interfaith understanding, assist Safe Haven Entrant Visa and Temporary Protection Visa holders' pathways into employment and promote the innovative use of social media to address issues relating to harmony.
- (2) That this House:
- (a) congratulates the Ethnic Communities Council of Newcastle and the Hunter Region, in particular its chairman Councillor Andrea Rufo and Executive Director Mr John Tucker for their efforts to improve cultural unity in the community through the implementation of a mobile men's shed; and
 - (b) thanks all members of the Ethnic Communities Council of Newcastle and the Hunter Region men's shed for their service to the community through the work they undertake at the men's shed.

Motion agreed to.

NEWCASTLE ATHLETICS FIELD

Mr SCOT MacDONALD (11:12): I move:

- (1) That this House notes that:
- (a) the Newcastle Athletics Field is utilised by the community and more than 10 organisations, including Newcastle City Little Athletics, Cooks Hill United Football Club and Newcastle Cross Country Club;
 - (b) on 24 March 2016, the Deputy Premier, the Hon. Troy Grant, MP, visited the Newcastle Athletics Field and announced an \$800,000 ClubGrant to resurface the existing running track, create a dedicated lane for wheelchair athletes and allow Newcastle Athletics Field Management Incorporated to purchase new sports equipment; and
 - (c) the upgrades resulting from the Deputy Premier's funding announcement mean that world champion athletes including Kurt Fearnley and Christie Dawes will have access to a first-class training facility in the Hunter.
- (2) That this House:
- (a) thanks Mr Sean Scanlon and Newcastle Athletics Field Management Incorporated for their initiative in applying for this funding; and
 - (b) wishes the Hunter athletes who will use this upgrade every success in the future.

Motion agreed to.

Documents

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (11:12): I table, pursuant to Standing Order 59, a list of papers tabled and not ordered to be printed since 8 March 2016.

Committees

LEGISLATION REVIEW COMMITTEE

Reports

The Hon. GREG PEARCE (11:13): I table the report of the Legislation Review Committee entitled "Legislation Review Digest No. 17/56", dated 3 May 2016. I move:

That the report be printed.

Motion agreed to.*Documents***TABLING OF PAPERS**

The CLERK: I announce the receipt of the following reports received out of session and authorised to be printed:

- (1) Coroners Act 2009—Report by the NSW State Coroner into deaths in custody/police operations for the year 2015.
- (2) Hemp Industry Act 2008—Review of the Hemp Industry Act 2008 dated April 2016.
- (3) Sydney Water Act 1994—Report of Independent Pricing and Regulatory Tribunal entitled "Sydney Water Corporation Operational Audit 2014-15: Report to the Minister—Water—Compliance Report", dated March 2016.
- (4) Water NSW Act 2014—Report of Independent Pricing and Regulatory Tribunal entitled "Water NSW Operational Audit 2014-15: Report to the Minister—Water—Compliance Report", dated March 2016.

*Bills***UNPROCLAIMED LEGISLATION**

The Hon. NIALL BLAIR: I table a list detailing all legislation unproclaimed 90 calendar days after assent as at 3 May 2016.

*Documents***AUDITOR-GENERAL****Report**

The CLERK: I announce the receipt, pursuant to the Public Finance and Audit Act 1983, of a Performance Audit Report of the Auditor-General entitled "Reintegrating young offenders into the community after detention: Department of Justice, Juvenile Justice NSW", dated April 2016, received out of session and authorised to be printed on 28 April 2016.

*Committees***STANDING COMMITTEE ON LAW AND JUSTICE****Reports**

The CLERK: I announce the receipt, pursuant to standing order, of report No. 58 of the Standing Committee on Law and Justice entitled "Security classification and management of inmates sentenced to life imprisonment", dated April 2016, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice, received out of session and authorised to be printed on 4 April 2016.

The Hon. NATASHA MACLAREN-JONES (11:15): I move:

That the House take note of the report.

Debate adjourned.

GENERAL PURPOSE STANDING COMMITTEE NO. 5**Government Response**

The CLERK: I announce the receipt, pursuant to standing order, of the Government's response to report No. 41 of General Purpose Standing Committee No. 5 entitled "Wambelong fire", tabled on 20 February 2015, received out of session and authorised to be printed on 31 March 2016.

GENERAL PURPOSE STANDING COMMITTEE NO. 3**Government Response**

The CLERK: I announce the receipt, pursuant to standing order, of the Government's response to report No. 32 of General Purpose Standing Committee No. 3 entitled "Registered nurses in New South Wales nursing homes", tabled 29 October 2015, received out of session and authorised to be printed on 29 April 2016.

GENERAL PURPOSE STANDING COMMITTEE NO. 6**Government Response**

The CLERK: I announce the receipt, pursuant to standing order, of the Government's response to report No. 1 of General Purpose Standing Committee No. 6 entitled "Local Government in New South Wales", tabled 29 October 2015, received out of session and authorised to be printed on 29 April 2016.

*Documents***CANCER TREATMENT AT ST VINCENT'S HOSPITAL****Return to Order**

The CLERK: Further to the return to order regarding the under-dosing of chemotherapy patients received on 17 March 2016, I advise that on Thursday 24 March 2016 correspondence was received from the legal branch, Office of General Counsel, Department of Premier and Cabinet, advising that a specified document not subject to a claim of privilege contained personal information. Further correspondence was received from the legal branch attaching revised annexures A and B to the index identifying the specified document as subject to a claim of privilege and also providing a redacted version of that document not subject to a claim of privilege. I table the correspondence, the revised indexes and the redacted document.

*Petitions***RESPONSES TO PETITIONS**

The CLERK: I announce the receipt, pursuant to sessional order, of the following responses to petitions signed by 500 or more persons:

- (1) Response from the Hon. John Barilaro, MP, Minister for Regional Development, Minister for Skills and Minister for Small Business, to a petition presented by Ms Voltz on 23 February 2016 concerning TAFE funding, received out of session and authorised to be printed on 24 March 2016.
- (2) Response from the Hon. Niall Blair, MLC, Minister for Primary Industries, and Minister for Lands and Water, to a petition presented by Mr Pearson on 23 February 2016 concerning breeding and exhibiting of dolphins, received out of session and authorised to be printed on 29 March 2016.
- (3) Response from the Hon. Troy Grant, MP, Deputy Premier, Minister for Justice and Police, Minister for the Arts and Minister for Racing, to a petition presented by Dr Faruqi on 21 March 2016 concerning a ban on greyhound racing, received out of session and authorised to be printed 28 April 2016.

PETITIONS**CBD and South East Light Rail**

Petition opposing the needless loss of historic trees along the route of the CBD and South East Light Rail project and supporting the establishment of an upper House inquiry into that project, received from **Dr Mehreen Faruqi**.

Gold Coast Airport Extension

Petition opposing the extension to the Gold Coast Airport as it will destroy significant ecological and Aboriginal cultural landscape values, exclude public recreational use of the land, and have adverse effects on the amenity of residents, received from **Ms Jan Barham**.

*Business of the House***ORDER OF BUSINESS****Postponement**

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (11:39): I move:

That Government Business Notices of Motions Nos 1, 3 and 4 on the *Notice Paper* be postponed until a later hour of the sitting.

Motion agreed to.

*Announcements***MARK WEBB, EXECUTIVE MANAGER, DEPARTMENT OF PARLIAMENTARY SERVICES**

The PRESIDENT (11:39): I inform the House that following recent recruitment action Mr Mark Webb was appointed to the position of Executive Manager of the Department of Parliamentary Services from Monday 18 April 2016. Mr Webb comes to the Department of Parliamentary Services from senior executive positions held

in the Public Service Commission, the New South Wales Department of Planning and Environment and the New South Wales Office of Environment and Heritage. Congratulations, Mark. I welcome Mark and his wife, Kate.

SHOOTERS, FISHERS AND FARMERS PARTY

The PRESIDENT (11:40): I inform the House that I have received correspondence from the Hon. Robert Brown dated 20 April 2016 advising of a change of name of the Shooters and Fishers Party to the Shooters, Fishers and Farmers Party.

GOVERNMENT WHIP

The PRESIDENT (11:40): I inform the House that on 29 March 2016 I received correspondence from the Leader of the Liberal Party in the Legislative Council confirming that following his resignation from the position of Government Whip Dr Phelps ceased undertaking his duties on 22 March 2016.

GOVERNMENT WHIP

THE HON. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (11:41): I inform the House that on 21 April 2016 the Hon. Natasha Maclaren-Jones was elected Government Whip in the Legislative Council.

Members

PARLIAMENTARY SECRETARIES

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (11:41): I inform the House that on 14 April 2016 the Premier varied the instrument dated 24 April 2015 appointing Mr Jonathon O'Dea, MP, as Parliamentary Secretary for Major Events and Tourism by appointing him Parliamentary Secretary for Trade and Investment, Major Events and Tourism.

Bills

STATE REVENUE LEGISLATION AMENDMENT BILL 2016

First Reading

Bill received from the Legislation Assembly, read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. Niall Blair.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (11:42): On behalf of the Hon. Niall Blair: I move:

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.

Motion agreed to.

UGAY: I move:

That the second reading stand an order of the day for a later hour of the sitting.

Motion agreed to.

WATER NSW AMENDMENT (STAFF TRANSFERS) BILL 2016

First Reading

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

Second Reading

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (11:43): I move:

That this bill be now read a second time.

The management of water in New South Wales is an important issue that is vital for the ongoing prosperity of the State. The future health and wellbeing of the people of New South Wales is dependent on the efficient and effective management of our State's water resources. For this reason, it is important that the Government put the best structure in place to ensure that the delivery of water in New South Wales is both streamlined and effective. The Government has been undertaking reforms to the management of water, including the merger of the Sydney Catchment Authority and the State Water Corporation in 2014 to become WaterNSW. Following on from that

reform, additional functions are now being transferred to WaterNSW to streamline and clarify responsibilities between different water managers.

I will now provide a brief overview of the elements of the bill. This bill will amend the WaterNSW Act 2014 to enable the transfer of employees from the Department of Industry Skills and Regional Development to WaterNSW. This is a machinery of government change to ensure that WaterNSW is able to perform its functions. It is important that WaterNSW has the corporate knowledge necessary to perform the functions that are being transferred so that the management of customers is not disrupted.

This bill seeks to enable the Minister to make an order to transfer the relevant staff to WaterNSW while preserving all of their existing entitlements to superannuation and leave and providing for continuity of service. This is the best way to ensure that certainty is provided to these staff. Consultation is occurring with the Public Service Association of NSW about the impacts on staff and they will continue to be engaged through this process. The bill also seeks to put in place transitional provisions which would allow pending licence applications and existing compliance notices to be transferred to WaterNSW where the related function is to be transferred. This will facilitate the transfer of functions and ensure that there is not duplication between the Government and WaterNSW.

I have briefed those opposite and the crossbench to outline the importance of having a mechanism that ensures existing entitlements to superannuation and leave are preserved. There are potentially up to 247 staff that may be transferred between the department and WaterNSW over the next year. The majority of staff to be transferred are based in the Sydney metropolitan area. These staff need to know that their entitlements are protected and that we have an efficient mechanism to facilitate these moves. This mechanism alleviates the need for wholesale redundancies and re-recruitment of staff, and means any redundancies will be focused solely on efficiency gains and will be voluntary.

The effective and efficient management of water in New South Wales is an issue that affects us all. The Government is committed to reforming the management of water to ensure that it achieves the best possible outcomes for the people of New South Wales. This bill will facilitate the more efficient allocation of responsibilities for management of water in New South Wales by allowing for the transfer of staff from the Department of Primary Industries to WaterNSW. I commend the Water NSW Amendment (Staff Transfers) Bill to the House.

Debate adjourned.

NATIONAL PARKS AND WILDLIFE AMENDMENT (ADJUSTMENT OF AREAS) BILL 2016

First Reading

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

Second Reading

THE HON. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (11:48): I move:

That this bill be now read a second time.

This bill to amend the National Parks and Wildlife Act 1974 will adjust park boundaries, ensure appropriate management and allow upgrades to roads and sporting facilities. It will reverse the reservation of two parks where there are determined and undetermined Aboriginal land claims. It will change reserve categories to align with park values. It will facilitate development on land that is no longer required in the reserve system. This Government is committed to improved transport infrastructure and road safety across the State. The bill facilitates the Mona Vale Road west upgrade, a necessary response to safety and congestion issues. It will also rationalise road boundaries to improve management. The purpose of a national park is conservation, not the development of key public assets such as roads.

The bill also recognises the community's sporting interests. Four sporting ovals will be revoked to ensure appropriate management and ownership by local councils. The bill will also revoke a small, degraded area from one park to facilitate the expansion of a community sporting facility, the St Ives Pistol Club. The categories of two reserves will be amended to better align with the conservation and recreation values of those reserves. The bill reverses the inadvertent reservation of parks over determined and yet to be determined Aboriginal land claims. It will also remove the inappropriate reservation of Penrith Lakes Regional Park, which does not belong in the reserve system. National parks are protected in perpetuity. The requirement of an Act of Parliament to remove any land from our national parks is an important measure to safeguard the State's conservation assets. I assure the House that these proposals are in the public interest and do not result in any net loss of conservation values.

I now turn to the proposals in detail. Roads and Maritime Services is upgrading Mona Vale Road west, on Sydney's northern beaches, to provide a four-lane dual carriageway. This section of Mona Vale Road suffers traffic congestion in peak periods and requires upgrading to improve safety and reduce travel times. This essential upgrade requires the revocation of less than one hectare of Ku-ring-gai Chase National Park. The compensatory land offered by Roads and Maritime Services is an exciting opportunity to preserve critical fauna and cultural heritage values. Nearly two hectares of land will be added to the adjoining Garigal National Park. This includes land surrounding Whale Rock, a significant Aboriginal rock engraving, which will greatly benefit from increased protection under the reserve system.

It also includes a proposed fauna bridge that will connect Garigal and Ku-ring-gai Chase national parks. Ecologists have identified the need to improve fauna connectivity between Ku-ring-gai Chase and Garigal national parks to address known fauna mortality on roads in the northern beaches area and to support the long-term survival of swamp wallaby populations. The proposed fauna bridge will promote the safe passage of native animals and allow dispersal and movement between the two national parks that are feeling the pressure from nearby residential development. This will be the first fauna bridge in metropolitan Sydney, following the successful application in a range of other projects, including the upgrade of the Pacific Highway. The proposal will also improve recreational access to the area through a proposed multi-use path for pedestrians, cyclists and recreational horseriders. This proposal to revoke a small section of Ku-ring-gai Chase National Park to facilitate the Mona Vale Road west upgrade will provide positive outcomes for public safety, cultural heritage and conservation and recreation, with an overall net gain of reserved land.

Several of the proposals in the bill relate to the use and management of roads and railway infrastructure, which should not be the responsibility of the National Parks and Wildlife Service. The Snowy Mountains Highway, the major arterial road through Kosciuszko National Park, does not completely match the legal road reserve. Some sections of the highway lie within the boundaries of the national park, while some sections of national park lie within the road reserve. This proposal will correct errors in maps to properly reflect what is occurring on the ground. About 141 hectares need to be revoked from Kosciuszko National Park. This will enable a new cadastral road reserve to be aligned with the Snowy Mountains Highway and allow the National Parks and Wildlife Service to concentrate on managing one of Australia's most important conservation reserves. It is intended that, after the land is revoked by this bill, ownership of the road will be transferred to the Minister administering the Roads Act 1993.

The bill will also correct minor errors associated with the widening of the Pacific Highway by revoking two areas from reserves on the New South Wales North Coast to enable their transfer to Roads and Maritime Services. About 0.34 of a hectare will be revoked from Middle Brother National Park near Port Macquarie to address an inadvertent boundary encroachment that occurred during upgrade works to the highway. In addition, about 0.11 of a hectare will be revoked from Yaegl Nature Reserve near Maclean. This will ensure the accuracy of land boundaries for future highway widening works which were the subject of an earlier revocation under the National Parks and Wildlife Amendment (Adjustment of Areas) Act 2012.

The Government is committed to responding to the concerns of local communities. This bill will provide certainty for maintaining access to property near Morton National Park on the South Coast. An area of about 18.5 hectares will be revoked from the national park to remove sections of the Bugong fire trail, Bugong Road and Tallowa Dam Road where they pass through the park. Those roads provide access to private properties. This bill will enable the transfer of land to the appropriate roads authority, the local council, and ensure consistent and appropriate ownership and management.

To respond to another community concern, the bill will revoke an area of about 0.1 of a hectare from Jervis Bay National Park which provides a bus turning circle for the local school. This small parcel of land is roadside, with no conservation value as it is already being used by school buses. The revocation will ensure safe travel for children and will vest the ownership of the school bus turning circle with the appropriate roads authority. It is intended that the land revoked from both Morton National Park and Jervis Bay National Park will be transferred to Shoalhaven City Council.

This bill will also address two small areas of land in national parks that form part of Sydney's rail infrastructure and are better placed under the control of Transport for NSW. The first area, about 0.1 of a hectare that forms part of the commuter car park at the Waterfall train station, will be revoked from the Royal National Park to correct a historical boundary error. The second area, about 0.04 of a hectare that is part of the land originally set aside for construction of the Epping to Chatswood rail link, will be revoked from underneath Lane Cove National Park to correct an inadvertent and underground boundary encroachment.

The Government is committed to responding to the needs of local communities. I now turn to the aspects of the bill that relate to sporting facilities. There are sporting ovals at Grays Point, Heathcote and Loftus that fall within the boundary of the Royal National Park. These three ovals cover about 13.3 hectares. Sutherland Shire

Council currently manages the ovals and associated facilities for use by local sporting teams. Revocation will enable transfer of the sporting ovals to Sutherland Shire Council. This is a sensible transfer that will ensure that the most appropriate authority has legal management of these important community assets. The bill will also revoke a sporting oval located within the boundaries of Wollemi National Park, adjacent to the Bells Line of Road. This area of about 1.6 hectares was inadvertently included in the reserve in 1979. Revocation will enable transfer of this sporting oval to Hawkesbury City Council.

In line with the themes of responding to community needs and recognising the importance of sporting facilities to local communities, the bill also proposes to revoke an area of about 1.25 hectares from Ku-ring-gai Chase National Park to facilitate the expansion of the St Ives Pistol Club. The St Ives Pistol Club is the only competitive pistol club in the northern Sydney area, servicing that part of the city from north of the Parramatta River to Palm Beach. I understand that 92 per cent of its members come from that part of Sydney and that its current membership of almost 400 men, women and junior members is growing rapidly. The pistol club provides sporting shooters with the opportunity to improve their skills and compete. The club's facilities have been used by shooters who have been selected for the Olympic and Commonwealth Games, the World Shooting Championships and many State and national championships.

The proposed revocation of this small and degraded part of Ku-ring-gai Chase National Park will enable the transfer of the land to the Crown Lands Division of New South Wales Trade and Investment and the subsequent negotiation of a lease with the St Ives Pistol Club, should development approval for the club's proposed expansion be secured. The Government intends to offset the loss of land with the addition of high conservation value land to the national parks system in southern Sydney. The proposal represents a small expansion adjacent to the club's current footprint. I understand that the expansion plan will provide strict noise and safety controls. The Firearms Registry of the NSW Police Force has approved the plans and will ensure that the proposed expansion of the club poses no safety risk to visitors to the neighbouring national park.

The bill also recognises the importance of aligning reserve categories with management values, including conservation and recreation values. Two proposals reflect the changing nature of park values and the work of the National Parks and Wildlife Service to clearly define reserve categories. The bill proposes to change the category of 2,020 hectares of Khappinghat Nature Reserve to create Khappinghat National Park. This will reflect a more appropriate alignment between park values and management principles.

Khappinghat Nature Reserve was first created as a small reserve on the lower north coast in 1993 to protect the sensitive lands around Khappinghat Creek on the lower north coast. A much larger area of land was added in 1999. This was before the National Parks and Wildlife Service had developed clear objectives and management principles for reserve categories under the National Parks and Wildlife Act in 2002. At the time, the additional area was merely given the same reservation category as the adjoining nature reserve.

There are now safety concerns for users of Khappinghat Nature Reserve. As horse riding is not permitted on management trails in nature reserves, riders are currently sharing public roads and park roads with vehicles. There is a risk to visitor safety here that needs to be addressed. Changing the category of part of the more recently added land—about half the nature reserve, being 2,020 hectares—to national park will improve public safety and better align existing park uses with management principles. Riders will still be confined to management trails to preserve the conservation value of the park. Another park that needs to be recategorised to reflect the 2002 management principles is Ben Halls Gap National Park. Here there is limited vehicle access, visitor facilities and recreation use. Changing the category of about 3,018 hectares, being all of Ben Halls Gap National Park, to nature reserve will enhance the protection of an area with high ecological and conservation value without impacting on current low-scale visitor use.

The bill also recognises the importance of Aboriginal land claims in preserving cultural heritage. Two proposals reverse the reservation of parks where Aboriginal land claims existed before gazettal. Part of Macquarie Pass State Conservation Area [SCA], about 86 hectares, was subject to an Aboriginal land claim before gazettal. As Illawarra Local Aboriginal Land Council was successful in its claim, part of the reserve needs to be revoked to recognise the land council's title to the land. A similar error occurred before the gazettal of Gwydir Wetlands SCA. About 88 hectares needs to be revoked as a result of a yet to be determined Aboriginal land claim that was in place before the gazettal of the reserve. As the claim is undetermined, the land will be revoked and reinstated as Crown land under the Crown Lands Act 1989. The bill does not affect any native title rights or interests.

Finally, I turn to the need to revoke the reservation of Penrith Lakes Regional Park. Totalling about 6,656 square metres, this park is made up of a section of a former road, a 10-metre strip of land 660 metres long that has no public access, no facilities and no recreational or conservation values. This bill will address this completely inappropriate reservation that was made by the Labor Government in 1998. Overall, taking into account all the proposed boundary adjustments for roads and sporting facilities, about 178 hectares of land will be revoked from the national parks system. These sensible and routine improvements will be done without compromising the

conservation values of our outstanding national parks system. While this bill will enable land transfers for positive community outcomes, the National Parks and Wildlife Service has already agreed with other agencies for compensatory land to be added to the reserve system, where it is required.

For the revocation of land to facilitate the Mona Vale Road West upgrade, Roads and Maritime Services offered about two hectares of land to be added to Garigal National Park as compensation. As outlined already, this land offers an opportunity to preserve significant conservation and cultural heritage values, through protecting Whale Rock and ensuring connectivity through metropolitan Sydney's first ever fauna bridge. For the revocation of land from Ku-ring-gai Chase National Park to facilitate the expansion of St Ives Pistol Club, about 140 hectares of high conservation value land has been identified as suitable for addition to the Heathcote National Park in Sydney's south. For land revoked to address the minor boundary encroachment in Middle Brother National Park associated with the Pacific Highway upgrade, land of similar conservation value and size has been identified that is suitable for addition to Middle Brother National Park.

I also point out that the National Parks and Wildlife Service and Roads and Maritime Services have worked collaboratively to reduce the net loss of land from Kosciuszko National Park. Compensation is not required for the revocation of land from Kosciuszko National Park to ensure that the highway is wholly contained within its cadastral road reserve. Much of this land has minimal or negligible conservation value because it contains infrastructure associated with the footprint of the existing highway. Nevertheless, Roads and Maritime Services identified land no longer required that is suitable for addition to the national park. Totalling about 71.8 hectares, this significantly reduces the net loss of land to this iconic alpine park and adds land of conservation value.

This bill responds to the needs of local communities. It ensures sporting ovals and roads located within the boundaries of national parks are managed by the relevant local council. It also allows the St Ives Pistol Club to expand over degraded land. The bill facilitates upgrades and improves boundary accuracy and safety on some of the State's major roads—the Mona Vale Road West, the Pacific Highway and the Snowy Mountains Highway. The bill also corrects oversights to recognise the importance of Aboriginal land claims. Finally, the bill recognises changes in management values and realigns reserve categories to ensure consistency with reserve conservation and recreation values. This bill in essence is about responsible land management and correcting legal anomalies. I commend the bill to members.

Debate adjourned.

Documents

TABLING OF PAPERS

THE HON. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (12:05): I table the following reports:

- (1) Crimes (Domestic and Personal Violence) Act 2007 (NSW)—Statutory Review—Department of Justice—2015.
- (2) Coroners Act 2009—Statutory Review of Chapter 9A—The Domestic Violence Death Review Team—Department of Justice—October 2015.

I move:

That the reports be printed.

Motion agreed to.

Bills

FINES AMENDMENT BILL 2016

Second Reading

Debate resumed from 22 March 2016.

The Hon. PETER PRIMROSE (12:06): The main purpose of the Fines Amendment Bill 2016 is to allow for electronic nomination of drivers, to align time periods for the nomination and payment of fines, to allow for other means to identify the address of an offender, and to expand the ability to recover fines debt by other means. The Opposition will not oppose the legislation. One of the more sensible changes proposed in this legislation is to allow for the nomination of a person actually in charge of a vehicle at the time of the breach, even after the fine has been paid. Currently this is not possible.

Fines are sometimes paid in error by the vehicle owner. Subsequently, when the vehicle owner recognises the mistake, that person is unable to amend the allocation of the fine or consequences. This proposed change also entails extending the period for such a nomination to 90 days from the current 21 days under the Road Transport

Act, bringing that Act into line with the Fines Act. The changes proposed in the bill will also allow any additional fines to be added to an existing payment arrangement.

Currently if a person receives a fine after already establishing a payment plan then the additional fine requires another application to add it onto the existing fine. This often does not happen, and the person is also subject to an irreversible \$65 fine. This is a quite bizarre situation given that the onus of proof to allow such a payment plan had to be established in the first instance and the person has already proven to the Office of State Revenue that they do not have the means to make a quick, instant or lump sum payment. The change proposed will simply allow the Office of State Revenue to add to the existing debt without application from the offender. The citizen would still have the right to object to the fine and of course to seek its withdrawal. The consequence of this change will be to extend the period over which the fines are repaid, not the size of the weekly or fortnightly repayment.

Other changes proposed include the ability to make reference to various sources to identify the most likely address for the offender, including other information provided by the offender to the Office of State Revenue and information provided by credit rating authorities. Currently under the Fines Act the address at which the Office of State Revenue can serve notice or seek to retrieve payment is limited to the address as it appears on the licence.

A simple "return to sender"—and there are about 75,000 of them each year—can effectively prevent contact with the person, allowing matters to escalate toward the cancellation of a licence and garnishee orders.

The final significant element of this bill seeks to change the timing and ability of the Office of State Revenue to take debt recovery action. It will allow for civil debt recovery measures prior to the expiry of all other action on the licence and/or vehicle registration, essentially by bringing forward the debt recovery options, such as garnishee orders and property seizure orders, to 21 days rather than the existing six months. Access to, and use of, personal information from credit reporting agencies will also allow the Office of State Revenue to take enforcement action against a defaulter's bank account. Specifically, the Office of State Revenue will be able to access information held by credit reporting bodies about who the defaulter banks with and the details of their account.

Within this piece of legislation this is also a significant escalation in the power that the State is giving to its agencies. Where a person is interacting with a State government department or agency, it may be said that there is an implicit understanding that details passed on will be retained by the Government. But there is no such understanding in regard to credit reporting agencies. This amendment will allow the Office of State Revenue to access information about a person's bank account which has not been volunteered to the Government at any time. I ask the Parliamentary Secretary to address the most concerning element of the bill in his response: What provisions will be put in place? This seems to me to be quite a significant escalation in the power available to the Government given by this simple piece of otherwise good legislation to access a citizen's personal details without prior approval.

Because various other bodies have the power to affect fines, there are necessary consequential amendments to their respective Acts by this legislation. In applying a more consistent 21-day period in which to nominate a driver prior to a fine payment, in many instances this will be a reduction in time from the existing 28 days for most of the bodies that are named in the legislation. The other change will allow for a consistent 90-day period, in many cases this will be an extension of time to nominate after the fine has been paid. As I have indicated, the Opposition does not oppose the bill. I ask that the Parliamentary Secretary in his reply to address the specific issue I have raised.

The Hon. PAUL GREEN (12:12): On behalf of the Christian Democratic Party I will speak briefly to the Fines Amendment Bill 2016. The aim of this bill is to reform the fines nomination process and improve the fines enforcement process. I note in the gallery the presence of school captains in the 2016 Secondary Schools Student Leadership Program. I just spoke to them about the consequences of speeding. It is great they are present so they can hear some of the consequences of breaking the law under this legislation that deals with the Fines Amendment Bill 2016. The bill states:

The object of this Bill is to amend the *Fines Act 1996* and provisions of other Acts and a regulation relating to liability for parking and other vehicle offences as follows:

- (a) to recognise that owners of vehicles or vessels who have been issued a penalty notice for an offence committed by another person who was in charge of the vehicle or vessel may nominate that person as the person actually in charge of the vehicle or vessel even though the relevant fine has been paid, and to provide for the consequences of that nomination in particular circumstances,
- (b) to extend the time within which such a nomination may be made to 90 days in a case where the fine is paid,

- (c) to enable civil debt recovery measures to be taken against a fine defaulter before all available action has been taken under driver licence or vehicle registration measures,
- (d) to enable additional fines to be added to existing time to pay arrangements for fine defaulters, subject to a right to request that the extension be discontinued,
- (e) to permit penalty reminder notices and notices of fine enforcement orders to be served at any address that a fine defaulter has provided for other applications related to fine enforcement,
- (f) to make it clear that the Commissioner of Fines Administration may withdraw a penalty notice enforcement order if the penalty notice for the fine is withdrawn under an arrangement with an agency that issues penalty notices,
- (g) to authorise credit reporting bodies to disclose identification and account details about a fine defaulter and to update related terminology in line with Commonwealth legislation,
- (h) to make other minor and consequential amendments, including savings and transitional provisions consequent on the proposed amendments.

The main changes proposed in this bill relate to electronic nominations; extending the time for nomination to 90 days to come into line with the Fines Act; provisions to ensure a fine, including demerit points, is borne by the actual offender where the penalty has been paid prior to a nomination being made; permission for the Office of State Revenue to take civil enforcement action if a fine remains unpaid 21 days after the Office of State Revenue has directed the Roads and Maritime Services to suspend the fine from the defaulter's driver's licence; and allowing the Office of State Revenue to obtain customer banking details from credit reporting bodies.

Simply put, this bill aims to streamline the enforcement process. Any step towards a faster, simpler and more effective process is to be commended. In relation to streamlining the enforcement process, paying fines and being accountable for one's own driving habits, I say that the quickest way through the process is to pay the fine. One of my colleagues mentioned that if someone wants to take on the system because they are disgruntled with some of the information that might be presented against them, it could cost them far more than the fine in respect of being away from work, home or the cost of having to travel. One needs to think very carefully if one wants to take on the system that has been put in place to keep motorists and people in charge of other vessels accountable. If people are caught the quickest way is to pay the fine, get on with their life and their donation to the State coffers will be well used by the Government to provide better roads and bridges for our community so productivity continues to grow the New South Wales economy.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): I welcome to the public galley school captains who are participating in the 2016 Secondary Schools Student Leadership Program.

Dr MEHREEN FARUQI (12:17): On behalf of The Greens I speak to the Fines Amendment Bill 2016. The bill reforms the fines nominations process, changes the fine enforcement process and makes certain other amendments. The aim of the amendment bill is to provide faster, simpler, more effective and fairer processes for processing penalty notices and enforcing unpaid fines. As reasons for introducing the bill, the Government points to the "objectives of consistency in procedures at different stages of the penalty notice and fines enforcement process; improving the effectiveness of enforcement by engaging earlier with clients using more accurate information about fine defaulters; and improving administrative simplicity and flexibility".

The bill extends the time for nomination under the Road Transport Act to 90 days—extended from 28 days under previous Act—to ensure consistency with the Fines Act. For example, a nomination may be made up to 90 days after any fine for a penalty notice is paid. The nomination period for a penalty notice is reduced to 21 days if the fine is unpaid. If a fine is paid before a nomination is made, a penalty notice may be issued to the nominated person and that person will be treated as if the offence was committed by that person—for example, for a demerit points application. Provided that the penalty officer is satisfied that the fine was paid by or on behalf of the nominated person, no further action will be taken for proceedings.

In any other case, the appropriate officer may withdraw the penalty notice. The amount payable is repayable to the person who paid it and any action to record demerit points for the offence will be reversed. Proceedings may continue against any person for the offence. This ensures a fine, including demerit points in relevant cases, is borne by the actual offender where the penalty has been paid prior to the nomination being made.

We have a concern that the process to nominate an offending driver is open to rorting. When a nomination is received by the Office of State Revenue, it is unclear if photos are verified routinely or randomly to confirm the likely identity of the offending driver. Another concern with the bill is that the Office of State Revenue may launch civil action, including bank account garnisheeing, against a fine defaulter 21 days after the commissioner directs Roads and Maritime Services to take enforcement action—for instance, a suspension of licence. This 21-day period is a reduction from six months. While that action would only be taken after the issuing of a penalty notice, a penalty reminder notice, an enforcement order and a notice from Roads and Maritime Services that sanctions on the driver licence or vehicle registration are to be applied, it is still of concern. The Government says that removing

the six-month delay will increase the effectiveness of civil enforcement in recovering unpaid fines. It is no surprise that garnisheeing has "proved to be a very effective enforcement action" as the Government states; it is literally a forced payment of a fine.

The bill extends the rights of the Office of State Revenue to access bank details of a fine defaulter from credit reporting bodies for the purposes of account garnisheeing to recoup unpaid fines. As has been stated, this is an escalation of the Government's power to extract information about citizens. That is also of concern. In this place we should always be aware of the process of debt recovery and its impacts on disadvantaged people. The 2014 parliamentary inquiry into debt recovery carried out by the Legal Affairs Committee found that often people who had money taken out of their accounts were on very low incomes or were Centrelink benefit recipients. The report pointed to the "harmful social impact" of some debt recovery practices that leave people high and dry. The Greens will not be opposing the bill but we would like a response to the concerns we have raised.

The Hon. GREG PEARCE (12:21): I speak in debate on the Fines Amendment Bill 2016. In this age of technology and disruption one of the most important things for governments to do is to ensure that the interaction between citizens and government is as effective as it can be by utilising modern technology and thinking. I congratulate the Government on continuing to work on the connection between citizens and government in relation to maintaining order as well as the administration of fines. It contrasts starkly with the situation under the previous Labor Government over 16 years. When we came to government in 2011 paying fines was more or less optional. The then Government did not seem to want to collect fines. When it did choose to enforce fines the method most often used was to jail fine defaulters.

I recall an important inquiry conducted by the Law and Justice Committee that was chaired by the Hon. Christine Robertson, who was a good Labor member of this House. The committee was looking at alternative sentencing options, particularly in regional areas. Under the previous Government a cycle had developed in which young men in particular were fined and lost their licences. That meant they could not work to pay off their fines and they ended up in jail. It was a very poor outcome. The government of the day accepted the idea we pushed that fines could be paid through community service in those sorts of cases in order to try to break a vicious cycle. The move to garnisheeing wages and bank accounts is a good alternative to going to jail, which was the outcome under the previous Government.

As I said, when we came to government the system was clogged. People had very few options for paying fines—they basically had to pay cash or come up with a bank cheque. It was a ridiculous situation. As the Minister for Finance and Services at the time I had responsibility for this area. We worked hard to collect the debt. I unashamedly accept that fine revenue is revenue to governments and councils. It is important money to be raised. However, in our approach to enforcement we were cognisant of the circumstances of individual citizens. We worked hard on preparing payment plans, arranging waivers for people in real hardship and ensuring that people's interaction with the Office of State Revenue was as positive as it could be.

As I said, fine revenue is an important part of government income. We tried to go about fine collection in a way that reflected modern life. Let us face it, whilst fines play an important role in law and order and ensure that people obey the rules, many fines are the result of carelessness or not paying proper attention. People accept that fines are part of life. For example, they know that if they stay too long in a parking spot they will pay for it. Those people should not be sent to jail. The other point I make is because of the use of modern technology it has been possible to relocate the Office of State Revenue workforce to Parramatta in Western Sydney and to regional parts of New South Wales. I congratulate the previous Government on some of that. It is important that governments can use technology to provide jobs in places such as Maitland, Newcastle and other parts of New South Wales. I commend the bill to the House.

The Hon. LOU AMATO (12:26:3): I support the Fines Amendment Bill 2016. During 2015 the Government introduced amendments that allowed universal electronic nomination of drivers as per the provisions of the Fines Act, the Protection of the Environment Operations Act and the Road Transport Act. The 2015 amendments introduced consistency by extending electronic nomination to privately owned vehicles. Previously electronic nomination was restricted to company-owned vehicles. The Fines Amendment Bill 2016 contains further reforms to the administration of fines and penalties administered by the Office of State Revenue—namely, recognising that the owners of vehicles or vessels who have been issued a penalty notice for an offence committed by another person who was in charge of the vehicle or vessel may nominate that person as the person actually in charge of the vehicle or vessel even though the relevant fine has been paid, and to provide for the consequences of that nomination in particular circumstances. The bill contains provisions to ensure that the fine and demerit points are borne by the actual offender where the fine has been paid prior to the nomination being made.

The bill extends the time frame where a nomination may be made to 90 days in a case where the fine has been paid. The Road Transport Act allows 21 days for a nomination to be made for a parking or camera-recorded offence after a payment has been made. Extending the nomination brings the legislation in line with the Fines Act,

which allows 90 days. The bill enables civil debt recovery measures to be taken against a fine defaulter before all available action has been taken under driver licence or vehicle registration measures. The bill also makes amendments to the administration of payment arrangements entered into with the Office of State Revenue with people who have difficulty paying due to financial hardship. Payment arrangements will reflect the person's ability to pay.

The bill addresses the current system where a person on a payment plan receives a new fine and they are unable to pay the fine immediately. In that instance an additional \$65 fee is incurred. The bill is designed to keep clients engaged in the process of paying their fines without being discouraged by additional costs, which creates more red tape and stress for people in financial hardship.

The amendments will allow for an additional fine to be added to an additional payment plan. Persons receiving new fines will be able to dispute the fine and have the changes to the payment plan reversed if the dispute is successful.

The bill will permit penalty reminder notices and notices of fine enforcement orders to be served at any address that a fine defaulter has provided for other applications related to fine enforcement. Currently an enforcement order can only be made if a penalty notice and reminder notice have been served on the person without response. A notice is deemed to be not served if it is returned undelivered to the Office of State Revenue. Currently, returned notices cannot be enforced.

The Act makes an exception to this where a notice is posted to the address held on file with the Roads and Maritime Services or the address given by the person at the time of the offence. Each year approximately 75,000 notices are returned undelivered to the Office of State Revenue. The bill allows the Office of State Revenue to send a penalty notice to an address provided by the person in an application to the Office of State Revenue or in a court election notice, thus permitting the Office of State Revenue to issue an enforcement order even if the penalty and reminder notices are returned undelivered.

The bill extends the circumstances in which the Office of State Revenue can withdraw a penalty notice enforcement order. The Office of State Revenue will be able to review penalty notices in accordance with approved guidelines and determine whether the penalty should stand or be replaced with a caution or be withdrawn. Currently the Office of State Revenue has less flexibility in dealing with a penalty notice that has proceeded to enforcement.

The bill provides amendments granting the Office of State Revenue with the power to apply guidelines approved by the issuing authority. The guidelines for withdrawal of an enforcement notice will require approval by the relevant issuing agency. The bill authorises credit reporting bodies to disclose identification and account details about a fine defaulter. The additional information will be used to take enforcement action such as garnisheeing a defaulter's bank account as an effective method to enforce payment of a fine.

The current Act allows the Office of State Revenue to direct the Roads and Maritime Services to cancel a person's licence if a fine remains unpaid six months after their licence suspension. The bill permits the Office of State Revenue to take civil enforcement action if the fine remains unpaid 21 days after the Roads Maritime Services has been directed to suspend a licence, thus removing a potential five months delay. I commend the bill to the House.

Mr SCOT MacDONALD (12:32): On behalf of the Hon. Niall Blair, in reply: I thank the Hon. Peter Primrose, the Hon. Paul Green, Dr Mehreen Faruqi, the Hon. Greg Pearce and the Hon. Lou Amato for their contributions to the debate on this bill. I particularly welcome the contribution of the Hon. Paul Green, who appeared to be drawing on extensive experience in the area of fines. In response to the query of the Hon. Peter Primrose concerning credit reporting agencies, the powers of credit reporting agencies to release information are regulated by the Commonwealth Privacy Act. That Act does not limit the power of agencies to release bank account information to private debt collectors. The amendments will ensure that the Office of State Revenue is able to obtain access to the same information as private debt collectors.

In response to the matters raised by Dr Mehreen Faruqi, last year the Government introduced a hardship clause to allow return of money if any individual appeals the garnishee order on the grounds of hardship. In reference to vulnerable people, the State Debt Recovery Office actively excludes vulnerable individuals from bank garnishee orders when the person's circumstances are known. Sometimes, however, the circumstances are not known. Section 62 of the Social Security (Administration) Act 1999 provides protection for clients receiving Centrelink benefits.

Essentially it ensures that a bank garnishee order will not affect any amount in the person's bank account up to the amount they have been paid in benefits over the last four weeks, taking into account any amount spent in the same period. Banks are responsible for ensuring that the formula set out in section 62 applies to any

garnishee order issued by the State Debt Recovery Office. The major banks—the Commonwealth, Westpac, ANZ and National Australia Bank—have all confirmed that they apply the rule in the same way, namely, the four weeks commence from the date they receive the file, which is sent electronically to the banks each night.

The New South Wales Government is committed to having best practice fines legislation. The Fines Amendment Bill 2016 contains amendments that reflect this commitment. The bill makes amendments to provide faster, simpler, more effective and fair processes for processing penalty notices and enforcing unpaid fines. The amendments will improve consistency in procedures at different stages of the penalty notice and fines enforcement process. The amendments will improve the effectiveness of enforcement by engaging earlier with clients and using more accurate information about fine defaulters and will achieve administrative simplicity and flexibility. These important amendments will ensure that State fines legislation keeps pace with change. I commend the bill to the House.

Motion agreed to.

Third Reading

Mr SCOT MacDONALD (12:35): On behalf of the Hon. Niall Blair: I move:

That this bill be now read a third time.

The Hon. PETER PRIMROSE (12:35): I took the opportunity during my contribution during the second reading debate to indicate that I had no objections to a bill that is essentially bringing us into the second decade of the twenty-first century on this matter, but I did raise a very specific issue about the ability of the Office of State Revenue, and hence the State Government, to access information about private citizens which they not believed would not be available to the State without their concurrence. I asked the Parliamentary Secretary to specifically comment on that issue and to advise whether or not that was the case.

In his reply, the Parliamentary Secretary acknowledged that I had asked that question but he failed to address my concern. I do not expect that he will stand up now and do so, but that concern will hang over this bill. Indeed, the issue was raised in the other House and a response should have been available to the Parliamentary Secretary. I am not blaming the Parliamentary Secretary as an individual, but a response should have been available to him to answer my concern that I raised during the second reading debate. That did not occur.

Motion agreed to.

COASTAL MANAGEMENT BILL 2016

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Sarah Mitchell, on behalf of the Hon. John Ajaka.

Second Reading

The Hon. SARAH MITCHELL (12:38): On behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

The Coastal Management Bill 2016 is an important part of the New South Wales Government's coastal management reforms. It will establish a simpler, more contemporary legislative framework for the management of the coast. It is the first part of a coastal reform package that will better equip coastal communities to respond effectively to existing and emerging coastal challenges and opportunities. The much-needed and long-awaited coastal management reforms establish the legislative and policy settings and the practical tools that resilient coastal communities need to protect and enhance the natural values of the coast; ensure ongoing public access, use and enjoyment of our beaches and foreshores; and prepare for and respond to existing and emerging coastal hazards and threats.

This bill is the result of extensive consultation and collaboration between the State Government and local governments up and down the coast as well as coastal experts and coastal communities. At the NSW Coastal Conference held at Forster in November 2015, the Minister for Planning released a draft bill for public consultation together with key elements of a draft coastal manual and an explanation of the intended effect of a new coastal management State environmental planning policy.

I am pleased to say that the response during the three-month consultation period was overwhelmingly positive and constructive. The approximately 450 submissions that were received expressed a range of views, raised issues and concerns and proposed suggestions. The bill that I put before the House today has been shaped and improved as a result of the extremely valuable input from councils, community members and experts. I thank all the stakeholders who contributed to this process for their time and attention.

The reasons for this reform are to make the system simpler by replacing and improving the outdated and complex web of laws managing our coast; to enable us to resolve the issues arising from past settlement patterns and to manage the unique environmental, social and economic values of the coast in a planned and strategic way; and to provide better support for local councils as the custodians of our coast.

The current Coastal Protection Act is to be replaced by a new Coastal Management Act that will enable more strategic management of coastal life. The current Act is complex and difficult to navigate. Its one-size-fits-all approach is no longer fit for purpose. Since the original Coastal Protection Act was enacted in 1979 our understanding of coastal processes has improved dramatically. We know our coastline is not a fixed object but a dynamic, ever-changing environment with a range of natural processes.

The new legislation, the Coastal Management Bill 2016, is easier to navigate and more helpful in managing our coast. The bill provides the architecture for strategic management of our coastal areas. It will assist councils and communities to manage current and future risks to our natural and built coastal assets, in the interests of current and future generations. We need to look ahead and adopt a proactive management approach to our coastline and this bill provides the architecture for integrated and coordinated coastal planning, management and reporting.

I turn now to the specific provisions of the bill. The Coastal Management Bill contains new statutory objects to better communicate the State's vision for coastal management. Consistent with the principles of ecologically sustainable development, the objects integrate economic and environmental considerations for the social, cultural and economic wellbeing of the people of the State. The objects recognise the vital natural, social, cultural and economic values of our coastal areas. Importantly, the new statutory objects will recognise natural coastal processes and the locally and regionally dynamic character of the coast and will promote land use planning decisions that accommodate them.

The bill recognises the importance of the State's saltwater economy and supports sustainable coastal economies. Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone are also recognised. The new statutory objects will ensure coordinated planning and management of the coast and will support public participation in those activities. The promotion of plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future is also featured. The objects will also support the aims of the Marine Estate Management Act 2014, as the coastal zone forms part of the marine estate.

The New South Wales coast is a treasure trove of unique and inter-related landforms and environments. These environments are linked to diverse cultural, economic and social values. Our coast is special to so many families, communities, businesses and the nation as a whole. For many, the coast is a place for sport, recreation and tourism. The great Australian summer holiday is based around a trip to a coastal area for surfing, fishing, boating or simply relaxing on the sand. The coast is also a place of business and prosperity.

Tourism, primary industries and a vast array of small businesses rely on the coast every day for their livelihoods. We do not think of the coast as one single homogenous place, so it does not make sense for our coastal legislation to do so either. Under the Coastal Management Bill, the coastal zone will be defined in a nuanced way so that our objectives for the coast can be targeted to the right areas. Under the bill, the new coastal zone is to be divided into four coastal management areas to accommodate the different and unique features and specific needs of those different areas.

In total, it is proposed that the coastal zone be a combination of four coastal management areas: a coastal wetlands and littoral rainforests area; a coastal vulnerability area, being an area subject to coastal hazards such as beach erosion, shoreline recession and tidal inundation; a coastal environment area, which contains coastal features including coastal waters, estuaries, coastal lakes, coastal lagoons, headlands and rock platforms; and a coastal use area, being an area of land adjacent to coastal waters, estuaries, coastal lakes and lagoons where development is present or may be carried out in the future. These four areas are defined in the bill and will be identified in due course, following additional public consultation, for all coastal local government areas in New South Wales and mapped as part of a coastal management State environmental planning policy.

The legislation establishes clear, outcome-oriented management objectives for each area to ensure councils apply the best management tools and development controls. The management objectives for the coastal wetlands and littoral rainforests area are a strong statement about the Government's commitment to the protection of these environmentally important areas. Coastal wetlands and littoral rainforests are to be protected in their natural state, including their biological diversity and ecosystem integrity.

The management objectives also seek to promote the rehabilitation and restoration of degraded coastal wetlands and littoral rainforests and improve the resilience of these areas. The management objectives for the coastal vulnerability area are focused on ensuring that activities on land that is subject to coastal hazards ensure

public safety and prevent risks to human life. Coastal managers are to manage these areas so as to mitigate current and future risk from coastal hazards. Importantly, public access, amenity and use of beaches and foreshores are to be maintained.

Coastal management strategies that reduce exposure to coastal hazards are, in the first instance and wherever possible, to restore or enhance natural defences, including coastal dunes, vegetation and wetlands. If natural strategies are not sufficient to reduce exposure to coastal hazards, other actions should be taken to reduce exposure. The management objectives contain strong measures to ensure that coastal management actions to reduce exposure to coastal hazards avoid significant degradation or disruption to natural environmental processes as well as to beach and foreshore amenity. The management objectives call for the restoration of a beach if any increased erosion of the beach or adjacent land is caused by actions to reduce exposure to coastal hazards.

The third area is the coastal environment area, which covers land containing coastal features such as the coastal waters of the State, estuaries, coastal lakes, coastal lagoons and land adjoining those features, including headlands and rock platforms. The management objectives for this area are to protect and enhance the coastal environmental values and natural processes of the area and to enhance natural character, scenic value, biological diversity and ecosystem integrity. Water quality and estuary health is also captured in this management area.

The final coastal management area is the coastal use area, which is land adjacent to coastal waters and other features and where development may be carried out now or in the future. The management objectives for this area are focused on protecting and enhancing the scenic, social and cultural values of the coast to ensure our beautiful coastline will always look beautiful, while accommodating appropriate development that supports local economic activity. Where these management areas overlap the management objectives will be combined, and the bill provides a hierarchy in case there are any inconsistencies.

The Coastal Management Bill establishes requirements for the preparation of coastal management programs [CMPs]. Over time CMPs will replace current coastal zone management plans. The purpose of a CMP is to set the long-term strategy for the coordinated management of land within the coastal zone. Under the bill a local council may, and must if directed to do so by the Minister, prepare a CMP in accordance with the legislation. The council's CMP will need to consider and promote the objects of the Act and give effect to the management objectives for the coastal management areas.

The bill establishes the key requirements that a coastal management program must meet. These are: to identify the coastal management issues affecting the areas to which the program is to apply; to identify the actions required to address those coastal management issues in an integrated and strategic manner; to identify how and when those actions are to be implemented; to identify the costs of those actions and proposed cost-sharing arrangements and other viable funding mechanisms for those actions to ensure the delivery of those actions is consistent with the timing of their implementation under the coastal management program; and, if needed, to include a coastal zone emergency action sub-plan that outlines the roles and responsibilities of all public authorities in response to coastal zone emergencies, such as beach erosion.

In developing a CMP a council must consult with the community and relevant public authorities. These requirements are to ensure councils develop coastal management programs that are feasible, proportionate to risk and able to be resourced. When developing a coastal management program, councils are required to consider a range of options and will need to work closely with their communities to decide the best option for a particular area. It will also be important to ensure that councils and other public authorities with a role in the coastal zone collaborate to ensure that actions at all levels reflect the objects of the bill and are compatible with the long-term strategy for the coast.

Importantly, the bill recognises that water-borne sand and other sediment move on a scale larger than local government boundaries within areas known as sediment compartments. Consultation should be at the scale of these sediment compartments and also where an estuary is within two or more local government areas so that coastal management activities can take into account strategic issues on a regional scale.

The Coastal Management Bill links coastal zone management planning with the planning that councils already invest in for their mainstream asset management and community service delivery functions. The new coastal management programs will have a strong emphasis on implementation. The bill does this by requiring coastal management programs to be given effect within the local government Integrated Planning and Reporting [IP and R] framework.

The IP and R framework is established under chapter 13 of the Local Government Act 1993 and is the main mechanism by which councils comprehensively plan for and report on their asset management and service delivery responsibilities within a local government area. This means that coastal management programs and

identified coastal management activities are aligned with broader community strategic plans and reflect community priorities and are feasible, financially viable and able to be resourced.

The bill provides the Minister with the authority to certify or refuse to certify that a council's coastal management program has been prepared in accordance with the legislation's requirements. The bill creates the NSW Coastal Council, which will be a new statutory advisory body to replace the NSW Coastal Panel. The Minister may seek advice from the NSW Coastal Council, which will be made up of people with expertise in areas relevant to coastal management, such as coastal land use planning, coastal physical sciences, economics and social science.

The NSW Coastal Council may also be tasked by the Minister to audit the performance of a local council's implementation of its coastal management program. This will enable the Minister to determine whether coastal management programs are being implemented effectively. The bill also includes a provision for the Minister to publish a coastal management manual to establish mandatory requirements and provide guidance in connection with the preparation, development, adoption, amendment, review and contents of coastal management programs.

The manual will be an invaluable resource for coastal communities as they plan their future on the coast. It will provide clear instructions and step-by-step guidance for councils to meet the requirements of the legislation. Under the bill, compliance with the manual will ensure that councils fulfil their good faith obligations under the Local Government Act 1993. The manual builds on existing guidelines and fills critical gaps that councils have identified. At its core, the manual will promote collaboration and consultation to ensure that management programs are developed by the community for the community. In particular, the bill outlines that the manual is to include the following:

- technical information and guidance on matters such as hazard mapping, ecological health, cost benefit analysis and implementation and funding tools,
- requirements relating to the consultation that must be undertaken in connection with the preparation, development or review of coastal management programs, and
- a risk management process that local councils are to follow when preparing their coastal management programs, including a process of identifying and assessing risks to environmental social and economic values and benefits and evaluating and selecting management actions to address those risks.

The manual and related technical information will provide coastal communities with the best available scientific information about coastal processes and the potential impacts of a changing climate on coastal areas, including changes in sea levels, severe weather events and flooding. The provisions of section 55M of the existing Coastal Protection Act dealing with the granting of development consent for coastal protection works will be included in the new Act. The Coastal Management Bill includes heads of consideration designed to protect beaches and headlands from the impacts of coastal protection works. Provisions relating to conditions of consent have been incorporated into the Environmental Planning and Assessment Act.

Provisions for temporary coastal protections works are not included in the Coastal Management Bill. This is because the new framework requires significant proposals for coastal management to be considered strategically through the development of a coastal management program. An important part of this approach is that the interests of local communities are best served by thinking ahead and planning for likely hazard events, such as extreme storm events. Where temporary or emergency works are installed without appropriate planning, there is a greater risk of exacerbating erosion problems elsewhere.

Shorter-term works by public authorities are included in emergency work provisions in the bill. This will allow for instances where a public authority needs to respond to beach erosion, coastal inundation or cliff instability as a result of storm activity. Private landowners can continue to seek consent for coastal protection works, whether temporary or longer-term. There is currently significant overlap between the compliance and enforcement provisions in the Coastal Protection Act and the Environmental Planning and Assessment Act in relation to unauthorised works and development in the coastal zone.

For this reason, the proposed Coastal Management Act will not include offences and enforcement powers. To reduce regulatory overlap, enforcement of the new legislative arrangements will occur under the Environmental Planning and Assessment Act 1979. The bill includes amendments to that Act to ensure it provides the provisions necessary to address cases of unauthorised works on beaches, dunes or foreshores. This approach simplifies the legal framework by integrating unauthorised coastal development into the existing enforcement framework for other unauthorised development.

The application of the compliance and enforcement regime in the Environmental Planning and Assessment Act will ensure that unauthorised coastal protection works are treated the same as other unauthorised development and that any enforcement action follows a transparent and established process. This will be of particular benefit to local councils, as they understand and utilise the compliance and enforcement mechanisms

under the Environmental Planning and Assessment Act on a daily basis and are generally the first point of call for members of the public with a complaint. Enforcement provisions under other legislation will continue to apply and will further support the powers under the Environmental Planning and Assessment Act. I commend the bill to the House.

Debate adjourned.

NORFOLK ISLAND ADMINISTRATION BILL 2016

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Sarah Mitchell, on behalf of the Hon. Duncan Gay.

Second Reading

The Hon. SARAH MITCHELL (12:56): On behalf of the Hon. Duncan Gay: I move:

That this bill be now read a second time.

The purpose of this bill is to authorise the New South Wales Government to enter into arrangements with the Commonwealth Government for the provision of services and exercise of functions by New South Wales in Norfolk Island. This bill authorises New South Wales authorities or employees to exercise powers conferred on or vested in those New South Wales authorities or employees pursuant to such an arrangement with the Commonwealth. In May 2015 the Commonwealth Parliament passed legislation that reformed the legal and governance framework for Norfolk Island. Under that legislation, the Commonwealth assumes responsibility for funding and delivering services to Norfolk Island and is to establish an elected Norfolk Island Regional Council from 1 July 2016.

The Commonwealth Government has requested the assistance of the New South Wales Government in providing State-type services to Norfolk Island. In March 2016 this Government committed to providing service delivery support in school education, local government and health for the people of Norfolk Island, commencing 1 July 2016. The involvement of the New South Wales Government in Norfolk Island is contingent on responsibility for Norfolk Island and its citizens remaining with the Commonwealth Government and any activity undertaken by the New South Wales Government being completely funded by the Commonwealth and resulting in no net cost for New South Wales.

New South Wales is in a unique position to leverage our expertise and deliver school education and State-type health services and provide support to the newly elected Norfolk Island Regional Council. The staged application of some New South Wales laws applying as Commonwealth law will provide a practical and established body of State law for the island. New South Wales has a strong track record of high-quality service delivery in health and education. We welcome the opportunity to continue to work with the community on Norfolk Island and provide stability as they transition to a new period in the island's history.

Since 1991 New South Wales has provided teaching staff to the Norfolk Island Central School through an arrangement with the Norfolk Island administration. The school has been and will continue to be at the centre of the Norfolk community. With a renewed commitment, experienced New South Wales teachers could continue delivering high-quality education to Norfolk Island students. New South Wales has also provided some limited support to the Norfolk Island Hospital since 2013. New South Wales is determining the scope of health services it could provide which will help the Commonwealth achieve high-quality, affordable and safe health services for the island's residents.

Norfolk Island has a rich history and culture. However, in recent times the island administration has struggled to provide the economic security, infrastructure development or day-to-day services required for its people. New South Wales is committed to working with Norfolk Island and the Commonwealth Government to provide the necessary support for its prosperous future. I commend the bill to the House.

Debate adjourned.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): I will now leave the Chair and the House will resume at 2.30 p.m.

Questions Without Notice

FEDERAL BUDGET AND HEALTH AND EDUCATION

The Hon. ADAM SEARLE (14:30): My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Premier. Does the Baird Government endorse the Federal Government's

\$16,000 tax cut for people earning an annual salary of \$1 million, while at the same time continuing to cut billions in funding from health and education?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (14:31): I did not think those opposite would ask a question about the Federal budget. I did not think they would go anywhere near it. The Hon. Adam Searle has asked a question about the Federal Government. We are sitting in the New South Wales Parliament. But I have to say that the question everyone in New South Wales wants answered is: How will the Labor Party pay for its commitments on the new M5 and the M4? They are matching us, but there has been no word about how their commitments are going to be paid for. So the question is: Under the Labor Party, would those roads be tolled or not? Those opposite have been out there telling everyone that the Government will be tolling these roads. Of course we will be tolling them. We told the electorate that.

The Hon. Walt Secord: Point of order—

The PRESIDENT: Order! Members will come to order. I note that the Hon. Walt Secord is rising on a point of order. He can take his point of order sitting down given that he is currently in a wheelchair. Perhaps that might also take some of the wind out of his sails.

The Hon. Walt Secord: My point of order goes to relevance. The question was about cuts to health and education.

The PRESIDENT: Order! Members will come to order. I do not need the assistance of Government members. The question was clear. The comments of the Minister are quite within the purview of the question that was asked.

The Hon. DUNCAN GAY: It is obvious that the Hon. Walt Secord does not have a leg to stand on!

The Hon. Sophie Cotsis: The Hon. Duncan Gay could have come up with something better than that. Come on, give us another one.

The PRESIDENT: Order! The Hon. Sophie Cotsis might like to conserve her voice for other things rather than strain it now.

The Hon. DUNCAN GAY: This morning I noticed in the paper an article about how people can now buy bottled Blue Mountains air. It is fresh and beautiful and it is now being exported to China. If we were to bottle the air from the Opposition side of this Chamber we would be able to label it "despair". That is the situation on the opposite side. Those opposite are promising things that they cannot deliver.

The Hon. Greg Donnelly: So the Hon. Duncan Gay needed five weeks to come up with that line?

The Hon. DUNCAN GAY: We have been out of session for five weeks, and all I can see has changed with the Hon. Greg Donnelly is that he is woollier than before. The question on taxes and charges that needs to be answered is: How is the Labor Party going to pay for its promises? Its members are wandering around this city saying "Me too". When we promised a new M5, they promised a new M5. When we promised to widen the M4, stages 1 and 2 of WestConnex, they said, "We'll do it too." But they have been silent on how they are going to pay for it.

Those opposite have been willing to remind people that we are putting a toll on. They did not have to do that. We had already told the people that we were going to toll it. What those opposite have been silent on is how they are going to pay for it. If they are not going to put a toll on, what cuts are they going to make to hospitals and to the police? I challenge those opposite to rule out a toll. That is the challenge; that is the question. I am looking for an answer.

FEDERAL BUDGET AND ROAD AND RAIL INFRASTRUCTURE

The Hon. GREG PEARCE (14:35): My question is directed to the Minister for Roads, Maritime and Freight. Will the Minister inform the House of the key highlights of yesterday's Federal budget in relation to New South Wales roads and freight-related projects?

The Hon. Walt Secord: Duncan has got Federal ambitions. Duncan has gone Federal.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (14:35): If we bottled the air from immediately in front of me, we would be able to label it "raw ambition". It would be dripping with raw ambition. I am delighted to inform the House how the Australian Coalition Government has continued its commitment to invest billions in critical road and freight-related infrastructure in New South Wales. In fact, in this year's budget, the New South Wales Government has successfully secured not 10, not 20, not 30, not 40 but 50 per cent of the overall nationwide investment for capital

road and rail infrastructure projects. It is in the budget papers. Let me say that again: 50 per cent of the Commonwealth Government's investment in road and rail capital projects this financial year is flowing to New South Wales. The other States and Territories share the other 50 per cent.

This is due to the fact that New South Wales has gone from being one of the weakest economies in the country, under Labor, to being now the strongest in the Federation. As a stark comparison, back in 2010-11, when Federal Labor was in power and New South Wales Labor was chaotically destroying the economic foundations of this State, the proportion of investment was almost one-third less. So it was a third less when those opposite were in Government here in New South Wales and when they had Labor in government federally.

This stunning result once again validates our gutsy decision to lease mature government assets such as poles and wires and recycle the proceeds into new capital projects. Unlike some other States, we have also done the hard work to produce high-quality business cases for major projects—not to mention getting these projects shovel-ready. New South Wales Labor was notorious for not doing its homework in these critical areas. They decided that a project was merely producing a glossy brochure. Via the Federal Government's asset recycling initiative, New South Wales will now benefit from more than \$2 billion in extra funding for capital projects in New South Wales. This is money we would not have got if those opposite had won the election, because there would have been no capital recycling. This includes additional funding to help upgrade key regional freight corridors such as the Newell, New England and Mitchell highways.

Contrary to some commentary, roads funding in this Federal budget is very strong. Because of historic State and Federal funding for roads in recent years, I suspect people are starting to become lulled by the sheer magnitude of our investments—in other words, we are getting the job done without any great fanfare. As a case in point, in 2016-17 the Federal Government will be investing \$1.37 billion to help fast-track the duplication of the Pacific Highway.

This is a direct result of the Australian Coalition Government restoring the 80:20 funding split with New South Wales, which was abandoned by Federal Labor in 2011.

The Hon. Walt Secord: That is not true.

The Hon. DUNCAN GAY: That is true. Nearly 30 people die every year on that road and the member should work out what another seven years would do and what Labor has done to the people on the North Coast. More than half a million dollars of Federal money will also be spent to help advance construction of new and—*[Time expired.]*

FEDERAL BUDGET AND MEDICARE REBATE

The Hon. WALT SECORD (14:39:5): My question is directed to the Minister for Ageing, representing the Minister for Health. How many extra patients will present at the State's more than 80 over-stretched emergency departments due to the Federal Government's decision to freeze the Medicare rebate to general practitioners until 2020?

THE HON. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (14:40:0): I take this opportunity to congratulate the Federal Government on its responsible budget—something that those opposite have absolutely no concept of. It is extraordinary that during the years of the Rudd-Gillard-Rudd governments they did not say a word about the most disastrous budget that this country has ever seen. I welcome the Federal Government's responsible budget that will move Australia forward and will make up for those disastrous shortfalls from the previous Federal Government. I also take this opportunity to congratulate the State Minister for Health, Jillian Skinner, who continues to do an outstanding job to ensure that she too makes up for the shortfall when members of the Opposition were in government for 16 years.

The Minister for Health continues to ensure that we not only have a record spend on health in New South Wales but also continues to negotiate with the Federal Government to ensure that increased spending, as does the Treasurer, the Hon. Gladys Berejiklian, which I will continue to welcome. Opposition members should indicate how the alleged promises made by their Federal counterparts in their comments about the budget will be fulfilled. Where will the money come from? It is amazing that they say, "We will fund this, we will fund that" but they should be ashamed that they are continually caught out short-changing the Australian people in relation to how they budget for certain events. We will continue to negotiate with our Federal colleagues to ensure responsible budgets not only in New South Wales but also federally.

COFFS HARBOUR CITY COUNCIL AND WORLD RALLY CHAMPIONSHIP

Mr DAVID SHOEBRIDGE (14:42:5): My question is addressed to the Minister for Roads, Maritime and Freight, representing the Minister for Local Government. Is the Minister aware that Coffs Harbour City Council General Manager Steve McGrath did not declare either a pecuniary interest or a significant non-pecuniary

interest when he recommended to his council that it sponsor the World Rally Championship, which it voted to do? At the time Mr McGrath had a position on the board of Rally Australia. If so, what steps is the Minister taking to address this?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (14:42:2): I will pass on the question asked by Mr David Shoebridge to the Minister for Local Government. I have been advised in the interim that any allegations that a council official has breached the pecuniary interest provisions of the Act should be put in writing to the Acting Chief Executive Officer of the Office of Local Government so that the circumstances can be properly examined. Should the chief executive undertake an investigation, a report would then be provided to the New South Wales Civil and Administration Tribunal [NCAT] for consideration. The NCAT is the only body that can impose a sanction for breaches of the pecuniary interest provisions of the Act.

NATIONAL DISABILITY INSURANCE SCHEME

The Hon. LOU AMATO (14:44): My question is addressed to the Minister for Ageing. Will the Minister provide an update on the New South Wales Government's transfer of disability services to the non-government sector?

THE HON. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (14:44:5): We are on the verge of new era for disability services in this State. In less than 60 days the historic National Disability Insurance Scheme, or NDIS, will roll out across half of New South Wales. Our experiences gathered from the trial site in the Hunter and the early roll out site in the Nepean-Blue Mountains tells us that the NDIS is truly life-changing. Already, the NDIS is improving the lives of thousands of people with disability and their families.

A key principle that the NDIS is built on is choice. The NDIS washes away the antiquated, rationed system of old, and ushers in a new era of empowerment of people with disability. It will give people with disability real and meaningful choice and control over their own lives. It will give people with disability the power to choose: what services they want, when they want them and who they want to deliver them. It will give people with disability the ability to live life on their terms, to live life their way.

To support the transition and to ensure the full potential of the NDIS is realised, the New South Wales Government is transferring all of its disability services to the non-government sector by 30 June 2018. Transferring disability services to the non-government sector will give people with disability and their families the greatest choice. The transfer will help support a vibrant and competitive disability services marketplace in New South Wales—a marketplace where people with disability get not only the best services, but also the best outcomes. I advise the House that the transfer of disability services is on track.

The New South Wales Government has already seamlessly and successfully transferred the Home Care Service of NSW, with its more than 4,000 staff, to Australian Unity. Furthermore, the New South Wales Government has been consulting extensively with people with disability, their families and carers right across New South Wales. To date, more than 160 client forums have been held. Last week I announced the New South Wales Government was entering the next stage of the transfer process. An expression of interest, or EOI, for all specialist disability services, which includes group homes and specialist supported living, will open on Monday 16 May 2016 and close on 24 June 2016. The EOI will allow government to get a clearer picture on who wants to deliver services, where they want to deliver them and how they propose to deliver them.

I am pleased to say the announcement has been welcomed by the disability sector. National Disability Services Senior Manager State Operations Tony Pooley said, "NDS strongly supports the decision to transfer services to the non-government." Mr Pooley went on to say, "NDS shares the NSW Government's confidence in the NGO sector's commitment and capacity to provide these services, and we welcome the Government's announcement of initial details around timing and process." Following the EOI, a formal procurement process will select new providers.

I assure the House the New South Wales Government's highest priority during the transfer is the continuity of top-quality care for people with disability. I will continue to ensure the views of people with disability as well as families, workers, providers and unions, inform the process. The New South Wales Government will continue to progress with this bold and important reform, a reform which will give people with disability the greatest choice, and deliver the best outcomes.

GOLD COAST AIRPORT SOIL CONTAMINATION

Ms JAN BARHAM (14:48:2): My question is directed to the Minister for Primary Industries. Given that answers to the Senate inquiry into contamination of Australian Defence Force facilities and other sites by the

Commonwealth Department of Infrastructure and Regional Development indicate that the installation of Gold Coast Airport's instrument landing system will require excavation below the existing natural ground level and removal of topsoil, will the Minister commit to requiring a full sampling study of the nature, extent and potential spread of soil contamination at Gold Coast Airport before allowing any work to proceed on the New South Wales Crown Land Reserve?

The Hon. Duncan Gay: Did you drive here? What airport did you fly out of?

Ms Jan Barham: I don't come from Gold Coast Airport. No way. No interest.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (14:49): Did the member say she had no interest in the North Coast? I would have thought that Gold Coast Airport would be a key airport providing services to the North Coast area.

The Hon. Greg Donnelly: You've been learning off Duncan.

Ms Jan Barham: Don't be a smart arse.

The Hon. NIALL BLAIR: Point of order—

The Hon. Greg Donnelly: You can't take it.

The Hon. NIALL BLAIR: I can take many things but it is unparliamentary to use that language. It should be withdrawn.

The PRESIDENT: Order! I am sorry, I do not know what language the member used. The only thing I heard was that the Minister had been learning off Duncan. I cannot see how that could possibly be unparliamentary. There is no point of order. The Minister has the call.

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

The PRESIDENT: Order! I have ruled, unless there is something else?

The Hon. Duncan Gay: By way of explanation, to save those of us who heard what the member said the embarrassment of repeating it, perhaps the member might withdraw her comment.

The Hon. Lynda Voltz: To the point of order: Mr President, you made a ruling. If the Minister would like to take another point of order he should point out which standing order he is applying. There are numerous instances of things being said across the Chamber which members on both sides have not withdrawn. A ruling has been made. Unless the Minister can point to a breach of the standing orders the answer should be allowed to be given.

The Hon. NIALL BLAIR: To the point of order: This Chamber is renown for robust debate, but when debate deteriorates into the use of unparliamentary language the rules of this House should be upheld. That is why I took a point of order. The member is better than that and I wanted to give her the opportunity to withdraw the unparliamentary language.

The PRESIDENT: Order! I am still at the disadvantage of not having heard any unparliamentary language. I am therefore not in a position to direct the member to withdraw. If the member would voluntarily withdraw what she said it might assist in the circumstances. Apparently the member will not withdraw. The Minister has the call.

The Hon. NIALL BLAIR: The ecological assessment notes that the risk of perflourinated compounds [PFC] contamination will be assessed as part of a—

The PRESIDENT: Order! Before we go further I indicate that to deem language unparliamentary I have to know what was said because I have to have found the words offensive. I am labouring under a burden that unfortunately does not seem to be able to be overcome in these circumstances.

The Hon. NIALL BLAIR: I accept your ruling, Mr President. I have moved on to my answer to the question. The ecological assessment notes that the risk of PFC contamination will be assessed as part of a contaminated land management plan.

WILLIAMTOWN LAND CONTAMINATION

The Hon. PENNY SHARPE (14:53): My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given the Department of Defence has acknowledged its role in the Williamstown RAAF base contamination by providing \$2.2 million in compensation to the local fishing industry, will the Minister now seek reimbursement for costs borne by the New South Wales taxpayer such as the \$3.5 million to connect water mains?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (14:54): As the member rightly notes, last night the Federal Government set aside some money in the budget for compensation to fishers in that area. I will have more to say about the issue very shortly. As the lead agency on behalf of the New South Wales Government the Environment Protection Authority has continually said that it will be pursuing the contaminator pays principle in this State. I will have more to say about that shortly.

BIODIVERSITY PROTECTION LEGISLATION

The Hon. RICK COLLESS (14:54): My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister update the House on the Government's commitment to overhaul outdated and complicated environmental legislation and create a fairer system that allows farmers to manage their land and deliver better biodiversity outcomes?

Mr Adam Searle: Point of order: The question contained argument. The notion of "fairer" is obviously a matter of conjecture and degree. The question should be ruled out of order.

The PRESIDENT: Order! There is no point of order. Before the Minister commences his answer I welcome to the President's gallery our former colleague the Hon. Michael Egan, a former Leader of the Government in this Chamber.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (14:56): Yesterday was an historic day for the State's farmers, our regional communities and our unique natural environment that have all suffered for too long under the outdated system of native vegetation laws imposed by members opposite. Over the course of the past two decades, since Bob Carr introduced the current system of native vegetation laws, we have watched the value of our biodiversity decline and strangle the productivity of the State's farmers. Everyone agrees we need to look after our environment. Our State is home to some of the world's most unique wildlife and natural environments, as well as innovative and productive farmers. That is why we need to work together to protect the land and animals we value while supporting our farmers so that they can manage their land productively. But the time has come for a new approach to the way we manage land in this State.

That is why the Government appointed an independent expert panel that was chaired by respected environmental economist Dr Neil Byron to review our biodiversity laws. The panel delivered a report of 43 balanced and evidence-based recommendations. All sides of this debate have agreed with the panel's findings that the State's current biodiversity laws place an unfair burden on farmers while failing to protect native animals and plants. We committed to implementing all 43 recommendations. That is why yesterday I was pleased to join Deputy Premier Troy Grant and Minister for the Environment Mark Speakman to release our reform package for public consultation.

The package will create a fairer system that allows our farmers to manage their land to improve productivity and deliver environmental outcomes. It will protect and enhance our rich natural environment with an historic investment of \$240 million over five years in private land conservation, \$70 million in each following year and \$100 million dedicated over five years to the Saving our Species program—and it will repeal the Native Vegetation Act once and for all. Our farmers are our frontline environmental custodians on private land. It makes sense to give them the tools and flexibility they need to manage and protect the land that is the lifeblood of our regional communities.

For too long the burden of native vegetation laws in this State have rested solely on the shoulders of our farmers. Under the new system routine farm work will be exempt. Farmers can now plan for the future to improve their productivity. The Government will provide farmers with incentives to conserve native plants and trees on their land.

The release of the draft bill brings us one step closer to repealing the Native Vegetation Act and delivering on the independent panel's recommendations to reform land management in this State. We are committed to delivering a new biodiversity conservation legislation framework that adopts a long-term approach, and is fair and balanced.

Over the next eight weeks I strongly encourage the public to provide feedback on our draft legislation, before we introduce our biodiversity conservation bill into the House by the end of the year. This is about changing the conversation in New South Wales and making sure that we include our farmers as part of the solution. Those opposite decided to lock-up native vegetation on private property. In return, all we have had is compounded interest in feral pigs, wild dogs and noxious weeds and farmers have been held back from managing them. As I said, this is about changing the conversation and this Government is very proud to be introducing it.

The PRESIDENT: Order! There is too much noise in the Chamber. The House will come to order before I give the call to the next member. I call Mr Jeremy Buckingham to order for the first time.

NSW POLICE FIREARMS REGISTRY

The Hon. ROBERT BORSAK (15:00): My question without notice is directed to the Hon. Duncan Gay, representing the Minister for Justice and Police. How many internal reviews have been requested by firearm licence holders on decisions made by the Firearms Registry to refuse a licence or permit for 2012, 2013, 2014 and 2015? How many internal reviews upheld the original decision and how many set aside the original decision?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:01): I thank the honourable member for his question. I hope he will accept that I do not carry around with me the details about the number of internal reviews for the years 2012, 2013, 2014 and 2015 and whether or not they were successful.

Mr Jeremy Buckingham: What do we pay you for?

The Hon. DUNCAN GAY: One of the great things about this State is that The Greens are not my employer. No-one wants to be employed by The Greens. The honourable member's question is an important one and I will refer it to the Minister for a detailed answer.

WILLIAMTOWN LAND CONTAMINATION

The Hon. MICK VEITCH (15:02): My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given that the Department of Defence will pay a \$25,000 business transition payment to fishers affected by the Williamtown RAAF contamination, is the State Government confident that this will ensure the survival of this vital industry?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:02): I thank the honourable member for his question. Am I confident that that small payment will ensure the survival of that industry? I am more confident that the changes this Government is to introduce for the commercial fishing industry will help it survive well into the future. Regardless of how the Williamtown issue is addressed, commercial fishers in this State were already stressed. This contamination has added to those stresses because they have been locked out of certain areas. That funding will go some way, but it is not the solution to the industry as a whole. That is why this Government has allocated \$16 million to restructure the commercial fishing industry in this State.

I have met with fishers in the area about the Williamtown issue and I have also spoken with them in the broader context about commercial fisheries reform. I have also met with members of the Commercial Fishermen's Co-op at Newcastle to discuss all of these issues. As I have said in this House before, we feel for the fishers who are suffering as a result of this contamination. Whilst we are continuing to advocate on their behalf, we do not only want them to concentrate on that issue. We would like to think that they will play an exciting part in our commercial fisheries reform.

Am I confident that a bit of money from the Federal Government will be the panacea they are looking for? Probably not. Will it go some way? Yes. Do we want to be in a position of seeking funding from the Federal Government to stop these hardworking, honest people from working? I wish we were not in that position. I have travelled the New South Wales coastline and personally met with more than 200 fishers. I am confident that I can speak on behalf of most of those who have met with our commercial fishers in this State that they are some of the most hard working and honest people one could find. One thing that strikes me when I talk to them is that they are mostly multigenerational businesses.

The Hon. Daniel Mookhey: Intergenerational.

The Hon. NIALL BLAIR: They are multigenerational and intergenerational—there are a lot of them. There are fathers, sons, grandsons and daughters involved in these businesses. This Government will continue to advocate on their behalf to the Federal Government about what needs to be provided. We will analyse the money on the table in the context of what it will do for those businesses but we will also need to overlay our commercial fisheries reform as a part of that process.

If we get to the point that we think they need more money or ongoing support from the Federal Government, then we will continue to advocate for that. I want these people to have some purpose in their lives. They were not all working as commercial fishers to become millionaires; it is something they love doing and when that is taken away it leaves a large gap in their families and their pride. In fact, I have received letters from the children of some of those fishers, and the Hon. Mick Veitch probably has as well. The Government wants to support these businesses, and we will keep advocating on their behalf. As I have said, if we need to ask for more funding from the Federal Government we will.

WESTCONNEX

The Hon. DAVID CLARKE (15:06): My question is directed to the Minister for Roads, Maritime and Freight. Could the Minister please update the House on the progress of the new M5 section of the WestConnex Motorway network?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:07): I thank the honourable member for his question; I am disappointed that I was not asked it by the Opposition. I am pleased to report that last week the State Government granted planning approval for the second section of WestConnex—the new M5—which will double the capacity of the existing M5 East corridor. Anyone who has travelled along the M5 East knows what a nightmare it is—in short, I have described it as a "dog of a road". The new M5 is the second major tunnel section of WestConnex. It will run between the existing M5 East at Kingsgrove and the new interchange at St Peters.

It will reduce congestion, cut travel times and take traffic off local roads. Every day 100,000 motorists use the current M5 East and they face a constant battle to get through what has become a frustrating car park. By doubling its capacity with new nine-kilometre twin tunnels, motorists will have a much faster and less stressful journey. For example, in 2021 travel times will be cut by up to 45 per cent for motorists travelling eastbound during the morning peak from Beverly Hills to Botany. Also, importantly, local roads will be upgraded and new green space will be created south of Sydney Park and linked by a new land bridge.

Planning approval followed a rigorous environmental impact statement [EIS] assessment process, which considered submissions from the community and business. It is important that we listen to the whole community, and that is exactly what this Government is doing. Pending Federal Government environmental approval, initial work on the new M5 could begin within weeks and major construction in coming months. It is scheduled to open in 2019.

I am also delighted to report that construction on the King Georges Road interchange upgrade, which will address one of Sydney's worst pinch points, has now reached the halfway point. That is a \$130 million upgrade being delivered as part of WestConnex and it is due to be completed early next year. The upgrade includes widening and extending the eastbound on-ramp and the westbound off-ramp between King Georges Road and the M5 East. Thanks to a Commonwealth concessional loan, we have been able to get cracking on this upgrade some 18 months early. We have also welcomed \$300 million that the Federal Government allocated to the WestConnex program for 2016-17 in last night's budget. We thank the good Turnbull Government very much.

Unlike Labor, this Government and our Federal counterparts understand the need for these crucial projects to get moving. We are delivering—and not a moment too soon for the people who are caught out there. However, it is disappointing as people work through a democratic process to see that The Greens are up to their old tricks, urging civil disobedience. If I was to help The Greens in their election campaign I would tell them that they have just given Anthony Albanese the biggest free kick he could ever get. He will be able to show that The Greens are the anarchists of the world, that they do not believe in the rule of law, and he will do it well. Anthony Albanese will not miss The Greens. If I was to give The Greens advice I would tell them to wake up to themselves and work within the law. They should not advocate civil disobedience; they should work with the communities and with the governments to get a better outcome, otherwise Albo will kill them.

DEER HUNTING

The Hon. ROBERT BROWN (15:11:2): My question without notice is directed to the Minister for Primary Industries. Since the introduction of the Game Council State Forests hunting model in 2006, more than 10 years ago, how many deer have been killed by conservation hunters who hold R and G hunting licences, on public and private land?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:11:5): I thank the member for his question. I know that he is quite interested in this issue. As many members may know, currently the Natural Resources Commission is carrying out some consultations across the State, talking about its draft report and potential recommendations for the number of pest species we have in this State and having a look at some of the options in its discussion paper for the future and ongoing management of those pests. I am sure some members in the Chamber have also had a chance to read the report or even to attend some of the consultations. The report includes issues such as the way we address and manage wild pigs, wild dogs, Indian myna birds, cats, deer, foxes—a whole range of things.

Because the question seeks some quite specific detail about the number of deer that have been taken care of on public and private land under those different licence classes, the R and G hunting licences, I will take it on notice and come back to the member with a detailed response in due course.

NATIONAL DISABILITY INSURANCE SCHEME

The Hon. SOPHIE COTSIS (15:13): My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given last night's Federal budget cut \$66 million from the National Disability Insurance Scheme by cancelling an information campaign—

The Hon. Greg Donnelly: How much?

The Hon. SOPHIE COTSIS: —\$66 million from the National Disability Insurance Scheme [NDIS] by cancelling an information campaign to inform people with a disability how to access this important program, what steps will the Minister now take to ensure people with a disability, their carers and families are fully informed about the NDIS?

THE HON. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (15:14:1): I congratulate the Federal Government on committing to the NDIS and committing all funding required for the NDIS in the Federal budget. What those opposite will not admit is that the former Labor Government left a \$5 billion blackhole in the NDIS budget. Jenny Macklin completely failed to provide the appropriate funding to deliver the NDIS. How fortunate we are to have a Minister like Christian Porter, who ensured that full funding has been completely committed and confirmed for the NDIS.

What those opposite will not admit is that first and foremost New South Wales was the first State to sign up to the NDIS and also committed 100 per cent of its share of the funding to the NDIS. What those opposite will not admit is that New South Wales was the only State to launch the NDIS 12 months early, with the cooperation and agreement of the Federal Government, in the Nepean Blue Mountains area—another confirmation of the commitment not only by this State but by the Federal Government to ensure the NDIS is appropriately rolled out. What did those opposite do when we indicated we were going to roll out the scheme 12 months early in the Nepean Blue Mountains area? They opposed it.

The Hon. Walt Secord: Point of order: My point of order goes to relevance. The question is clear; it is about a \$66 million cut to the NDIS.

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

THE HON. JOHN AJAKA: Let us make it very clear: there is no \$66 million cut to the NDIS. What absolute nonsense. The Federal Government, in a responsible way, determined that \$66 million did not need to be spent on advertising. The Federal Government needed to ensure that, due to the \$5 billion black hole, the funds were going to be used appropriately. We are taking appropriate action in this State and with the Commonwealth to ensure that the rollout of the NDIS occurs on the due date of 1 July 2016 for half the State—that is less than 60 days from now. The New South Wales Government welcomed the Federal Government's budget measure to establish the National Disability Insurance Scheme Savings Fund, which will ensure that the funding is available.

Those opposite never ever considered where that \$5 billion was going to come from. Where were they going to get it? What were they going to do? Were they going to increase the Medicare levy? Were they going to continue to cut costs in other services to find this \$5 billion?

The Hon. Sophie Cotsis: We put money aside; you spent it.

THE HON. JOHN AJAKA: What nonsense. The member knows that is absolute nonsense. The rollout commences on 1 July 2016. We are committing not only our budget of \$2.7 billion to the NDIS, as we agreed, but we are committing an additional \$400 million, making a total of \$3.1 billion. The shadow Minister has absolutely no idea how the NDIS works. She had no idea whatsoever where the funding was going to come from. Thank you Christian Porter for ensuring the funds are available. [*Time expired.*]

WILLIAMTOWN LAND CONTAMINATION

Mr SCOT MacDONALD (15:18): My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. Can the Minister please update the House on the response to contamination at Williamtown?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:19): I thank the honourable member for his question. The New South Wales Government is a strong supporter of rural and regional New South Wales. We understand the issues that matter to our communities. That is why we continue to take decisive action to support the local families and businesses impacted by the perfluorooctane sulfonate [PFOS] contamination at the Williamtown RAAF Base. The Environment Protection Authority is leading the New South Wales Government's response to the contamination.

There are four main aspects to manage: protecting people's health and the environment; remediation of the contamination; providing wellbeing and financial support for impacted communities and industries, particularly for fishers impacted by fishing closures; and ensuring that, as the polluter, the Department of Defence pays for the impacts to people and their livelihoods, the clean-up and the costs of the New South Wales Government in managing the contamination and related costs.

I welcome measures announced in last night's Federal budget, which has allocated an additional \$2.2 million to extend targeted assistance to eligible fishers and businesses affected by the closure of the Hunter River and Port Stephens fisheries. But this is by no means enough. The New South Wales Government's position on the financial implications of the Williamstown contamination has been clear for some time—Defence is the polluter and Defence must pay. In the interim the New South Wales Government will continue to work towards managing and remediating the impacts.

Construction commenced at the beginning of this week on the New South Wales Government's \$3.5 million Hunter Water reticulation project, which will supply town water to the 165 homes and businesses inside the Williamstown investigation area. The ongoing project will be completed in stages, with the first stage to connect homes inside the investigation area along Fullerton Cove Road to be completed by June this year. Stage two will connect homes along Lavis Lane and then later this year Hunter Water will undertake stage three, which will connect homes and businesses inside the investigation area in Salt Ash.

Works will include the installation of pressure reducing valves, given the existing main is a high-pressure main that reticulated pipes cannot be connected to, and is projected to be completed by June 2017. Many of these residents have been relying on bottled drinking water. This project will enable them to access safe and secure town water from the Hunter Water network.

The Commonwealth Government's assistance measures for fishers include a business transition payment of up to \$25,000 to assist eligible businesses to pursue alternative sources of income should they wish to do so. This will help relieve any uncertainties for local businesses affected by the closures last year. These closures came into effect for commercial and recreational fishing as a result of the PFOS contamination and the need to take precautionary risk measures to enable an appropriate response to the community.

The New South Wales Government is due to make a decision, following expert advice, as to whether to reopen the fisheries by 30 June 2016, where the closure will either be lifted or extended for a period of time. We will continue to support local Hunter families and businesses while ensuring the highest levels of safety are met for them and the broader community. We will continue to roll out our own assistance package and keep the community informed through the Williamstown Community Reference Group. I congratulate the Parliamentary Secretary, the Hon. Scot MacDonald, on the role that he has played in liaising with people in the Hunter Valley. He is doing a strong job for that community.

MURRAY-DARLING BASIN ALGAL BLOOM OUTBREAK

Mr JEREMY BUCKINGHAM (15:23): My question is directed to the Minister for Primary Industries. Could the Minister please update the House on the worsening blue-green algae outbreak in the Murray and Darling rivers and inform the House as to whether the Government believes that record temperatures and climate change are a factor in this worsening situation?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:23): I thank the member for his question. If his question refers to whether temperatures and reduction in flows are factors that go towards blue-green algae, then that is right. That is a scientific fact. Through summer, when the weather and water temperatures are warmer and flows are less in some cases, that is where we usually see the outbreaks of blue-green algae. We have had a multiagency and cross-jurisdictional response with the Victorian Government on this. It has impacted not only on some of the businesses that rely upon waters affected by the blue-green algae but also on some recreational activities that community members along rivers like the Murray were prohibited from undertaking, particularly during some of the summer months.

I am a former resident of the Riverina, who lived in Leeton, and one of the most popular pastimes members of that community like to enjoy through the summer months is waterskiing, particularly on the Murrumbidgee River. The impact of some of these outbreaks is the loss of social activities in these communities and the economic loss suffered by businesses that rely on those social activities. Do high temperatures, particularly during summer months, and warmer water temperatures contribute to blue-green algae outbreaks? I am not a water scientist but, yes, that happens. We can have blue-green algae outbreaks most summers; records do not need to be broken—something that does happen in parts of our State.

Does the lack of movement of water have an impact on the outbreaks of blue-green algae? Yes, I am advised that can also be a contributor. We quite often see blue-green algae in a lot of our dams because there is

not that movement of water. If there is anything I have missed the member and I could have a conversation later and I could get the water experts to talk about other factors that may contribute to blue-green algae outbreaks. But from the best knowledge that I have warmer temperatures and the reduction in water flows certainly are contributors towards blue-green algae outbreaks.

Mr JEREMY BUCKINGHAM (15:26): I ask a supplementary question. Could the Minister please elucidate his answer in respect to the economic impacts that he outlined and indicate to the House if the Government is doing any modelling on what the economic impacts are on the communities affected by this blue-green algae outbreak?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:27): I thank the member for his question. I will go back and use the example that I had to say how there could be an economic impact with the loss of a social activity. Say, for example, I like to go waterskiing. I fill up my boat with fuel or I might need to buy more skis or wakeboards to go with my waterskiing gear or I might need to buy food to take out to the river with me. I would then be willing to set aside some money and spend that money in the local community and in the businesses that provide those goods and services. What happens if I cannot go waterskiing because of the outbreak of the blue-green algae that I spoke about in the earlier part of the answer? I probably will not spend money on fuel for my boat, buy new skis, another wakeboard, a personal floatation device [PFD] or food to take to the river—

The Hon. Bronnie Taylor: A donut.

The Hon. NIALL BLAIR: Or a donut, as others who have been skiing would know, because I cannot do that activity. The businesses that normally sell those goods and services then would not get my sale. They would suffer an economic loss because of a reduction in that social activity.

Mr Jeremy Buckingham: Point of order: The question was whether or not the Government was doing any economic modelling. Maybe this is the economic modelling he is doing. The question was whether or not the Government was doing any economic modelling on the impact of the worst blue-green algae outbreak in the country's history in the Murray River on those communities. To this point he has not come within a bull's roar.

The PRESIDENT: Order! I have the gist of the member's point of order. The Minister was not being directly relevant. He might like to consider the question that he was asked.

The Hon. NIALL BLAIR: The question was in two parts. The first part asked how there would be an economic loss from a reduction in social activity. I was answering that part of the question. As the member does not understand how a reduction in social activities could lead to an economic loss, I was taking him through it. I had not yet answered the second part of the member's supplementary question. [*Time expired.*]

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:30): It is with a small degree of regret that I indicate the time for questions has ended. If members have further questions they may put them on notice.

Deferred Answers

DISABILITY HOUSING FUNDING

In reply to **Ms JAN BARHAM** (23 February 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Minister provided the following response:

The National Disability Insurance Agency [NDIA] is currently developing benchmark prices in accordance with the Pricing and Payments Framework for Specialist Disability Accommodation in the NDIS, as well as working on other aspects of operational policy in consultation with stakeholders.

The New South Wales Government has contributed a range of data on the supply of specialist accommodation in New South Wales to support this work.

The demand for affordable housing by people with disability in New South Wales is estimated by NDIA to range between 27,700 and 40,700. This estimate includes people on accommodation and housing registers.

To address the lack of rental housing that is affordable to low and very low income people in New South Wales, including people with disability, the New South Wales Government has delivered a comprehensive social housing strategy. Information about Future Directions and the Social and Affordable Housing Fund is available at www.facs.nsw.gov.au/reforms/social_housing.

NSW FOOD AUTHORITY

In reply to **the Hon. COURTNEY HOUSSOS** (23 February 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

Neither the Minister for Primary Industries, the NSW Food Authority, or any representative of the New South Wales Government has made any public or written statement that products from Mr Hickey's facility were responsible for any deaths.

The NSW Food Authority did not advise Mr Hickey to terminate the employment of any of his staff. The NSW Food Authority has no powers to direct any business to terminate staff employment.

At the Minister's request, the NSW Food Authority has submitted an application to the Office of the Small Business Commissioner for it to initiate mediation between Mr Hickey and the NSW Food Authority on this matter. The Office of the Small Business Commissioner will subsequently contact Mr Hickey to invite him to participate in this mediation.

REGISTER OF FIREARM AMMUNITION PURCHASES

In reply to **the Hon. ROBERT BORSACK** (23 February 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Attorney General provided the following response:

The Government is considering the issues raised by the Privacy Commissioner in her 2015 report.

ROCK FISHERS LIFE JACKETS

In reply to **the Hon. ROBERT BROWN** (24 February 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Corrections, Minister for Emergency Services, and Minister for Veterans Affairs provided the following response:

I am advised:

The Government has established a working group to determine high risk locations where rock fishers will be required to wear life jackets. The working group includes representatives of key water safety government agencies and non-government organisations, academics and a recreational fishing representative. This working group has also been asked to make recommendations regarding appropriate life jackets that may be worn by rock fishers.

TAFE COLLEGE SALES

In reply to **the Hon. PAUL GREEN** (24 February 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Regional Development, Minister for Skills, and Minister for Small Business provided the following response:

This Government has no plans to sell 21 rural campuses.

TAFE NSW has a large and diverse property portfolio. TAFE NSW is developing a Strategic Asset Management Plan to ensure training is matched with the changing needs of students and employers. TAFE NSW regularly assesses facility requirements across New South Wales in line with course delivery.

Where vacant land or underutilised facilities are sold, the proceeds will be re invested into TAFE NSW to ensure students have access to state of the art campuses and technology.

The 2015/16 Budget includes over \$100 million in new and ongoing major capital works:

- \$46 million in ongoing major projects
- \$61 million in new major works

This is a significant investment plan for TAFE NSW, which includes:

- Expanding TAFE NSW's reach into regional areas by building a new network of connected learning centres and utilising technology to provide more training options
- Increasing digital capability with integrated facilities to enable and improve access to quality accessible training—at home, in the workplace, anywhere, anytime, helping students balance family and workplace responsibilities
- Modernising and consolidating specialist centres in key locations across New South Wales so that training in technical and high risk areas is provided to industry standards
- Providing access to a wide range of flexible and blended training and targeted support services across New South Wales

SAFE SCHOOLS COALITION

In reply to **Reverend the Hon. FRED NILE** (24 February 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Premier, and Minister for Western Sydney provided the following response:

As this matter relates to the portfolio of the Minister for Education, I have referred the question and received the following response:

Safe Schools Coalition Australia is funded by the Australian Government's Department of Education and Training. It is available to all schools from all education sectors across Australia and is not imposed on any school. As the Safe Schools Program is an Australian Government initiative, concerns about the nature of the materials presented by the Safe Schools Coalition Australia should be raised with the Federal Minister for Education and Training, Senator the Hon. Simon Birmingham.

On 23 February 2016, the Federal Minister for Education and Training wrote to New South Wales with advice concerning an independent review of the appropriateness of Safe Schools Coalition Australia resources.

GARDEN OF LIFE ORGANIC SHAKES

In reply to **the Hon. LYNDIA VOLTZ** (25 February 2016).

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

The NSW Food Authority became aware of the recall on 18 February 2016.

The NSW Food Authority has not received any complaints regarding this product and is not aware of any affected consumers in New South Wales.

HUNTER RIVER WATER AND FISHERIES

In reply to **the Hon. PENNY SHARPE** (25 February 2016).

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

The Environment Protection Authority [EPA] and Hunter Water Corporation [HWC] are working together to implement measures to prevent PFOS/PFOA entering the sewerage system and to quantify the nature and extent of any downstream impacts on the environment and water users. Both agencies are also investigating how the chemicals came to be present at the Truegain facility.

Further sampling for PFOS/PFOA has been conducted at the Truegain premises, in the Farley Wastewater Treatment Works and downstream in Fishery Creek and Wallis Creek, to gain a better understanding of the levels present and the potential impacts. While not all results are available, some sampling has indicated elevated levels at the Farley Wastewater Treatment Works. HWC has advised downstream users of the potential PFOS issues. Downstream water quality results are yet to be received.

Fish in the lower reaches of the Hunter River, where commercial fishing activities are concentrated, are being sampled for PFOS as part of the Government's response to the detection of PFOS contamination arising from the Williamtown RAAF Base.

A number of precautionary restrictions have been imposed in Fullerton Cove, and further restrictions will be considered by DPI—Fisheries and the Government's Expert Panel as further results become available.

The Environmental Health Standing Committee [enHealth] has convened an expert group to provide advice to the Australian Health Protection Committee on the development of an Australian interim health reference value for PFOS and PFOA. This work is due in the next few months. The outputs from this work will inform further review of the restrictions in place.

GWYDIR SHIRE COUNCIL JOBS

In reply to **the Hon. ROBERT BORSACK** (25 February 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Local Government provided the following response:

Special rate variations are independently assessed by the Independent Pricing and Regulatory Tribunal [IPART] against the assessment criteria contained in the "Guidelines for the Preparation of an Application for a Special Variation to General Income", which have been prepared by the Office of Local Government.

ELECTRICITY PRICES

In reply to **the Hon. ROBERT BROWN** (8 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Regional Development, Minister for Skills, and Minister for Small Business provided the following response:

On 8 March 2016 the Hon. Robert Brown asked the Minister for Primary Industries, and Minister for Lands and Water, representing the Minister for Industry, Resources and Energy, a question without notice about pricing caps on energy distributors. The Minister for Regional Development, Minister for Skills, and Minister for Small Business provided the following response:

This matter is the responsibility of the Treasurer and Minister for Industrial Relations. Please refer to for a response.

ILLAWARRA INFRASTRUCTURE FUND

In reply to **the Hon. PAUL GREEN** (8 March 2016).

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Regional Development, Minister for Skills, and Minister for Small Business provided the following response:

The New South Wales Government announced the projects in December 2013.

Information on the projects can be found at www.insw.com.

DISABILITY SERVICES CRIMINAL RECORD CHECKS

In reply to **the Hon. LYNDIA VOLTZ** (8 March 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Minister provided the following response:

I am advised all Department of Family and Community Services [FACS] staff in positions that require a criminal history check to ensure compliance with the Disability Inclusion Regulation 2014 have completed the criminal history check.

FACS has a process to monitor continued compliance as new staff commence and additional roles are identified.

WILLIAMTOWN LAND CONTAMINATION AND BLOOD TESTS

In reply to **the Hon. ADAM SEARLE** (9 March 2016).

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

This question should be directed to the Minister for Health.

COMPUTERISED OPERATIONAL POLICING SYSTEM

In reply to **the Hon. ROBERT BORSACK** (9 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing provided the following response:

The Computerised Operational Policing System [COPS] stores event entries. Some entries can be rejected where there is no verifiable information to support the reporting of the matter, or the matter is found to be false or malicious.

Access to COPS at a user level is controlled by a profile which determines the level of access. Access is protected, firewalled and encrypted. Audits are undertaken regularly of both usage and reporting.

BOCSAR do regular audits of the police rejected incident rates and of occurrence only incidents.

SERRATED TUSSOCK

In reply to **the Hon. ROBERT BROWN** (9 March 2016).

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

The Upper Lachlan Shire is part of the South East Local Land Services Weeds Action Program—Project. This region received \$1,536,148 for 2015/16 which is the largest allocation of any region in New South Wales.

CRASH INVESTIGATION UNITS

In reply to **the Hon. MICK VEITCH** (9 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister provided the following response:

I am advised:

Please refer to my answer in Question Time on 10 March 2016.

REGIONAL DEVELOPMENT AUSTRALIA NORTHERN RIVERS COMMITTEE DON PAGE APPOINTMENT

In reply to **the Hon. WALT SECORD** (10 March 2016).

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Regional Development provided the following response:

The position of Chair of the Northern Rivers RDA board became vacant following the resignation of Mr John Walker in January 2016.

Mr Page submitted an Expression of Interest for the position of Chair of the Northern Rivers RDA and was appointed to the position in accordance with the RDA appointment process which is publically available at: https://rda.gov.au/join_your_rda/.

Mr Page has extensive knowledge of the Northern Rivers region, having lived a large part of his life there. Mr Page also has significant government experience, having been the local member for Ballina for 27 years and has served as the Minister for Local Government and the Minister for the North Coast. In these roles Mr Page has a proven track record of delivering Regional Action Plans for the Far North Coast (Northern Rivers) which has provided infrastructure, services and employment to these areas. In

addition to this, his connection to community and business leaders in the Northern Region will be a valuable asset in making contributions to overall growth in the region.

TOWN HALL LEGIONNAIRE'S DISEASE

In reply to **the Hon. PAUL GREEN** (10 March 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Minister for Health provided the following response:

Health Protection NSW has advised that a comprehensive response has been undertaken in response to the outbreak including the activation of the Public Health Operations Centre, interviewing confirmed cases to determine the priority area for investigation, active case finding, rapid surveillance, inspection and sampling of cooling towers within the priority area

NSW Health has worked with the City of Sydney to inspect all cooling towers in the exposure area to ensure they are not contaminated.

Public health units are continuing to undertake active surveillance by monitoring disease notifications and staying in contact with their local laboratories. Emergency department presentations and respiratory admissions for metropolitan hospitals are being monitored through rapid surveillance on a daily basis.

LOCAL GOVERNMENT AMALGAMATIONS

In reply to **Reverend the Hon. FRED NILE** (10 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Premier provided the following response:

As this matter relates to the portfolio of the Minister for Local Government, I have referred the question and received the following response:

A number of councils have submitted proposals to the Minister for Local Government under section 218E of the Local Government Act 1993. Where these meet the requirements of the Act, they have been referred to the Chief Executive of the Office of Local Government for examination.

The NSW Government anticipates that the council boundary review process will be completed by the middle of this year.

MULTI-FAITH EDUCATION

In reply to **the Hon. MARK PEARSON** (15 March 2016).

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Education provided the following response:

All students in NSW are required to learn about religion. In particular, the Human Society and its Environment learning area K 12 includes syllabus outcomes and content relating to intercultural understanding, ethical understanding, personal and social capability, and civics and citizenship. This approach to learning about religion is consistent with that taken by the Australian Curriculum, Assessment and Reporting Authority (ACARA) in the development of the Australian Curriculum.

Students are able to further their study of religion through the Stage 6 Studies of Religion course, which attracts a large candidature. This course provides an opportunity for students to deepen their understanding of major religious traditions (Judaism, Christianity, Islam, Hinduism and Buddhism), their commonalities and differences, at an age appropriate level.

LEO MCCARTHY MEMORIAL PARK

In reply to **the Hon. SHAOQUETT MOSELMANE** (15 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister provided the following response:

I am advised:

Leo McCarthy Memorial Park is owned by Fairfield City Council.

The park is primarily zoned for public recreation use, with a small strip of land zoned for infrastructure. While the Western Sydney Infrastructure Plan identifies sections of the Cumberland Highway to be widened, the section of road along Leo McCarthy Memorial Park is not one of them.

Any change to the zoning would require Fairfield City Council to submit a planning proposal.

SOUTH COAST KOALA POPULATION

In reply to **the Hon. ROBERT BORSACK** (15 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for the Environment provided the following response:

I am advised as follows:

The Commonwealth Government Threatened Species Scientific Committee determination of 2012 cited complex factors leading to declining koala populations across tenures in NSW, Queensland and the ACT. Threats impacting koala populations include urban expansion, disease, habitat loss, vehicle strike, and predation by dogs.

In relation to the recently established flora reserves on the far south coast, the Office of Environment and Heritage (OEH) and the Department of Primary Industries will develop a working plan that draws on advice from koala experts and incorporates contemporary adaptive landscape management techniques. The working plan will be informed by ongoing koala and fire management monitoring programs. OEH will align the management of the reserves with adjoining national parks with a particular focus on managing koala habitat.

This is a trial land management model to manage habitat to benefit the koala population at a landscape level. Monitoring will be undertaken to assess the effectiveness of management activities for koalas.

VOLUNTEER FIRE FIGHTERS ASSOCIATION

In reply to **the Hon. ROBERT BROWN** (15 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Emergency Services provided the following response:

The Minister for Emergency Services has advised me that he firmly rejects the Volunteer Fire Fighters Association's interpretation of his comments which were intended to reflect the importance of the established command structure.

The need for a full time permanent command structure reflects the professional and highly skilled volunteer base of the NSW RFS, which is supported by a record budget and modern firefighting equipment.

Volunteers are a critical part of all NSW RFS operations and the Minister for Emergency Services would never seek to undermine their role.

INDEPENDENT COMMISSION AGAINST CORRUPTION RAIDS AUTHORISATION

In reply to **Reverend the Hon. FRED NILE** (16 March 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Attorney General provided the following response:

I am advised:

It is not unusual for court registrars to consider search warrant applications.

SAFE SCHOOLS COALITION

In reply to **the Hon. ROBERT BROWN** (9 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Education provided the following response:

Professor Loudon's review was commissioned by the Australian Government and therefore it falls outside the jurisdiction of the NSW Government to comment on its review processes.

The NSW Government is strongly committed to providing safe, supportive and productive learning environments for all students in NSW public schools.

Schools play a very important role in supporting, enhancing and building the wellbeing of every child.

The NSW Department of Education is following the Australian Government Department of Education and Training's actions for implementing changes for those schools that choose to participate in the Safe Schools Coalition Australia program.

MEDICAL RESEARCH ON BABOONS

In reply to **the Hon. MARK PEARSON** (17 March 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Primary Industries, and Minister for Lands and Water, provided the following response:

The Department of Primary Industries administers the Animal Research Act 1985.

The Department accredits animal research establishments and receives reports on animal use statistics from them each year, which are collated and reported in the Animal Research Review Panel Annual Report. The information collected is general and deals with numbers of different species of animals used for categorised purposes and categorised levels of impact. The Department does not routinely collect more specific information about individual research projects.

On a needs basis, information is obtained about specific research projects in the course of administration of the Act. The Act restricts the disclosure of this information.

Each accredited establishment is responsible for ensuring that research applications are approved by their Animal Ethics Committee. The research applications must include detailed information including the justification for the use of animals, as well as the impacts of all parts of the research project on the animals, and how these impacts will be minimised.

Published articles are available in the scientific literature on the use of baboons from the National Baboon Colony for xenotransplantation studies. See for example the American Journal of Transplantation June 2014 <http://onlinelibrary.wiley.com/doi/10.1111/ajt.12722/full>

VOLUNTEER FIRE FIGHTERS ASSOCIATION

In reply to **the Hon. PETER PRIMROSE** (17 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Emergency Services provided the following response:

The Minister for Emergency Services has advised me that he firmly rejects the Volunteer Fire Fighters Association's interpretation of his comments which were intended to reflect the importance of the established command structure.

The need for a full time permanent command structure reflects the professional and highly skilled volunteer base of the NSW RFS, which is supported by a record budget and modern firefighting equipment.

Volunteers are a critical part of all NSW RFS operations and the Minister for Emergency Services would never seek to undermine their role.

LOCAL GOVERNMENT ELECTIONS

In reply to **Mr DAVID SHOEBRIDGE** (17 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Local Government provided the following response:

As you would be aware, ordinary local government elections are scheduled to occur on 10 September 2016. For councils not subject to a merger proposal that is under examination, ordinary elections will proceed on this date.

NSW HEALTH WASTE MANAGEMENT

In reply to **the Hon. ROBERT BORSAK** (17 March 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Minister for Health provided the following response:

Western Sydney Local Health District has reported there has been no disruption to the waste management service at Westmead Hospital.

Waste collection management at Westmead Hospital ensures general and clinical waste is collected on a regular basis during the day as per the schedule.

This includes monitoring the volume of waste to ensure that waste is disposed appropriately. Clinical waste is disposed from the facility through a contractor according to a collection schedule that meets service needs.

WORKER CONSTRUCTION SAFETY

In reply to **the Hon. ADAM SEARLE** (21 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Leader of the Government in the Legislative Council provided the following response:

I am advised:

There was an incident at the construction site of the former Sydney Entertainment Centre at Darling Harbour on Saturday 19 March in which steel trusses over the seating bowl collapsed within the site. Thankfully, no one was injured.

LendLease as the developer worked cooperatively with SafeWork NSW to ensure the site was safe prior to work recommencing on 25 March.

LendLease is conducting the works in compliance with all necessary safe work practices and continues to collaborate closely with SafeWork NSW.

WATER AND SEWERAGE SERVICES PENSIONER REBATES

In reply to **the Hon. PAUL GREEN** (21 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Premier provided the following response:

As this matter relates to the portfolio of the Minister for Lands and Water, I have referred the question to the Hon Niall Blair MLC.

HOSPITAL EMERGENCY DEPARTMENTS

In reply to **Reverend the Hon. FRED NILE** (21 March 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Minister for Health provided the following response:

I am advised:

Local health districts and speciality health networks have a number of programs and strategies in place to meet the increased demand for emergency department services and ensure that the most seriously ill patients are given priority.

The NSW Health Integrated Care Strategy aims to transform how care is delivered so that health care providers, especially general practitioners, can anticipate a patient's health needs, and prevent their health condition from worsening and avoid unnecessary trips to hospital.

NSW Ambulance has developed a number of clinical pathways and protocols for the treatment of low acuity patients, when emergency department attendance is not required.

NSW Health is also implementing a range of hospital avoidance strategies and processes to promote continuity of care in the community, to reduce the demand on emergency departments and create capacity in hospitals for the people who need it most.

HARD SHELL CRUSTACEANS

In reply to **the Hon. MARK PEARSON** (22 March 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Primary Industries provided the following response:

The Prevention of Cruelty to Animals Act 1979 [POCTA] only applies to a crustacean when at a building or place (such as a restaurant) where food is prepared or offered for consumption by retail sale in the building or place.

The Department of Primary Industries' guideline on humane harvesting of fish and crustaceans is not prescribed under POCTA, but is used by POCTA enforcement agencies to inform compliance and enforcement.

The Department's guideline does not say that boiling of live hard shell crustaceans is an unacceptable method; it recommends that all crustaceans be immersed in a salt water/ice slurry for a minimum of 20 minutes before boiling, broiling, pithing or cutting.

The Department of Primary Industries administers POCTA but does not enforce it or have information on breaches relating to crustaceans. The enforcement agencies are RSPCA NSW, Animal Welfare League NSW and NSW Police.

RSPCA NSW has advised the Department that it has issued a penalty infringement notice to a proprietor at the Sydney Fish Markets in the past 12 months.

PRISON PRIVATISATION PROPOSAL

In reply to **Mr DAVID SHOEBRIDGE** (22 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for Corrections provided the following response:

It is expected that in the future any privately operated prison in NSW would be managed under the same conditions as Junee and Parklea Correctional Centres, which currently are privately managed.

These conditions include the application of the Ombudsman Act 1974 and Government Information (Public Access) Act 2009, as well as the appointment of Official Visitors to visit the centre.

LOCAL GOVERNMENT ELECTIONS

In reply to **the Hon. ROBERT BROWN** (22 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Premier provided the following response:

There are currently 45 proposals to merge local government areas under examination and review. These proposals are being considered under the process set out in the Local Government Act 1993. It is anticipated this process may be completed by around the middle of 2016. The timing of the next federal election is a matter for the Prime Minister and does not have any bearing on the process for amalgamating local government areas under the Local Government Act 1993.

CHERRY TREE STATE FOREST TREE CLEARING

In reply to **the Hon. PENNY SHARPE** (22 March 2016).

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism)—The Minister for the Environment provided the following response:

I am advised:

The EPA investigated allegations of damage to onion cedar trees in Cherry Tree State Forest. On 14 January 2016, the EPA issued two Penalty Notices and an Official Caution to Forestry Corporation of NSW for harming the trees and for associated non compliances.

The EPA is investigating other allegations at Cherry Tree State Forest and the EPA will take appropriate regulatory action if investigations determine any non compliances.

VOCATIONAL EDUCATION AND TRAINING

In reply to **the Hon. PAUL GREEN** (23 March 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Primary Industries provided the following response:

The December 2015 Auditor-General's Financial Audit Report on the Education and Communities cluster identified \$578 million in capital and recurrent costs associated with the LMBR program, to 30 June 2015.

The deployment of the full suite of LMBR solutions to all public schools is well underway with another 197 successfully undertaking training.

MCKANES FALLS BRIDGE

In reply to **the Hon. SOPHIE COTSIS** (23 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister for the Environment provided the following response:

I am advised:

Roads and Maritime Services is awaiting approval from the NSW Heritage Council of its Section 60 application for the concept scheme of the McKanes Bridge Project. Upon approval, RMS will finalise the technical design and begin procurement.

Subject to approvals, construction is planned to start in early 2017.

ILLEGAL HUNTING

In reply to **the Hon. MARK PEARSON** (23 March 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Deputy Premier, and Minister for Justice and Police, provided the following response:

I am advised:

The first of four terms of reference for the Stock Theft Review is: "Are the current offences and penalties relating to stock theft and trespass adequate to address the impact of these acts on primary producers and rural businesses? If not, what amendments could be made to address this?"

Where someone is hunting illegally, this will often involve trespass and other offences, such as malicious damage. The Review is looking at these issues from this perspective.

In relation to publicising the Review to the wider community, the Review has already attracted newspaper, TV and radio coverage following the distribution of my media release. The Review is also connecting with stakeholders through a dedicated Facebook page and has a number of face-to-face consultations organised across NSW.

AVOCA LAGOON ALGAL OUTBREAK

In reply to **the Hon. GREG DONNELLY** (23 March 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister for Primary Industries, and Minister for Lands and Water, provided the following response:

Investigations by my department have revealed that the reports of a major red algal outbreak at Avoca Lagoon reported in the media on March 17, 2016, were incorrect. No algae have been observed in the lagoon on subsequent inspections carried out soon after the media report.

Bills

STATE REVENUE LEGISLATION AMENDMENT BILL 2016

Second Reading

Mr SCOT MacDONALD (15:32): On behalf of the Hon. Niall Blair: 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 provisions of several Acts covering the Office of State Revenue's [OSR's] functions relating to revenue and grants.

The Government is committed to ensuring State taxes and grants apply fairly and equitably.

The main purpose of the revenue reforms is to keep the tax legislation effective and up to date, as part of the routine administration of State taxation.

This will:

improve equity, by ensuring clients in similar circumstances have similar outcomes;

combat actual and potential avoidance practices by ensuring clients are not able to avoid the policy intent of the legislation; and

reduce red tape by removing uncertainty, increasing harmonisation with other States and Territories where possible, and improving administrative simplicity.

There are two Duties Act amendments in this category.

Presently, multiple transfers are required to achieve a corporate reconstruction exemption where a custodian of a trustee of a managed fund is involved.

This can be a breach of the Corporations Act.

The New South Wales Law Society has submitted that this issue should be addressed by legislative amendment.

An amendment to the Duties Act will allow the exemption to apply where a custodian of a trustee of a managed fund is a party to the corporate reconstruction transaction.

Also, the exemption relating to corporate consolidations, currently restricted to transfers, will be extended to apply to agreements to transfer as there are occasions when an agreement is required.

The bill amends the Land Tax Management Act 1956 to remove a restriction which prevents the exemption for land intended to be the owner's principal place of residence from applying until building work commences.

Under the current provisions in clause 6 of schedule 1A of the Act, if the owner of an existing residence which is leased decides to use the house as his or her principal place of residence but needs to refurbish or rebuild the residence the exemption for an intended principal place of residence applies from the date building or other works commence.

In a small number of cases, a tenant may have vacated the property before the commencement of a new tax year, but building work by the owner does not commence until the new tax year.

In other cases there can be significant delays in obtaining local council approvals.

Consequently, the owner may not be eligible for the exemption for the first tax year after the tenant vacates the property.

The bill provides for the exemption to apply as soon as the tenant vacates the property.

However, the owner will still be required to commence building work before the end of the first tax year or take action necessary to permit such building work to commence, such as lodging a development application with the local council.

There is no change to the requirement that the owner must commence use and occupation of the residence by the end of the fourth tax year and maintain such use and occupation for at least six months.

If this requirement is not met the exemption is retrospectively rescinded.

The Payroll Tax Act 2007 currently provides an exemption for a wholly owned subsidiary established by a council to conduct council activities provided the council requires the subsidiary to pay to the council an amount equivalent to the payroll tax that would otherwise be payable if no exemption applied.

The bill extends this exemption to companies whose shares are wholly owned by two or more councils.

The bill amends the Taxation Administration Act 1996 to extend the circumstances in which interest is paid as a result of a successful objection or review.

The amendment will authorise payment of interest at the market rate specified in part 5 of the Act to a member of a payroll tax group where a refund is made as a result of a successful objection by another member of the same group.

The market rate is based on the 90 day bank bill rate published by the Reserve Bank and has varied between 2 per cent and 8 per cent per annum in recent years.

The bill contains amendments to the Unclaimed Money Act 1995 to improve the rights of owners of unclaimed money to obtain refunds of their money and to reduce red tape.

The reforms will treat small amounts paid by businesses to the Office of State Revenue as unclaimed money.

Companies often include amounts of under \$100 in their returns to OSR, and 25,000 small payments were received in 2014-15.

There is currently a six-year time limit within which owners of unclaimed money must lodge applications for return of the money to them.

Currently the OSR makes act of grace payments where a late application is lodged.

In the last three years there have been 422 act of grace payments totalling \$2.4 million for claims lodged after the six-year time limit has expired.

The bill will remove the six-year time limit on applications for refunds.

These amendments will reduce costs to businesses because they will not need to maintain records for these small amounts of unclaimed money once they have been paid to the Chief Commissioner.

The amendment to the First Home Owner Grant (New Homes) Act 2000 ensures that applicants will be eligible for the grant on all "new" homes without the requirement that the sale is subject to GST.

The bill includes a statute law amendment that is consequent upon the enactment of the Government Sector Employment Act 2013, which replaced the Public Sector Employment and Management Act 2002.

I commend the bill to the House.

The Hon. PETER PRIMROSE (15:33): I speak in debate on the State Revenue Legislation Amendment Bill 2016. The main purpose of the bill is to amend several Acts covering the function of the Office of State Revenue relating to revenue and grants. The Opposition will not oppose the legislation. The proposed amendment to the Duties Act 1997 seeks to make provisions for exemption or reduction in duty payable for corporate reconstruction within a corporate group. Since the introduction of the duties exemption the Commonwealth has introduced legislation that requires the use of a custodian appointed by the "responsible entity". The New South Wales duty exemption does not allow for a custodian as part of a reconstruction. The proposed amendment in this legislation will allow for this to occur.

The proposed amendment to the First Home Owner Grant (New Homes) Act 2000 seeks to extend the availability of the first home owner grant to homes that have been substantially renovated or a home built to replace demolished premises. This will make the scheme consistent with the First Home—New Home duties scheme. The proposed amendment to the Land Tax Management Act 1956 seeks to clarify the four-year exemption on land intended to become the principal place of residence. If the land is tenanted, the four years does not commence until the land is vacated and building commences. This change will require either that the building works commence before the end of the first tax year or that council approvals are sought before the end of the first tax year. In the instance of tenanted land, the exemption will begin from when the land is vacated.

The proposed amendment to the Payroll Tax Act 2007 seeks to extend an exemption from payroll tax that currently applies to wages paid by a wholly owned subsidiary of a single council such that it would also apply to wholly owned subsidiaries of two or more councils in the same way. Other consequences include amendments in the nature of statute law revision to the Government Sector Employment Act 2013 and the now replaced Public Sector Employment and Management Act 2002.

The proposed amendment to the Taxation Administration Act 1996 will enable the interest applicable to a refund through land tax or payroll tax to be applied equally to all refunds for that same group. The amendment to the Unclaimed Money Act 1995 seeks to allow the Chief Commissioner of the Office of State Revenue to accept payment of unclaimed money amounts of less than \$100 and to allow for the claim of unpaid moneys over or under \$100 without time limit. The right to money is currently set at six years, but in the last three years alone the Office of State Revenue has been satisfied that in 422 instances persons have been able to prove their entitlement to such unclaimed moneys in their name—which amounts to about \$2.4 million—and an act of grace has been granted for access. Both of these proposed changes are designed to remove unnecessary regulatory burdens on all parties. Accordingly, the Opposition does not oppose the bill.

The Hon. PAUL GREEN (15:37): On behalf of the Christian Democratic Party, I speak on the State Revenue Legislation Amendment Bill 2016. The objects of this bill are:

- (a) to amend the Duties Act 1997:
 - (i) to make further provision relating to exemptions from duty for corporate reconstruction transactions, and
 - (ii) to provide for a reduction in duty on agreements for the sale or transfer of securities where a transfer to which the agreement applies is a corporate consolidation transaction, and
 - (iii) to make other amendments in the nature of statute law revision,
- (b) to amend the First Home Owner Grant (New Homes) Act 2000 to extend the availability of the first home owner grant in cases where the new home being purchased or built is a substantially renovated home or a home built to replace demolished premises—

The Christian Democratic Party applauds those objects. When we hear of the concerns about first home buyers and home ownership across New South Wales there is no doubt that the supply of new homes needs to increase. Any measures the Government takes to increase supply across New South Wales will be of great assistance. It is a significant step to give young families the opportunity to get into the housing market. Currently there is a national debate on negative gearing and a parliamentary committee is holding an inquiry into social, public and affordable housing.

My personal view is that restricting negative gearing to new houses would not help first home buyers as they would still clash with investors in the new housing market. That market could worsen for first home buyers if negative gearing were applied just to new home and land packages. Many young people are trying to get into the market and hope to access the first home owner grant to buy their first home. They want to buy a home, and the last thing they need is for investors to come along and trump their bids. The objects of the bill include:

- (c) to amend the Land Tax Management Act 1956 to make further provision in relation to the application of the principal place of residence exemption to unoccupied land intended to be the owner's principal place of residence,
- (d) to amend the Payroll Tax Act 2007:
 - (i) to extend an exemption from payroll tax applying to wages paid by a wholly-owned subsidiary of a local council to wages paid by a body corporate wholly owned by 2 or more local councils, and
 - (ii) to make other amendments in the nature of statute law revision,
- (e) to amend the Taxation Administration Act 1996 to extend a requirement for the Chief Commissioner of State Revenue (the Chief Commissioner) to pay interest on a refund made to a taxpayer (following a successful objection or review) to members of a group to which the taxpayer belongs under the Land Tax Management Act 1956 or the Payroll Tax Act 2007,
- (f) to amend the Unclaimed Money Act 1995:

The Christian Democratic Party has no problems with this legislation. Any measure that reduces red tape is a good thing. This bill will get things moving and free up new housing opportunities. As I said, many young people hope to access the first home owners grant to build their dream home. I commend this bill to the House.

Mr SCOT MacDONALD (15:41): On behalf of the Hon. Niall Blair, in reply: I thank the Hon. Peter Primrose and the Hon. Paul Green for their contributions to this debate on the State Revenue Legislation Amendment Bill 2016. The New South Wales Government is committed to having best-practice revenue laws and the bill contains amendments that reflect this. The main purpose of the revenue reforms in this bill is to ensure the tax legislation is effective and up to date as part of the routine administration of State taxation. The bill will improve equity by ensuring clients in similar circumstances have similar outcomes; combat actual and potential avoidance practices by ensuring clients are unable to avoid the policy intent of the legislation; reduce red tape by removing uncertainty; increase harmonisation with other States and Territories, where possible; and improve administrative simplicity. I commend the bill to the House.

Motion agreed to.

Third Reading

Mr SCOT MacDONALD (15:42): On behalf of the Hon. Niall Blair: I move:

That this bill be now read a third time.

Motion agreed to.

CRIMES (SERIOUS CRIME PREVENTION ORDERS) BILL 2016

CRIMINAL LEGISLATION AMENDMENT (ORGANISED CRIME AND PUBLIC SAFETY) BILL 2016

Second Reading

The Hon. DAVID CLARKE (15:51): On behalf of the Hon. Niall Blair: I move:

That these bills be now read a second time.

The Government is pleased to introduce the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. The purpose of these bills is to deliver on the Government's election commitment to introduce tough new powers to give police the upper hand in the fight against serious crime. These powers include United Kingdom-style serious crime prevention orders to disrupt the activities of serious criminals. Public safety orders will also prevent people from going to certain places where they are likely to present a serious risk to public safety.

Serious and organised crime affects our community, economy and way of life. The effects of these crimes can be felt across the community, whether through investment scams, cyber attacks, clandestine drug laboratories in suburban areas or acts of violence between criminal groups on our streets. Serious and organised crime also has a broader impact on the Australian economy. The Australian Crime Commission [ACC] conservatively estimates that serious and organised crime costs Australia in excess of \$15 billion every year. However, the actual figure is likely to be much higher. Operationally, the NSW Police Force is working effectively with Commonwealth bodies via the National Anti-Gang Taskforce and other joint operations.

Within New South Wales Strike Forces Talon and Raptor have been effective in curbing gun and organised crime, arresting more than 4,400 persons and seizing more than 1,000 firearms. This Government has already responded to the growing concern of organised crime by creating a modernised consorting offence that has been upheld by the High Court. It has created new offences that target the activities of criminal groups, including an offence of participating in the activities of a criminal group, punishable by five years imprisonment,

and has introduced offences targeting those that direct the activities of criminal groups, punishable by up to 15 years imprisonment.

The New South Wales Government has also created a new aggravated offence for shooting at a dwelling in the context of organised criminal activity, punishable by up to 16 years imprisonment. Other effective measures include amendments to enhance firearm prohibition orders as well as amendments to the Restricted Premises Act 1943 to increase police capacity to disrupt, prevent and detect organised crime through increased penalties and search and seizure provisions. The new powers in these bills build on these reforms to ensure that law enforcement agencies continue to respond quickly and forcefully to the organised crime threat.

Under this new package of reforms, the bills will introduce serious crime prevention orders to restrict the activities of persons or businesses that are involved in serious crime; allow senior police to issue temporary public safety orders to prevent people from attending places or events where they are expected to engage in violence or present a serious threat to public safety or security; improve our ability to confiscate the assets of serious criminals; and enhance money laundering offences of dealing with the proceeds of crime.

I now turn to the detail of the Crimes (Serious Crime Prevention Orders) Bill 2016. This bill allows the Supreme Court and District Court to make serious crime prevention orders against persons or corporations when sought by eligible applicants to prevent, restrict or disrupt involvement by certain persons in serious crime-related activities and terrorism offences. These reforms have adopted some aspects of the United Kingdom's serious crime prevention order provisions in the Serious Crime Act 2007, United Kingdom, and adapted them to suit the New South Wales legislative framework.

The reforms will allow the court to make an order against a person on the application of the Director of Public Prosecutions, the Crime Commission or the Commissioner of Police which may place certain requirements or restrictions on that person if there are reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting the person's involvement in serious crime. Clauses 3 and 4 of the bill define specific words and expressions that are used in the proposed Act. The bill defines an eligible applicant to clarify that only the New South Wales Crime Commission, the Director of Public Prosecutions or the Commissioner of Police can apply to the appropriate court for a serious crime prevention order.

The definition of "appropriate court" clarifies that an order made post-conviction can only be made by the District Court or Supreme Court and an order made pre-conviction can only be made by the Supreme Court. The term "serious criminal offence" has the same meaning as in the Criminal Assets Recovery Act 1990, which includes offences such as prescribed drug trafficking offences under the Drug Misuse and Trafficking Act 1985 or an offence that is punishable by imprisonment for five years or more and involves theft, fraud, obtaining financial benefit from the crime of another, money laundering, extortion, violence, bribery, corruption, harbouring criminals, blackmail, or obtaining or offering a secret commission, as examples.

The term "serious crime related activity" is defined to mean anything done by a person that was at the time a serious criminal offence whether or not the person has been charged with the offence or, if charged, whether or not the person has been tried, acquitted or convicted. Clause 4 goes on to define when a person is "involved in serious crime related activity". This includes where the person has engaged in serious crime-related activity, or where the person has engaged in conduct that has facilitated or is likely to facilitate their own engagement in serious crime-related activity or that of another person.

Clause 5 enables the appropriate court, on the application of an eligible applicant, to make a serious crime prevention order against a person aged 18 years or older or against a corporation if the court is satisfied that either the person has been convicted of a serious criminal offence or the person has been involved in serious crime-related activity. The court, in making the order, must be satisfied that there are reasonable grounds to believe that the making of the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime-related activities. Safeguards and procedural fairness have been preserved in these provisions. The applicant must serve the order by means of personal service at least 14 days before the hearing date for the application.

The person against whom a serious crime prevention order is sought, and any other person whose interests may be affected by the making of the order, can appear at the hearing of the application and make submissions to the court in relation to that application. Importantly, clause 5 (5) provides that the court may admit and take into account hearsay evidence if the court is satisfied that the evidence is from a reliable source and is of probative value.

However, the evidence must be served on the person against whom the order is sought prior to its admission in the hearing. Clause 6 outlines the requirements of a serious crime prevention order. An order can contain such prohibitions, restrictions, requirements and other provisions as the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting the person's involvement in serious

crime-related activities. This could include restrictions in relation to an individual's financial, property or business dealings or holdings, working arrangements, communication means, premises to which an individual has access, an individual's use of an item or an individual's travel.

The new Act provides for further safeguards for the person the subject of the order. Consistent with the United Kingdom scheme, clause 6 (2) specifies the kinds of provisions that a serious crime prevention order cannot contain, such as those requiring the person to answer questions or provide information orally or where the order requires the person to answer questions in writing or provide documents or other information that are subject to legal professional privilege. Clause 7 states that a serious crime prevention order commences when it is served on the person or on a later date specified in the order. For example, this allows an order to be served on a person when they are in custody but allows for greater flexibility in allowing the order to commence at a later date when a person is released. A serious crime prevention order cannot last for a period of more than five years.

Clause 8 contains the offence provision. It is an offence to contravene the terms of the serious crime prevention order. The maximum penalty for the offence is 1,500 penalty units for a corporation, and 300 penalty units or five years imprisonment, or both, for a person. Clause 9 specifies that where a corporation is convicted of breaching an order, an application will be permitted to the Supreme Court to wind up the company. The Supreme Court may make an order to wind up a corporation where the court is satisfied that the corporation has been convicted of breaching the order, that there are no further avenues of appeal available to the corporation, and it is in the public interest and just and equitable for the corporation to be wound up. As required under the Corporations Agreement 2002, the New South Wales Government has obtained the relevant approvals to introduce this provision to displace the relevant provisions of the Corporations Act 2001.

Similarly, clause 10 enables an eligible applicant to apply to the Supreme Court for a compulsory dissolution order requiring the dissolution of a partnership where that partnership has been convicted of breaching a serious crime prevention order and it is in the public interest and just and equitable for the partnership to be dissolved. Clause 11 provides for a right of appeal against a decision of the relevant court in the making of a serious crime prevention order. Appeals can be made by the person the subject of the order and the applicant. The Act clarifies that an appeal lies as of right on a question of law and with leave on a question of fact.

Clause 12 enables the court that made a serious crime prevention order to vary or revoke the order at any time, either on the application of the applicant or the person the subject of the order. Part 3, clause 13 clarifies that proceedings for serious crime prevention orders are civil, meaning that the court must be satisfied on the balance of probabilities in determining whether to make an order. Finally, the New South Wales Government wants to ensure that these reforms operate effectively and for their intended purpose. Accordingly, the Act requires the Minister to review the Act after three years of its operation to determine whether the policy objectives of the Act remain valid. The findings will be tabled in Parliament.

I now turn to the detail of the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. Schedule 1 makes amendments to the Confiscation of Proceeds of Crime Act 1989 to enable the Supreme Court to make a forfeiture order in respect of property of a person convicted of a serious criminal offence in substitution for other property that the person used in or in connection with the offence if that property is not available for forfeiture. For example, this could occur where the convicted person used a car to commit an offence, however the car was owned by an innocent third party.

Schedule 2 amends the Crimes Act 1900 to recast the offence of dealing with property suspected of being proceeds of crime so as to adopt certain provisions of the corresponding offence in the Commonwealth Criminal Code Act 1995. The amendments create two levels of the offence of dealing with property suspected of being the proceeds of crime, with a maximum penalty of three years imprisonment if the property is valued under \$100,000 and five years imprisonment if valued at \$100,000 or more. The increased penalties will provide a strong deterrent to moving criminal proceeds, which is a significant enabler of organised crime.

Drawing on the provisions in the Commonwealth Criminal Code Act 1995, the amendments also provide for a non-exhaustive list of conduct and circumstances that can constitute reasonable grounds to suspect that property is the proceeds of crime. For example, this could include dealings that are structures to avoid certain reporting requirements, or dealings that involve using one or more accounts held in false names. Clause 2 of schedule 2 allows the section 193C offence to be the subject of an alternative verdict in the trial for an offence of money laundering in section 193B of the Crimes Act 1900. Schedule 2, clause 3 allows several contraventions of money laundering offences under Part 4AC of the Crimes Act 1900 to be combined in a single charge.

Schedule 3 amends the Criminal Assets Recovery Act 1990 to enhance the Crime Commission's assets confiscation powers and provide a stronger deterrent to committing serious crime. Organised criminals who use intermediaries to distance themselves from their crimes would be key targets of this legislation. Items [1] to [3] of schedule 3 insert new definitions into the Criminal Assets Recovery Act that are consequential to the amendments. For example, "serious crime use property" is taken to mean property that was used in or in connection with a serious crime-related activity. Schedule 3, item [8] enables the Supreme Court to make a

substituted serious crime use property declaration in respect of property of a person who engaged in serious crime-related activity if the property is unavailable for forfeiture. This means that where a criminal uses property owned by another person in the commission of a serious offence the bill will allow the court to make a "substitution order".

A substitution declaration can be made over property that is worth the same or less than the property used to commit the crime and, if practicable, property of the same kind as the property used to commit the crime. The bill clarifies that half of the value of goods confiscated from criminals as crime-used property under the Criminal Assets Recovery Act will be paid into the Victims Support Fund. Schedule 4 makes consequential amendments to the Criminal Procedure Act 1986 to enable the new section 193C (1) and (2) offences of dealing with property suspected of being proceeds of crime in the Crimes Act 1900 to be dealt with summarily in certain cases.

Schedule 5 amends the Law Enforcement (Powers and Responsibilities) Act 2002 to enable a senior police officer to make a public safety order to prohibit a person from being present at a public event or at premises or another area if the person's presence poses a serious risk to public safety or security. These provisions have been largely modelled on similar provisions in place in South Australia. The new section 87R enables a senior police officer to issue a public safety order on a person or class of persons if they are satisfied that their presence at a public event or premises or other area poses a serious risk to public safety or security and the order is reasonably necessary in the circumstances to mitigate this risk.

In determining whether making a public safety order is reasonably necessary, the senior police officer may take into account certain matters, such as whether the place, which is the subject of the order, is a place of work at which the person is regularly employed, an education institution at which the person is enrolled, or a place of worship that the person regularly attends. To limit the application of the powers, the police officer will also be required to take into account the nature of the person or group and any history of behaviour that previously gave rise to a serious risk to public safety.

Further safeguards have been incorporated into the bill to clarify that a public safety order must not be issued to prevent non-violent advocacy, protest or dissent, or industrial action. A public safety order also cannot be issued to prevent a person from entering their principal place of residence. New section 87R (5) defines "serious risk to public safety or security" to mean that there is a serious risk that the presence of the person or persons might result in the death of or serious physical harm to a person or serious damage to property. This is a high threshold test to ensure that the use of public safety orders will be appropriate in the circumstances.

New section 87R (6) defines "damage" as it relates to property to include destruction of property, alteration of property that depreciates its value, and rendering the property useless or inoperative; and, in relation to an animal, injuring, wounding or killing the animal. New section 87S prescribes the requirements for the content and duration of a public safety order. The order must specify the public event or premises or other area to which it applies, and the person or class of persons to which it applies. A public safety order can last for no longer than 72 hours; however, where the order relates to an event that occurs over a period longer than 72 hours, the order would last for the duration of an event.

Safeguards have been included in new section 87R (4) to ensure that successive orders cannot be issued to circumvent the 72-hour limit; however, a public safety order may be issued for consecutive evenings, such as multiple Friday nights covering the same event. New section 87T prescribes the service and notification requirements for making or varying a public safety order. A senior police officer must personally serve a copy of the order made or varied on each person named in the order. The public safety order must be in writing and must also contain the reasons for making or varying the public safety order. However, this does not require the senior police officer to disclose any information that is considered to be criminal intelligence or other criminal information. If the person the subject of a public safety order is a child under the age of 18 years or has impaired intellectual functioning, new section 87T (2) requires the senior police officer to also serve a copy of the order on the person's parent or guardian, if it is reasonably practicable to do so. However, a failure to do so does not invalidate the order.

The bill also provides for a regulation-making power to provide for further safeguards for vulnerable persons who may be subject to a public safety order. The bill adopts the same definition of "vulnerable person" as the existing definition in the Law Enforcement (Powers and Responsibilities) Act 2002. However, new section 87T (6) also provides a mechanism for urgent public safety orders to be made. The provisions allow a senior police officer to make or vary a public safety order if satisfied that the order should become binding on the person as a matter of urgency. In this case, the senior police officer may verbally communicate the contents of the order to the person; however, a copy of the order and the required notification must be made available for collection by the person within 12 hours at a police station reasonably accessible by the person.

New section 87U provides for the variation and revocation of a public safety order. Provision is made for any senior police officer to vary or revoke a public safety order. However, an order that is originally made or

varied by the Commissioner of Police can only be varied or revoked by the commissioner. New section 87U also requires the Commissioner of Police to revoke a public safety order if the commissioner becomes aware that the order was made in error or if the grounds for making the order no longer exist. The relevant safeguards are still retained, whereby any variations to the order must be personally served.

New division 3 outlines the appeals process for public safety orders. An appeal may only be made if the public safety order lasts for longer than 72 hours. New section 87W clarifies that a person can appeal the making of or a variation of an order that lasts for more than 72 hours; however, the appeal must be made before the order ceases to be in force. The provisions also clarify that the appeal does not affect the operation of the order. New section 87X provides for a mechanism for the Commissioner of Police to make an application to the Supreme Court to protect the disclosure of information that is considered to be criminal intelligence or other criminal information that has been used in connection with making or varying the public safety order. The Supreme Court may protect the disclosure of criminal intelligence information from the public and the person the subject of the order if the court considers that it is in the interests of justice to do so.

In making this decision the court may take into account certain factors regarding the effect of the disclosure of such information, including whether it would have a prejudicial effect on the prevention, investigation or prosecution of an offence, whether it may reveal the existence or identity of a confidential source of information for law enforcement purposes, or whether the disclosure might endanger a person's life or safety. New section 87Y clarifies that an appeal to the Supreme Court will consist of merits review, which means that the court may take into account all relevant factual material and any applicable legislation or common law. New section 87ZA prescribes the offence of contravening a public safety order, which carries a maximum penalty of five years. However, this offence may also be dealt with summarily in certain cases.

New section 87ZB enables police officers to search premises or vehicle without a warrant if they have reasonable grounds to suspect that the person to whom the public safety order applies is within those premises or vehicle. The police officer may detain a vehicle for as long as is reasonably necessary to conduct a search under this section. These reforms will commence on proclamation. Time for implementation of these changes is needed to ensure that all required systems are updated and relevant training and resources are in place for the police, judiciary and legal profession. These reforms are a priority and the Government will ensure that they commence as soon as possible. The reforms contained in these bills build on the New South Wales Government's existing reforms to target serious and organised crime such as reforms to the consorting offence and firearms reforms, which have proved successful and are having a significant effect on numerous criminal groups.

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

Leave granted.

The measures contained in these bills provide law enforcement agencies with a more effective means of reducing serious and organised crime by targeting their business dealings and restricting their behaviour. The bills deliver on the New South Wales Government's election commitment to introduce tough new powers to give police the upper hand in the fight against organised crime. I commend the bills to the House.

The Hon. ADAM SEARLE (16:16): I lead for the Opposition in debate on the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016, which are being debated as cognate bills. The NSW Labor Opposition does not support these bills in their current form. We have serious concerns about the need for them, about the bona fides of the Government in how it has embarked on this exercise, about the far-reaching nature of the provisions, and about the lack of safeguards to protect the public and to ensure the integrity and rigour of decisions that will be made under these enactments. The Government made no effort to secure the support of the Opposition before proceeding to introduce this legislation. It is now clear beyond argument, given the controversy canvassed in the debate in the other place, that in developing the bills the ministry took no steps to consult with any of the expert bodies with knowledge and insight into this area of law and policy outside government.

However, as befits a responsible Opposition, a responsible alternative government of this State, we will engage with the serious public policy matters dealt with in the legislation and put forward sensible, carefully considered amendments that meet those concerns. The question is whether this Government has the maturity and good sense to take a bipartisan approach to the very serious issue of combating organised crime. Incredibly, this legislation proposes not one but two new systems of orders—serious crime prevention orders, and public safety orders to be issued by police. This will be in addition to orders already able to be made under other New South Wales and Commonwealth criminal laws, as well as the anti-consorting laws put in place by the O'Farrell Government.

New South Wales Labor is resolutely in support of laws to combat serious and organised crime. We have no difficulty with giving law enforcement agencies, the police and the NSW Crime Commission, the resources

and the laws they need to protect the community from the scourge of criminal activity. After all, it was a Labor Government that created the NSW Crime Commission. Since the 1980s New South Wales has had two criminal asset confiscation laws—one civil based, now the Criminal Assets Recovery Act 1990, and the other conviction based, the Confiscation of Proceeds Act 1989. The process of constructing laws of this nature was commenced by a Labor Government with the Crimes Confiscation of Profits Act 1985.

In 2006, section 93T was put into the Crimes Act by a Labor Government, making it an offence for a person to participate in a criminal group. These provisions were overhauled in 2012, introducing new offences which Labor did not oppose. In 2009 the New South Wales Labor Government introduced the Crimes (Criminal Organisations Control) Act 2009 to meet the challenge posed for law enforcement bodies by bodies such as outlaw motorcycle gangs. After the High Court invalidated that legislation in *Wainohu v New South Wales*, Labor did not obstruct the efforts of the O'Farrell Government to enact the Crimes (Criminal Organisations Control) Act and the further amendments made in 2013. We understand, however, that that legislation has not been used by the present Government despite the hoopla and urgency that surrounded the overhaul of the legislation.

There was no consultation with legal or professional bodies, community groups or law reform agencies prior to the Government embarking on these bills. I note that the Law Society of NSW and the NSW Bar Association offer the observation that the legislation may well infringe the rule laid down by the High Court in *Kable v DPP* in that it represents a contradiction to the fundamental aspects of judicial power and that judicial process has to be beyond the party of the Parliament to enact. The fact is that no evidence or case of any substance has been presented by the Government as to the inadequacy of existing laws and the criminal justice system in dealing with the issues to which the legislation is aimed. There are lots of assertions, and no doubt this legislation would be very useful for law enforcement agencies, but whether it is necessary is a different matter.

The NSW Bar Association, the Law Society of NSW, the New South Wales chapter of the International Commission of Jurists and many other relevant organisations were not consulted by the Government and are strongly opposed to the bills. One member of this Chamber said they have received a communication from the Police Association about the bills. I do not believe the New South Wales Opposition has received any communication from the Police Association, and in my brief conversation with the association it said it had not been consulted about the legislation and did not seem particularly fussed one way or another whether the legislation was enacted. I do not seek to verbal the association but usually when that body wants something it is not backwards in coming forward to either side of politics.

This legislation comes soon after this Government's anti-protest laws, which, in comparison, now seem very minor. A trend exists in this Government towards disproportionate and extraordinary laws that seriously erode the rule of law and the fundamentals of our system of legal rights and processes. For example, the ability of public safety orders to be used to crack down on all forms of protest, non-violent advocacy and even industrial disputes is a real and present danger, notwithstanding the window dressing in the second bill that is said to avert that problem. It is no wonder the Government has not yet brought into force and effected its anti-protest laws; something much more pervasive, something much more sinister, is coming down the pipeline. If the Government is serious about not wishing to impede non-violent protest, advocacy and industrial disputes it should accept our amendments to put that beyond any doubt. Where Parliament determines that authorities need unusual powers to deal with serious and pervasive issues such as organised crime or terrorism, they must be subject to judicial oversight and other checks and balances to protect against error and excesses in order to protect the community, and that is what our amendments seek to do.

I turn now to the details of the two bills. The Crimes (Serious Crime Prevention Orders) Bill provides for the making of serious crime prevention orders but goes well beyond the comparable legislation in Great Britain and Scotland. There are also fewer safeguards in the New South Wales bill than exist in the United Kingdom legislation. In New South Wales the power to seek such orders will be conferred on the Commissioner of Police and the Crime Commissioner as well as the Director of Public Prosecutions. Persons who are engaged in the front line of law enforcement, not the independent prosecutor but the policeman, will also be given the ability to make those applications. That does not happen in the United Kingdom. Under the United Kingdom model only the independent Director of Public Prosecutions of England and Wales and of Northern Ireland and the office holders of like positions, such as the Director of Serious Fraud and the Director of Revenue and Customs, may bring such an application, which is a very important distinction.

The United Kingdom model also occurs in the context of very strong domestic human rights legislation, the Human Rights Act 1998 and the European human rights framework, which comprises the Convention for the Protection of Human Rights and Fundamental Freedoms and, of course, the European Court of Human Rights, both of which provide protection for ordinary citizens. There are no comparable protections in New South Wales or Australian law. An SCPO will be able to be issued by the Supreme Court or the District Court following a conviction on the application of the Crime Commissioner, the Office of the Director of Public Prosecutions or the

Commissioner of Police. The court will be able to issue the order where satisfied on the balance of probabilities that a person or business is involved in serious crime-related activity or, as I indicated, by the District or Supreme courts following a conviction for a serious offence. However, an SCPO will be able to be issued if a person is not charged with any criminal offence and even if they have been acquitted of a criminal offence, even if the fact situation supporting the SCPO is substantially the same as the criminal charge.

In the United Kingdom the guidelines for the Crown Prosecution Service make it clear that if there is evidence to support a criminal prosecution, that should be pursued. An SCPO should be pursued only where there is no real prospect of a criminal conviction. The proposed New South Wales model has no such protection, giving rise to a real risk that over time law enforcement will use the much easier civil process of an SCPO to pursue often difficult criminal trials with the need to prove matters beyond reasonable doubt. This would potentially endanger public safety and would be contrary to the public interest. Dangerously, the New South Wales bill also commits the authorities to pursue an SCPO even where a person has been acquitted of criminal charges and, as I indicated earlier, because of the prosecution guidelines this cannot occur in the United Kingdom as a matter of administrative practice; it is not in the Serious Crimes Bill 2007 but it is in the practice of the prosecution service. That safeguard does not exist in this State and that is why this legislation in its current form is so dangerous.

An SCPO would include prohibitions and requirements that a court considers appropriate to prevent, restrict or disrupt involvement by the person in a serious crime. Clause 6 provides some protections by listing things that cannot be included in an SCPO, including protection for legal professional privilege, confidential information and special protections for banking businesses, which, of course, is similar to the United Kingdom model. Importantly, there is no clear protection against self-incrimination.

There is the ability to demand things from people in writing under this legislation. For example, in both the legislation for the Independent Commission Against Corruption and the Crime Commission in cases where the issue of self-incrimination arises, a person may object to answering questions; they still have to answer but their answers then cannot be used in any criminal trial against them. It can only be used for the purposes for which the information is sought. Given that these are not criminal trial processes that we are dealing with in this legislation, there should be at least equivalent protection against the risk of self-incrimination. That is absent from the Government's package.

Mr David Shoebridge: You're such a bleeding heart, Adam.

The Hon. ADAM SEARLE: I acknowledge that interjection, but it is not true. An SCPO would last for a maximum of five years and a breach would be punishable for up to five years imprisonment and/or a fine of 300 penalty units, which is \$33,000 for an individual, and 1,500 penalty points or \$165,000 for a corporation. Importantly, the legislation, as it stands, contains no defence to these charges. There is no defence under either of these bills. "Serious offence" and "serious crime-related activity" are defined as they are in the Criminal Assets Recovery Act. However, this legislation goes further with an additional definition of "involved in serious crime-related activity", which captures not only the engaging in serious crime-related activity but also conduct that facilitated another person engaging in such activity and conduct that is likely to facilitate another person engaging in serious crime-related activity.

In considering an application for an SCPO a court may rely upon hearsay evidence. However, the respondent will be put on notice and served with the material. The provision that deals with hearsay evidence in this legislation clearly abrogates the existing protections against the admission of hearsay evidence. Hearsay evidence can be admitted in other trials in accordance with the terms of the Evidence Act but this abrogates those protections. It is quite clear that the intention is to remove the hearsay rule; there is no doubt about that.

I note the contribution of Mr Henskens, SC, in the other place regarding hearsay evidence. As I indicated, there were a number of exceptions to the prohibition of hearsay evidence, as he points out, but they are in the Evidence Act and they replicate the tests that evolved in the common law, with some refinements and additions. This bill abrogates the rule against hearsay evidence in a most serious way without justification. I also note the contribution of that honourable member on the subject of the nature of the orders themselves. The member for Ku-ring-gai makes his observations in the context of the most extraordinary attack on the NSW Bar Association of which both he and I are members and on his current president, Noel Hutley, SC. Such an attack is not only unwarranted but unworthy of a member of this Parliament.

I note also that the honourable member in the other place made a reference to the judgement of the English Court of Appeal Criminal Division in *R v Hancox and Another* as authority for the proposition that such orders are "not an addition or alternative form of sentence. It is not designed to punish". Perhaps he forgot the reason the court reached this view. It was not due to the terms of the legislation but the fact it is subject to the European Convention on Human Rights. Paragraph [10] of page 540 of that judgement states:

"The necessity for orders to be proportionate also follows from the fact that they will almost inevitably engage article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 ... [The legislation not only requires the orders be made according to law but] it requires that they be proportionate: see authoritative expression in *EB (Kosovo) v Secretary of State for the Home Dept* [2008] 4 All ER 28 at [7]"

The legislation—the Serious Crime Act 2007 (UK)—only requires that any order be "appropriate" and be made according to law. It is the Europe-wide human rights framework that constrains the operation of that legislation to ensure—as the court put it at page 541, paragraph [10]—that "the provisions of the order must be commensurate with the risk". There is no such requirement in this legislation. As I mentioned at the outset, there is no human rights or other legal safeguard that will provide the same rigour and proportionality in any orders that are sought if the legislation is made in its current form. Intriguingly, there is no counterpart in the SCPO regime proposed to clause 87R (2) (e), (f) and (g) which will apply to the public safety order regime. It is there for the public safety order regime as an important safeguard but it is not present in the SCPOs. I am looking forward to the Government's answer on that.

Clause 11 provides for a right of appeal to the Court of Appeal on a point of law but a restricted appeal on fact. As it would be an appeal from a discretionary decision the scope of such appeal rights are of course very narrow. An applicant has to establish that the judge made an error in the exercise of his or her discretion in accordance with the rules laid down in *House v The King*, which is a very narrow and difficult appeal right. Where a company is convicted of breaching an order, an application may be made to the Supreme Court to wind up the company if the applicant considers that it is in the public interest to do so. The Supreme Court may make an order to wind up a company where the company has been convicted and it is just and equitable to do so. We have no objections to that.

The Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016 is a more serious and sinister piece of work. It amends a number of other Acts. The Opposition is concerned only with schedule 5, which makes amendments to the Law Enforcement (Powers and Responsibilities) Act 2002 (NSW). The amendments to the Law Enforcement (Powers and Responsibilities) Act will permit a senior police officer, defined as the rank of inspector or above—and I note that an inspector, I think, is the lowest rank of commissioned police officer in New South Wales—to issue a public safety order preventing a person from attending a place or event for a limited period if the officer is satisfied they would pose a serious risk to public safety or security. They are lifted from the equivalent South Australian laws, the Serious and Organised Crime Control Act 2008, part 5 of section 23, but without the safeguards found in that legislation.

However, while a SCPO requires someone to have engaged in serious criminal activity, there is a very low threshold for a person to be made subject to a PSO; only the satisfaction of the relevant police officer that a person's presence at a particular location and time would pose a serious risk to public safe and or security—but this is widely defined to cover anything from property damage to the serious injury or death of a person. It has a very wide scope but a very low threshold. When dealing with what it takes to satisfy an officer, one could look at the High Court decision in *George v Rockett* in 1990. It is quite clear that "the assent of belief is given on more slender evidence than proof". It is a very low threshold both as to the level of satisfaction needed for a police officer and the danger that will trigger the ability to order a PSO.

A PSO can last for up to 72 hours but where the order relates to an event that occurs over a period longer than 72 hours, the order will last for the duration of the event. If an order lasts for more than 72 hours, a person subject to it can appeal the decision to a single judge of the Supreme Court: If the order is for less than 72 hours, there is no capacity for any review or challenge to the order. There is no right to be heard before any order is made. Not only is there no capacity to approach the court, on the face of the legislation there is not even the capacity for a more senior officer to review the appropriateness of the order.

However, there is provision to issue multiple orders for a series of events, such as consecutive Saturday nights, which appears to provide a way to bypass the time restriction without engaging the appeal rights. In fact, there is nothing to prevent consecutive 72 hours public safety orders being placed on a person, one after the other, week in, week out, indefinitely, as long as there are separate and distinct orders, and no capacity for this to be reviewed by a court or any other body.

While a proposed SCPO can apply only to persons aged 18 or over, a PSO can apply to persons aged under 18 years and to persons with impaired intellectual functioning. I refer of course to clause 87T (2). This is pretty low even by the standards of the Coalition parties. In his second reading speech the police Minister claimed it as a protection for non-violent advocacy protest assent or industrial action in the legislation found in clause 87R (3) and other places. However, the drafting makes it clear that such a protection rests on a police officer's belief that these are likely to be the primary purpose of a person's presence at a particular location. If the officer believes that the primary purpose is for a different purpose, an order may still be made in accordance with clause

87R, endangering the capability of other law-abiding citizens to conduct a non-violent protest advocacy or indeed industrial disputes.

I note the excellent and high-quality submissions made by the NSW Law Society, the Society of Labor Lawyers, the Council for Civil Liberties and of course that radical, left-wing outfit—and I use the term sarcastically—the NSW Bar Association. I urge all honourable members to read and reflect on the contents of those submissions, which I will not read because I note honourable members in debate in the other place did so at great length. There is insufficient time here to do justice to their arguments and the material they provide. It should give this House pause for thought. Yes, let us give the Crime Commission and the police the tools to combat serious and organised crime, but let us do so with proper safeguards.

I serve on the parliamentary oversight committee for the NSW Crime Commission, among other bodies, and I note that it is quite clear that what we see here in the legislation is not what was originally conceived for public safety orders. The safeguards contained in the overseas counterpart are absent here so something clearly has been lost in the translation in terms of the serious crime prevention orders.

In particular, the New South Wales Bar Association is of the view that the bill confers very broad and far-reaching powers on the police and creates a real danger of arbitrary and excessive interference with the liberty and freedoms of persons in this State for a number of reasons, some of which I have outlined. I will touch on some that I have not yet outlined. Because there is no applicant for a public safety order, there is no testing of or contradiction of the material relied upon by the senior police officer in making a PSO and there is no opportunity for the person to be heard. A PSO may be made in relation to children and people with impaired intellectual functioning. The bill is silent as to what might constitute a class of persons for the purpose of the power to make a PSO. The concept of an area to which a PSO can apply is also not defined and is unconfined. There is no upper limit on the duration of a public safety order. In many cases the person the subject of an order will have no means of knowing the basis upon which the senior police officer has reached the satisfaction required by 87R.

While there is a right of appeal to the Supreme Court in relation to a PSO, as I indicated, that is a fairly illusory right because almost no PSOs longer than 72 hours will be made. The Bar Association submission contains a range of other observations, as does the Law Society submission, and members should familiarise themselves with those observations. One point is common to views of the legal expert bodies and that is that the constitutional validity of aspects of the bills must be regarded as doubtful. This is because, in the case of a PSO, the Supreme Court is required to stand in the shoes of the original decision-maker, a senior police officer, and make what the court considers to be the correct and preferable decision. That is a non-judicial function that is substantially incompatible with the functions of the Supreme Court of a State. This brings to mind not only the reasoning of the High Court in *Kable* but also in the judgement striking down the original New South Wales anti-bikie legislation in *Wainohu*. In this bill the Supreme Court is enlisted in implementing the decisions of the executive in proceedings in which there is an inherent lack of fairness between the parties and in which the commissioner retains a level of control.

I note that while the Minister for Justice and Police seeks to assure the Parliament that there are no problems with the constitutional validity of the proposals he does not set out any basis upon which we might derive that comfort. Given the very cogent reasoning provided by the New South Wales Bar Association, there must be real doubt about the validity of the proposed power to make public safety orders in its applications to individuals or groups that are exercising their implied constitutional freedom of communication about government and political matters, notwithstanding the content and operation of the proposed section 87R (3) (a). These observations are also made by the Bar Association and other bodies in relation to the proposed serious crime prevention order regime. I will not touch on the aspects of the legislation with which the Opposition has no difficulties.

I will now address the speech in reply given in the other place by the parliamentary author of the bills, the Deputy Premier and Minister for Justice and Police, Mr Troy Grant, MP. While acknowledging the concerns that have been raised about whether there are sufficient safeguards in the bills, he said:

The Attorney General's contribution should go a significant way to ... allaying concerns ...

Sadly, having read the Attorney General's contribution, I must say that the reverse is the case. This is a very sad Attorney General. It gives me no pleasure to say it, but she does not have the confidence of either the legal profession or the judiciary. The contribution she made to the debate in the other place may disclose why this is so. Her contribution signally failed to address the serious shortcomings in the legislation outlined by the expert legal bodies or in the debate in the other place. Furthermore, the office has been fundamentally compromised by being subsumed into the Department of Justice. In all previous governments, new law enforcement measures would be subject to the scrutiny of an alternative expert agency. The creative tension at the very heart of all previous Government policy on law and justice, whether we are discussing police measures being critiqued by the

former Attorney General's Department or new law reform measures being challenged by the NSW Police Force and the police ministry, has now gone. The Attorney General is the junior Minister in the agency, which may explain a lot about the content of the bills and the lack of safeguards.

I return to the speech in reply by the Deputy Premier. He was critical of my colleague in the other place the member for Charlestown for her contribution and her request for examples of where the orders proposed in the bills are necessary. He indicated that his office had supplied me and my colleague Mr Guy Zangari, MP, shadow Minister for Justice and Police, with those details when he briefed us. I had thought, perhaps foolishly, that the information supplied in the context of that briefing was confidential. We respected that confidence. But apparently, according to the Deputy Premier, there was no confidentiality. In that case, I am happy to inform this House that the examples given in connection with the public safety orders were entirely hypothetical. We had asked for some real-life examples, even if anonymous, of where the authorities believed that PSOs were necessary. We were provided with only hypothetical examples of where they may be able to be used. No information was supplied to us as to why, in those hypothetical examples, existing legal mechanisms available to the police or to the Crime Commission were not able to address the situation.

In connection with the serious crime prevention order regime three examples were provided, apparently from real life, and for that reason I will not outline the situations. Again, there was no information supplied as to why the existing law could not deal with those situations. I accept that these bills would make the task of the police and the Crime Commission a lot easier. But, as I indicated earlier, that is very different from saying that they are actually necessary. The Government has not discharged its burden of showing to the Parliament why this legislation is necessary. The Government has not provided any substantial basis for the measures contained in these bills other than that they would increase the powers available to the authorities.

In a democratic society that should not be a sufficient basis for sweeping new law enforcement powers, particularly those with grossly inadequate safeguards and, in our view, no real supervision by the independent courts of our State. I know that SCPOs will be made by the courts, but the basis upon which courts may do so is not sufficiently protective of the rights of individual citizens. This was strongly reinforced by the briefing we received from officials in the Department of Justice. Despite our requests, they—the subject matter experts employed in the key government department responsible—could not offer us any practical or policy rationale for the measures in the bills. The only reason being advanced by the Government, not by the public servants, is that this was a commitment made by the Government at the 2015 election.

I note that in his extraordinary attack on the New South Wales Bar Association the Deputy Premier stated that the bar had taken no interest in the policy since it was announced in March 2015. That announcement, a press release on 3 March, outlines the policy aspects now contained in the bills but fails to provide key details. No definition was provided of what would constitute a serious crime related activity, who a senior police officer would be or on what basis a PSO would be able to be issued. Nor was the fact that there would be, at least in the case of a PSO, no scrutiny provided by an independent prosecutor of the courts or that in relation to an SCPO the legal safeguards present in the United Kingdom and Scottish versions would be absent.

Let us be clear: The announcement of a policy direction in a press release is one thing, but the details of legislation are quite another. It is not unreasonable that the expert legal bodies, the Bar Association and the Law Society, would wish to be consulted on the details of such changes to the law. I note the attack on the bar by Mr Henskens, SC, for not consulting with the Government on the matter. As the President of the Bar Association, Mr Hutley, SC, noted, the association wrote to the Government on 13 April and received no response. In the letter from the bar to the Government on 2 May, attaching its submission on the public safety orders regime, that organisation again outlined its willingness to sit down and discuss with the Government its views and the reasons for them. I ask the Parliamentary Secretary: Has his Government formally responded to either communication from the Bar Association or any other organisation that has made submissions on these bills and has it met with them?

The Deputy Premier says we should take comfort from the fact that, although not in the legislation and not legally binding in the State of New South Wales, the counterpart legislation has been interpreted by the United Kingdom courts such that:

... a serious crime prevention order must address a real risk of future offending behaviour. It must be proportionate and commensurate with that risk.

The Deputy Premier completely fails to mention, and perhaps he fails to understand, that this is not because of the terms of the law in the United Kingdom but because of the presence of both domestic and European human rights laws. The absence in this State of any such human rights framework means that a similar approach to interpreting the laws before this House would most likely not be open to the courts here. I wonder whether members opposite and the responsible Minister have a real appreciation of what they are asking Parliament to enact.

Mr David Shoebridge: What did the European Convention on Human Rights ever give the United Kingdom?

The Hon. ADAM SEARLE: I acknowledge the interjection. The Minister states that we should "be satisfied that this legislation will not be abused" but gives no basis on which we should reach this state of satisfaction. Earlier in my contribution I outlined many powers the authorities have been granted by this Parliament but which appear not to have been used. I referred also to the new consorting laws in the section 93X provisions that the Government has introduced. They have been used. The first person charged was a young man with an intellectual disability. The Ombudsman has since revealed numerous instances where the powers were used specifically in a way that the Government promised they would not be. This gives no confidence that these laws, if passed, will operate fairly, properly or as intended.

The Minister states, "The NSW Government is also confident that the legislation will withstand any constitutional challenge." Beyond this bare assertion, he provides no basis upon which this Parliament can be confident that the real constitutional concerns, raised by the bar among others, are addressed in the legislation. As I indicated earlier in my contribution, the Labor Opposition will put forward sensible, carefully considered and responsible amendments that meet each of the criticisms I have outlined of the package of bills before the House. Labor's amendments will ensure that only the Director of Public Prosecutions can apply for a serious crime prevention order. The amendments will narrow the basis upon which an SCPO can be sought and ensure that there is a common approach taken to public safety orders.

We think it ridiculous that the Government is asking the Parliament to enact two regimes of orders. There should be one regime of orders, if any. If we are going to have two regimes then they should be synchronised by requiring a similar trigger. They should have the same risk trigger not two wildly divergent risk triggers. A cynical person would draw the conclusion that the Government is presenting these two bills together—one has the veneer of court approval and due process, the SCPO legislation; and the other is a more sinister and more pervasive one, the public safety orders regime—as it hopes no-one will notice these changes. It is not actually upfront or centre; it is the last schedule in the second bill which deals substantially with an overhaul of the criminal assets confiscation regime.

Mr David Shoebridge: They are sneaking in some new police powers.

The Hon. ADAM SEARLE: They are sneaking some new police powers in. They just did not want to have a frank public debate about the merits of the matter. So we think there should be a common risk trigger for both regimes. Our amendments will also seek to remove the capacity to seek an SCPO if a person has been acquitted of a serious criminal charge if the subject matter is substantially the same. We think that in the current form it smacks of having two bites of the cherry—if the authorities cannot achieve a criminal prosecution against someone then they will proceed against them in this second way.

Mr David Shoebridge: One is a bite; the other is a sledgehammer.

The Hon. ADAM SEARLE: I acknowledge that interjection. The authorities should make a choice as to whether they wish to take a preventative approach or, if they have the evidence, to seek a criminal prosecution. There is something I think sinister and untoward in having two bites of the cherry. Our amendments will also specify that only the Supreme Court may issue serious crime prevention orders, with of course rights of appeal. We will also seek to ensure the capacity of the Supreme Court to admit hearsay evidence is the same as in any other legal proceeding but not greater.

Our amendments will also seek to remove schedule 5 from the organised crime and public safety legislation, which would allow senior police officers to issue public safety orders. We also want to ensure the protection against self-incrimination is not infringed. If the removal of schedule 5 is not agreed to by this House then the Opposition will propose further amendment to ensure that only the police commissioner or a deputy or assistant police commissioner can make a public safety order. Although the term "senior police officer" is used in the regime we do not think the class of police officer specified is senior enough. I think the rank of inspector is the lowest rank of commissioned police officer. If such powerful orders are available to be made by a police officer without court approval and any court oversight and without the ability—

Mr David Shoebridge: Prohibiting court oversight—

The Hon. ADAM SEARLE: —to have an independent judicial officer scrutinise and evaluate whether that order is proper and appropriate, and whether it has even been lawfully made, we think the rank at which a police officer can make that order should be seriously elevated. We also propose amendments that will ensure that an order is able to be made only if there is a serious risk that a person or persons will engage in or cause serious crime related activity, as will be the case in the SCPO regime. At the moment that risk to public security covers

everything from property damage, although at a serious level, through to serious injury or death. We think serious crime-related activity should be the common trigger.

We also think, however, that the current definition of "serious crime-related activity" in the SCPO bill is far too broad. It does not cover just people who have engaged in it or who are likely to engage in it; as I indicated earlier, it covers people who, whether knowingly or not—and I think that is a big problem—have facilitated or may facilitate someone else engaging in serious crime-related activity, or are likely to do so. The triggers are just too low and the connection between a person and the behaviour that can be caught by the orders is just too tenuous. We think there should be an adequate right to be heard before any public safety order is made and we think there should be proper appeal rights against the making of any order. We also believe strongly that persons aged under 18 and other vulnerable persons, including the intellectually impaired, should not be subject to a PSO. So that will also be the subject of an amendment.

The amendments will also be directed at ensuring that both bills before the House are subject to the antidiscrimination legislation and that the legislation contains proper protections for nonviolent protest, advocacy and industrial action. On that last point, we note that the police Minister claims that the protections are in the bill. But if we look at proposed sections 87R (2) (c) and 87R (3) we see that it rests upon a police officer's belief that those things are the primary reason for a person being at a particular location.

Mr David Shoebridge: An unchallengeable opinion.

The Hon. ADAM SEARLE: It is an unchallengeable and untestable assumption by a police officer. We think there should be an objective standard of protection applied so that persons who are not engaged in criminal activities of any kind may still continue to engage in lawful activities of nonviolent advocacy, protest and industrial action pursuing their industrial rights. We think the risk to those persons and those activities posed by this legislation is far greater than the Government's recent anti-protest laws, and that may well be the reason why those laws have not yet been brought into force or effect—that is, because a much more effective tool is about to be conferred upon the police. We hope the House will join with us and amend the legislation. If we do not get sufficient amendments through then we will not be able to support the legislation in its third reading stage.

Mr DAVID SHOEBRIDGE (16:56): What happens when you have a liberal democracy but you do not have a bill of rights? What happens when you have a traditional liberal democracy but then you have a reactionary, right-wing government that decides to put the police Minister in charge of the justice ministry and makes the Attorney General play second fiddle to the police Minister by actually putting the police Minister in a position of ascendancy in the Cabinet? What happens in those circumstances? Well, we now know what happens in those circumstances: we find the New South Wales Parliament is right there. It is considering the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016 and the Crimes (Serious Crime Prevention Orders) Bill 2016.

On behalf of The Greens I stand in this place to oppose these bills. They are an affront to our democracy and an affront to our traditions as a liberal democracy. This place has traditionally respected the freedoms that will be trashed by these bills. I will start by discussing some of the critiques that have been made of these bills by organisations and institutions that, at least until the last four or five years, were always shown respect in debates in the New South Wales Parliament. I am not talking about fringe organisations that can be easily dismissed; I am talking about representations from some pretty core organisations in our society that are deeply concerned about the rule of law and that have traditionally been essential to upholding the law. This is what they have to say about these bills. The Law Society of New South Wales, in its representation on 29 April 2016, said this about these two bills:

The proposals under the Bills appear to be an attempt to circumvent the usual protections of criminal justice procedures. In addition to our concerns that individuals who could not be said to be serious criminals could be subject to these orders (with significant criminal consequences if they are breached), the Law Society is seriously concerned that the alternate processes proposed by the Bills would see:

- An effect upon the balance between executive and judicial powers;
- The longstanding rules in relation to hearsay evidence removed;
- Arbitrary outcomes in respect of the confiscation of proceeds of crime;
- The court's discretion fettered in relation to making certain declarations about asset forfeiture;
- An extraordinary expansion of police powers, where individual police officers are granted the discretion to issue "public safety orders" that restrict individual movement and carry a five year prison term for breach, without (in some circumstances) any avenue for appeal and;
- A further expansion of police powers to search and detain without warrant.

The Law Society considers that the extension of executive powers proposed by the Bills would erode longstanding rights including the presumption of innocence, the right to a fair trial, the right to property, and the right to be protected against double punishment.

The International Commission of Jurists Australia is an organisation that brings together some of the most eminent jurors, including a former Liberal Party Attorney General.

Mr Adam Searle: Liberals for lawyers.

Mr DAVID SHOEBRIDGE: Yes, Liberals for lawyers. Amongst other criticisms, it says this about the Crimes (Serious Crime Prevention Orders) Bill 2016:

The Government should withdraw the proposed legislation enabling Serious Crime Prevention Orders to be made against individuals and corporations, as being an excessive power in the hands of police. No case has been made out to extend such wide ranging restrictions on individuals and corporations.

This bill, although expressed to be preventative, will in fact be punitive in function. There has been no prior discussion with legal organisations or civil community groups before setting up a regime that may be used as an alternative to the criminal justice system with its traditional safeguards but may be used in addition to, or subsequent to conviction or acquittal or the service of an offender's term in prison.

It continues:

There should be an inquiry through the NSW Law Reform Commission as to the necessity of such legislation and to consider what safeguards may be imposed to protect persons, corporations or unincorporated associations who may be affected by the proposed legislation.

The New South Wales Bar Association has come out publicly and critiqued these laws. This may surprise members of this Chamber but the Bar Association is populated by and large by fairly conservative individuals whose politics, as a general rule, would be closer to that of the Government. In relation to the Crimes (Serious Crime Prevention Orders) Bill 2016 the Bar Association states:

The bill provides an open-ended scheme for the making of serious crime prevention orders which potentially endangers the liberties of tens of thousands of NSW citizens. The potential for unwarranted interference in individuals' liberties and their day to day lives is extreme.

The Bill creates broad new powers which can be used to interfere in the liberty and privacy of persons, and to restrict their freedom of movement, expression, communication, and assembly. The powers are not subject to necessary legal constraints or appropriate and adequate judicial oversight, and in many cases basic rules of evidence are circumvented.

The Bar Association then enumerates many issues that it has with the bills. I have received representations from many different sources but one that struck me was from the Hunter Street Chambers—a group of barristers in Newcastle; I will not name them all. On reading the bills they were moved to make separate representation in the name of their chambers asking for sanity to prevail in the New South Wales Parliament. They are people who are used to interpreting the law and consider that the basic principles of criminal justice will be respected by the Parliament but they were bemused with the prospect that the Parliament might be ramming this legislation through without seriously considering the consequences. In relation to the Crimes (Serious Crime Prevention Orders) Bill 2016 they say it delivers a lower standard of justice. Amongst other criticisms they state:

Firstly, and most importantly, the Bill creates a de facto means of criminalising behaviour and punishing individuals that undercuts and devalues the fundamental principles of our existing criminal justice system. It does this simply by lowering the bar for police and prosecuting agencies.

Together these bills create a personalised, subjective and separate set of criminal laws for people who are targeted by the police. The police can target somebody and then craft a whole set of criminal laws specifically at that person whether or not he or she has engaged in criminal activity. Those who breach the individually crafted prohibitions that have been made by the police, and potentially rubber stamped by the court, can go to jail for up to five years. Because of the very serious concerns that have been raised from across a broad group of key stakeholders, the Parliament should at least pause and think: Do we really want to go down this path and water down such fundamental presumptions and liberties? Therefore, I move an amendment to the motion as follows:

That the question be amended by omitting "be now read a second time" and inserting instead "be referred to the Standing Committee on Law Justice for inquiry and report by Friday 12 August 2016".

The Hon. Duncan Gay: Haven't you got anything else?

Mr DAVID SHOEBRIDGE: I note the interjection from the Hon. Duncan Gay.

The Hon. Duncan Gay: You do it every time, the standard end-of-the-world comment: "We need to refer it to a committee".

Mr DAVID SHOEBRIDGE: Haven't you got something else? If the Minister had had the courage to make a presentation on behalf of his party about why these appalling laws do not have any place on the statute books of New South Wales I might give his interjection more credit. But he has not and no doubt he will not come

forward and defend these laws, as he should as a Minister. If he thinks they are good laws he should tell us why. Has he read the bills? Does he know what they do? How on earth did these bills get through the combined party room? What is going wrong in the checks and balances in the Coalition party room that has enabled these bills to be put before the Parliament in the first place? Something is rotten in this Parliament's checks and balances for human rights.

It is absolutely rotten because time after time we see these types of laws, consorting laws, the watering down of bail laws or criminalising association being rushed through the Parliament regardless of centuries of jurisprudence that would suggest these extraordinary expansions of police powers have no place in our society or our traditions. Members of the Government call themselves conservatives. These are not laws from a conservative framework. They are laws from a deeply reactionary right-wing framework that wants to give the Executive and the police more powers. They do not even care about the traditional freedom being removed by the nonsense that the Liberal Party, or the illiberal party, is now adopting.

What do these laws do? The serious crime prevention orders allow the Supreme Court pre- or post-conviction or the District Court post-conviction to place restrictions on people or businesses that are involved in serious crime or terrorism offences. No mens rea is needed; no intention to actually engage in serious crime is required. One does not have to be committing a serious crime and can be entirely innocent to be the subject of one of these orders if the police make out a case that a person has been "involved in". A person who has rented a car or lent money to somebody unwittingly can suddenly be dragged before the courts and face five years in jail if they do not comply with the orders.

An application can be brought by the Director of Public Prosecutions, the Crime Commission or the Commissioner of Police. The Commissioner of Police can apply to the District Court and seek to impose requirements or restrictions on a person if there are reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting the person's involvement in serious crime. If that is not enough, the court can admit and take into account hearsay evidence if it believes it is reliable and relevant and the person, the subject of the order, is notified. The Leader of the Government says I have got too much time. Why are we wasting the Parliament's time with this kind of namby-pamby civil liberties stuff?

Mr Adam Searle: You mean debating laws properly?

Mr DAVID SHOEBRIDGE: That would be the other view. Passing a law that sees somebody who had no intention to be involved in criminal activity and their activity was not criminal in any way subject to a serious crime prevention order that is made against them in the Supreme Court on hearsay evidence—"He said, she said. This is what Bill said to me"—

The Hon. Duncan Gay: Point of order: I am impressed with the hearsay evidence of the member. He just made some statements about me on hearsay evidence that had no validity whatsoever.

I made some criticism earlier that he did not have anything else to put before the House except moving amendments and proposing committees. The rest of the material that he credited to my name is totally wrong.

The Hon. Shaoquett Moselmane: Is this a speech?

The Hon. Duncan Gay: It is a speech because I request if the member has any decency or legitimacy that he stops sledging me and misleading the House.

Mr DAVID SHOEBRIDGE: First, the Leader of the Government clearly does not understand hearsay evidence, which is unfortunate because allowing hearsay evidence is a key part of the bill. I suggest a lesson on the subject. Secondly, he made no reference to any standing order. I wish to simply get on with my contribution to the second reading debate.

DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! I ask the member to take into account the Leader of the Government's concerns. There is no point of order.

Mr DAVID SHOEBRIDGE: Serious crime-related activity, which is one of the key triggers in this bill, is defined as anything done that is a serious criminal offence even if a person is not charged, or tried and acquitted. Involvement in any such activity includes conduct that facilitates or is likely to facilitate another person engaging in serious crime. It is not about the individual's criminality; it could be about something entirely unrelated to them. As I said, they might lend or hire out a car or let a property to someone and be roped into these arrangements. Orders can be made for up to five years. Breaching them will carry a maximum penalty of 1,500 penalty units for a corporation and 300 penalty units and five years jail time for an individual.

Serious crime prevention orders can include prohibitions, restrictions, requirements and other provisions as the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting

involvement by the person in serious crime-related activities. Remember we are talking about hearsay evidence, not reliable evidence. For centuries the criminal justice system has rejected hearsay evidence as not being reliable. I suppose that is why the Government is seeking to include the balance of probabilities in the test. Apparently, orders cannot require a person to answer questions, provide information orally or breach legal professional privilege or other protected confidences. Any compelled evidence apart from those things is not admissible as evidence against that person except for the offence of contravening a serious crime prevention order. That, of course, is the entire purpose of the legislation.

Turning to public safety orders, the bill creates a new power under the Law Enforcement (Powers and Responsibilities) Act 2002 to allow a senior police officer to ban people from places or events where they are expected to present a serious threat to public safety or security. Last time Parliament met we passed deeply offensive laws that The Greens opposed which allowed the police to break up a protest. We have now come to the point where the Government does not want the protest to happen in the first place. It wants to be able to issue public safety orders to prevent people from even going to the protest.

In urgent circumstances the Government wants to allow a police inspector to simply yell across the street to somebody, "Don't go down there. I am making one of those new public safety orders." An inspector will be able to communicate orally with a person across the street to say, "I'm warning you not to go down there." If the person does not listen to the inspector and does go down there—although there is no suggestion they have ever engaged in criminal activity; they are just disobeying the officer—the Government wants to be able to put them in jail for five years. There is not so much as a pretence at court oversight of the order issued by the inspector. In fact, the court will be prohibited from reviewing such orders.

A public safety order can prohibit a person from attending a specified public event including entering or being within specified area or premises, and the order can be made if the officer is satisfied of certain things—if they get the kind of gut feeling that police officers get. If a gut feeling satisfies a police officer that a person poses a serious risk to public safety or security and they think the order is reasonable, off they will go. What is the police inspector meant to be considering when they are yelling at the person across the street or putting the order in writing? They are to consider any history of the person engaging in serious crime-related activity and if the person is a member of a declared organisation or subject to a control order. They are apparently also meant to consider the public interest in maintaining freedom to protest or engage in industrial action. No doubt they will have little regard to that, but no-one is going to test the opinion of an inspector because the merits of an order are not allowed to be tested in court.

The police officer is supposed to consider if an order would stop a person from being able to work, study or receive health care. That is not a disqualifying ground; they just have to take it into account. They are to consider if the content of the order is proportionate to the degree of risk posed and the extent to which the order will mitigate risk to public safety or security when compared with other measures they might reasonably find available. All of those things merely have to be considered to the satisfaction of a police officer and then they can make the order. There need be no suggestion of criminal activity. If someone breaches an order issued orally or in writing by a police inspector they can go to jail for up to five years.

Together these laws create some sort of de facto criminal law but not to the criminal standard, not beyond reasonable doubt. They allow people to be prosecuted on the balance of probabilities. One commentator has said that the serious crime prevention bill appears to enable a kind of Clayton's conviction—a conviction when police are not in a position to actually secure a conviction. The commentator said that by sidestepping the criminal standard of proof and rules of evidence this legislation would enable police to secure significant court sanctions even in cases where they have nothing to rely upon but hearsay evidence. If the police lose a prosecution and do not like the criminal standard they can have another go. Under the civil standard they can include all of the hearsay evidence and get their serious crime prevention order.

About public safety orders, we note that the Bar Association has said that no case has been made as to why the powers to make public safety orders should be conferred on the police at all, let alone in circumstances where it is recognised that the rates of crime in New South Wales are declining. There are a legion of concerns about public safety orders that empower police to order people not to go places and that prohibit court oversight. It is incomprehensible how we have got to this place so quickly. I come back to where I started my contribution: this is what happens when a right-wing government puts the police Minister in charge of the justice ministry.

Under this Government the police Minister is in a senior position to the Attorney General. The Attorney General has become the police Minister's poodle and has been effectively silenced in the debate. The Attorney General is the junior Minister and what the police Minister demands the police Minister gets. The Government has got it all wrong. The first law officer in this State should be the Attorney General, who should check to see if our essential liberties are being infringed, but the Attorney General has been effectively nullified.

The police have asked, the police have got. Citizens beware: this is the State of New South Wales under the Baird Government.

Reverend the Hon. FRED NILE (17:16): On behalf of the Christian Democratic Party I support the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. The bills will restrict the activities of persons or businesses that are involved in serious crime. Earlier a comment was made about the Police Association. An email I have received from the Police Association of NSW regarding these bills reads:

Dear Reverend Nile,

As discussed this morning the Police Association of New South Wales has been briefed regarding the above bills. We support the initiatives as they will provide police with another tool to deal with serious crimes and, more importantly, enable our members to take preventative actions that will stop crime before it happens. We believe these bills make the community safer and there are ample safeguards. We seek your support for the bills and ask they be passed as soon as possible without amendment. Thanking you in anticipation,

Kind regards,

Peter Remfrey

Secretary

Police Association of New South Wales.

I always seek the advice of the Police Association on matters that affect police officers in this State. In this case I have received confirmation of their support for these bills, which I have just read. These are preventative bills. Members know what happened to a senior employee of the NSW Police Force at Parramatta. He was not a sworn officer but had served loyally in the administration for many years. When going home from the police headquarters at Parramatta he was shot viciously by a teenage Muslim boy.

Curtis Cheng may have been alive today if this legislation had been in place. Mr David Shoebridge has attacked the provisions in the bill which are designed to prevent that type of offence, namely, discussion between one or more teenagers with key people involved in the Islamic State of Iraq and al-Sham [ISIS] terrorist organisation in the Middle East about proposed crimes to be carried out in Sydney. For example, members will remember that ISIS was encouraging young Muslim men in Sydney to do something spectacular and, in fact, carefully outlined the procedure.

It was proposed that these teenage Muslim men were to kidnap someone in Martin Place—down the road from New South Wales Parliament House—and behead them. They were then supposed to wrap the body in an ISIS flag and send a video of it around the world. This was to be done as a sign that they could perform such a serious crime and that it could successfully reach into the corners of every nation in the world. These bills refer to "serious crime", not minor events such as shoplifting or motor vehicle theft. The Christian Democratic Party is supporting this legislation in the hope that serious crimes such as that which occurred to Curtis Cheng will be prevented.

It could happen to any member of this Parliament. The Parliament of Canada was attacked and I still believe—but I have no evidence—that Man Haron Monis, who was shot for a terrorist act in the Lindt Café, got the idea of a spectacular attack on the New South Wales Parliament House from the Canadian attack. Monis was walking up Martin Place with a sawn-off gun in his bag and a police officer patrolling Martin Place observed him to be acting suspiciously; police are trained to make such observations. When Monis noticed that he had been spotted by the police officer he ducked into the Lindt Café.

I do not believe that Monis planned to take people hostage in a coffee shop; I suspect those events unfolded accidentally. He may have been going to the Channel 7 studios, which are located opposite the Lindt Café. Channel 7 had previously interviewed him. Perhaps he thought he could force them to televise his message around the world, but I think the more likely objective was Parliament House. These bills should be passed today. If the abuses referred to by the Hon. Adam Searle occur we will know about them and it will be within the power of the Parliament to review and amend the legislation. The police should be given the weapons they need to protect our society. I emphasise the use of the term "serious crime" throughout these bills.

It may be Government policy not to talk about Islamic terrorism because I cannot find a reference to it in these bills. Indeed, I am referring to it because I believe it is the hidden item behind this legislation. Perhaps the Government does not wish to dramatise it and is therefore not highlighting it, but the Christian Democratic Party is supporting the bills because of the threat of Islamic terrorism in Sydney, as occurred in Martin Place last year. The Crimes (Serious Crime Prevention Orders) Bill 2016 will create a stand-alone Act to provide for the making of serious crime prevention orders, which can be issued by the District Court or Supreme Court on the

application of the NSW Crime Commission, the Office of the Director of Public Prosecutions or the Commissioner of Police. No-one would question their integrity.

A serious crime prevention order could be issued by the Supreme Court where it is satisfied on the balance of probabilities that a person or business is involved in serious crime-related activity, or by the District or Supreme courts following a conviction for a serious offence. Serious offence and serious crime-related activity would be defined in the Criminal Assets Recovery Act. A serious crime prevention order would include such prohibitions or requirements that a court considers appropriate to prevent or disrupt involvement in serious crime. That is the key to this legislation—for example, two teenage boys in Auburn who were connected via the internet with people involved with ISIS in the Middle East and information was then provided to the police. This legislation is designed to prevent or disrupt involvement in a serious crime.

Under the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016—I again emphasise the term "public safety"—the amendments to the legislation will permit a senior police officer to issue a public safety order to prevent a person from attending a place or event for a limited period if they would pose a serious risk to public safety or security. For example, fears were held that this year's Anzac Day commemorations, with the huge numbers of people who were in the city to march or to watch the parade, would be the ideal place at which to produce a bomb or a sawn-off shotgun and kill as many people as possible. Those perpetrators would then become heroes in the eyes of ISIS. This legislation is designed to prevent that from occurring. It is no good saying later that our great Police Force caught the person who let off a bomb and murdered everyone.

Earlier this week we had a bomb scare at Parliament House and we were evacuated. It turned out to be a hoax. One of the many homeless individuals who sleep around the precincts of this building was asked to move on. That person was carrying a bag, I am told, and this is hearsay, that he threw the bag into the garden and said, "There is a bomb in it." The police, under instruction from the security officers at Parliament House, had to act on that threat and evacuate Parliament House. Whilst that disrupted the activities of this Parliament, it has to be the procedure in order to prevent terrorist attacks. The bag may well have contained a bomb.

That is why we have this legislation before the House. Mr David Shoebridge was very dramatic in saying, "We never had this legislation years ago." That is because we never had this type of situation years ago. We had criminal activity but it was an orderly society. We did not have bomb threats or people shooting hostages in a coffee shop in Martin Place. Our society has changed and as a parliament we are forced to adopt legislation to deal with a real situation that now occurs in our society. It is a new situation and we have to face it. This Government to the best of its ability—and no government is perfect—has sought to design legislation that it believes will assist in preventing these types of events from occurring in the future.

The legislation talks about the confiscation of property and so on, which may be related to serious crime activity, but I see that as a secondary issue. I know that some groups are concerned about the legislation, particularly the Christian bikie group the God Squad. In Queensland the so-called bikie legislation seems to have had some extreme aspects to it and the Labor Government there is talking about repealing it. These groups have a fear that this legislation, as innocent as it sounds, may be abused by certain police against a group such as a Christian bikie group, who are only seeking to help young people. To remove their fear, I ask the Parliamentary Secretary in his reply to indicate that there is no intention in this legislation for it to be used against groups such as a Christian bike club—for example, the God Squad, who are helping young people. I do not believe their fear is justified but in my negotiations with them it would help to put their minds at rest.

We urge the House to pass the legislation and we can all observe its implementation in this State under the Minister for Justice and Police—who I believe is a very efficient Minister—and the current Commissioner of Police, Andrew Scipione, who I am sure will ensure that there is no abuse of this legislation in any way at all. We support the two bills before the House.

The Hon. Dr PETER PHELPS (17:31): I speak in debate on the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. I will be voting for the bills but I wish to express a number of reservations I have with the legislation. Before I get to that, it would be remiss of me not to make mention of the two previous contributions in this debate. First, Mr Shoebridge did a very good impression of Mr Shoebridge talking about any bill in this place. His outrage might seem a little more sincere if we were to put aside the fact that tomorrow he is planning to pursue a bill which would effectively remove the double jeopardy provisions of the common law. So when he talks about the grand traditions of the common law and the grand thread of common law rights within the New South Wales legal system let us not forget that this is the same person who is planning to abolish one of these core threads, the double jeopardy provisions.

Secondly, Reverend the Hon. Fred Nile suggested that the objects of this legislation may have something to do with terrorism. That is a very new suggestion, as far as I am concerned, and I think as far as anyone on the

Government side is concerned. I am not sure that this has any direct relevance to terrorism or potential terrorism, but I am sure if it does the Minister will make that clear because in all the mentions we have had so far this legislation has been peculiarly related to organised crime—bikies, drugs and the like. But if it is about terrorism, then this is quite a new and interesting development which has not previously arisen. Assuming for one moment that the legislation does not have anything to do with terrorism, let us remember what it is. This is simply the latest in a whole series of amendments to the criminal law to deal with "the problem with bikies".

Let us go through what we have done in the mere five years that I have been in this place. First, we had legislation that banned gang colours, and that was going to stop the bokie menace. Then we removed the spousal immunity, which would affect the bokie menace. Then we changed the ammunition laws so bikies could not get hold of ammunition. We reintroduced the consorting laws—which I personally am strongly in favour of; I think consorting laws are very good and I differ with Mr Shoebridge in that respect quite markedly—to stop the bikies. We had the licensing of tattoo parlours to stop the bikies and to prevent them being owned by bikies. We had tighter regulation of the security industry to stop the bikies being involved in it. We had early disclosure of any defence alibis—again, a breach of the common law traditions within the law—to stop the bikies. We had the adverse inference of the right to silence change to stop the bikies—again, another undercutting of the common law tradition in this State. We re-enacted, as the Leader of the Opposition noted, the Criminal Organisations Control Act after the High Court struck down the original Act, to stop the bikies; we decided to stop the bikies by reintroducing a new Criminal Organisations Control Act.

We were going to stop the bikies with prescribed organisations legislation. We were going to stop the bikies with drug dog detection powers in Kings Cross. We were going to stop the bikies with interstate recognition of criminal organisations and now, today, we are going to stop the bikies with serious crime prevention orders. I will not go into what the NSW Bar Association had to say but its three-page briefing on the legislation makes very interesting reading and I recommend that people who are interested in this read it because the distinctions that are made between this proposed law and the United Kingdom Act are quite marked and those distinctions have not, as yet, been adequately explained.

We are told that these bills when enacted are going to be administered by executive officials in a reasonable way, and I certainly hope that that is true. Indeed, my concerns about these bills would be substantially ameliorated if I felt absolutely sure that their application as Acts would be done in a way which has been explained by the Government. However, similar assurances were given in relation to the reintroduction of the consorting laws. As I said, I supported the reintroduction of the consorting laws and I still support them because I believe they are an appropriate prophylactic against young people being brought into the world of criminality, but we were told that the consorting laws would only be applied to serious crime, to bikies and the like. But the NSW Ombudsman reported to Parliament in mid 2014 on the first 12 months of operation of the State's laws and stated that despite having been designed to combat organised crime, general duties police were the majority users of the consorting provisions at 85 per cent of the time, not detectives from specialist squads at only 11 per cent of the time.

The NSW Ombudsman reviewed 1,247 persons targeted by police for consorting.—about 7 per cent of those were children and young people aged between 13 and 17—and 40 per cent of all people subject to the consorting provisions in their first year of use were Aboriginal. I am not sure there is a great deal of Aboriginal influence within bokie gangs in New South Wales. The review also highlighted the fallacy of the law being targeted at organised crime. An analysis of the criminal histories of a select group of 604 people targeted by the laws revealed that 28 people, or 24 per cent of those who were the subject of official warnings issued by the specialist squads, had a conviction for a serious criminal offence; and 43 people, or 15 per cent of those who were the subject of official warnings issued by the local area commands, had a conviction for a serious criminal offence. These figures highlight the lack of serious criminal activity of those being targeted by the laws.

The review raised the crucial question of what gaps, if any, the consorting provisions filled that current laws and powers did not already cover. There were already existing laws available to achieve what the consorting laws supposedly did, but senior New South Wales police still claim the laws are necessary. Those figures are quite a dramatic example of what happens when we create laws. We create laws with the best of intentions, with the hope that they will be applied perfectly by reasonable men and women in situations of obvious necessity, but that is not what happens. Every law that is created has unintended consequences.

In the case in point before us today I am concerned that comparable, unintended consequences may well happen. In this regard—I will not name the person—I refer to a senior Liberal who is also a barrister who felt the need to write to me in relation to these matters. He said:

I am moved to write to you after being informed of a bill that has been proposed through the bar association email newsletter and then after carrying out my own research into the proposed *Crimes (Serious Crime Prevention Orders) Bill 2016*. I have written to other liberal MPs in similar terms.

I am frankly shocked and appalled that a government supposedly founded on liberal principles and a commitment to the rule of law would entertain let alone propose such legislation.

That any government would propose legislation that enables the state (either through the police, the DPP or arguably worse the secretive and unreformed crime commission) to have orders made that can restrict a person's liberty and curtail their basic freedoms when they have been acquitted of crimes or never even charged with a criminal offence defies credulity.

It is sufficiently repugnant as a matter of principle that the bill would restrict the lives of people acquitted of crimes or never even charged with a crime to be able to live as they wish in a free society, but it is made much worse by the fact that such draconian measures can be imposed based on hearsay evidence eliminating any protections usually extended in criminal proceedings by the rules of evidence. Moreover the fact that the standard of proof for the making of a restrictive order is the mere satisfaction of the court is further evidence of a deeply troubling bill.

The legislation undermines the entire basis and need to have a criminal justice system to determine matters on the admissible evidence proved beyond reasonable doubt as an acquittal can now result in punishment notwithstanding the notional freedom from punishment the acquittal should have provided or that living free of a criminal charge should ordinarily provide. Furthermore the legislation will do nothing to enhance policing and investigative techniques in the state as police will have less incentive to do the job properly for a criminal trial as they will be able to bring applications to restrict a person's liberty regardless of the evidence produced against them in court.

The rationale for this legislation (whatever it is) can only be described as dubious and unsubstantiated given we live in a state where crime statistics have consistently showed that rates of serious crime have been falling or stable across most recorded categories for nearly 10 years. The suggestion that the application of the legislation is targeted or limited in its scope only to organised and gang related crime is without foundation [as I mentioned previously] as no such limitation appears in the bill, these orders can be made against any citizen even if they have never been charged with a crime.

On occasions concerns of this kind raised by lawyers have often been dismissed as being unrepresentative of community attitudes to crime prevention or are typically pro-defence, any suggestion of that kind is without merit given the broad scope of the legislation permits the restriction of a person's daily life regardless of whether there is evidence sufficient to actually charge them with an offence. In addition I make my contribution as someone that has prosecuted, defended and worked in criminal law policy over the past 8 years.

As a member of the liberal party for 15 years I have been prepared to accept legislation that cuts against ones beliefs from time to time, I can say truly for the first time that I am seriously considering leaving this party to which I have been a proud and active member because of this disgraceful legislation.

This person, who is a senior member of the Liberal Party, might be considered to be from the progressive wing of the party. However, people within my own side of the party—senior barristers—have also expressed comparable concerns about this legislation. It does not appear to be a conservative versus libertarian viewpoint or left versus right or progressive versus conservative; it is a matter of serious concern among practitioners within the legal profession. One may well say, applying the Mandy Rice-Davies principles, "Well, you would expect them to say that, wouldn't you?" One would expect criminal defence lawyers to want a situation that is not so tough on their particular clients.

I turned then to the Legislation Review Committee's report into this bill. As members will know, the Legislation Review Committee is a joint committee with a Government majority. Its memberships is Mr Michael Johnsen, Chair, member for Upper Hunter; Mr Lee Evans, member for Heathcote; Ms Melanie Gibbons, member for Holsworthy; Mr Alister Henskens, member for Ku-ring-gai; and the Hon. Greg Pearce, MLC. One would not say that the members of the Legislation Review Committee are necessarily weeping, bleeding heart civil libertarians willing to lie down in front of bulldozers. Generally they might be considered of a moderate, conservative bent.

Yet the Legislation Review Committee had substantial criticisms of these bills. This committee, with a Government majority, found that the Crimes (Serious Crime Prevention Orders) Bill may impact on various rights and liberties such as freedom of movement, property rights, privacy and the right to work. In relation to the Criminal Legislation Amendment (Organised Crime and Public Safety Bill) the committee found that public safety orders may impact on a person's freedom of movement and that the bill will allow a police officer to enter and search premises and vehicles without a warrant. It also found that requiring property or an interest in property to be forfeited to the State could impact on an offender's property rights and the rights of anyone with an interest in that property. This is particularly the case if the property in question was not used in connection with the relevant offence. The amended offence of dealing with property suspected of being the proceeds of crime will capture acts or omissions related to proceeds of crimes which arise from serious offences committed before these provisions commence.

I suggest a range of questions hang over these bills. I will vote for the bills, perhaps in a spirit of hope over experience that their implementation will be strictly in accordance what we have heard in the second reading speech. However, I wish to put on the record my concerns that this is something we will have to watch very closely. Moreover, I make a more general point: that is, that over a period of time we have had bill after bill after bill after bill that purports to strike at the heart of the bkie menace. My view—and it is the same view I have in relation to electoral legislation—is that patchwork quilt amendments are not effective legislation, especially when they have traduced traditional common law rights in relation to criminal matters.

For that reason I suggest that the Government take an entirely different approach where the bills that have now become Acts or amendments to existing Acts are replaced—are removed—and that the existing common law provisions effectively are reinstituted. That does not mean that I am soft on crime. I seriously urge the Deputy Premier and the Attorney General to consider a United States style Racketeer Influenced and Corrupt Organizations Act—a RICO Act. The RICO Act in New York City destroyed the top five mafia crime families. You cannot tell me that the top five mafia crime families in New York are in any way less powerful than a bunch of tattooed bearded bikies from Fairfield.

You cannot tell me that a RICO Act, properly applied in this State, could not do what all of these previous bills have sought to do. I will support these bills but I suggest that a generalised look at how we have approached this matter of organised crime should be undertaken and it certainly should be done with reference to what the 33 US states have adopted with the RICO Act, and particularly what the State of New York did when it decided to get tough on organised crime but at the same time ensured that the constitutionally enshrined rights of American citizens were not invalidated by that particular law.

The Hon. ERNEST WONG (17:49): I join my Labor colleagues in discussing this important legislation, the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. The bills are important for many reasons. The Government's purported purpose for their introduction—that is, the prevention of serious and organised crime—is important. But it is also important to understand the potential risks to everyday Australians that could arise from the passage of these bills as they currently stand. Certainly, protecting New South Wales families and communities from serious and organised crime is a worthy intention. But if the mechanism to do so impinges dramatically on the same families and communities that one seeks to protect then that is an own goal.

Government members have speculated on whether Labor supports measures to deal with organised and serious crime. That is a question as ignorant as it is offensive. It was the Labor Party that, for 16 years, oversaw the building of the most professional, best funded, best equipped and most contemporary police force in the nation. When Labor left office, New South Wales communities were safer than they had ever been from all types of major crime. Labor understands that dealing with tough criminal challenges is difficult. There are no silver bullets or quick fixes. We must regard with great caution any attempt by the Government to get around the tough challenges by overriding longstanding community protections.

One of the potential risks with the bills as they stand is that the extraordinary new powers granted to police will become an alternative to obtaining real prosecutions, instead of assisting them. The risk, for example, with the proposed public safety order [PSO] arrangement is that, faced with the more arduous task of building the full case for arrest, charge and prosecution—which we understand is a tough slog—officers will be tempted to rely instead on the PSO system. As with many of the ideas of members opposite, it does not seem terrible at first glance but when one thinks about it for even a moment the idea looks anything but safe.

While the PSO regime might act as a bandaid in the short term, it does not remove potential offenders from our communities. It does not result in the rule of law being applied. It does not leave our communities safer. It is also a system open to abuse. It allows an infringement of freedom of movement and association that can be based solely on the opinion of one officer, with no right of appeal. With both the serious crime prevention order [SCPO] and public safety order regimes, the measures proposed in these bills extend well beyond the powers of jurisdictions that we like to compare ourselves with, such as our fellow States and the United Kingdom.

The United Kingdom model, for example, confines the SCPO power to the Director of Public Prosecutions and offers a range of judicial protections that are not mentioned in the legislation we are debating here. To those members opposite who say that this legislation is about getting serious about serious crime, I ask: Are they suggesting that the United Kingdom is not serious about it? Are they suggesting that the United Kingdom has not had good reason lately to examine its crime prevention laws? Of course it has. The Government of the United Kingdom and the Metropolitan Police understand that preventative orders like those introduced by this legislation must be balanced with the rights of individuals. Those rights are essential to promoting the community support that our police rely on to do their essential work.

As my colleagues, especially the Hon. Adam Searle, have already outlined in detail Labor's views on the bills, I will not dwell on the specifics. I support the amendments that Labor proposes to move. They will do the following: ensure that only the Director of Public Prosecutions can apply for a serious crime prevention order; narrow the basis on which an SCPO can be sought; remove the capacity to seek an SCPO if a person has been acquitted of a serious criminal charge, if the subject matter is substantially the same; ensure protection against self-incrimination; specify that only the Supreme Court may issue serious crime prevention orders, with full rights of appeal; ensure the capacity of the Supreme Court to admit hearsay evidence is the same as in any other legal proceeding, not greater; and remove schedule 5 from the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016, which allows senior police to issue public safety orders. These amendments would, if

passed, mean that the legislation would do what the Government claims it does—that is, introduce new methods to improve community safety without removing community protections. I therefore commend the proposed amendments to the House.

The Hon. DANIEL MOOKHEY (17:54): Other members have detailed Labor's concerns about the sloppiest aspects of the Crimes (Serious Crime Prevention Orders) Bill 2016. I add my voice to that chorus. I will therefore address my remarks to the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. There is a reason that, in the interest of public order, Parliament sets a high threshold for setting aside the presumption of innocence to create preventative instruments such as those proposed in this bill. The Parliament sets a high threshold to make that decision because the application of the State's coercive power prior to a point of criminal conviction is, firstly, a significant disturbance of a citizen's civil liberties. That is the simplest explanation for the Parliament's reluctance to breach that threshold.

The more complex reason is that the coercive powers of the State applied without the accountability mechanisms that are associated with the judicial branch of our Government ultimately undermine the social trust that exists between the State and its citizens and between institutions such as the police and the people that they have sworn to serve. Ultimately it results in our citizenry losing trust in institutions such as this Parliament and in our capacity to balance the competing concerns of public order and civil liberties. Far from being an abstract concern to be tossed over the bar table down the road, the loss of social trust results in the loss of public order. Parliaments that are reckless and callous and that cannot see that aspects of these bills could result in a loss of social trust commit the ultimate irony: they create the very phenomena that they then have to pass laws like this to resolve.

We ought to heed this as a warning, we ought to proceed with caution, but they are two character traits one would not associate with either the Baird Government or this legislation. The Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016 presents a policy designed to solve a problem which the Baird Government has not yet explained. It lacks the design quality that one would expect of legislation bestowing an extraordinary level of new powers on New South Wales police. It disconnects that power from all the review mechanisms that are designed to hold all forms of coercive and State power accountable. None of the features of law enforcement design that, collectively, result in discretion being exercised by multiple entities, not any one entity, are contained in the principal aspect of this bill.

To understand why the Parliament should not pass this bill in its current form, members should be aware of all the components of the argument, starting with the aspect of need. I have not noticed a mass outbreak of public disorder—the creeping rise of craziness that would require Parliament to pass a bill like this. I have not noticed a pandemic of lawlessness that is beyond the control of existing law enforcement agencies and their ability to manage it.

Of course the reason why New South Wales has enjoyed a decades-low and declining level of crime is the reforms undertaken by the last Labor Government. The fact is that the bequest of the last Labor Government to today's Baird Government was a corruption-free NSW Police Force trusted by its citizens. This Police Force had the right equipment and had had regular upgrades of its equipment. It had the right laws and it had the right leadership. All of this meant that the last Labor Government did indeed have a well-deserved reputation for being tough on crime.

Accompanying that suite of measures was an equally impactful set of approaches via things such as the Drug Court, early intervention policies and juvenile justice reform. All of this meant the last Labor Government was able to acquit itself well on the criteria of being tough on the causes of crime. That dualism has anchored the policies of this State since it was enacted by the last Labor Government. It is the reason why our State has enjoyed and indeed benefited from a strong bipartisan consensus around the core elements of this State's strategy to deal with crime.

The other reason why we have benefited from that approach is the maturity of political leadership that has been displayed. Certainly Labor governments built their policy approach on the basis of fact not hysteria. Indeed when Labor governments formed the judgement that additional laws and additional powers were necessary they presented the evidence basis and the factors that had led them to that conclusion. That approach contrasts with the way in which these pieces of legislation came about.

The fact is that the previous police Minister took what had been a hard-won bipartisan consensus on the elements of the law and order debate and traduced it out of some desire for momentary political advantage in the 2015 election. Since then, under a new police Minister, no evidence has been adduced as to exactly what are the mass levels of lawlessness that require powers like this. Instead we have had an approach where those opposite simply said, "Trust our bona fides. Trust our intent." This is a hard test to pass once we actually look at the design features of this law.

The reality is that, in addition to being a law for which no evidence has been adduced to show the problem that it is intending to solve, if we examine the substance of the bills we see that their design is poor. They are riddled with basic errors, which we would not expect to see from a first-year law student let alone from the Crown. It is important to understand the dimensions of the design flaws that this Parliament is being asked to endorse.

Let us start with the issue of the threshold. The threshold required in order to get a public safety order is exceedingly low compared to all other forms of preventative orders in New South Wales law, in the laws of other jurisdictions in the Australian Commonwealth and even in other like jurisdictions like the United Kingdom and the United States. The fact is that it would be possible to get one of these orders without having to demonstrate the same level of risk and the same level of likelihood and probability that is rooted as a protection in all other forms of like laws, upon which this is presumably modelled.

In addition, there is the issue of the scope of these public safety orders [PSO]. The fact is that these public safety orders can be made against children and against people with impaired intellectual functions. The idea that we would allow some of the most powerful and coercive aspects of this State's power to be used against some of our weakest citizens is just outrageous. On top of that, this legislation would allow such orders to be made on the basis of class—a form of collective punishment in the form of collective preventative orders. And that is of course without defining what it is that constitutes a class.

Let us not beat around the bush about how this will be used or the type of people who face this type of law being used by the police—they will be the people engaging in protests, for example, against coal seam gas. There is nothing to stop these orders being used against the knitting nanas who are currently holding a three-day vigil in front of the New South Wales Parliament. If we were to apply this type of power historically, we would find that it would have been able to be used against those who led the uprising in the Wave Hill industrial dispute 50 years ago as they clamoured for equal wages and Indigenous rights. This law is so poorly designed that it allows this concept of a class to be introduced into law without defining it. On top of that, it makes the same error in respect of geographic areas.

A level of precision is required in describing the geography of a site from which a person is prevented from entering. The legislation is so poor that it will have serious consequences if misapplied—for example, to a person's place of employment. If one of the knitting nanas happened to work around the corner from a building somewhere in the central business district then they would fall under a PSO. They would find themselves in breach and subject potentially to five years imprisonment.

A huge onus is placed on the police to exercise discretion absent the direction that would accompany the granting of such power by Parliament. This is not trivial. Not only are the police being asked to exercise tremendous discretion, there is absolutely no commitment from the Government to an accompanying level of training for those police officers as to how they should go about issuing these types of orders and exactly what the factors are that would give rise to the circumstances in which a PSO is to be issued or granted. A government serious about the professionalism of its Police Force would not leave the police in such an ambiguous position.

The final category of design errors associated with these laws is the absence of any meaningful review mechanism at the point at which they are granted. There is no ability for a person who may find themselves subject to a PSO to test or otherwise contradict the material that a police officer relies upon in making his or her decision. There is no right of appeal for short-term PSOs. Should we find a cascading series of PSOs that lead to a long-term result there is no meaningful right to representation should one find themselves with the means and resources to go to the supreme court of New South Wales and ask for relief. Design flaws like these have real consequences, and these consequences linger long after the actual media headlines are ripped up and the papers used for wrapping fish and chips.

I have had the opportunity to visit many of the wonderful, hardworking police officers who work in this State. I recently had the opportunity to visit the Oxley Local Area Command. It is responsible for policing some of the most difficult areas in our State. I am looking forward to soon meeting with the Parramatta Local Area Command and the Newtown Local Area Command. In my previous line of work I had the opportunity to work very closely with inspectors in the roads division of the NSW Police Force. I came to admire their professionalism and to hold them in high regard for the work that they do. In addition to that, I had the opportunity to see the respect in which they are held by members of the community.

No-one should be mistakenly under the illusion that the respect in which the NSW Police Force is held is somehow accidental or a by-product of a quaint set of factors. The reality is that that trust has been hard won. It is incredibly valuable because it avoids so many other problems we see in like jurisdictions. It has become clear in other jurisdictions that a series of bad laws which have been badly designed, in breach of all the fundamental principles of law enforcement, can result in a police force losing the trust of the communities which it polices.

We should pay close attention to what has happened in the United States in the city of Chicago and we should be paying close attention to what is happening in New Orleans. These two police departments have now had to be brought under Federal jurisdiction and oversight because they have lost the social trust that makes community policing real. Those problems that the citizens of Chicago and the citizens of New Orleans are dealing with did not arise overnight. They were not the product of any one act or one omission; they were the result of a series of acts and omissions over a period of time which created the culture those cities now have to deal with. We as a Parliament ought to see this as a warning.

Because I am a friend of the NSW Police Force, I do not support this bill. Because I am a realist about crime, I do not support this bill. Because I believe the best path to high levels of public order is high levels of public trust, I do not support this bill. Labor will be moving a whole series of amendments that will replace the immature approach contained in this bill with a far more adult approach to an area that is fraught and difficult. It would be wise for all members of this House to support those amendments.

The Hon. MICK VEITCH (18:09): I speak to the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. One simple fact tells us a lot about these bills—consultation has been limited, if not non-existent. The Government failed to consult the detail of these bills with the public, and it failed to consult with the well-regarded expert legal bodies of the State—the NSW Bar Association and the Law Society of NSW. We now know the bills are opposed by the Bar Association and the Law Society, as well as the International Commission of Jurists Australia.

It takes a seriously arrogant government to so blithely dismiss the need for consultation on legislation as significant as this, and a government severely lacking in courage that it would shirk the debate with stakeholders by completely ignoring them. As my colleague in the Legislative Assembly the shadow Attorney General put succinctly, "This is seriously flawed legislation." I think the Government knows it. Why else would it skip consultation with expert legal bodies, but to avoid the opposition it knew would follow? I have heard the Government's response that "This legislation represents an election commitment, so consultation is not required."

Mr Adam Searle: No correspondence entered into.

The Hon. MICK VEITCH: No correspondence entered into. Of course that argument might hold some water for an election commitment to upgrade a train station or fund the local sports centre, but for complex, controversial laws such as these, that is simply unacceptable. That the bills made it through Cabinet in this form is another telling fact, and a sad one for the people of New South Wales—and that is that justice policy in this State is now being directed solely by the Minister for Police with only one perspective in mind. I am sure these endeavours are well meaning, but the unintended consequences of the sweeping expansion of government or police powers without adequate safeguards is of great concern to us all.

Unfortunately, the Attorney General, who should be representing the legal principles and safeguards on the other side of arguments concerning the restriction of citizens' liberty, plays second fiddle to the police Minister, which has led to a growing list of civil liberties being eroded without a peep. I have no doubt there are members opposite who carry concerns regarding this legislation. My advice to them is simple: Vote for Labor's amendments. As so much of the detail of the bill has been well examined by my colleagues in this Chamber and the Legislative Assembly, I will not go into great detail about each aspect of the bill.

I wish to reiterate the words of my colleague in the other place. The member for Blacktown said that no-one in this Chamber supports organised crime, and the pursuit of organised crime is of great importance. That is not up for debate. It would do the Deputy Premier some good to stop playing the tabloid headline game, where he states, "You're either with us or against us" in his efforts to simplify complex laws into a zero-sum-game, as if it is simply all-or-nothing. Labor proposes to make sensible amendments that rein in the overreach of the current legislation, not to stop authorities from pursuing organised crime.

My concerns are of a similar vein to the concerns expressed by Labor about the Government's recent anti-protest laws. Those laws sought to give increased power to police officers to control the activities of people on the basis of a reasonable suspicion alone. The bills before us today contain similar principles, such as empowering police officers to issue public safety orders which bar entry to public events or places on the suspicion of illegal activity and with no judicial oversight. Under these bills, a senior police officer will be empowered to issue an order disallowing a person from attending an event or place if the officer is satisfied that they pose a risk to public safety or security. Once again, there are no protections or safeguards for the immediate enforcement of that officer's decision—just that officer's opinion.

These bills set up a very concerning precedent: they allow an order to be made against a person who has not been convicted of an offence beyond reasonable doubt. In fact, it allows such an order to be placed on a person who has been tried and acquitted of an offence. And as long as a court believes on the far lower balance of

probabilities threshold that someone has been involved in a serious criminal activity, they can be subject to one of these orders. This means that people can be effectively punished for something they are merely considered likely to have done, and hearsay evidence can be taken into account in deciding that likelihood. And the definition of "involved" is virtually limitless.

For example, the NSW Bar Association gives an example of a parent, who lends the family car to their son or daughter in good faith, could be subject to an order if their son or daughter uses the car to commit a serious offence. These are the unintended consequences of these bills, and no amount of the Deputy Premier standing up and saying, "Trust us", is going to make up for these principles being embedded in our laws. It is deeply disappointing that legal precedents in New South Wales are heading down the path of act now, ask questions later and never mind the consequences.

In addition, I was very concerned to hear that we are still waiting for the Government to provide a single real-world example of why these laws were required or where they would have made a difference to an organised crime investigation or prosecution. We should not base laws involving police powers on hypotheticals—the onus is on the Government to demonstrate a need, to provide the evidence. So far we have seen nothing on that score. That is simply incredible. In closing, I urge members to support Labor's practical amendments to bring these bills into line with sensible legal principles, and reject the overreach that these bills represent in their current form.

The Hon. SHAOQUETT MOSELMANE (18:14): I speak to the Crimes (Serious Crime Prevention Orders) Bill 2016. The supposed object of this bill is to enable the Supreme Court and the District Court to make serious crime prevention orders on the application of the Commissioner of Police, the Director of Public Prosecutions or the NSW Crime Commission so as to prevent, restrict or disrupt involvement by certain persons in serious crime-related activities. While on the surface this legislation looks and sounds like a tough approach to crime and illegal activities, certain aspects of the bill sets into motion a dangerous precedent for society as a whole.

The bill effectively puts in train two parallel laws—one for the courts, based on established principles of justice and an established legal system, and one for the police, based on mere suspicion. This bill if misapplied can effectively override certain aspects of the established legal system, a state of affairs this State should never allow. I will say a little more about this later in my contribution, but suffice it to say at this point that it is a real shame that the Liberals-Nationals who claim to represent the interest of freedom and protection from abuse of the law are in fact using this bill for pure electoral purposes. Tough on crime wins them votes, so they think.

The reality is the mob, as one friend would say, will work them out and will see through their duplicitous opportunistic positions. How many more bills do we need to tackle bkie gangs, as the Hon. Dr Peter Phelps quite rightly said when he articulated a number of bills, yet the situation remains the same? This is yet more legislation to show that we are tough on crime. In reality, this is no more than wedge politics. If our proposed amendments fail we will vote against the bill.

The basic purpose of the serious crime prevention order is for police to take the necessary action to prevent criminal behaviour. We are all in favour of prevention of any illegal or criminal activities. But while this sounds well and good on the surface it can, if misused, allow for serious miscarriages of justice. The power to interfere in the liberty and privacy of an individual—based on mere suspicion of a potential danger the police can slap the order on an individual—as well as the ability to limit freedom of expression and assembly can lead to gross abuse of power.

No-one from the Government or the Opposition likes to criticise the police, who are doing their job as best they can. But the truth is in any organisation—the police or any department—there can be the few bad eggs who do the wrong thing. With tremendous discretion given to the police in this bill the likelihood of abuse can become very serious. In a profession such as policing—where police deal with all sorts of people on a daily basis—the potential to become confrontationist is real. It is dangerous to hand over semi-judicial powers from the judiciary to those who are tasked merely with the enforcement of the law. The NSW Bar Association in its submission regarding this bill stated:

The NSW Bar Association opposes the Bill which effectively sets up a rival to the criminal trial system. The system proposed to be set up is contrary to the administration of criminal justice by a process of trial.

The New South Wales Bar Association is telling us that this is a rival system that is contrary to the proper criminal justice system that has been in existence for hundreds of years. The submission goes on to say:

... the SCPO provides a means to restrict a person's liberty where a prosecution fails, but the authorities continue to believe the acquitted (or not convicted) person poses some unidentified threat to public safety.

At this point a person may be acquitted of a crime in a court of law but may have some restrictions placed on them in the form of an order based on the suspicion of the police officer. The police are being given semi-judicial powers against the decisions of the court. It puts aside all principles of criminal law such as reasonable doubt, the

balance of probabilities, mens rea, hearsay evidence and the criminal standard of proof. Those principles will play second fiddle to this new law that is being introduced without proper oversight. When one is acquitted they are acquitted. Not guilty should mean not guilty.

Legal experts including the New South Wales Bar Association and the Rule of Law Institute of Australia are saying that this legislation in its current form is bad, yet the Baird Government is flatly dismissing those professional views. There is a potential for someone who is affected by prejudicial beliefs or gut feelings to use a special order against someone who may be innocent. The bill is so loose—it has no protections, oversight or safeguards—that it could capture innocent people who have unknowingly facilitated a crime. The Hon. Mick Veitch cited the example raised in the Bar Association correspondence about a father who lends the family car to his son without knowing the son will use the car to commit a serious criminal offence and who is suddenly caught by an order.

This legislation is questionable and should be treated with the utmost suspicion. It effectively sets up a rival criminal justice system that is heavily weighted in favour of those with the power to issue serious crime prevention orders. It has the potential for abuse and the powers it grants may threaten the liberty of the people of New South Wales. The case has not been justifiably made that our society is in need of laws such as these. That is why those in the know such as the Law Society of New South Wales, the International Commission of Jurists, the New South Wales Society of Labor Lawyers, the New South Wales Bar Association and the Rule of Law Institute of Australia have expressed clear concerns. This legislation requires serious amending. Otherwise it should be thoroughly rejected.

The Hon. LYNDA VOLTZ (18:22): I join my colleagues in asking the Government to consider the Opposition amendments to the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. The problem is that there has been no serious attempt at consultation on these cognate bills. As I understand it, no consultation was held with the Police Association nor representatives of the legal profession before this bill was arbitrarily introduced. I am not surprised that the Police Association has written in support of the bill. That is not the question. The question is: Was there consultation on these bills before their drafting or introduction with either the Police Association or the legal profession?

Another question is about where these bills have come from. I would be interested to know if the bills have been introduced at the request of the police. I can see that departmental people are present, so perhaps the Parliamentary Secretary in reply can inform us about the genesis of the request. It would be enlightening to know who requested the legislation. Was it introduced on the whim of the Government? That might explain why there has been no consultation. Interestingly, the member for Ku-ring-gai stated in the other Chamber that the bills are part of the Government's election commitment and therefore do not need consultation. It appears that the member for Ku-ring-gai must be taking some lessons from Sophie Mirabella if that is his view of how to run legislative processes. He thinks that only election commitments are important and not the consultation afterwards.

Consultation on this legislation is extremely important. The Opposition believes the legislation has a number of flaws. Therefore, it will be putting forward amendments to make it workable. If the Government is serious about giving these powers to the police I urge it to consult with us over the amendments because they will make the situation workable. If the Government does not accept the amendments that will say only one thing to the people of New South Wales—that is, the Government is not serious about this legislation. If the Government were serious about these orders it would introduce this legislation in the way that similar legislation has been introduced in other jurisdictions.

For example, the Rann Labor Government introduced public safety orders in South Australia. Importantly, that Government included judicial oversight in the legislation by requiring police officers to ring a magistrate before issuing an order. A senior police officer would apply to the court for an order authorising the police officer to make a public safety order. It was just a simple phone call to a magistrate that would be followed up by an affidavit, but it put oversight into the process and gave it some rigour within the judicial system.

Similar legislation in the United Kingdom is subject to the Human Rights Act and the European Convention on Human Rights. In the United Kingdom public safety orders can only be obtained by the Director of Public Prosecutions. That is not happening in New South Wales. Nowhere else is there legislation such as this State's legislation that will rely on hearsay evidence, not be subject to judicial oversight and have no right of review. In South Australia if an order is issued for more than seven days a person can appeal in the court against the order that has been issued by a magistrate. We would have liked the Government to have sat down with the Police Association, the legal profession and the Opposition and crossbench members before introducing these bills to see if there were ways of creating legislation that contained the needed protections. There is serious concern that this legislation is likely to contravene the prohibition on arbitrary arrest and detention in article 9 (1) and the right to a fair trial in article 14 (1) of the International Covenant on Civil and Political Rights.

It is not as though the Opposition is not interested in dealing with serious crime. We have a strong record on the matter. In 2009 we introduced the Crimes (Criminal Organisations Control) Act. Another Act was introduced in 2012. We also supported the introduction of the Coalition Government's consorting laws. However, it is worth noting what happened under the section 93X provisions of the consorting laws. In his review conducted 12 months after the Act the Ombudsman noted:

... 40% of all people subject to the consorting provisions in the first year of use are Aboriginal. The proportion of women and young people subject to the consorting provisions who are Aboriginal is especially high. Two thirds of the 83 children and young people aged between 13 and 17 years are Aboriginal. Just over half of the 109 women are Aboriginal.

That shows what can happen with these types of laws and who they might be applied to.

Let us put aside Reverend the Hon. Fred Nile's ethnocentrism on where he thinks the laws will be applied; we have the Ombudsman's evidence as to where the law will be applied. That is why we need the judicial oversight and the mechanisms to protect people, and we need to ensure that they are used against the appropriate people. We want them to be used against real criminals such as those in our society who think they can shoot people with a gun at Bankstown Centro. We want the police to have powers against real criminals but we also want protections so we do not see the sort of statistics contained in the Ombudsman's report, which indicate an overwhelming representation of disadvantaged groups in our community. We do not want our legislation to be used in that way.

The Law Society of New South Wales has raised a number of concerns about this legislation. It noted that the proposals under the bills appear to be an attempt to circumvent the usual protections of criminal justice procedures. In addition, it was concerned that individuals who could not be said to be serious criminals could be subject to these orders, with significant criminal consequences if they are breached.

The Law Society is seriously concerned that the alternative processes proposed by the bills would see an effect upon the balance between Executive and judicial powers; the longstanding rules in relation to hearsay and evidence removed; arbitrary outcomes in respect of confiscation of proceeds of crime; the court's discretion fettered in relation to making certain declarations about asset forfeiture; an extraordinary expansion of police powers where individual police officers are granted the discretion to issue public safety orders that restrict individual movement and carry five-year prison terms for breach, without, in some circumstances, any avenue for appeal; and a further expansion of police powers to search and detain without warrant.

There is overwhelming evidence, particularly in some regional areas of the State, where those powers are used. I ask that the Parliamentary Secretary, in his speech in reply, explain the origins of this legislation and who requested it. I would also be interested to know what type of consultation was conducted at the time the request was made. It would be a step too far to pass this legislation without that judicial oversight; nowhere else in the world would that happen. I hope the Government will accept the Opposition's amendments because I would like this legislation, with amendments, to be passed.

The Hon. DAVID CLARKE (18:32): On behalf of the Hon. Niall Blair, in reply: I thank honourable members for their contributions to this debate. Before concluding, I will address some of the matters raised in this debate. Concern was raised as to whether there are sufficient safeguards in relation to both serious crime prevention orders and public safety orders. As explained by the Attorney General in the other place, the Crimes (Serious Crime Prevention Orders) Bill 2016 contains a number of safeguards to prevent serious crime prevention orders from being misused.

In making an order the court must be satisfied that there are reasonable grounds to believe that making the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime-related activities. The bill preserves procedural fairness principles by requiring the applicant to personally serve notice of the order at least 14 days before the hearing date for the application. The person against whom a serious crime prevention order is sought, and other persons whose interests maybe affected by the order, can appear at the hearing of the application and make submissions to the court in relation to the application.

A serious crime prevention order can only contain such prohibitions, restrictions, requirements and other provisions as the court considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting the person's involvement in serious crime-related activities. Serious crime prevention orders are to be made by judges. This in itself is a fundamental safeguard. While decisions of courts in the United Kingdom are not binding in New South Wales, the principles I have outlined in respect of serious crime prevention orders may offer useful guidance.

Notably, they state that a serious crime prevention order must address a real or significant risk of future offending behaviour. It must be proportionate and commensurate with that risk. A serious crime prevention order should be practical, enforceable, precise and certain. While the bill is silent on the types of orders that the court can make consistent with the scheme in the United Kingdom, it specifies the kinds of provisions that a serious

crime prevention order cannot contain. This includes orders such as those requiring the person to answer questions or provide information orally, or where the order requires the person to answer questions in writing or provide documents or other information that is subject to legal, professional privilege.

The bill allows a right of appeal against a decision of the relevant court in making a serious crime prevention order. An appeal can be made by the person who is the subject of the order, as well as the applicant. An application for an appeal may occur up to 28 days after the date on which the decision is made unless the Court of Appeal grants leave. An appeal lies as a right on a question of law and with leave of the court on a question of fact. Lastly, the Act will be reviewed after three years of operation to determine whether the policy objectives of the reforms remain valid.

As the Attorney General said in the other place, the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016 contains a number of safeguards. In determining whether issuing a public safety order is reasonably necessary, a senior police officer must take into account certain matters, such as if the place the person is being prevented from attending is the workplace at which the person is regularly employed, an educational institution at which the person is enrolled, a place of worship that the person regularly attends, a place where the person receives a health or welfare service, or a place where the person is being provided with legal services.

The police officer will also be required to take into account the nature of the person or group and any history of behaviour that previously gave rise to a serious risk to public safety. In deciding whether to issue a public safety order a police officer will also need to consider whether the degree or risk that is posed by the person justifies imposing these prohibitions on the person, bearing in mind any legitimate reason that the person may have for being at this specific location or event.

Further safeguards have been incorporated into the bill to clarify that a public safety order must not be issued to prevent non-violence advocacy, protest or dissent or industrial action. A public safety order also cannot be issued to prevent a person from entering their principal place of residence. There are also safeguards to limit the duration of a public safety order. An order can only last for a maximum period of 72 hours, or where the order relates to an event that occurs over a period longer than 72 hours the order would last for the duration of an event.

Importantly, section 87R (4) of the bill ensures that successive orders cannot be issued to circumvent the 72-hour limit. However, a public safety order may be issued for consecutive evenings such as multiple Friday nights covering the same event. The bill prescribes service and notification requirements for making or varying a public safety order to ensure that the person is properly notified. A senior police officer must personally serve a copy of the order made or varied on each person named in the order. A public safety order must be in writing and must also contain the reasons for making or varying it.

Further, if the person is a child under the age of 18 years or has impaired intellectual functioning, the bill also requires a senior police officer to also serve a copy of the order on the person's parent or guardian if it is reasonably practicable to do so. Finally, the bill provides for certain appeal rights to a person who is the subject of a public safety order. A person has a right of appeal to the Supreme Court if the public safety order lasts for more than 72 hours. An appeal must be made before the order expires. An appeal to the Supreme Court will consist of a merits review, which means that the court may take into account all relevant factual material and any applicable legislation or common law.

The NSW Police Force will also ensure that appropriate education, training, policies and procedures are in place to ensure that officers are aware that the purpose of public safety orders is to protect members of the public from associated violence through disrupting and restricting the activities of organisations involved in serious crimes, their members and associates.

The South Australian police experience demonstrates that police understand that these orders are not designed to diminish the freedom of persons to participate in advocacy, protest, dissent or industrial action. Overwhelmingly in South Australia they have been used to prevent violent altercations between members of outlaw motorcycle gangs at public events. This bill also does not remove the existing right of persons to refer any complaints about police conduct to the NSW Ombudsman or the Police Integrity Commission.

Reference has been made throughout this debate to claims by the New South Wales Bar Association. We are always happy to listen to legal stakeholders and since March 2015, when this policy was announced, they have had the opportunity to engage with the New South Wales Government. As the Deputy Premier made clear in the other place, the New South Wales Bar Association has made claims in relation to these reforms that are quite simply incorrect. As has been pointed out by the member for Ku-ring-gai, Alister Henskens, SC, MP, serious crime prevention orders are not unprecedented, as described by the Bar Association, as they are modelled on

similar laws in the United Kingdom [UK]. Of course, there are differences but that is hardly surprising given the need to suit the New South Wales legal operational and criminal environment.

When serious crime prevention orders were being introduced in England and Wales, the Scottish government decided to first consider their effectiveness before introducing the orders in Scotland. Notably, in 2015, Scotland determined that SCPOs were effective and necessary to tackle serious and organised crime. In particular, its 2013 discussion paper on SCPOs noted that the experience in England and Wales had shown that these orders make it harder for criminals to carry out their illegal activities and easier for law enforcement agencies to intervene at an early stage when a breach of an order has been found.

The 2007 UK provisions were recently reviewed and were further amended in 2015 to make improvements to the SCPO regime in England and Wales. At that time it was noted that these civil orders are an important and cost-effective means of preventing and disrupting serious and organised crime. Further, the UK government's Serious and Organised Crime Strategy makes a particular commitment for law enforcement agencies to make better use of SCPOs to deter people who are already engaging in serious and organised crime.

As the Deputy Premier has said in the other place, the absence of any reference to the UK scheme by the New South Wales Bar Association in its submission is suspicious and misleading, even after accounting for the differences in the bill before this place. The New South Wales Bar Association stated in a media release on 13 April 2016 that the bill provides for an open-ended scheme. That is incorrect and is contradicted by the Bar Association's own submission to the Government, which is dated the same day and acknowledges the limitations placed on the order by the bill in clause 6 (2).

The New South Wales Government is also confident that the legislation will withstand any constitutional challenge. These bills deliver on the New South Wales Government's election commitment to introduce tough new laws to give police the upper hand in the fight against organised crime. As the Deputy Premier has previously stated, the Government makes no apologies for improving community safety by getting tough on criminals, especially those who deal drugs or weapons or who make a living dealing off the misery of other people. The package of law enforcement powers we have introduced will enable law enforcement agencies to quickly and effectively take restrictive action against crime gang members such as outlaw bikies.

In particular, these powers are much more efficient and effective than the current lengthy and expensive process of having a criminal gang declared under the Crimes (Criminal Organisations Control) Act. The NSW Police Force welcomes these tough new powers, which will enable police to prevent and disrupt serious and violent crime in New South Wales and keep our community safe. These laws are aimed at restricting the ability of criminals to commit crime and will bolster our efforts to target these serious criminals. The Government has no doubt whatsoever that these new laws will be supported by the people of the State of New South Wales. I commend the bills to the House.

The DEPUTY PRESIDENT (The Hon. Paul Green): The Parliamentary Secretary has moved a motion that the bills be read a second time. Mr David Shoebridge has moved an amendment to omit the words "be now read a second time" and to insert the words "be referred to the Standing Committee on Law and Justice for inquiry and report by Friday 12 August 2016". The question is that the amendment be agreed to.

The House divided.

Ayes15

Noes18

Majority.....3

AYES

Dr Faruqi
Mr Mookhey
Mr Primrose
Mr Veitch
Ms Cotsis

Mr Buckingham
Mr Moselmane (teller)
Mr Searle
Mr Wong
Ms Sharpe

Mr Donnelly (teller)
Mr Pearson
Mr Shoebridge
Ms Barham
Ms Voltz

NOES

Dr Phelps
Mr Blair
Mr Farlow
Mr Gay

Mr Ajaka
Mr Clarke
Mr Franklin (teller)
Mr Green

Mr Amato
Mr Colless
Mr Gallacher
Mr MacDonald

NOES

Mr Mallard
Ms Mitchell

Mr Pearce
Ms Taylor

Ms Maclaren-Jones (teller)
Reverend Nile

PAIRS

Mr Secord
Ms Cusack

Mr Mason-Cox

Ms Houssos

Motion negatived.

The PRESIDENT: I will put the question that the bills be read a second time. Leave has been granted for the short ringing of the bells. The bells will be rung for one minute.

The House divided.

Ayes28
Noes5
Majority.....23

AYES

Dr Phelps
Mr Blair
Mr Donnelly
Mr Gallacher
Mr MacDonald
Mr Moselmane (teller)
Mr Searle
Ms Cotsis
Ms Sharpe
Reverend Nile

Mr Ajaka
Mr Clarke
Mr Farlow
Mr Gay
Mr Mallard
Mr Pearce
Mr Veitch
Ms Maclaren-Jones (teller)
Ms Taylor

Mr Amato
Mr Colless
Mr Franklin
Mr Green
Mr Mookhey
Mr Primrose
Mr Wong
Ms Mitchell
Ms Voltz

NOES

Dr Faruqi
Mr Shoebridge (teller)

Mr Buckingham
Ms Barham

Mr Pearson (teller)

Motion agreed to.

The Hon. DAVID CLARKE (18:57): On behalf of the Hon. Niall Blair: I move:

That consideration of the Committee of the Whole stand as an order of the day for a later hour.

Motion agreed to.**PUBLIC LOTTERIES AMENDMENT (KENO LICENSING) BILL 2016****First Reading**

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

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (18:58): On behalf of the Hon. Niall Blair: I move:

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.

Motion agreed to.

The Hon. DUNCAN GAY: I move:

That the second reading stand an order of the day for a later hour of the sitting.

Motion agreed to.

The PRESIDENT: I will now leave the Chair and the House will resume at 8.00 p.m.

Bills

CRIMES (SERIOUS CRIME PREVENTION ORDERS) BILL 2016
CRIMINAL LEGISLATION AMENDMENT (ORGANISED CRIME AND PUBLIC SAFETY) BILL 2016

In Committee

The CHAIR: The Committee is considering two bills. The appropriate way to proceed is to first deal with the Crimes (Serious Crime Prevention Orders) Bill 2016, in respect of which there are four sets of amendments: Opposition amendments appearing on sheet C2016-032D, Opposition amendments appearing on sheet C2016-035A, Opposition amendments appearing on sheet C2016-041 and Opposition amendments appearing on sheet C2016-040. That is the order in which the Committee will consider the amendments. Is leave granted to take the bills as a whole? There being no objection, I shall proceed accordingly.

The Hon. ADAM SEARLE (20:05): For the assistance of the Committee, I indicate that I will not be moving any of the five amendments on sheet C2016-035A. Two of them are in conflict with others and would have to be debated at the same time. That would require separate votes and all sorts of complications. The objectives that they are directed to can be achieved through the other amendments.

The CHAIR: The Committee will proceed with Opposition amendments appearing on sheet C2016-032D.

The Hon. ADAM SEARLE (20:06): By leave: I move Opposition amendments Nos 1, 6, 7, 9, 11, 14, 19 and 25 to 29 in globo:

- | | |
|--------|--|
| No. 1 | Supreme Court to make all serious crime prevention orders
Page 2, clause 3 (1), lines 9–15. Omit all words on those lines. |
| No. 6 | Supreme Court to make all serious crime prevention orders
Page 3, clause 4 (2), line 2. Omit "a court". Insert instead "the Supreme Court". |
| No. 7 | Supreme Court to make all serious crime prevention orders
Page 4, clause 5 (1), line 3. Omit "An appropriate court". Insert instead "The Supreme Court". |
| No. 9 | Supreme Court to make all serious crime prevention orders
Page 4, clause 5 (1) (b), line 6. Omit "court". Insert instead "Court". |
| No. 11 | Supreme Court to make all serious crime prevention orders
Page 4, clause 5 (1) (c), line 12. Omit "court". Insert instead "Court". |
| No. 14 | Supreme Court to make all serious crime prevention orders
Page 4, clause 5 (3), line 22. Omit "appropriate court". Insert instead "Court". |
| No. 19 | Supreme Court to make all serious crime prevention orders
Page 4, clause 6 (1), line 41. Omit "court". Insert instead "Supreme Court". |
| No. 25 | Supreme Court to make all serious crime prevention orders
Page 7, clause 12 (1), lines 33 and 34. Omit "The court that makes a serious crime prevention order may at any time vary or revoke the order". Insert instead "The Supreme Court may vary or revoke a serious crime prevention order at any time". |
| No. 26 | Supreme Court to make all serious crime prevention orders
Page 7, clause 12 (2), line 39. Omit "court" wherever occurring. Insert instead "Court". |
| No. 27 | Supreme Court to make all serious crime prevention orders
Page 7, clause 12 (3), line 42. Omit "court". Insert instead "Court". |
| No. 28 | Supreme Court to make all serious crime prevention orders
Page 8, clause 12 (3) (b), line 1. Omit "court". Insert instead "Court". |
| No. 29 | Supreme Court to make all serious crime prevention orders
Page 9, clause 14, lines 12 and 13. Omit ", the <i>Supreme Court Act 1970</i> and the <i>District Court Act 1973</i> ". Insert instead "and the <i>Supreme Court Act 1970</i> ". |

The effect of this cluster of amendments is to reserve only to the Supreme Court the capacity to make serious crime prevention orders. At present, with and without a conviction, the Supreme Court may, on the grounds specified in the bill, issue a serious crime prevention order. The District Court may also make an order post-conviction, where a person has been convicted of a serious crime-related activity. There is the protection that in the District Court it is post-conviction. Nevertheless, the Opposition considers these orders to be an innovation in the law. They are powerful and far-reaching. The Opposition believes that, until such time as there is well-developed and understood jurisprudence, given the potential for excess or mistakes that occur in all criminal justice systems without there being any intention to do wrong—because all systems operated by people are fallible—it would be a prudent course of action to reserve only to the highest court of this State and its justices the capacity to make these highly unusual orders. I elaborated upon the further reasons in my contribution to the debate on the second reading. I will not repeat those reasons here.

The Hon. DAVID CLARKE (20:08): The New South Wales bill adopts the approach of the United Kingdom to allow the lower court to make a serious crime prevention order [SCPO] following a conviction and to allow the higher court to make an SCPO only if the person has not been convicted of an offence. In practice, if a person has been convicted of a serious criminal offence, in some cases it may be appropriate for the Director of Public Prosecutions to make an application for an SCPO following the sentence. It is therefore appropriate for both the District Court and the Supreme Court to have this power. The Government opposes the amendments.

Mr DAVID SHOEBRIDGE (20:09): On behalf of The Greens, I support the Opposition amendments. In doing so, I make it clear that The Greens are in principle opposed to these bills. Whilst these amendments would improve the bills, they simply civilise what we say is fundamentally inappropriate and liberty-thieving legislation. These bills are unsalvageable even with the best amendments possible. That being said, it is our job in this place to do all that we can to improve legislation. In that spirit, I think we will probably see a pattern develop here as The Greens support the Opposition amendments as they are moved.

The concept that we could have the District Court, as the Hon. Adam Searle said, developing its own jurisprudence in relation to untested legislation that has such serious consequences for traditional concepts of liberty in this State is troubling. The Parliamentary Secretary is seeking to convince us, if that is what is happening here, that we do not need to be troubled by the Supreme Court having this power to make these serious crime prevention orders [SCPOs] against individuals because these individuals will have already been found guilty of a serious criminal offence.

Of course the threshold for a serious criminal offence in the legislation sounds good, but in practice it ropes in a number of offences that are essentially property offences. For example, some aggravated shoplifting offences fall within the scope of a serious criminal offence. Even assuming that we were talking about matters that the broader community would unambiguously accept are previous convictions for serious criminal activity, the real problem with the argument of the Parliamentary Secretary is as follows. Someone may have been convicted of a serious firearms offence 20 years ago. They may have been convicted of a dangerous driving offence 30 years ago. They may have convicted of a drug-related offence 15 years ago. Those are all serious criminal offences for the purposes of this legislation. Now, 30 years later, 20 years later or 15 years later there is an allegation of something totally unrelated to that initial offence. There is no connection required at all. They may have some involvement, and it does not even have to be intentional involvement or criminal involvement. The police may say on the basis of hearsay evidence that they have some involvement in serious crime-related activity, potentially unintended involvement. And this Government thinks it is okay for the District Court to make the orders.

It does not even think there should be a reasonable check and balance, at a minimum. It cannot come at the Opposition's amendments. The Parliament is going to pass these extraordinary illiberal laws for the people of New South Wales, and the Government will not even come at the Opposition's extremely modest suggestion that these powers should only be exercised by the highest court in the land, the Supreme Court, where we have the judges of greatest seniority. I think it goes to show just what a low threshold it has now to destroy traditional liberties in this State, and it does it with such abandon and such disregard.

It looks like this amendment will not succeed. It looks like the Christian Democrats will be supporting the Government. Sadly, we have not seen the Shooters, Fishers and Farmers Party in this debate. We do not know where they stand. They are not even coming down to vote. I think it is a pretty sad state of affairs when we are dealing with such a fundamental attack on centuries-old liberties. I always thought the Parliamentary Secretary was a political conservative. I disagree with him on plenty of things. But I thought we could agree on those legal traditions that have bound us as a society and, in English common law tradition, have actually protected our liberties extraordinarily well for centuries, imperfect as they are. Often I might view those as "capital T Tory" laws, but those traditions have protected our liberties for centuries. To just cast them away with such little regard tonight is disappointing to say the least. This may well be hard for the Parliamentary Secretary, I do not know.

The Hon. ADAM SEARLE (20:14): I thank the two previous speakers. Given the gravity of the legislation that we are debating and the very serious issues involved, no matter whether we take the approach of public safety from organised crime or say that even such laws as those which we all support should have proper safeguards to protect the traditional legal rights and liberties of the citizens and residents of this State, whatever view we take about these matters we should be present for the debate, because these are very significant matters and will have great consequences whichever way this debate goes.

I understand that the Government prefers what it refers to as the United Kingdom model in this respect. If what it had presented to the Parliament was in fact the United Kingdom model with all of its attributes, this debate might have been a lot shorter, and it may have removed the need for all these amendments. Nevertheless, because of the pervasive and unusual nature of these orders we think the safer and more prudent course of action is to have only the Supreme Court dealing with these, at least until such time as the operation of these laws and their nature is truly understood. It is because we are taking a cautious approach that we propose these amendments, and I urge all members to vote with us.

Mr DAVID SHOEBRIDGE (20:16): In the debate on this bill in the other place I think it was the member for Ku-ring-gai, Mr Henskens, who suggested that the kinds of checks and balances that the Opposition is now moving are not needed because this legislation is modelled on the United Kingdom model. Indeed I think in his contribution in reply the Parliamentary Secretary spent some time saying that the law in the United Kingdom was tested.

The CHAIR: Order! I make the observation that we are addressing specific amendments that have been moved. Mr Shoebridge, and indeed the previous speaker, the Hon. Adam Searle did also, is straying beyond the amendments and really dealing with matters more appropriately dealt with in a second reading speech. I invite members to apply their minds to the amendments being moved and not to more general philosophical issues, which are more appropriate for second reading debate speeches.

Mr DAVID SHOEBRIDGE: The suggestion in the response of the Parliamentary Secretary is that it is perfectly reasonable to have these matters in the District Court because there is a check and balance in the fact that there is a previous conviction. The Opposition in moving these amendments made the argument, which I think is extremely strong, that a body of jurisprudence will be built up on a distinct and different set of laws that has not been seen anywhere else in the common law world. That is an argument that was not addressed by the Parliamentary Secretary. He simply said, "It's okay because there will have to be a previous conviction." But it is an important matter, and that is why I think the Opposition's argument that this should be in the Supreme Court and only in the Supreme Court and a parallel set of jurisprudence should not be developed in the District Court has extreme merit.

As the NSW Bar Association made clear, the laws we are seeing proposed here are quite distinct from any laws that we have seen anywhere else in the common law world. Not only is there the capacity for an order in the absence of conviction, and that is in the Supreme Court, but in both the Supreme Court and the District Court there is the capacity for the court to make one of these orders based upon the use of hearsay evidence. That has never been a feature of the United Kingdom laws. It is not a feature that sits at all comfortably with our common law tradition. If we are going to develop a body of case law about this stuff then we should ensure that it is only being done by the highest court in the land. Hopefully, they at least will have an eye to those traditional liberties that we have held dear, even if the Parliament will not.

The Hon. PAUL GREEN (20:19): I want to respond to the comments of the Hon. Adam Searle about the seriousness of this debate. I have no doubt it is very serious. I do not pretend to have such an education as the Hon. Adam Searle, Mr David Shoebridge and others in this Chamber who have a legal background. My colleague Reverend the Hon. Fred Nile put on the record that the Christian Democratic Party supports the Minister and these bills in their entirety. Earlier Reverend the Hon. Fred Nile had a brief discussion with the Hon. Adam Searle about our position on these amendments. We believe that some of the amendments may have merit through argument and debate but at the end of the day we believe that in their entirety they would erode the outcome that the bills are trying to achieve. We have therefore decided to support the Government in relation to these bills. That is the position of the Christian Democratic Party in relation to all these amendments.

The CHAIR: The Hon. Adam Searle has moved Opposition amendments Nos 1, 6, 7, 9, 11, 14, 19 and 25 to 29 on sheet C2016-032D in globo. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14
Noes 17
Majority.....3

AYES

Dr Faruqi
Mr Moselmane (teller)
Mr Searle
Mr Wong (teller)
Ms Sharpe

Mr Buckingham
Mr Pearson
Mr Shoebridge
Ms Barham
Ms Voltz

Mr Mookhey
Mr Primrose
Mr Veitch
Ms Cotsis

NOES

Dr Phelps
Mr Blair
Mr Farlow
Mr Gay
Mr MacDonald
Ms Mitchell

Mr Ajaka
Mr Clarke
Mr Franklin (teller)
Mr Green
Mr Pearce
Ms Taylor

Mr Amato
Mr Colless
Mr Gallacher
Revd Nile
Ms Maclaren-Jones (teller)

PAIRS

Mr Donnelly
Mr Mason-Cox

Mr Mallard
Ms Houssos

Mr Secord
Ms Cusack

Amendment negatived.

The Hon. ADAM SEARLE (20:28): By leave: I move Opposition amendments Nos 2, 8, 15 to 18, 22 and 23 on sheet C2016-032D in globo.

No. 2 **Only DPP can make applications**

Page 2, clause 3 (1), lines 16–19. Omit all words on those lines.

No. 8 **Only DPP can make applications**

Page 4, clause 5 (1), line 3. Omit "an eligible applicant". Insert instead "the Director of Public Prosecutions".

No.15 **Only DPP can make applications**

Page 4, clause 5 (3), line 22. Omit "applicant". Insert instead "Director of Public Prosecutions".

No. 16 **Hearsay evidence admissible only under ordinary law**

Page 4, clause 5 (5), lines 28–35. Omit all words on those lines.

No. 17 **Only DPP can make applications**

Page 4, clause 5 (6), line 36. Omit "applicant". Insert instead "Director of Public Prosecutions".

No. 18 **Only DPP can make applications**

Page 4, clause 5 (6), line 37. Omit "applicant". Insert instead "Director of Public Prosecutions".

No. 22 **Only DPP can make applications**

Page 5, clause 9 (1), line 36. Omit "An eligible applicant". Insert instead "The Director of Public Prosecutions".

No. 23 **Only DPP can make applications**

Page 6, clause 10 (1), line 43. Omit "An eligible applicant". Insert instead "The Director of Public Prosecutions".

These amendments, together, would have the effect of restricting the class of applicants for a Serious Crime Prevention Order to the person holding the office, from time to time, of the Director of Public Prosecutions [DPP]. The rationale for this is that there should be a distinction between the prosecutors and the law enforcement agencies, whose job it is to identify and apprehend criminals or alleged criminals and to gather the evidence in support of prosecution or evidence that would lead to them being controlled under this legislation. This legislation in its current form allows not only the DPP but also the Commissioner of Police and the Commissioner of the Crime Commission to do that.

We think that that is blurring the separation in the law enforcement area. In the British model—as the member for Ku-ring-gai adverted—the class of applicants is the Director for Public Prosecutions (England and Wales) the Director of Public Prosecutions for Northern Ireland, the Director of the Serious Fraud Office and the Director of Revenue and Customs. My knowledge of English law is imperfect, but as I understand it those are essentially the persons charged with making prosecutorial decisions. Those persons are not the cops on the beat; the Commissioner of Police and the Crime Commissioner are the cops on the beat. We think it is important, if we are to have this regime of unusual orders with broad and pervasive effects curtailing traditional legal rights, to maintain the structure that currently exists in our system of criminal justice. I understand that the objective is to disrupt serious and organised crime—an objective that the Labor Opposition shares—but I do not think that you should throw the baby out with the bathwater.

The police and the Crime Commission gather the evidence and apprehend the criminals. The DPP should decide when and whether to lay charges or when and whether to seek these pervasive orders. We think it is important because in the UK context—not in the legislation but in the prosecutorial guidelines—it is quite clear that the Serious Crime Prevention Orders, as they are known in this bill, provide a clear alternative to criminal prosecutions. You should not double up; you should not have two hits at citizens, whatever you think they may have done. The Opposition thinks that these amendments provide an important safeguard that will not affect the objective or the efficacy of the legislation, but will improve the integrity of laws and will lead to increased public confidence in such novel and innovative laws, if they are enacted.

The Hon. DAVID CLARKE (20:33): The Government opposes these amendments. The DPP is only likely to make an application for a Serious Crime Prevention Order [SCPO] immediately following a conviction if it is considered necessary. For SCPOs applied for pre-conviction it is more likely for law enforcement bodies, such as the New South Wales Crime Commissioner or the Commissioner of Police to have the necessary information and evidence to apply for such an order. Ultimately, the court makes the decision whether or not to grant an SCPO.

Mr DAVID SHOEBRIDGE (20:33): I have heard some specious arguments and the argument made by the Hon. David Clarke would have to be one of them. It was, no doubt, made as a result of the briefing he received from the Minister for Police. The idea that you cannot have the DPP bring the prosecution because the police and the Crime Commission have the evidence flies in the face of the way our criminal justice system works in relation to serious indictable offences and indictable offences across the board.

The police are the ones who almost always have the evidence. When a serious crime is committed the police gather the evidence. That is their job. Before we prosecute people for indictable offences and serious indictable offences we go to the independent prosecutor, who assesses the weight of the evidence and sees whether or not it is sufficient to justify the charge. We have an independent office in the Director of Public Prosecutions [DPP] to not only assess whether the evidence is there but also assess it against prosecutorial guidelines. That is what we used to call a check and balance. Before we prosecute someone in the district or supreme courts for an indictable offence and take away their liberty the police must take their brief of evidence to the DPP for it to work out whether to proceed with the charge. We do not give that power to the Crime Commission or the police, or at least we did not give them that power until the police Minister became the justice Minister.

The police Minister, who is now acting as the justice Minister, seems to have forgotten that we have checks and balances in the system. He seems to have forgotten that it is not for the police to make the final decision about bringing prosecutions against citizens in the district and supreme courts. That is why we have the independent office of the DPP. The police Minister is either grossly ignorant or grossly disrespectful of the subtleties—if you could call them that—and the traditional core checks and balances that we have in the system to protect our liberty. I would be interested to know from the Parliamentary Secretary whether it is ignorance or indifference that led to that submission and this noxious development that looks like becoming law that will allow the police to trot up to the Supreme Court or District Court to bring serious charges against citizens without the checks and balances of the Director of Public Prosecutions.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendments Nos 2, 8, 15 to 18, 22 and 23 appearing on sheet C2016-032D be agreed to.

The Committee divided.

Ayes14
Noes17
Majority.....3

AYES

Dr Faruqi

Mr Buckingham

Mr Mookhey

AYES

Mr Moselmane (teller)
Mr Searle
Mr Wong (teller)
Ms Sharpe

Mr Pearson
Mr Shoebridge
Ms Barham
Ms Voltz

Mr Primrose
Mr Veitch
Ms Cotsis

NOES

Dr Phelps
Mr Blair
Mr Farlow
Mr Gay
Mr Pearce
Ms Taylor

Mr Ajaka
Mr Clarke
Mr Franklin (teller)
Mr Green
Ms Maclaren-Jones (teller)
Reverend Nile

Mr Amato
Mr Colless
Mr Gallacher
Mr MacDonald
Ms Mitchell

PAIRS

Mr Donnelly
Ms Cusack

Mr Mallard
Ms Houssos

Mr Secord
Mr Mason-Cox

Amendment negatived.

The Hon. ADAM SEARLE (20:44): By leave: I move Opposition amendments Nos 3, 10 and 13 on sheet C2016-032D in globo:

No. 3 **Serious crime prevention order cannot be made against acquitted person**

Page 2, clause 3 (1), lines 23–30. Omit all words on those lines. Insert instead:

serious crime related activity means anything done by a person that is or was at the time a serious criminal offence (including a serious criminal offence for which the person has not been charged or tried), but does not include a serious criminal offence for which the person has been acquitted (whether by the trial court or on an appeal or other review).

No. 10 **Serious crime prevention order cannot be made against acquitted person**

Page 4, clause 5 (1) (b) (ii), lines 10 and 11. Omit all words on those lines. Insert instead "(including by reason of not being charged with or tried for such an offence), and".

No. 13 **Serious crime prevention order cannot be made against acquitted person**

Page 4, clause 5 (2), lines 15–21. Omit all words on those lines.

These amendments would remove the capacity for those named statutory office holders to seek a serious crime prevention order against a person who has been acquitted of a serious criminal offence. As I said in my second reading contribution, there is something unseemly and unsafe about bringing a criminal prosecution against a person and not succeeding—so in the eyes of the law that person is not guilty—but still being able to seek and obtain pervasive orders to restrict that person's movements and activities. I repeat, in the United Kingdom and Scottish models the prosecuting authorities essentially make a choice between whether they are to bring a criminal prosecution or, if they do not have the evidence, to seek a serious crime prevention order. We think that is an appropriate fork in the road, as it were, and it protects against the agencies of the State being able to oppress individuals whom they suspect of wrong doing.

The Opposition understands that this does not affect a situation where a person is never charged. We also understand that if we are going to have serious crime prevention orders, the objective of which is to disrupt and interfere with the activities of serious organised crime, then much of the utility will be in circumstances where we do not have the evidence to bring a criminal prosecution. If we are going to have these orders that is appropriate, but the Opposition contends that there is an unsafe and unseemly situation created where prosecuting authorities that fail in a criminal court can then come go back for a second go at an individual on the civil basis provided in this bill. Law enforcement authorities should make a clear choice about the direction in which they are going to go; not have two bites at the cherry.

The Hon. DAVID CLARKE (20:47): The Government opposes these amendments. The bill provides for a safeguard when an order has been applied for where a person has been acquitted. In this situation the application must also include information of the serious offence the person was acquitted of, the court in which

the matter was tried, and the date on which they were acquitted. This will ensure that the court has all the necessary information before it when making the decision as to whether a serious crime prevention order is necessary and appropriate in the circumstances.

Mr DAVID SHOEBRIDGE (20:47): I want to get this straight. The check and balance to prevent the abuse of these powers to have another go at someone who has just got acquitted is that this legislation will require the police to tell the judge that the person they are again monsterring was just acquitted. I think they also have to tell of the charge and the evidence before the court when they were acquitted. That is the check and balance? That is not a check and balance; it is a checkbox. The check and balance should be that once someone has been acquitted they cannot have another go at them. In this State we have a narrow window or an exemption about having a second go—namely, the double jeopardy provisions introduced in 2006. And the appropriate place to have that check and balance, as was recognised in that law, is the Court of Criminal Appeal with evidence that would be admissible in a criminal prosecution.

The Hon. John Ajaka: You mean actual evidence?

Mr DAVID SHOEBRIDGE: Yes, proper evidence, not hearsay evidence. For the benefit of the Leader of the Government, hearsay evidence is evidence that is not firsthand. It is what was heard from somebody else and it is inherently unreliable. That is why we do not allow it to be used before we take away somebody's liberty—or at least we did not use it until something happened in New South Wales. The Minister for Police became the Minister for Justice and all the silliness about hearsay evidence was—

The CHAIR (The Hon. Trevor Khan): Order! Mr David Shoebridge is invited to address the amendments that are before the Committee. He is again proceeding with a second reading speech.

Mr DAVID SHOEBRIDGE: I accept that ruling. The amendments moved by the Opposition have merit. They say that if someone has been acquitted they cannot then be the subject of one of these serious crime prevention orders [SCPOs]. I can see that we are about to get a new offensive acronym in the laws of New South Wales. We will be hearing a lot about SCPOs in the next few years when people are subject to them. One cannot be the subject of an SCPO if the serious crime-related activity means anything done by a person that is or was at the time a serious criminal offence for which the person has been acquitted.

I understand why the Opposition is moving these amendments. It is potentially deeply troubling, when someone has been acquitted, to have the prosecution have another go at that person without the checks and balances we find in the double jeopardy laws. I think we may have a discussion about the double jeopardy laws tomorrow and we look forward to that discussion. Those checks and balances are good and proper, but there are none of those checks and balances in these bills. Not only are there no checks and balances but also The Greens believe that the Opposition's amendments do not go far enough.

We believe that the serious crime prevention order, if there is to be this style of amendment, should only be applicable where the conduct complained of is relevant to a prior conviction. That would put some rigour into the system. It would bring the system much closer to the United Kingdom [UK] model and prevent people who have never been convicted of an offence from being the subject of serious crime prevention orders. The Opposition's amendments are very modest, but modest as they are, they make the legislation less offensive, which is why we support them.

The CHAIR (The Hon. Trevor Khan): Order! The Hon. Adam Searle has moved Opposition amendments Nos 3, 10 and 13 appearing on sheet C2016-032D. The question is that the amendments be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (20:52): by leave: I move Opposition amendments Nos 4 and 5 on sheet C2016-032D in globo:

No. 4 **Knowing facilitation required**

Page 2, clause 4 (1) (b), line 37. Insert "knowingly" after "the person has".

No. 5 **Knowing facilitation required**

Page 2, clause 4 (1) (c), line 39. Insert "knowingly" after "the person has".

These amendments are directed to the definition of being involved in serious crime-related activity. At the moment, if we look at clause 4 of the bill, if someone has engaged in serious crime-related activity, we can accept that that sounds reasonable. However, it also extends to the person having engaged in conduct that has facilitated another person engaging in serious crime-related activity and it does not require that the person does so knowingly. Persons could therefore do something that they have been asked to do with no awareness that their action may

facilitate the person who has asked them to do that thing engaging in serious crime-related activity. Clause 4 (1) (c) provides that a person has engaged in conduct that is likely to facilitate serious crime-related activity whether by the person or another person. This is even more tangential. These two subclauses (b) and (c) attenuate, or stretch very thin, the connection between what a person might do and serious criminal activity.

The first category we can understand; it seems sensible and rational if we are to have a regime such as this. But if we are to have subclauses 4 (b) and 4 (c) and persons who are exposed may do things they are not aware of that may be contributing to the commission of serious crimes— if we are to have those provisions or provisions like that—they should be required to do so knowingly. I am sure it is not the intention of the Government or those opposite to make people who are truly innocent subject to serious crime related orders because that would be unseemly. It would be oppression and it would be achieving a totalitarian State. I was never a supporter of totalitarian communism; I think totalitarianism of any kind is a bad thing. This approaches that kind of thing where there is no safeguard.

The safeguard should be that if people are to be exposed to these powerful orders, they must have done something wrong and they must have done so knowing it to be wrong. People should not be caught who might, at the request of people they know, do things that may contribute to the commission of a serious crime but they do not know that—for example, driving persons from A to B at their request when one does not know what they are going to do when they get to place B, or delivering something from one place to another without being aware of what is being delivered. If a person is knowingly engaging in such conduct by all means make them subject to orders of the kind provided for in the legislation, but make sure that there is a level of moral culpability before they are subjected to those orders. That is what this amendment does. The amendment requires that the person who is to be the subject of an application for an SCPO has done these things knowingly.

The Hon. DAVID CLARKE (20:56): The proposed amendments require knowledge of the conduct rather than knowledge of the facilitation and would therefore make the application of the SCPO less effective. The Government opposes the amendments.

Mr DAVID SHOEBRIDGE (20:56): I am not entirely sure that I followed the Government's concerns, but they seem to be that the problem is the Opposition's amendments would require the prosecution to prove that the persons knew that the conduct they engaged in was facilitating or likely to facilitate another person to engage in serious crime-related activity. What seems to be causing offence for the Parliamentary Secretary, no doubt on instructions from the police Minister, is that they do not want to have to prove that the person knew that the conduct was facilitating another person to engage in serious crime-related activity; they want to rope in people who are entirely innocent, who had no knowledge at all that their conduct was facilitating something, or they had no knowledge at all that they were likely to facilitate something.

For example, someone innocently providing some tools of trade to somebody that might then be used for a robbery would be roped in under this legislation. Innocently providing a motor vehicle to somebody with no idea and no intention ever of facilitating serious crime-related activity would rope a person into one of these orders. Innocently providing accountancy services or innocently providing other professional services to somebody could rope people in and they could find themselves dragged before the Supreme Court and made the subject of these orders. It is even more invidious when one thinks about the offence.

So it is not only the conduct that may be entirely innocent where there is no requirement to prove mens rea. It is clear that is what the Government wants. It does not want to have to prove mens rea or the mental elements of the offence; it just wants an act that facilitated. It consciously does not want to prove the mental state because putting some rigor in the law would get in the way of the police getting these orders. It does not want that. Not only does it not have to prove mens rea in making the order but section 8 states the offence is "A person against whom a serious crime prevention order is in effect must not contravene the order". The floor of barristers from Hunter Street Chambers in Newcastle in their submission—

Mr Adam Searle: Those dangerous radicals.

Mr DAVID SHOEBRIDGE: Those dangerous radical barristers from Newcastle pointed out that the offence in section 8 does not appear to contain any mens rea element. Expressed as it is—"A person against whom a serious crime prevention order is in effect must not contravene the order"—seems to impose strict liability for the offence. A circumstance could arise where an order is whacked against a person without any mens rea, they did not know they were facilitating or likely to facilitate, and then they are prosecuted for a breach of the order even though they had no idea their conduct was breaching the order. Someone who is innocent of criminal intent at the front end, when the order is made against them, and innocent of any intent when prosecuted at the back end can find themselves in jail for five years.

They can go from walking the streets with no criminal involvement or prosecution, their conduct is utterly innocent, and they can have an order whacked against them on hearsay evidence and a few months later can find themselves in jail for up to five years. At no point has the prosecution had to prove any criminal intent or trouble itself with having to prove that the citizen who had any intention to do anything at all related to criminal activity. The Government's response to the Opposition's amendment is that it will get in the way of orders being made. No doubt it will. It is called the justice system, the rule of law, and it seems to have been forgotten.

The CHAIR: (The Hon. Trevor Khan) The Hon. Adam Searle has moved Opposition amendments Nos 4 and 5 on sheet C2016-032D. The question is that the amendments be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (21:01): I move Opposition amendment no. 12 on sheet C2016-032D:

No. 12 **Serious crime prevention order not to discriminate**

Page 4, clause 5. Insert after line 14:

- (2) However, the Court must not make a serious crime prevention order against a person if it considers that to do so would constitute discrimination against the person on a ground specified by the *Anti-Discrimination Act 1977*.

The Opposition believes it would be a prudent safeguard to make clear that the legislation and any orders made under it are not inconsistent with the provisions of the anti-discrimination laws of this State. I will not enumerate what those protections are; they are significant matters of record. I know it is not the intent of the Government or any agency or arm of government to do the wrong thing. This will provide an extra signpost on the road to make sure that any orders sought and granted under this legislation, when enacted, do not infringe on those traditional legal rights, or if they are that it is one of the bases upon which those orders can be reviewed by the Supreme Court, as provided in the bill. The Opposition believes this would improve the operation and integrity of and public confidence in the regime of serious crime prevention orders. The Government should not in any way be concerned about or frightened of embracing this protective measure.

The Hon. DAVID CLARKE (21:03): In deciding whether to grant a serious crime prevention order [SCPO] the court must be satisfied that there are reasonable grounds to believe that the SCPO would protect the public by preventing, restricting or disrupting the person's involvement in serious crime-related activities. Further, the court will only make such conditions, restrictions or prohibitions in the SCPO as it considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person in serious crime-related activities. The court would take such considerations into account in determining whether or not to grant the order. The Government opposes the amendment.

Mr DAVID SHOEBRIDGE (21:04): Perhaps the Parliamentary Secretary did not understand, because he did not mention it, that this is about putting in place a further qualification that would prevent a court from making a serious crime prevention order against a person if the court considered that it would constitute discrimination against a person on the ground specified by the Anti-Discrimination Act 1977. Just to be clear, it is about discrimination—the "d" word.

It is about the Anti-Discrimination Act and it is about ensuring that these laws cannot be used to make orders that would contravene the Anti-Discrimination Act 1977. We did not hear a reference to the Anti-Discrimination Act in the Government's disengagement with this amendment. Why would the Government not support an amendment that prevents orders being made in breach of the Anti-Discrimination Act? The answer we got from the Government was something like fish. That is why.

The Hon. Dr Peter Phelps: Why do you hate fish?

Mr DAVID SHOEBRIDGE: I don't discriminate against fish. The answer was fish. It was a refusal to engage in the argument, probably because the answer would be embarrassing. The embarrassing answer the Parliamentary Secretary did not want to give, no doubt on instructions from the police Minister, is they do not want to be shackled with a limitation that says they cannot make an order in breach of the Anti-Discrimination Act. They do not want that limitation. The Government overtly wants to be able to make an order that is in breach of the Anti-Discrimination Act but what is really sad is that they have not even got the courage to say it. Put it on the record; say what you want because your silence is condemning you anyhow.

The CHAIR: (The Hon. Trevor Khan) The Hon. Adam Searle has moved Opposition amendment No. 12 on sheet C2016-032D. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (21:06): I move Opposition amendment No. 1 on sheet C2016-041:

No. 1 **Considerations to be taken into account when making serious crime prevention order**

Page 4, clause 5. Insert after line 14:

- (2) In determining whether there are reasonable grounds to believe that the making of the serious crime prevention order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime related activities, the court must take into account the following matters and may take into account any other matter that it considers relevant:
- (a) whether the person previously behaved in a way that posed a serious risk to public safety,
 - (b) whether the person:
 - (i) is, or has been, a member of a declared organisation (within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*), or
 - (ii) is, or has been, subject to a control order under that Act, or
 - (iii) associates, or has associated, with members of a declared organisation or persons subject to control orders within the meaning of that Act,
 - (c) if the order is likely to prevent the person from participating in non-violent advocacy, protest, dissent or industrial action—the public interest in maintaining freedom to participate in such activities,
 - (d) whether the person will be prevented from being present at any of the following:
 - (i) a place of work at which the person is regularly employed,
 - (ii) an educational institution attended by the person,
 - (iii) a place of worship attended by the person,
 - (iv) a place at which the person receives a health service or welfare service,
 - (v) a place at which the person is provided with legal services by any Australian legal practitioners or by any organisations employing or otherwise using one or more Australian legal practitioners to provide such services,
 - (e) whether the degree of risk of serious crime related activities occurring justifies the imposition of the prohibitions, restrictions, requirements or other provisions to be specified in the order (having regard, in particular, to any legitimate reason the person has to participate in activities that may be covered by the order),
 - (f) the extent to which the making of the order will mitigate any risk to public safety
 - (g) the extent to which the order is necessary having regard to other measures reasonably available to mitigate the risk.

The reason I move this amendment is, like the previous amendment which dealt with the Anti-Discrimination Act, it provides further guidance for the court in making a serious crime prevention order. I am glad to see that the Deputy Premier, Minister for Justice and Police is here tonight. In his contribution in the other place the Deputy Premier said we should take comfort in the fact that although it is not actually in the legislation and although it is not actually legally binding in this State the counterpart legislation has been interpreted by the United Kingdom [UK] court such that "a serious crime prevention order must address a real risk of future offending behaviour. It must be proportionate and commensurate with that risk".

As I indicated in my contribution to the second reading debate, the reason why the UK courts have formed that view is because of the presence of the domestic and European human rights law framework, none of which applies in this State. If it is the intention of the Minister and the Government to have the law interpreted in the same way, we need to provide some guidance and some signposts. When one looks at the second bill, which deals with public safety orders, there are a series of guidelines or signposts for the police officer in clause 87R, particularly subclause (2), which sets out a range of things that a police officer must consider in determining whether or not to make a public safety order.

Those are good measures to guide a police officer but none of those signposts assists the courts in determining whether or not to issue a serious crime prevention order. This amendment imports into the serious crime prevention order regime the same considerations that the Minister and his Government think should be in the minds of a police officer in determining whether or not to make a public safety order.

We started our critique of these cognate bills by saying that we should have one integrated set of orders rather than two sets of orders. However, if we are to have two sets of orders they should have the same triggers, the same thresholds and much the same issues should be considered by those making the decision. If these are the sorts of considerations that a senior police officer should have in his or her mind when deciding whether to make a public safety order, there should be the same signposts to assist the court in determining whether it is appropriate in the circumstances to make a serious crime prevention order. The Opposition has used the same drafting and

notions for public safety orders that the Government used and says that they should also apply to serious crime prevention orders. Having that commonality of thresholds, themes and signposts would not only improve the operation but also the integrity and public acceptance of these to two highly unusual sets of provisions. I urge the Government to embrace this constructive proposal from the Opposition.

The Hon. DAVID CLARKE (21:10): The Government opposes this amendment. In making a serious crime prevention order the court must be satisfied that there are reasonable grounds to believe the order would protect the public. The court will include only those conditions or restrictions in the serious crime protection order that it considers appropriate to protect by preventing, restricting or disrupting involvement by the person in serious crime-related activities. The list of factors included in the proposed amendment would already be likely to be taken into account by the court in determining whether to make the serious crime prevention order.

Mr DAVID SHOEBRIDGE (21:11): I am curious to know the basis upon which the Parliamentary Secretary says that this long and detailed list of considerations would already be likely to be taken into account by a court. On what basis can that possibly be said? It is not mentioned in the Act and our contributions to the debate will not be relevant to the court unless it comes across an ambiguity that it needs to resolve. There is no ambiguity in this part of the legislation that the Opposition is attempting to amend. None of this is in the legislation; none of this is referenced in the legislation; and there is no ambiguity that would call for this debate or the second reading contribution made by the Minister for Justice and Police to be considered. On what possible basis can the Parliamentary Secretary blandly, baldly, and I would suggest without any rational foundation, say that this long and detailed list that the Opposition has presented will be taken into account by the court?

Where on earth in this noxious piece of legislation does it say that the court must take into account whether the person concerned will be prevented from going to work, to an education institution, to a place of worship, to access health services, to get their welfare cheque or to obtain legal services? Where is that referenced? Where is there a sniff of it? The answer is nowhere. How can the Parliamentary Secretary baldly, shamelessly and without any rational justification say that the court will magically take these things into account when they are not included in the legislation? That demonstrates a comprehensive failure even to engage in the argument. I would call it a wing and a prayer, but I do not think there is even a suggestion of a prayer.

The Government is putting a false argument without any substance. Even if these amendments were agreed to, the court would still have the power to make orders. The amendment simply requires the court to have a reasonable checklist before doing so. The Government is rejecting a reasonable checklist without making any attempt to engage in the argument simply because it does not believe it needs to do so because it has the Christian Democratic Party in its pocket and the legislation will be passed without amendment.

The CHAIR: (The Hon. Trevor Khan): The question is that Opposition amendment No. 1 appearing on sheet C2016-041 be agreed to.

Amendment negated.

The Hon. ADAM SEARLE (21:14): I move Opposition amendment No. 20 on sheet C2016-032D:

No. 20 **Self-incrimination cannot be required**

Page 5, clause 6 (2). Insert after line 2:

- (c) to answer questions, or to provide documents or other information, that may incriminate the person or make the person liable to a penalty, or

This amendment is to make clear that the legislation, in providing for serious crime prevention orders, does not intend to infringe on the traditional presumption against self-incrimination. At the moment clause 6 of the legislation provides for what may be in the content of serious crime prevention orders but it says in subsection (2):

... a serious crime prevention order cannot contain provisions that require a person:

- (a) to answer questions or provide information orally ...

Other matters are dealt with there as well. There is nothing to prevent a serious crime prevention order directing somebody to provide certain answers in writing, apart from the other exceptions such as legal and client privilege, protected confidences if a person is involved in banking businesses and the like. The Opposition assumes that it is not the intention of the Government to abrogate the protection against self-incrimination. We note that this regime is not criminal in nature. Look, for example, at the extreme powers granted to the Crime Commission under the Crime Commission legislation or to the Independent Commission Against Corruption under the ICAC legislation. The right to avoid self-incrimination is dealt with in this way: A person being asked a question may object. They still have to answer, but any answers they give cannot be used in a criminal matter against them. That

makes it clear that ultimately the objective of the protection against self-incrimination is preserved and balanced with the public interest of getting the information.

Here the public interest is to disrupt serious and organised crime. We understand that. We assume that it is not the intention to abrogate the right to protection against self-incrimination. If that is the correct understanding, because that protection is imperfectly preserved in the drafting, amendment No. 20 is necessary to ensure that a person's rights in that respect are not abrogated. If the Government's view is, "No, we intend to abrogate the right to protection against self-incrimination. We want to be able to require people, on pain of criminal prosecution, a \$33,000 fine and up to five years in jail, to tell us everything in writing," then it should say so explicitly on the record. The drafting of the bill does not properly protect people from self-incrimination or from being required to self-incriminate in the way I have outlined. If that is not the Government's intention then it should embrace Opposition amendment No. 20.

The Hon. DAVID CLARKE (21:17): The Government opposes the amendment. In addition to limiting the types of things that a serious crime prevention order [SCPO] cannot require a person to disclose, the bill provides that any answer given or document or other information provided by a person in complying with the requirement of an SCPO is not admissible as evidence against that person in any civil or criminal proceedings, except in proceedings for breaching an SCPO or in other proceedings where the person has themselves adduced that compelled evidence.

Mr DAVID SHOEBRIDGE (21:19): I listened carefully to what the Parliamentary Secretary said. Rather than address the question of whether people can be compelled to give self-incriminating evidence in writing, the Parliamentary Secretary ignored it, as though that was not the question we are considering here. I gather from the answer that there is implicit acceptance that, yes, they can compel people to give self-incriminating evidence in writing—not orally, but in writing. Having compelled them to give it in writing, they cannot then use that evidence in any further proceedings, civil or criminal, against that person.

Of course they can use it as a foundation to do their own separate investigations to find other evidence to whack a person for and perhaps other corroborating evidence and evidence that is parallel to that evidence that allows them to commence a criminal or civil prosecution against a person. So in fact the Parliamentary Secretary's response admits the evil that the Opposition is seeking to cure—admits that, yes, they can compel people to give self-incriminating written evidence and then say, "Oh, well. Don't you worry about that," because they cannot use that specific evidence against the person at a later time to whack them in other proceedings.

In fact, when one looks at the drafting of the bill, clause 6 makes it absolutely dead clear that under the guise of a serious crime prevention order they want to be able to force people to give incriminating evidence. Clause 6 (1) basically says a serious crime prevention order can contain pretty much whatever the court wants: Prohibitions, restrictions, requirements or other provisions are a pretty broad list of whatever the court wants or whatever the police have persuaded the court to give. And then clause 6 (2) states:

However, a serious crime prevention order cannot contain provisions that require a person:

(a) to answer questions ... orally, or ...

...

(e) to answer questions, or to provide documents or other information, that would result in a disclosure prohibited by a provision of another Act ...

But of course (e) does not finish there—there is a nice little bracketed phrase that they add to it:

(other than the *Evidence Act 1995*).

What particular problem is there in the Evidence Act for the Government to say, "Well, we don't want those protections to apply?" I suggest it is probably section 128, which prohibits the disclosure of self-incriminating evidence without the protection of a certificate. And no doubt there are some other privileges in there—journalist privilege and other privileges—that the Government also wants to be able to abrogate so they can grab a journalist and overcome the journalist privilege that would otherwise prevent the disclosure of evidence. In fact one could probably run through all of those privileges in that part of the Evidence Act and find exactly those kinds of, as the Government would say, "unnecessary" little civil liberty aspects that make us a civilised society that they want to ride roughshod over.

So the answer again from the Government to the question as to whether this allows the compelling of self-incriminating evidence seems to be, although obliquely given, yes. The Government wants it, it has the numbers and it is going to get it. The police Minister has asked for it; he has got it. Cheerio to that couple-of-hundred-year-long tradition of stopping the Executive from forcing citizens to give self-incriminating evidence. And it is done without the Government even overtly acknowledging what it is doing. It is deeply disappointing.

The CHAIR: The Hon. Adam Searle has moved Opposition amendment No. 20 appearing on sheet C2016-320D. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (21:22): I move Opposition amendment No. 21 on sheet C2016-320D:

No. 21 **Serious crime prevention order cannot prevent non-violent advocacy etc**

Page 5, clause 6 (2). Insert at the end of line 13:

, or

(f) not to participate in activities that constitute non-violent advocacy, protest, dissent or industrial action.

This deals with ensuring that serious crime prevention orders cannot prevent non-violent advocacy, protest, dissent or industrial action. In the current drafting of schedule 5, new section 87R there is a range of matters that the police officer must take into account in deciding whether or not to make a public safety order. One of them provided for in new section 87R (2) (c) is:

if advocacy, protest, dissent or industrial action is likely to be the primary purpose for the person or persons to whom the order will apply being present at the relevant public event or premises or other area—the public interest in maintaining freedom to participate in such activities...

Then it says in subsection (3):

However, a senior police officer must not make a public safety order that would prohibit a person or class of persons from being present at any public event or premises or other area if:

(a) the officer believes that non-violent advocacy, protest or dissent—

or industrial action—

is likely to be the primary purposes for their presence at the public event or premises or other area ...

So it rests very much on what the officer believes. Of course, as outlined in my second reading contribution, once made, except where one of these orders is more than 72 hours in duration, it cannot be appealed to or reviewed by the Supreme Court, or indeed any court. And there is no capability or facility for reviewing, scrutinising or evaluating the information or the basis upon which the senior police officer formed the view that a public safety order should be made. So we think the appeal rights should be liberalised, and of course we will come to that. We also think that serious crime prevention orders, similar to the public safety orders, should not be a backdoor mechanism to interfere with the ordinary rights that people in our society have to engage in activities which at present are lawful, such as non-violent advocacy, protest, dissent or industrial action. We think those are very important matters in civil society. We had a very extensive debate on those matters recently on the Government's anti-protest laws.

I am not suggesting necessarily that the Government is seeking to use serious crime prevention orders or indeed public safety orders as a backdoor mechanism to confront environmental activists, people fighting for better workplaces or people seeking to protect the environment or simply by demonstrating to raise public awareness of what they regard as important issues. Again, we understand that there may well be a role for unusual and pervasive mechanisms such as serious crime prevention orders. But they have to come with proper checks, balances and safeguards.

Again, if it is not the intention of this Government to interfere with people's ordinary civic rights to demonstrate, to protest and to raise consciousness about issues and to take public action and to publicly dissent or in the workplace context to take industrial action, pursuant of course to other laws, then that should be spelled out with clarity in the legislation. That will ensure that fallible humans operating the system of serious crime prevention orders in their excitement and in their zeal to protect the community from serious and organised crime do not go too far. So we urge all members to support this amendment, and of course we have a parallel amendment for the other bill, to ensure that these important civic rights are protected.

The Hon. DAVID CLARKE (21:27): The Hon. Adam Searle refers to amendments to ensure that an SCPO cannot prevent non-violent advocacy, protest, dissent or industrial action. However, the court would take such considerations into account in determining whether or not to grant the order. Accordingly, the Government opposes the amendment.

Mr DAVID SHOEBRIDGE (21:28): That was another bald statement from the Government. I listened intently but I did not hear any reference to any part of the bill that relates to this. There is no reference to say that the court should take into account whether or not the making of the order would in some way prevent a person from participating in activities that constitute non-violent advocacy, protest, dissent or industrial action. The bill is silent in that regard; it does not mention it at all, unlike its fellow traveller, which we will be dealing with no

doubt in a later raft of amendments—and I see a sign of joy from the Chair. Many of these amendments will be replicated in debate on the cognate bill.

The CHAIR: You should not worry about my level of joy.

Mr DAVID SHOEBRIDGE: The bill is silent. It makes no reference to the protection of non-violent advocacy. It makes no reference to the protection of the right to protest. It makes no reference to the protection of the right to dissent or the right to take non-violent industrial action—none at all. When those considerations are not in the bill and the only directive given to the court is to consider the public safety issues that have been raised by the prosecution, and when the countervailing factors that should also be considered in the interests of an open liberal society are not in the bill, we invite the court to not have regard to them. When those protections are not in the Government's Act, to baldly say, as the Parliamentary Secretary said before—no doubt on notes provided by the Minister for Police—"Don't worry, the courts will magically take this into account", is shallow in the extreme, is most likely misleading in respect of the effect of the bill, and is not worthy of a government that has been entrusted by the people of this State to protect not just their safety but also their liberties.

The CHAIR: The Hon. Adam Searle has moved Opposition amendment No. 21 on sheet C2016-032D. The question is that the amendment be agreed to.

The Committee divided.

Ayes15

Noes18

Majority.....3

AYES

Dr Faruqi
Mr Moselmane (teller)
Mr Searle
Mr Wong (teller)
Ms Houssos

Mr Buckingham
Mr Pearson
Mr Shoebridge
Ms Barham
Ms Sharpe

Mr Mookhey
Mr Primrose
Mr Veitch
Ms Cotsis
Ms Voltz

NOES

Dr Phelps
Mr Blair
Mr Farlow
Mr Gay
Mr Mallard
Ms Mitchell

Mr Ajaka
Mr Clarke
Mr Franklin (teller)
Mr Green
Mr Pearce
Ms Taylor

Mr Amato
Mr Colless
Mr Gallacher
Mr MacDonald
Ms Maclaren-Jones (teller)
Reverend Nile

PAIRS

Mr Donnelly
Ms Cusack

Mr Mason-Cox

Mr Secord

Amendment negatived.

The CHAIR: Do I take it that the Hon. Adam Searle intends to move the amendment on sheet C2016-040?

The Hon. ADAM SEARLE (21:38): I move Opposition amendment No. 1 on sheet C2016-040:

No. 1 **Defence for contravention of serious crime prevention order**

Page 5, clause 8. Insert after line 33:

- (2) It is a defence to a prosecution for an offence against this section if the defendant proves that:
 - (a) the defendant knew certain circumstances existed, and
 - (b) it was reasonable for the defendant to act as the defendant did in those circumstances.
- (3) In determining whether it was reasonable for a defendant to act as the defendant did, the court may take into account the following matters and any other matters that the court considers relevant:

- (a) the seriousness of the potential serious crime related activity or activities to which the serious crime prevention order related,
- (b) any purpose for which the defendant claims to have been acting,
- (c) any authority by which the defendant claims to have been acting.

This is a direct challenge to the Government's bona fides on these bills. Once a serious crime prevention order is made it is an offence to breach that order, punishable by up to \$33,000 against a person or \$165,000 against a corporation or in the case of natural person up to five years in jail.

In neither of the bills before the House is a defence provided for. Because the Government has borrowed from the United Kingdom Serious Crime Act 2007, I looked at that legislation to see how the originators of this regime dealt with the situation. Lo and behold, section 50 of the United Kingdom Serious Crime Act 2007 provides for a defence to a breach of the legislation in exactly the same terms as those which I propose here tonight.

If this Government is serious about the United Kingdom model, which they say is fair, reasonable and balanced, and which they say is necessary, let us adopt all of it. Let us not cherry-pick the bits that we like—the bits where the rights of citizens and non-citizens are thrown out the window—but provide the whole package, including this defence. This amendment is a real challenge to the bona fides of the Minister and of the Government in relation to their intentions with this legislation.

It would have been easy for the Opposition to say that this legislation is very poor and that it should not be supported but as a responsible Opposition and an alternative Government we have engaged with the very serious public policy issues and we are doing our best to take a bipartisan or cross-partisan approach to these issues to improve the bills so that we have a vigorous and robust series of anti-crime measures which contain safeguards so that their integrity of the provisions and public confidence in the provisions can be improved. This is one of those safeguards. If the United Kingdom model is so good that the Government has borrowed from it, let us take all of it.

The Hon. DAVID CLARKE (21:41): The defence of honest and reasonable mistake applies in this circumstance, and the Government believes that this is the appropriate defence for the contravention of a serious crime prevention order. Thus, the Government opposes this amendment.

The Hon. ADAM SEARLE (21:42): I have been through these bills quite carefully over the last few days. I ask the Parliamentary Secretary to point out in the legislation where the defence of honest and reasonable mistake is to be found in the explicit terms of the bill before the House. If he can point that out I will withdraw this amendment.

The CHAIR: (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 1 on sheet C2016-040. The question is that the amendment be agreed to.

Question negated.

The Hon. ADAM SEARLE (21:43): I move Opposition amendment No. 24 on sheet C2016-032D:

No. 24 **Appeals against serious crime prevention orders**

Page 7, clause 11 (1)–(3), lines 20–28. Omit all words on those lines. Insert instead:

- (1) Each of the following persons may appeal to the Court of Appeal against a decision of the Supreme Court in relation to the making of a serious crime prevention order:
 - (a) the applicant for the order,
 - (b) the person against whom the order is made.
- (2) An appeal is to be by way of a rehearing as provided by section 75A of the *Supreme Court Act 1970*.
- (3) The appeal must be made within 28 days after the date on which the decision was made unless the Court of Appeal grants leave for it to be made after that time.

This amendment deals with appeals against serious crime prevention orders. The Government has an appeal mechanism within the legislation found in clause 11. In this respect it is much better than the counterpart bill, which has an appeal mechanism that no-one will ever be able to use. However, the appeal is restricted, as we see in clause 2, to an appeal as of right on a question of law—which is fine—and, with leave, on a question of fact. The Opposition thinks that that is too narrow. The Opposition thinks that a better mechanism would be a rehearing as provided for in section 75A of the Supreme Court Act. Otherwise, the appeal provisions are fine. The appeal mechanism just needs to be made a little bit more flexible than the somewhat narrow version that we have in the bill before us.

Mr DAVID SHOEBRIDGE (21:43): I indicate The Greens support for the Opposition's amendment. Having a broader appeal right seems a rational and sensible approach. Indeed, it provides an important check and balance to the legislation. Again I note for the record that these amendments are merely tinkering with an almost unsalvageable bill but the Opposition is struggling responsibly to seek to knock off some of its more offensive elements. This is one of those amendments and for that reason we support it.

The Hon. DAVID CLARKE (21:44): Allowing for an appeal as of right on a question of law and with leave on a question of fact is a broad appeal right and is appropriate for these types of orders. Allowing a rehearing as per section 75A would mean that every person would appeal, given that they have nothing to lose. That would have the effect of prolonging the matter and have each matter reconsidered by a different court.

The CHAIR: (The Hon. Trevor Khan) The question is that Opposition amendment No. 24 on sheet C2016-032D be agreed to.

Amendment negatived.

The CHAIR: (The Hon. Trevor Khan) The question is that the bill as read be agreed to.

Motion agreed to.

The CHAIR: (The Hon. Trevor Khan) We will now move on to the Crimes Legislation Amendment (Organised Crime and Public Safety) Bill 2016. If leave is granted to take the bill as a whole with the exception of schedule 5, I will proceed accordingly.

Mr Adam Searle: There are no amendments to anything else.

The CHAIR: (The Hon. Trevor Khan) There is an amendment to schedule 4 appearing on sheet C2016-33C. Amendment No. 1 relates to public safety orders.

The Hon. ADAM SEARLE (21:47): I move Opposition amendment No. 1 on sheet C2016-33C:

No. 1 **Public safety orders**

Page 12, Schedule 4 [2], lines 5–9. Omit all words on those lines.

This amendment would have the effect of deleting public safety orders from that part of the bill.

The Hon. DAVID CLARKE (21:47): This amendment removes public safety orders from the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. Obviously, the Government opposes this amendment. Unlike members opposite, we will not deny the NSW Police Force such a valuable tool to prevent individuals from posing a serious risk to public safety or security.

Mr DAVID SHOEBRIDGE (21:47): The Greens support the Opposition amendment pretty much for the reason that the Government opposes it. We do not believe the police should have the extraordinary discretionary powers that the Government is proposing to give them. Schedule 5 is the most offensive element of this particular part of the legislation. The idea of giving these kinds of discretionary powers to fetter the liberty of our citizens based upon essentially the gut feeling of police inspectors should be offensive to a majority of members in this Chamber. It is deeply unfortunate that it will not be. Again, it is instructive to hear the Parliamentary Secretary say basically that whatever the police want they will get from this Government. No doubt, having been consigned to the position of an elegant poodle in the Cabinet, the Attorney General's considerations of liberty that would normally countervail have been ignored. For those reasons we support the Opposition's amendment.

The CHAIR: The Hon. Adam Searle has moved Opposition amendment No. 1 appearing on sheet C2016-033C. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (21:49): By leave: I move Opposition amendments No. 1 and Nos 14 to 22 on sheet C2016-034D in globo:

No. 1 **Appeals available against all public safety orders**

Page 13, Schedule 5, proposed section 87P, line 9. Omit all words on those lines.

No. 14 **Appeals available against all public safety orders**

Page 15, Schedule 5, proposed section 87S (1), lines 38 and 39. Omit "if the order is (or is to be) in force for a period exceeding 72 hours".

No. 15 **Appeals available against all public safety orders**

Page 17, Schedule 5, proposed Division 3, line 28. Omit "long duration".

No. 16 **Appeals available against all public safety orders**

Page 17, Schedule 5, proposed section 87V, lines 29–31. Omit all words on those lines.

No. 17 **Appeals available against all public safety orders**

Page 17, Schedule 5, proposed section 87W, line 32. Omit "long duration".

No. 18 **Appeals available against all public safety orders**

Page 17, Schedule 5, proposed section 87W (1), line 33. Omit "long duration".

No. 19 **Appeals available against all public safety orders**

Page 17, Schedule 5, proposed section 87W (1) (b), lines 36 and 37. Omit "(unless the decision operates to reduce the duration of the order to 72 hours or less)".

No. 20 **Appeals available against all public safety orders**

Page 17, Schedule 5, proposed section 87W (2), line 38. Omit "long duration".

No. 21 **Appeals available against all public safety orders**

Page 17, Schedule 5, proposed section 87W (3), line 41. Omit "long duration".

No. 22 **Appeals available against all public safety orders**

Page 18, Schedule 5, proposed section 87X (1), line 2. Omit "long duration".

These amendments would provide a meaningful avenue of appeal against public safety orders. In the legislation as it is currently drafted, while there is an appeal mechanism, it can only be utilised in relation to public safety orders of more than 72 hours in duration. I refer to division 3 and to new sections 87V, 87W, 87X, 87Y and 87Z. If a public safety order is for less than 72 hours, there appears to be no mechanism in the legislation for a person subject to such an order to approach the Supreme Court—or indeed any court—to have the order reviewed or set aside.

It is interesting that, in relation to the making of serious crime prevention orders, the Government says: "The courts should make this order. It is so serious and important that the courts should make the order." But the public safety orders in the second bill are in many ways more powerful and more pervasive—yet under this bill these would be able to be made not only by the leadership of the NSW Police Force but by police officers of the rank of inspector. The term "senior police officer" is in the bill. I stand to be corrected—if I am wrong, no doubt the Parliamentary Secretary will correct me—but I think inspector is the lowest rank of commissioned police officer in this State. Without wishing to be disrespectful to anyone with the rank of inspector, relatively speaking they are not senior police officers. But this legislation would give officers of that rank and above enormous and pervasive powers to determine whether or not a person is allowed to be at certain places at certain times.

The regime rests on a view formed by the police officer. That view might be right or it might be wrong, but it certainly cannot be reviewed, scrutinised or evaluated—because the person subject to it will not get notified that the police are considering making an order and will not have the right to be heard before any order is made. They are bound by the order from the time they are presented with a copy of it or, in the case of urgent orders, from the time they have the order communicated to them in the terms set out for urgent orders in the bill, in new section 87T.

We think it is important to have a proper appeal mechanism. If we are to have such serious restrictions on people's liberty and their right to be at certain places and do certain things, the least the Parliament can do is provide a meaningful appeal mechanism. What we have here is a complete joke.

The appeal mechanism applies only to long duration public safety orders. It might be an error of drafting, or maybe I have not read it properly, but I cannot see how one can make a public safety order for more than 72 hours. Indeed, new section 87S provides that a public safety order can last for no longer than 72 hours. So here we have an elaborate charade.

When the bill was introduced the Government said, "Do not worry, we have court supervision so if you do not like it you can appeal in certain circumstances." But this appeal mechanism cannot be used. From the very informative briefing provided by the Justice department, for which I thank the police Minister, we know that the bill contains nothing to cover a situation where consecutive orders are made against a person, all of which are less than 72 hours in duration but which have the effect of restricting a person's movements and activities every Friday or Saturday or each day of the week. As long as they are separate and distinct orders there is no general provision to wrap them up because the 72 hours applies only to an individual order, not to a consecutive series of orders.

On my reading of the legislation, if the police were really concerned about the activities of someone they could have a series of orders amounting to hundreds of hours and that person could never have those orders reviewed by the Supreme Court. I do not wish to be conspiratorial but it was the clear advice of the departmental

officers that that could happen and the appeal mechanism would never be engaged. If that is correct, we have an appeal mechanism that is designed not to work and that will never be used. So we have these powerful orders that relatively junior police officers can issue against a person based on that police officer's belief, which may or may not be correct but which certainly cannot be scrutinised or reviewed, and there is nothing the person subject to it can do. I understand that the objective is to ensure public safety and to reduce the criminality and activities of criminals. The Opposition shares that laudable aim but if we are to have these novel and powerful orders—in this instance they are issued by the police, not by the courts—the courts must be able to review them. There is no effective appeal or review mechanism in this bill, and there should be.

The Hon. DAVID CLARKE (21:57): The bill does not provide for a right of appeal if the order does not last beyond 72 hours. This is necessary for operational reasons as such orders are likely to be made at short notice and are not likely to last the full 72 hours. In those circumstances it is unlikely to be practical to allow for a right of appeal, given the urgency and the practicality of having a hearing before an order expires. However, the person would still have a right of prerogative relief in the Supreme Court. The Government opposes these amendments.

Mr DAVID SHOEBRIDGE (21:58): The Greens support the Opposition's amendments. The Government has said that because these orders will not exceed 72 hours it is not practical to give an appeal right. The Opposition has correctly pointed out that the legislation allows a police officer, without any admissible evidence because there is no court involved, to make a public safety order that lasts for less than 72 hours—it may last only for 24 hours—but it can be made applicable for this week, next week and the week after. Indeed, it can be made applicable every Friday, Saturday or Sunday of a person's life.

It could cover every Friday, Saturday and Sunday—all the days except the last minute of a person's life. That order could now be made literally unreviewable for the term of a person's natural life and the Government proposes to allow no appeal right. Let us think about the kinds of events that might be covered by a public safety order where a person does an activity on one day of every week of their life. It does not take a genius to work out what kind of event people choose to do one day a week. What about going to church on a Sunday? Some people go to church every Sunday.

The Hon. Paul Green: Yes, a great idea.

Mr DAVID SHOEBRIDGE: I note the interjection from the Hon. Paul Green. If the police did not like the church that the person was attending—

The Hon. Duncan Gay: The police like churches.

Mr DAVID SHOEBRIDGE: I note the interjection from the Hon. Duncan Gay and I hear the interjection that police Commissioner Andrew Scipione will not stop anyone from going to church. Perhaps we can put to one side the example of attending church because the cultural prejudices and values of senior members of the NSW Police Force probably mean that these orders will not be made to prevent someone from going to church. We know that these values have been supported and endorsed by members of this Chamber, so let us think of some other place people may attend every week. Let us be creative. What about going to a mosque every Friday night?

Can we comfortably say that senior members of the police will not be making orders against somebody going to a mosque every Friday night for the rest of their life? I am waiting for interjections from members in the Chamber saying that no, that would never happen. I am waiting for interjections from members of the Christian Democratic Party or the Leader of the Government who keenly interjected to say that police would never make an order against somebody attending church for the rest of their natural life.

I raise the example of attending a mosque and there is a complicit silence from members of the Legislative Council who were comfortable to say that these orders would not be made to prevent a person from attending church for the term of their natural life. Let us be clear, those opposite want to be able to make unreviewable orders to prevent somebody from going to a mosque for the rest of their natural life and that is why they oppose a right to appeal. That is why they are so offended by the Opposition moving amendments to give a right to appeal.

Clearly the intent is that a police inspector can make an order to prevent a person from going to the place of worship of their choice for the rest of their natural life without any power of review or appeal. That is what those opposite want. The religious prejudices that trouble people of the Moslem faith in this community make them concerned that these laws will target them. That their concerns are justified has been on display in this Chamber tonight in discussing these amendments.

We should be deeply troubled that this Parliament is comfortable with giving this kind of discretionary power to a police officer. This power can prevent somebody from going to their chosen place of worship for the

rest of their life simply because a majority of members have some implicit prejudice against that person's religion. We should never be comfortable with giving these kinds of powers to a police officer without review by the courts. It flies in the face of the idea that we are all equal before the law.

In an open, liberal democracy where people are free to exercise their faith and religion free from prejudice, it is incompatible with the view of The Greens of our open society that we would give without a whimper these kinds of discretionary powers to police to exercise in this discriminatory way against people. The Greens support the Opposition's amendments and we will closely watch the way in which these powers are exercised by the NSW Police Force. I can already see the pattern that will develop and it is deeply troubling for the future of our society.

The CHAIR: The Hon. Adam Searle has moved Opposition amendments Nos 1, 14 to 22 on sheet C2016-034D. The question is that the amendments be agreed to.

The Committee divided.

Ayes15
Noes18
Majority.....3

AYES

Dr Faruqi
Mr Moselmane (teller)
Mr Searle
Mr Wong (teller)
Ms Houssos

Mr Buckingham
Mr Pearson
Mr Shoebridge
Ms Barham
Ms Sharpe

Mr Mookhey
Mr Primrose
Mr Veitch
Ms Cotsis
Ms Voltz

NOES

Dr Phelps
Mr Blair
Mr Farlow
Mr Gay
Mr Mallard
Ms Mitchell

Mr Ajaka
Mr Clarke
Mr Franklin (teller)
Mr Green
Mr Pearce
Ms Taylor

Mr Amato
Mr Colless
Mr Gallacher
Mr MacDonald
Ms Maclaren-Jones (teller)
Reverend Nile

PAIRS

Mr Donnelly
Ms Cusack

Mr Mason-Cox

Mr Secord

Amendment negatived.

The Hon. ADAM SEARLE (22:12): I move amendment No. 2 on sheet C2016-034D:

No. 2 **Only Commissioner or Deputy or Assistant Commissioner can make public safety orders**

Page 13, Schedule 5, proposed section 87P, lines 14 and 15. Omit all words on those lines. Insert instead:

senior police officer means the Commissioner of Police or a Deputy or Assistant Commissioner of Police.

This amendment would restrict the police officers who could make public safety orders from the present cohort of inspector and above to only the commissioner, the deputy or assistant commissioner. The Opposition proposes this amendment as a safeguard. The rank of inspector is too low to be making such an important and powerful set of orders. If such orders are to be available to the police to assist with dealing with or preventing criminal activity they should be reserved only for the most senior members of the Police Force. I elaborated on the reasons for this in my second reading contribution and I will not repeat those arguments here .

The Hon. DAVID CLARKE (22:13): It is appropriate to allow a police officer of the rank of inspector or above to issue a public safety order [PSO] as they are the officers on the ground with operational knowledge of the situation. The rank of inspector is a commissioned officer and so quite senior in the police hierarchy but at the time close enough to everyday operational policing to be well placed to make the judgement that a PSO is warranted. More senior officers, particularly those of assistant commissioner rank or above, will often be neither

available at the appropriate time nor sufficiently across the details in a given situation to make that judgement call. Thus, the Government opposes the amendment.

Mr DAVID SHOEBRIDGE (22:14): The Greens support the Opposition's amendment. Again, it is a very modest amendment that is designed to put in place checks and balances. As I understand it, the way assistant, deputy and police commissioners operate is that they get comprehensive intelligence briefings from their junior officers. They require comprehensive intelligence briefings from their junior officers and then on receipt of those briefings they take actions. It is called a check and balance. It is appropriately elevating these orders to the highest levels of the NSW Police Force, where I assume they will get adequate briefings before they exercise their powers.

To simply say that the inspectors are appropriate because inspectors are appropriate because we believe inspectors are appropriate really does not answer the argument being put up by the Opposition. Elevating it to the most senior members of the Police Force would put in place at least some checks and balances that are otherwise missing from the legislation. Of course, it does not cure or properly adequately resolve the enormous problems with this legislation. It goes a small way but, again, it seems that even that small way is too much for the Government.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 2 on sheet C2016-034D. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (22:15): By leave: I move Opposition amendments Nos 3, 5, 7, 9 and 13 on sheet C2016-034D in globo:

No. 3 Serious risk of crime related activity required

Page 13, Schedule 5, proposed section 87P. Insert after line 18:

serious crime related activity has the same meaning as in the *Crimes (Serious Crime Prevention Orders) Act 2016*.

No. 5 Serious risk of crime related activity required

Page 13, Schedule 5, proposed section 87R (1), lines 29-33. Omit all words on those lines. Insert instead:

- (1) A senior police officer may make a public safety order only if:
 - (a) the presence of the person (or class of persons) concerned at the public event or premises or other area concerned poses a serious risk that the person or persons will engage in or cause serious crime related activity, and
 - (b) the making of the order is reasonably necessary in the circumstances.

No. 7 Serious risk of crime related activity required

Page 14, Schedule 5, proposed section 87R (2) (a), lines 3-6. Omit all words on those lines. Insert instead:

- (a) whether the person or persons to whom the order will apply have a history of engaging in serious crime related activity,

No. 9 Serious risk of crime related activity required

Page 14, Schedule 5, proposed section 87R (2) (f), lines 36 and 37. Omit "to public safety or security". Insert instead "of persons engaging in or causing serious crime related activity".

No. 13 Serious risk of crime related activity required

Page 15, Schedule 5, proposed section 87R (5) and (6), lines 7-18. Omit all words on those lines.

At the moment we think the threshold for making a public safety order is too low. It is triggered by a senior police officer's concern that there may be a risk to public safety and security, which, as defined in the bill, covers all manner of ills from property damage at the low end through to serious injury or death of another person at the high end. It covers quite a broad range of potential ills. Having the threshold so low as to be triggered by property damage, for example, and given the pervasive and powerful nature of these orders, we think a more restricted range of issues only should be able to be dealt with or triggered by public safety orders. Again, we do not understand why different thresholds, triggers and rules apply to public safety orders as opposed to serious crime prevention orders. We think the trigger for each should be essentially the same. We have argued for a single regime of orders.

Therefore, we think the legislation should be amended so that a public safety order may only be triggered by the apprehension that there is serious crime-related activity as provided for in the other legislation so that there is greater consistency between the two new laws to make sure that the legislation is directed at very serious matters that warrant the exceptional measures that are under consideration by the Parliament. Using public safety orders

to deal with property damage would seem to be excessive, in our view. Only really serious criminal activity should be the subject of either regime of orders.

The Hon. DAVID CLARKE (22:18): The purpose of serious crime prevention orders [SCPOs] and public safety orders [PSOs] is different, which warrants the need for different tests. SCPOs are preventative and are intended to restrict the ability of criminals to commit crime and will bolster law enforcement's efforts to target serious and organised crime. SCPOs will make it quicker and easier for law enforcement to take restrictive action against crime gang members such as outlaw bikies. Public safety orders are also preventative. However, they are about giving police the power to make an immediate and urgent response to a particular situation where they are satisfied that the person's presence at a public event, premises or other area poses a serious risk to public safety or security and the order is reasonably necessary in the circumstances to mitigate this risk.

Serious risk to public safety or security means there is a serious risk that the presence of a person might result in death or serious physical harm to a person or serious damage to property. The New South Wales bill has been modelled on the equivalent South Australian provisions that use this test. Public safety orders address the immediate often violent threat presented by members of criminal organisations and others, whereas serious crime prevention orders aim to prevent long-term serious and organised criminal activity. The Government opposes this amendment.

Mr DAVID SHOEBRIDGE (22:20): The Greens support the Opposition's amendment. Narrowing the circumstances in which a senior police officer can make a public safety order is again a modest way of trying to rein in some of the excesses of this legislation. The Opposition's amendment provides:

- (1) A senior police officer may make a public safety order only if:
 - (a) the presence of the person (or class of persons) concerned at the public event or premises or other area concerned poses a serious risk that the person or persons will engage in or cause serious crime related activity, and
 - (b) the making of the order is reasonably necessary in the circumstances.

The amendment is targeted only at those persons about whom the police are concerned or have a reasonable belief that causes them to be concerned will engage in serious criminal or crime-related activity. The Government wants to rope in anyone who might be in sight or who might be related to any serious crime-related activity. For example, someone who has views that are considered offensive by other people in the community might announce that they intend to give a speech at a such and such a time at such and such a place. Those views may be of a religious nature and some people might find them offensive. A large number of intolerant and angry people might regard what will be said as so offensive that they plan to disrupt the event and potentially engage in violence while doing so.

This legislation would allow the police to issue the public safety order not against the people intending to create the disturbance or to indulge in violence—although they could if they chose—but against the person intending to make the speech. The last time I checked we are meant to have freedom of speech. However, the police might determine that the violence perpetrated by the people objecting to the speech is a reaction to the person exercising his or her right to free speech. This is not an academic issue.

The Hon. Dr Peter Phelps: Do you mean people like Geert Wilders?

Mr DAVID SHOEBRIDGE: I note the interjection from the former Government Whip, although I do not normally do that. That is one example. People say offensive things in our society and that is part and parcel of exercising our right to free speech. We now draw the line by preventing people vilifying others or inciting violence. Sometimes people simply express their religious, philosophical and political views without any intention to incite violence or to marginalise, harm or cause trouble for any minority. They are simply expressing their views.

The Hon. Dr Peter Phelps: Like Andrew Bolt?

Mr DAVID SHOEBRIDGE: However, some people with different views might be deeply offended. Andrew Bolt is offended when someone like Larissa Behrendt expresses her views. That does not mean that the police should have the power to order that people not express their views so that the likes of Andrew Bolt and his followers do not get offended and start inciting violence.

The police have not had these powers before. The Opposition's amendment makes it clear that the legislation would give the police the ability to shut down that kind of free speech. It seems that the Government is comfortable with that. The Government says, "That is okay. An inspector has to do it." If that is the protection the Government is offering for our liberties, our liberties will not last long.

The CHAIR: The Hon. Adam Searle has moved Opposition amendments Nos 3, 5, 7, 9 and 13 on sheet C2016-034D. The question is that the amendments be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (22:24): By leave: I move Opposition amendments Nos 4, 11 and 24 on sheet C2016-034D in globo:

No. 4 **Public safety order cannot be made against children or other vulnerable persons**

Page 13, Schedule 5, proposed section 87P. Insert before line 19:

vulnerable person—see section 87Q.

87Q Meaning of "vulnerable person"

(1) In this Part, a *vulnerable person* means a person who falls into any one or more of the following categories:

- (a) persons who are under the age of 18 years,
- (b) persons who have impaired intellectual functioning,
- (c) persons who have impaired physical functioning.

(2) For the purposes of this Part, a person who has impaired physical functioning is taken not to have impaired physical functioning if the senior police officer proposing to make a public safety order against the person reasonably believes that the person's impairment is so minor that the person will not be significantly disadvantaged with respect to the person's ability to comply with the proposed order (in comparison with members of the community generally).

(3) In this section:

impaired intellectual functioning, in relation to a person, means:

- (a) a total or partial loss of the person's mental functions, or
- (b) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction, or
- (c) a disorder, illness or disease that affects the person's thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour.

impaired physical functioning, in relation to a person, means:

- (a) a total or partial loss of the person's bodily functions or of part of a person's body, or
- (b) a presence in the person's body of organisms causing or capable of causing disease or illness, or
- (c) a malfunction, malformation or disfigurement of part of the person's body.

No. 11 **Public safety order cannot be made against children or other vulnerable persons**

Page 14, Schedule 5, proposed section 87R (3). Insert after line 48:

- (c) the order would apply to any vulnerable persons, or

No. 24 **Public safety order cannot be made against children or other vulnerable persons**

Page 20, Schedule 5, proposed section 87ZC (2), lines 1–8. Omit all words on those lines.

These amendments would prohibit the making of a public safety order against children or other vulnerable persons as defined in new section 87Q, which is persons under the age of 18, persons who have impaired intellectual functioning and persons who have impaired physical functioning. We understand that there are intended to be differences between serious crime prevention orders and public safety orders, but we note that the serious crime prevention orders apply only to persons aged over 18—that is, adults. We have not heard from the Government any substantial rationale as to why the pervasive and strong powers provided for in connection with the proposed public safety orders need to apply to children or to persons with impaired intellectual or physical functioning.

We note that there are special provisions for those persons in new section 87T (2) and (3) but, notwithstanding the reasons advanced in support of public safety orders, the Government has not explained why it is necessary for these vulnerable persons to be subject to these orders. We think that is extreme. We do not see the rationale for it. We ask the Government to accept our amendments. It cannot be the case that it is necessary to have these orders in connection with these persons. This small group of persons should be carved out of the legislation, as persons under the age of 18 are carved out from the application of serious crime prevention orders. It should be remembered that serious crime prevention orders are pervasive and go not only to persons who are directly engaging in serious crime-related activity but to persons who are facilitating or likely to facilitate such activities whether or not they are even aware of it. If that extraordinary regime does not apply to people under 18,

why then should this? We think it is an overreach and that the Parliament should ask the Government to take one step back and provide this small but important safeguard.

The Hon. DAVID CLARKE (22:28): The bill provides safeguards for orders that may apply to a young or vulnerable person. The bill prescribes service and notification requirements for making or varying a public safety order to ensure that the person is properly notified. A senior police officer must personally serve a copy of the order made or varied on each person named in the order. The public safety order must be in writing and must also contain the reasons for making or varying the public safety order. Further, if a person is a child under the age of 18 or has impaired intellectual functioning, the bill requires the senior police officer to also serve a copy of the order on the person's parent or guardian if it is reasonably practicable to do so. The bill also provides for a regulation-making power for the provision of further safeguards in relation to vulnerable persons subject to a public safety order, if necessary.

The NSW Police Force will have appropriate training, policies and procedures in place to ensure that officers are aware that the purpose of public safety orders is to protect members of the public from associated violence through disrupting or restricting activities of organisations involved in serious crime, their members and associates. These will not be used improperly or on vulnerable people. This will build on the already extensive protocols and training in the NSW Police Force about dealing with vulnerable people. The Government opposes the amendments.

Ms JAN BARHAM (22:29): I am relieving my colleague Mr David Shoebridge for a moment; he has been on his feet a lot in the past day or two. I speak in support of the amendments moved by the Opposition. Having heard the Government speaker with his "she'll be right, mate" approach, quite frankly I do not believe it because I know that currently we do not have those protections and provisions in place, particularly for people with intellectual impairment. There is currently a Senate inquiry about incarceration of people with intellectual impairment. What is being proposed by the Opposition is very reasonable and I think it is quite proper that we should support the amendments put forward.

I thank the Opposition for putting forward these amendments. The Opposition has been far more optimistic with this bill than The Greens have been willing to be. As my colleague said, The Greens saw that it was virtually impossible to make any good of this bill. I congratulate the Opposition on attempting to do so and for putting forward such positive and optimistic amendments for the good of the people, knowing full well the commitments given.

I think it is quite sad. I hate to be cynical, but I do not think you can give those guarantees about police being properly supported in delivering those functions and protecting, and supporting the rights of young people as young as 14 years old and people with intellectual impairment. As a society we do not care for them properly. I am sorry, but what often happens with policing is that police are often less able to and less trained to do that. "It will be okay" does not sit well. The amendments are very important to protect these vulnerable people in our society.

The Hon. ADAM SEARLE (22:32): I note the comments from the Parliamentary Secretary about the safeguards in place for vulnerable persons. But of course there is a fundamental flaw with his analysis and his commitments to the Chamber: There is no review mechanism. All of these are not complied with substantially or the reasons that are advanced in the notification to the parent or guardian are completely fallacious and spurious. It does not prevent the order from being made. It is a non-safeguard because there is no capacity to review it or have it reviewed by a court. Section 87T (2) states:

If the senior police officer considers that a person to whom the order applies is a person under the age of 18 years ... the officer must ensure that the order and notification are also served ... on a parent or guardian ...

Well, so what? Instead of just being served on the person it will be served on a parent or guardian. The parent or guardian of the physically or intellectually impaired person presumably then has to have the shared responsibility of making sure their child or the person they are the guardian of does not breach the order, if of course it is reasonably practicable to do so. These safeguards are merely a notification in writing, specifying dates and setting out the reasons. It does not mean the reasons have to be good, cogent, sound, rational or based in fact rather than prejudice, supposition or completely erroneous material. There is no rigour, no probity and no discipline in the regime of orders because no-one can review it.

Another copper could, of course—the same copper or a more senior copper. But there is no independent scrutiny by the courts. This means, human beings being what they are, that there is a serious risk of laziness and of making decisions on a weak basis or premise. I know that the police are dedicated to protecting the public, and they will err on the side of caution and of not taking risks. Therefore, the absence of supervision by the courts of police actions in this regard is a serious failure in the regime proposed.

I do not say this by way of criticism of the Police Force or its members. Rather it is the Government, and this Parliament if this bill is allowed to pass as it stands, which is letting down our serving officers by not providing proper, systemic support for them in the role they will play in determining whether or not to make orders and in what terms. It would actually assist members of the Police Force in the execution of their duties to have that independent scrutiny to provide them with that additional support and rigor and to provide integrity to the scheme.

It is vitally important that, when we enact unusual measures like this with the objective of protecting the public, we do not unwittingly create a situation where members of the public are themselves adversely impacted. I think when we are dealing with young people and people who are impaired, whether intellectually or physically, special care needs to be taken. With all due respect to the Parliamentary Secretary, the bill in its current form does not do that. The mere obligation to provide additional notification to additional people containing information does not actually, with respect, protect those persons.

People with intellectual impairment may not fully understand the terms of the order that they are subject to. It is served on their guardian or parent, who no doubt will do their best to ensure their child or ward does not breach the terms of the order. But it is a bit hard to make sure that happens. This is an extremely unrealistic and very dangerous proposal, if we do not take the precautionary step pleaded for by the Opposition. I really ask members to embrace this—not to weaken the regime but rather to strengthen it and to give the public greater confidence that there will not be excess, overreach or innocent people adversely impacted.

The CHAIR: The Hon. Adam Searle has moved Opposition amendments Nos 4, 11 and 24 appearing on sheet C2016-034D. The question is that the amendments be agreed to.

The Committee divided.

Ayes 15
Noes 18
Majority.....3

AYES

Dr Faruqi
Mr Moselmane (teller)
Mr Searle
Mr Wong (teller)
Ms Houssos

Mr Buckingham
Mr Pearson
Mr Shoebridge
Ms Barham
Ms Sharpe

Mr Mookhey
Mr Primrose
Mr Veitch
Ms Cotsis
Ms Voltz

NOES

Dr Phelps
Mr Blair
Mr Farlow
Mr Gay
Mr Mallard
Ms Mitchell

Mr Ajaka
Mr Clarke
Mr Franklin (teller)
Mr Green
Mr Pearce
Ms Taylor

Mr Amato
Mr Colless
Mr Gallacher
Mr MacDonald
Ms Maclaren-Jones (teller)
Reverend Nile

PAIRS

Mr Donnelly
Ms Cusack

Mr Mason-Cox

Mr Secord

Amendment negatived.

The Hon. ADAM SEARLE (22:44): I seek leave to move Opposition amendments Nos 8 and 10 in globo.

The CHAIR (The Hon. Trevor Khan): Opposition amendment No. 6 is still outstanding.

The Hon. ADAM SEARLE: I move Opposition amendment No. 6 on sheet C2016-034D:

No. 6 **Right to be heard before public safety order is made**

Page 13, schedule 5, proposed section 87R. Insert before line 41:

- (2) A senior police officer must not make a public safety order that applies to a person unless the officer has given the person a reasonable opportunity to be heard about whether the order should be made unless the person cannot be contacted following a reasonable attempt to do so. It is sufficient compliance with this subsection if the person is afforded the opportunity to make written submissions.

This amendment meets one of our criticisms that people will not be given the opportunity to be heard before the police officer makes an order. The assumptions on which the police officer is acting or will act will never be the subject of review and will never be tested on the way through. It seems an extraordinary proposition that such powerful orders would be able to be made restricting the rights of people to go places at certain times, to do things or to be at events or in locations without even being able to be heard on the matter. At the very least people should be given the opportunity to be heard by the police officers before such an order is made.

The Hon. DAVID CLARKE (22:46): In regard to Opposition amendment No. 6 in practice this would happen in the making of the order, however the legislation should not be so restrictive as to require this to occur in every situation as this would not be practicable in all situations. It is for that reason that the Government opposes this amendment.

Mr DAVID SHOEBRIDGE (22:46): We have just heard another of those courageous contributions from the Parliamentary Secretary, again no doubt from notes provided by the police Minister—that is, the idea that in most circumstances no doubt police would give people natural justice. But they have forgotten to put any kind of a requirement in the bill. I wonder what has convinced the Parliamentary Secretary that in most circumstances the police will give people natural justice, absent any requirement to do so. Last time I checked, when police are exercising the powers, they look to the law and to ascertain their obligations. They mould their conduct around the legal obligations that the Parliament gives them.

Reverend the Hon. Fred Nile: And their oath as a police officer.

Mr DAVID SHOEBRIDGE: Reverend the Hon. Fred Nile talks about their oath as a police officer. Last time I checked the oath of a police officer it did not state anything about natural justice and requiring the people the subject of the exercise of their powers to be granted natural justice. That does not feature in the oath.

Reverend the Hon. Fred Nile: To uphold the law.

Mr DAVID SHOEBRIDGE: I heard the interjection "to uphold the law", which brings me back to where I was before I made the mistake of listening to the interjection. The police are guided by the law. They work out what they have to do by reading the law, not by reading the prayers that have been issued in this debate by the Parliamentary Secretary or looking at the wishful thinking of the Parliamentary Secretary. When they look at the law they work out whether to give the person the subject of a public safety order the right to be heard they realise it is not there as the Parliament in its wisdom has decided that it does have to give somebody procedural fairness. In fact, that just gets in the way of issuing the order when they realise it is not in the law. Police officers who, as the Reverend the Hon. Fred Nile in support of my argument has said, are there to uphold and obey the law will not do so because they will follow the law.

Reverend the Hon. Fred Nile: They can exercise discretion.

Mr DAVID SHOEBRIDGE: Reverend the Hon. Fred Nile said they will exercise discretion. Discretion to grant natural justice or discretion to not grant natural justice?

As a general rule natural justice is not discretionary. Letting people be heard before one monsters them is a basic fundamental principle. It is not always expressed in those terms; sometimes we call it natural justice. Natural justice will not be required by this legislation. Natural justice will not be delivered; injustice will be delivered—and the Government seems happy with that.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendment No. 6 on sheet C2016-034D be agreed to.

Amendment negated.

The Hon. ADAM SEARLE (22:49): By leave: I move Opposition amendments Nos 8 and 10 on sheet C2016-034D in globo:

No. 8 **Public safety order cannot prevent non-violent advocacy etc**

Page 14, Schedule 5, proposed section 87R (2) (c), lines 15–18. Omit all words on those lines.

No. 10 **Public safety order cannot prevent non-violent advocacy etc**

Page 14, Schedule 5, proposed section 87R (3) (a) and (b), lines 43–48. Omit all words on those lines. Insert instead:

- (a) non-violent advocacy, protest, dissent or industrial action is likely to be the primary purpose for their presence at the public event or premises or other area, or

These amendments will ensure that public safety orders cannot be used as a method to prevent non-violent advocacy, protest or dissent or to prevent persons from engaging in industrial disputes. I know that those matters are adverted to in new section 87R (2) (c) and new section 87R (3). Indeed, a senior police officer is enjoined to not make a public safety order if the officer believes that non-violent advocacy, protest, dissent or industrial action is likely to be the primary purpose of a person's presence at the event, premises or other area.

However, the problem with the safeguard, if it be a safeguard, is that it rests on what the police officer believes. If the police officer believes that those gatherings are really for the purpose of engaging in one of the things that are proscribed by the legislation—damage to property, destruction of property, serious injury, death or any of those things that are included in the definition "serious risk to public safety or security"—the officer may still make a public safety order notwithstanding the fact that the real and substantial reason for persons gathering together is for those other lawful purposes of non-violent advocacy, protest, dissent or industrial action.

We debated at length not so long ago the anti-protest laws. Many persons in this Chamber and in the community felt it was an unwarranted infringement of people's existing rights in a civil society to engage in those activities. Ensuring that there is proper space for those activities is a cornerstone of our democracy. I am sure it is not the intention of the Government, through the means of public safety orders, to infringe those rights, but such protections as are sketchily provided in new section 87R do not provide the necessary guarantees. The Opposition proposes amendments Nos 8 and 10 to put the matter beyond doubt.

The Hon. DAVID CLARKE (22:52): The bill clarifies that a public safety order cannot be issued to prevent non-violent advocacy, protest or dissent, or industrial action. This is an important safeguard in the bill to ensure that we maintain a person's rights to legitimate protest. Therefore the Government opposes these amendments.

Mr DAVID SHOEBRIDGE (22:53): Perhaps the subtlety of the Opposition's argument was missed by the Parliamentary Secretary. Through these amendments the Opposition is getting rid of the current prohibition, which is about an officer's belief, and replacing it with an objective test. So it is not whether or not the officer believes that that non-violent advocacy, protest or dissent is likely to be the primary purpose for the person's presence at a public event, premises or other arena; it is whether or not, in fact, non-violent advocacy, protest, dissent or industrial action is likely to be the primary purpose for a person's presence at the public event, premises or other area. That is the distinction. These amendments are about getting away from effectively allowing the police, off their own bat, to criminalise someone's conduct based upon the belief of a police officer. Some kind of objective fact needs to be established.

Again, these are very modest amendments. It will still be the case of a police officer being satisfied about the fact but the amendments will at least put some kind of objectivity into it. It is not just about whether or not a police officer believes something. Why is that important? It is not because there is some terrific review power available. There is no meaningful appeal right. It is important in those cases where there is at least a reasonably cogent argument to suggest that there has been a jurisdictional error and the objective circumstances and facts could not be satisfied. It will at least allow for some kind of valid challenge on the grounds of jurisdictional error in the Supreme Court. That avenue will be shut to most applicants if all the police have to do is say that Inspector X was there and had the belief and there is no requirement for that belief to be formed on an objectively verifiable basis. For those reasons we support the Opposition's amendments.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendments Nos 8 and 10 on sheet C2016-034D be agreed to.

The Committee divided.

Ayes15
Noes18
Majority.....3

AYES

Dr Faruqi
Mr Moselmane (teller)
Mr Searle
Mr Wong (teller)
Ms Houssos

Mr Buckingham
Mr Pearson
Mr Shoebridge
Ms Barham
Ms Sharpe

Mr Mookhey
Mr Primrose
Mr Veitch
Ms Cotsis
Ms Voltz

NOES

Dr Phelps	Mr Ajaka	Mr Amato
Mr Blair	Mr Clarke	Mr Colless
Mr Farlow	Mr Franklin (teller)	Mr Gallacher
Mr Gay	Mr Green	Mr MacDonald
Mr Mallard	Mr Pearce	Ms MacLaren-Jones (teller)
Ms Mitchell	Ms Taylor	Reverend Nile

PAIRS

Mr Donnelly	Mr Mason-Cox	Mr Secord
Ms Cusack		

Amendment agreed to.

The Hon. ADAM SEARLE (23:03): I move Opposition amendment No. 12 on sheet C2016-34D:

No. 12 **Public safety order cannot be discriminatory**

Page 14, Schedule 5, proposed section 87R (3). Insert after line 48:

- (c) the making of the order would constitute discrimination against any of them on a ground specified by the *Anti-Discrimination Act 1977*, or

This amendment would ensure that it would not be possible for orders made under this legislation to contravene the Anti-Discrimination Act.

The Hon. DAVID CLARKE (23:03): The NSW Police Force will have had the appropriate training and policies in place to ensure that officers are aware that the purpose of public safety orders is to protect members of the public from violence associated with organised crime by disrupting and restricting the activities of organisations, and the members and associates of those organisations, involved in serious crime.

These will not be used improperly. This will build on the already extensive protocols and training in the NSW Police Force. Accordingly, the Government opposes this amendment.

Mr DAVID SHOEBRIDGE (23:04): A pattern is developing here. This amendment expressly seeks to prevent these powers being used in breach of the Anti-Discrimination Act, yet in opposing the amendment the Government has failed to mention the word "discrimination" or to even reference that Act. The Parliamentary Secretary talked about police training in a general way and did not say that these laws cannot be used in breach of the principles in the Anti-Discrimination Act. Indeed, he went to some length to avoid saying that the laws cannot be used in breach of that Act.

During the debate when we were talking about whether or not these public safety orders might be used in a fashion to prevent people going to church, from the Chamber we heard a resounding, "No, that would never happen; the police would never do that." When I asked whether or not the Chamber was satisfied that these powers would not be used to prevent people from going to a mosque there was a kind of embarrassed silence around the Chamber, except for Reverend the Hon. Fred Nile who basically said, "Yes, probably".

This amendment is an attempt to go some way to curing that defect by saying that these powers cannot be used in breach of the Anti-Discrimination Act but again we get a contribution from the Government that does not engage with the amendment. This amendment poses the question: Does the Government plan to have the police use these laws in breach of the Anti-Discrimination Act? There is a simple way to answer that question. The Government can say, "No. These laws will never be used in breach of the Anti-Discrimination Act. That is why we support this amendment." But the Government does not say that. It could say, "No. It is our intention to never breach the Anti-Discrimination Act, and even though it is not included members can be comforted that there will never be any breach of the Anti-Discrimination Act."

But the Government does not say that; it does not even mention the Anti-Discrimination Act. What are we led to conclude from that? The Government knows that the Anti-Discrimination Act will be breached and it is quite comfortable with that. In fact, one of its purposes is to allow for that kind of discriminatory policing. The Government wants to target a community out there. It is pretty clear which community that is and, sadly, some members of this Chamber seem really comfortable with that.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendment No 12 on sheet C2016-034D be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (23:07): I move Opposition amendment No. 23 on sheet C2016-034D:

No. 23 **Reasonable excuse defence for contravention of public safety order**

Page 19, proposed section 87ZA. Insert after line 15:

- (2) If a public safety order prohibits a person from entering, or being present at, any specified premises or other specified area, it is a defence to a prosecution for an offence against this section if the defendant proves that the defendant had a reasonable excuse for entering, or being present at, the specified premises or area.

This amendment would provide a defence to a person facing a charge for breaching a public safety order. It is similar in its intent to the amendment we moved in relation to the Crimes (Serious Crime Prevention Orders) Bill 2016. It will provide a clear statutory basis that there is a defence to a breach of a public safety order. I apprehend that the Government will say that this right exists even though it is not in the legislation.

The Hon. Lynda Voltz: Don't be too sure about that, Adam.

The Hon. ADAM SEARLE: I am not too sure. Again, I invite the Parliamentary Secretary to show me where it is because I would be very happy to be wrong about that. But perhaps it would be of more interest to members if the Parliamentary Secretary could outline the legal basis upon which he says the defence exists independently of it being in the legislation, just so we can have more comfort that the Government is not going to accept this amendment.

If it is in fact the Government's intention that there would be a reasonable excuse defence for breaching a public safety order and there is a sound legal basis for the Government having that view, I for one would be content. But I would like to understand where such a defence would arise. It is the case that even in relation to minor criminal offences the reasonable excuse does not apply any longer, having been abrogated by those offences taking statutory form and no longer being common law. This is a statutory regime and I would be interested to understand how what was a common law offence would apply to a new statutory provision such as this.

The Hon. DAVID CLARKE (23:10): The Government notes that in these circumstances the common law defence of honest and reasonable mistake in fact applies as per the case of *Proudman v Dayman*. The Government believes this is the appropriate defence in circumstances of contravention.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 23 appearing on sheet C2016-034D. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The question is that schedule 5 as read stand a part of the bill.

Motion agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that the bill as read be agreed to.

Motion agreed to.

The Hon. DAVID CLARKE (23:11): On behalf of the Hon. Niall Blair: I move:

That the bills be reported from Committee without amendment.

Motion agreed to.

Adoption of Report

The Hon. DAVID CLARKE (23:12): On behalf of the Hon. Niall Blair: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. DAVID CLARKE (23:13): On behalf of the Hon. Niall Blair: I move:

That these bills be now read a third time.

The Hon. ADAM SEARLE (23:13): On behalf of the Labor Opposition I oppose the third reading of the Crimes (Serious Crime Prevention Orders) Bill 2016 and the Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016. The Opposition applied itself diligently and seriously, as befits the important subject matter of the serious crime prevention orders and the organised crime and public safety orders proposed

in the two bills before the House. The Opposition did so because of the very serious and important objective of securing public safety and dealing with and disrupting serious and organised crime, an objective on which the Opposition has a significant record and which we support.

However, when creating novel and innovative mechanisms for law enforcement bodies to deal with the serious and pervasive nature of organised crime, we must ensure that there is proper supervision, proper safeguards and checks and balances to ensure that in our desire to protect the public we do not also harm the public and that we also provide protections for persons who, although under suspicion, may turn out to be not guilty.

With that in mind, we proposed a series of sensible and balanced amendments to ensure the probity, the integrity and public confidence in the two regimes of orders proposed in the bills. It is regrettable that the Government did not find within itself the maturity or the non-partisan spirit to embrace at least the most important of the amendments that we proposed in good faith. It is regrettable that the Government does not wish to have only the Supreme Court make serious crime prevention orders, to restrict the classes of applicant to the Director of Public Prosecutions and to at least have those who would be subject to such orders limited to those persons who knowingly engage in proscribed conduct. It is regrettable that the Government finds it necessary to abrogate the hearsay rule on the admission of evidence, that it does not wish to provide any appeal mechanism for persons who are to be subject to public safety orders and that it thinks it is fair and reasonable that relatively junior police officers from the rank of inspector are able to make such important and powerful orders without the persons having the right to be heard or the right to appeal against any of those decisions.

Most regrettably, the Government does not feel the need to enact in statutory form protections for vulnerable persons—persons who are under 18 and persons who have impaired intellectual or physical functioning. We also regret that the Government did not provide a clear statutory protection for those within our community who wish to engage in the lawful pursuits of non-violent advocacy, protest or dissent or for those working people striving for better conditions through industrial disputation. The touching on those subjects in the public safety orders regime is very sketchy and, we believe, leaves many persons at significant risk of this legislation being used to curtail people's implied constitutional rights and their implied freedom of association and political communication.

We have done our best, through the power of argument and the framing of amendments, to address the concerns we had with the legislation—to improve it, to make it properly fit for purpose and to render it in a form where everyone in the community can have confidence in the probity and the integrity of the regime of orders to be created by these two statutes. It is regrettable that the Government has chosen to play politics with this legislation and has chosen not to embrace at least some, perhaps the most important, of the amendments but to simply set them all aside and hide behind its assertions that everything will be all right. It is not all right when a government creates powerful tools to be used by law enforcement but no-one has the right to have them reviewed by the independent courts. That is what will be created with the public safety orders.

It is an overreach. In these two bills the Government is simply going too far—and I think most members opposite know that. Let us hope that when enacted the legislation is used sparingly and appropriately and without mistake. But any system is only as good as the people in it, and everybody is fallible.

Any system created by people usually will have mistakes. The most obvious of those mistakes could have been addressed in the framing and creation of this legislation but the Government has chosen to take the low road and not the high road and this is to be regretted.

Mr DAVID SHOEBRIDGE (23:19): There has been a detailed debate in Committee and I have to say the Opposition has endeavoured to engage in good faith with the Government, accepting the broad thrust of this proposed legislation and seeking to make amendments. It is traditionally the role of an upper House to provide scrutiny of the legislation that is churned out by the other place where the Government has a rock solid majority and it does not have to be interested in or concerned about persuading other parliamentarians of the benefits of its legislative agenda. It seems because Government has come to a comfortable arrangement with the Christian Democratic Party—

The Hon. Dr Peter Phelps: Point of order: The accepted practice of the House is the third reading debate should only be used to express a reason as to why the particular person or the party is not supporting the bill at the third reading stage. Given that The Greens and the honourable member voted against this at the second reading stage there has been no material change to the bill or their position. Therefore, I ask you to rule that the honourable member's comments are out of order because they defy the conventions of this House. A third reading debate should simply be a statement as to why the bill will not be supported given the events at the Committee stage and any changes made to the bill between the second and third readings of it.

The PRESIDENT: Order! In the first part of the member's point of order he correctly outlined the President's rulings that have been applied in relation to the third reading debate, and that is something that all members of the House should bear in mind if they are speaking to the third reading. It is important not to reflect upon votes of the House already taken and decisions that have been made. I caution the member to ensure that he is fully in compliance with that standing order as he concludes his remarks.

Mr DAVID SHOEBRIDGE: It has traditionally been the role of this House through the Committee stage to seek to improve the legislation. The Greens oppose these bills in principle but engaged in good faith in the discussion on the amendments seeking to improve the bill. But sadly, despite the efforts of the Opposition, we have not moved from where we started. The Law Society states:

The Law Society does not consider the bills to be appropriately targeted at organised crime or even at maintaining public order. Rather, they appear to be an attempt to circumvent the usual criminal justice process (and its attendant safeguards in respect of individual liberties).

The Law Society submits that if the bills became law it would be to the serious detriment to rights of individuals in New South Wales and to the integrity of democratic institutions in this State, including our courts, without any evidence the public safety would in fact be enhanced.

That is where we are. It is deeply unfortunate and it appears these bills will become law.

Reverend the Hon. FRED NILE (23:23): The Christian Democratic Party supports the bills before the House. I find it disappointing that the Leader of the Opposition in his statement cast aspersions upon police officers of the rank of inspector and used the term "relatively junior". Police inspectors are senior and it takes many years and significant qualifications to gain the rank of inspector. It is a pity to undermine officers of that rank in our police force.

The Hon. ADAM SEARLE (23:23): I feel the honourable member has misrepresented my statements.

The PRESIDENT: Order! In fact, I had my President's Rulings out. I am not sure the comments of Reverend the Hon. Fred Nile were entirely in order. As President Johnson and President Willis have ruled, it is one last opportunity to oppose the legislation, not to make any comment on the debate or the remarks of previous speakers. Rather than compounding the matter, perhaps the member might like to consider other forms of the House to respond. If there are no further contributions, I will put the motion to the vote, after doing one other very important procedural matter. I have certificates from the Chair of Committees that the bills are in accordance with the bills as reported from the Committee of the Whole. The question is that the bills be now read a third time.

The House divided.

Ayes18
Noes15
Majority.....3

AYES

Mr Ajaka	Mr Amato	Mr Blair
Mr Clarke	Mr Colless	Mr Farlow
Mr Franklin (teller)	Mr Gallacher	Mr Gay
Mr Green	Mr Khan	Mr MacDonald
Mr Mallard	Mr Pearce	Ms Maclaren-Jones (teller)
Ms Mitchell	Ms Taylor	Reverend Nile

NOES

Dr Faruqi	Mr Buckingham	Mr Mookhey
Mr Moselmane (teller)	Mr Pearson	Mr Primrose
Mr Searle	Mr Shoebridge	Mr Veitch
Mr Wong (teller)	Ms Barham	Ms Cotsis
Ms Houssos	Ms Sharpe	Ms Voltz

PAIRS

Mr Mason-Cox	Mr Donnelly	Ms Cusack
Mr Secord		

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (23:34): I move:

That this House do now adjourn.

ROAD SAFETY REMUNERATION TRIBUNAL

The Hon. DANIEL MOOKHEY (23:35): Since this Parliament last convened, the Federal Government has abolished the Road Safety Remuneration Tribunal. Malcolm Turnbull and Michaelia Cash claimed that there was no safety crisis in trucking—or that if there were it had nothing to do with economics. For their benefit and so that no-one understates the magnitude of the safety crisis on New South Wales roads, I shall read out media reports of every truck death in New South Wales in the past six months.

On 21 April 2016 a truck driver in his 20s was killed on impact after his truck veered off the Yenches Road at Lankeys Creek. On 15 April 2016 a motorcyclist died in a truck crash on Woodville Road in Old Guildford. On 12 April 2016 a woman died after her van and a B-triple truck collided on the Sturt Highway in Maude. Also on 12 April 2016 a 54-year-old woman died in a four-vehicle crash that involved a truck and her car on the M7 at Cecil Hills. On 9 April 2016 a man died in a collision between a truck and his car on the New England Highway north of Wallabadah. On 5 April 2016 two people died in a crash between their car and a livestock truck loaded with sheep on the Newell Highway south of Dubbo.

On 24 March 2016 a 27-year-old truck driver was killed after his truck collided head-on with another truck and burst into flames on the Riverina Highway at Deniliquin. On 22 March 2016 an 88-year-old man died after a crash between a truck and a ute on Lovell Street at Young. On 21 March 2016 a 25-year-old woman died in a head-on crash between her car and a refrigeration truck on Appin Road south of Rosemeadow. On 17 March 2016 a 37-year-old man was killed when a truck and a car collided head-on at Werris Creek Road south of Tamworth. On 15 March 2016 a 19-year-old man was killed in a collision between a B-double truck and two cars on the Pacific Highway at Tyndale. On 11 March 2016 a 32-year-old man died in hospital following a head-on crash between a truck and a car on the Pacific Highway at Blackmans Point. On 9 March 2016 a man was killed following a head-on collision between a truck and a car on Anderson Drive at Beresfield. On 8 March 2016 a man died after a truck and a car crashed on Tomago Road in Williamstown. On 7 March 2016 a man died following a head-on crash between his van and a truck on the Pacific Highway at Cooperabung.

On 23 February 2016 an 80-year-old man died after being hit by a truck on The Escort Way in Orange. On 8 February 2016 a 17-year-old boy was killed after a semitrailer collided with his car at Andromeda Drive at Cranebrook. On 27 January 2016 a 45-year-old man died in a crash between a coal truck and a car on Appin Road south of Campbelltown. On 16 January 2016 a 36-year-old man was killed in a head-on collision between a truck and a car on New Illawarra Road at Lucas Heights. On 21 December 2015 a 32-year-old man died after a semitrailer flipped and crashed south of Nowra. On 17 December 2015 a man believed to be in his 20s died after his truck hit an embankment at Glenorie. On 8 December 2015 police believe a 61-year-old man died when his prime mover veered off the Goulburn Valley Highway, hit a tree, trapping him inside, and caught alight.

On 28 November 2015 a truck driver was killed when he crashed into a pole at Greenacre, severely crushing the cabin, which burst into flames. On 25 November 2015 a car driver died in a head-on crash with a truck on the Pacific Highway at Woodburn. On 23 November 2015 a woman believed to be aged in her 50s died after a truck and a car crashed on Toongabbie Road. On 9 November 2015 a truck driver died after his truck crashed into the back of another truck, rupturing the fuel tank and catching fire about 10 kilometres south of Taree. On 19 October 2015 a driver and passenger in their 70s died after a collision between a truck and a four-wheel drive at Berridale.

On 18 October 2015 a 36-year-old pedestrian died when he was hit by a truck north of Armidale. On 17 October 2015 two people died after a truck and a four-wheel-drive collided head-on, bursting into flames, near Broadwater. On 10 October 2015 a man died after his truck rolled over at Whittingham. On 25 September 2015 a woman died after being hit by a tipper truck at Dapto. Periodically I will provide the House with further updates on the safety crisis on roads so this Parliament does not fall prey to the same denial of reality that has affected us federally.

COALMINING AND CLIMATE CHANGE

Mr JEREMY BUCKINGHAM (23:39): Tonight I speak on the shameful position of the Labor Party in relation to coal. Labor has become a sick joke when it comes to climate change. How can the people of New

South Wales or Australia take the Labor Party seriously on climate change when it announces a climate change policy that does not mention coalmining? It is an absolute outrage and an affront to all those people who care about the future of our planet. The Labor Party is in hiding—especially the so-called progressive wing of the Labor Party—when it comes to coalmining. Where is Anthony Albanese when it comes to coalmining? He never mentions it. Where is Tanya Plibersek? She never mentions it. Jason Clare, the new resources spokesperson, has not mentioned it. That is because Labor's position is complete, utter, rank hypocrisy. It is a perfidy on the people of Australia and on their progressive electorates because the Labor Party supports Shenhua and Adani.

The Hon. Sophie Cotsis: Why don't you attack the Liberal Party?

Mr JEREMY BUCKINGHAM: They are open and honest about it. They are not pretending to be anything else. They are fossil fuel fanatics and they are loud and proud about it. But you are pretending to be something you are not—serious about climate change. That is the reality. How can the Labor Party be taken seriously by the electors of New South Wales and Australia when it supports Adani and Shenhua? It is an absolute outrage. No wonder you are screaming and carrying on. You know you will be held to account by the people of Australia who want serious action on climate change.

How can we dig out hundreds of millions of tonnes of coal and export it? It is the key responsibility of this nation to decarbonise our economy and our reliance on coal for exports. That is the number one thing we must do as a nation if we are to tackle the existential crisis that is climate change and global warming. Record temperatures are decimating the Murray Darling Basin. The blue-green algae outbreak there was caused by record temperatures. There is a drought exacerbated by record temperatures. There are shifting climatic zones and patterns damaging and decimating our agricultural sector.

The West Antarctic Ice Sheet is melting; Greenland is melting. The global climate system is in absolute chaos with record cyclones and hurricanes across the world. Temperature records are tumbling one after another. Melbourne recorded its highest night-time minimum April temperature at the end of April. These are unprecedented records. And where is Labor? It is in hiding. Where is Anthony Albanese? He is pretending to be serious about climate change, yet the Labor Party turns a progressive vote into an abysmal climate policy. The Labor Party supports Adani, which is an absolute disgrace.

The coral bleaching on the Great Barrier Reef should make every single person in Australia sit up and take notice. One of the most important ecosystems in the world has been decimated. And what does Labor do? At a State level, it approves it; at a Federal level, it approves it. Labor narrowcasts to a small band of people that it is concerned about climate. It announces a policy to move to 50 per cent renewable energy by 2030, which is just a fraction of the job we need done. The real job is to stop brown coal being burnt in Victoria and to stop new coalmines across the country being developed. It is incumbent on the Labor Party to move quickly because our climate is in crisis.

Anthony Albanese and Tanya Plibersek and all those who purport to be progressives will not get away with it. They will not be allowed to go to this Federal election without being held to account for the fact that they support new coal, they support Shenhua, they support the coal project at Berrima and they are big fans of coal seam gas. Not one single member of the Federal Labor Party has spoken out against coal seam gas or the development of new coalmines. Say it is not so; say you are not in love with coal. Labor needs to break its addiction to coal. We need to move on. The Labor Party has to do it for its own good, and the people of Australia demand it. Progressive voters will be looking to Anthony Albanese and Tanya Plibersek and demanding that they move against new coal, otherwise they will be thrown out of office.

ETHANOL PRODUCTION

The Hon. Dr PETER PHELPS (23:44): I propose to start as I finished—that is, discussing ethanol. Once again tonight we will have a look at the ethanol problem in New South Wales. This problem was exacerbated yesterday when Minister Dominello spoke in the lower House to correct some figures he had given to the Parliament. Previously he had stated that the industry supported 3,000 direct jobs and 20,000 indirect jobs. But of course this was wrong, and the real figures are substantially different. In fact, as the Minister pointed out yesterday when he corrected his earlier comments, the true number is 218 direct jobs and 2,668 indirect jobs. So those initial figures were only wrong by a factor of 10 times the actual figures.

One might say to oneself, "Well, that is a simple mistake. Anyone could make that mistake." Except for the fact that the Minister got these figures from Manildra in the first place. Did he bother to check them? No, he did not. In the same way, in the multiple meetings he had with Manildra he did not even bother to ask what the wholesale price of the ethanol was that Manildra was selling to the major fuel companies. The question is: Why should the wholesale price of ethanol fuel matter? It is for this simple reason: the whole of the Minister's strategy is predicated on the idea that ethanol sales will increase if there is a sufficiently large margin between the price of

regular unleaded fuel and E10. The whole basis of the strategy is that there will be an economic shift and people will switch from using regular unleaded to E10 if the price margin is significant enough.

Let us think about that in more detail for a moment. Let us say, for example, that ethanol was given away for free by Manildra. Let us say that it charged absolutely zero. Because it is blended in a ratio of 9:1—in other words, it is 10 per cent—the price of E10 fuel would go from, say, \$1.10 down to 99¢. So that is the situation if Manildra gave ethanol away for free, and that is not including transport costs, storage costs, blending costs and post-blending testing costs. Let us say that it cost 1¢. So E10 would go from \$1.10 down to \$1. People might think, "Oh, that is 10¢. That would be pretty good." But the fact is that the Independent Pricing and Regulatory Tribunal made the following point:

Many consumers, with limited access to regular unleaded petrol, are willing to pay around 15 cents per litre (cpl) more for premium ethanol-free petrol compared with ethanol blended petrol.

In other words, we have empirical evidence which shows from IPART's point of view that people will product substitute away from ethanol even if it is 15¢ per litre more expensive. So even if Manildra gave ethanol away for free the empirical evidence demonstrates that people still would not buy it. They still would not buy E10. What else does IPART say? It says:

Consumers are currently averse to ethanol blended petrol, so major fuel sellers cannot reach the 6% ethanol mandate without reducing consumer choice.

It went on to say:

However, the cost of reducing consumer choice is high.

Unsurprisingly. It continues:

Most options to increase ethanol uptake would increase the cost of an already expensive policy, with little economic gain for the NSW community. Further, measures to increase ethanol uptake by reducing consumer choice would strengthen Manildra Group's already substantial market power.

I am also in receipt of some correspondence between the Australasian Convenience and Petroleum Marketers Association and the office of the Minister. It says it is not happy because:

... the consultative process on the NSW biofuels regulation is ... degenerating into absolute farce.

The continued failure of government to engage in genuine consultation on the need to minimise the very real costs to NSW retailers is economically reckless. The failure risks destruction of NSW small business, loss of employment ... and fuel price increases for all NSW motorists.

It also says:

... the Government has not engaged in any meaningful discussion on these two issues.

Quite frankly, the Biofuels Act is a joke and should be repealed in its entirety.

DISABILITY SERVICES

The Hon. SOPHIE COTSIS (23:49): Recently I had the honour of meeting Thomas Kuzma. Thomas is an engagement officer with Autism Spectrum Australia. Thomas was diagnosed with high-functioning autism when he was 16 and he has dedicated himself to become an exceptional advocate for people on the autism spectrum. A particular focus of his advocacy is employment opportunities for people with disability. Data from the Australian Bureau of Statistics shows that people with disability have an unemployment rate that is almost twice the unemployment rate for people without disability and the labour force participation rate for people with disability is approximately 30 per cent lower than the rate for people without disability. This is an enormous loss of talent and ability. I will invite Thomas to Parliament again. We are organising a forum and I will invite members and others to attend to listen to this spectacular young man. He has inspired me and spurred me on to continue to fight and advocate for people with disabilities to gain employment.

Research by PricewaterhouseCoopers in 2011 showed that Australia could add \$50 million to its gross domestic product by 2050 if more people with disability were employed. Last month the *Economist* dedicated its front cover to the issue of disability employment, with a lengthy article detailing the benefits that businesses can realise by creating more employment opportunities for people on the autism spectrum. I will give a few examples from the article in the *Economist*. A number of companies from the United States and Israel were mentioned. The article stated:

Autistic workers are proving themselves in many fields. Israel's army uses autistic volunteers to interpret complicated satellite images. L'Oreal, a cosmetics firm, hires autistic adults to pack products and update databases. Harry Specters, a chocolate shop in Cambridge, England, employs autistic adults to cook truffles. The number of schemes to help autistic people find work is growing. Autism Speaks, a charity, recently introduced a jobs database, Spectrum Careers, that allows autistic jobseekers to browse thousands of opportunities across America.

This is what is happening in other countries. Unfortunately, many people with disability continue to face barriers to employment. The barriers to employment for people with disability and older Australians was the subject of the Willing to Work inquiry, which was recently undertaken by the Hon. Susan Ryan, AO, Commissioner for Age and Disability Discrimination at the Human Rights Commission. Willing to Work is a landmark inquiry that will be an important guide for policymakers for years to come. The final report of the Willing to Work inquiry makes important recommendations about the need for governments and businesses to ensure that their workplaces are open and inclusive for all.

Among the report's recommendations are proposals for the development of new workforce strategies, employment targets and education campaigns to address misconceptions that persist in the community. I support employment targets. We should have an employment target of between 5 per cent and 10 per cent in the New South Wales public service. We must do better, particularly with the rollout of the National Disability Insurance Scheme. If we are serious about the economic and social benefits of employing people with disabilities, we have to be serious about employing people with disabilities in the public service and in the corporate sector. True inclusion is when employers, including this Government, take this issue seriously. We must be flexible to ensure that there is *quid pro quo* between the employer and the person with disability.

Last year I made a submission to the Willing to Work inquiry on behalf of the Labor Party. I stated that in Labor's submission, with almost 400,000 employees, the New South Wales Government is the largest employer in Australia. Labor believes that the Government has an important role to play to be a model employer. Data from the New South Wales Public Service Commission shows that the proportion of people with disability employed in the New South Wales public service has fallen since this Government was elected from 3.6 per cent in 2011 to 2.9 per cent. Additionally, people with disability are finding it harder to gain employment because of this Government's devastating cuts to TAFE. This must improve. There are 12,000 fewer people with disability accessing TAFE to gain the skills that they need for employment. The New South Wales Government can and must do better. Employment is a powerful source of dignity, purpose and social connection. [*Time expired*]

FIREARMS OWNERSHIP

The Hon. ROBERT BORSACK (23:55): Members would be well aware of the anti-firearm hysteria that has been perpetuated throughout the parliamentary sitting break as a shock-and-awe prelude to the twentieth anniversary of the Port Arthur massacre. Statistics were provided to the New South Wales Greens under the Government Information (Public Access) Act 2009, formerly known as a freedom of information request, on the number of firearms legally owned across the State by postcode. This was a highly irresponsible and unnecessary release of information and has served only to further vilify people who are acting safely and within the bounds of the law. These people are not criminals, and the problem we face in New South Wales is from illegal firearms, not those that are registered, stored legally and used for target shooting, feral animal control and hunting. The evidence is clear.

The New South Wales Government's own Bureau of Crime Statistics and Research has consistently shown that crimes involving firearms are in strong decline. Dr Jason Payne, a criminologist at the Australian National University, highlighted that there is no correlation between the number of recreational firearms owned and illegal firearm crime. A systematic review by Dr Samara McPhedran at Griffith University also showed that the cost and burden of former Prime Minister John Howard's firearm control laws were for nothing, as they did not affect the firearm homicide rate in any way. The statistics were already in decline before 1996, but that does not make for a good story, does it?

One wonders why The Greens are pursuing this line of argument when the evidence is so heavily stacked against their false and perpetuating myths. One wonders, until one notices the grubby fingerprints of Philip Alpers, a so-called Adjunct Associate Professor at the University of Sydney. I fear that The Greens have placed their faith in a questionable individual, with no formal qualifications, who will do anything for a headline. Mr Alpers is an Adjunct Associate Professor at the University of Sydney School of Public Health. Holders of the title "Adjunct Professor" need not have any formal qualifications, and it seems on this point alone Mr Alpers is eminently underqualified to give any formal opinion on such an important issue. In his native New Zealand, Mr Alpers' late mother was quoted as being surprised at her son's apparent academic qualifications in 1991 and said:

I remember [Philip] coming to me when he'd failed [University Entrance] and asking if he had to go to university, and I said, "For God's sake no!" If that was his attitude to university, he'd better stay home.

However, Mr Alpers must have had a partial change of mind as he later said that he "sat in on lectures at university without enrolling". I am not sure, though, that the New South Wales Greens realise the character of the man they are dealing with. Philip Alpers had a colourful history in the media before his anti-firearms crusades began, and as an interviewer in 1990 he caused the resignation of then New Zealand Minister for Agriculture, Mr Colin Moyle, by outing him as a homosexual on public television. I wonder whether The Greens realised they were

dealing with such an individual or whether they were just concerned with headlines. Mr Alpers went on to begin his unsuccessful campaign against law-abiding firearms owners in New Zealand. I should note that our neighbours across the Tasman have far more liberal firearms laws than we have in Australia.

The Hon. Dr Peter Phelps: And no massacres.

The Hon. ROBERT BORSAK: I note that interjection. Even suppressors, often incorrectly labelled as "silencers", are freely available there, yet they appear to have less of a firearm problem than we have in Australia. Having found his audience slim and a New Zealand public not responding to his fear tactics, Mr Alpers found his way to the University of Sydney and into the nestling bosom of the New South Wales Greens.

Mr Alpers, searching for another headline, recently said of legal firearms owners on the ABC television:

Guns are a bit like a virus. You clamp down on one type of gun, another one pops up and you have to deal with that.

This quote is better suited to Mr Alpers: Academic frauds like Philip Alpers are a bit like a virus. You clamp down on one Philip Alpers and another one pops up and you have to deal with that one.

AUSTRALIAN NATIONAL LIVER TRANSPLANTATION UNIT

The Hon. SARAH MITCHELL (23:59): Last month I had the honour of being invited to the University of Sydney to pay tribute to the Australian National Liver Transplantation Unit [ANLTU] and commemorate the thirtieth anniversary of its founding. On 8 January 1986 the first adult liver transplant was performed by the ANLTU when a teenage boy became the first patient to receive a liver transplant at Royal Prince Alfred Hospital. The surgery, performed by Professor Ross Sheil, whom I had the pleasure of meeting, and a 30-strong surgical team, took 14 hours. Just months later, in a nine-hour operation, a two-year-old girl was the first child to receive a liver transplant.

Since the first liver transplant, the ANLTU has performed more than 1,550 liver transplants, prolonging the lives of adults and children right across Australia. This is an incredible achievement and should be congratulated. In 2015, 98 liver transplants were performed. That was 21 more than the previous year and the highest number of transplants recorded by any Australian liver transplant unit over a 12-month period. The dedicated team at ANLTU are to be commended for their incredible survival rate of 88 per cent and for the many significant advances in transplantation surgery they have made over the past 30 years. I thank the staff of the ANLTU for their hard work and devotion to such a worthy cause over the past 30 years. They are a credit to their profession.

We were joined on the day by many notable guests, including Professor Marie Bashir, but tonight I would like to acknowledge three particular people that I met at the event. This first is Leah Barthel, who spoke very warmly about her mother, who died suddenly and was an organ donor. Leah told of her experience having to make the decision to donate a family member's organs. Her father had passed away when she was very young and she had no siblings. Her mother was her only family.

She told the audience that she felt very cheated to be in her thirties and an orphan. But then she told us of her contact with a recipient of her mother's organs and of learning that this woman, who received two of her mother's organs—I think lungs—was a single mother of two children. Ms Barthel said it gave her a lovely feeling to think that even though she had become an orphan through losing her mother, two young girls were saved from losing their mother at a young age. That gave her a lot of comfort because she knew that her mother would be pleased.

The other two guests who were a highlight of the event were Stephania Papadakis and her sister Natalia. Stephania was born with an incredibly rare liver disease, a life-threatening illness that prevented her from living a normal life. After almost two years in and out of hospital, through the generosity of a donor Stephania received the call that a liver had become available. Stephania and her sister Natalia told the story of their family, and there was not a dry eye in the house as they talked about what organ transplantation had meant to them and their family.

As many of us know, organ donation is a very rare event. Whilst Australia has 1.8 million registered organ donors, only about 1 per cent of deaths occur in circumstances that allow organ donation to take place. With more than 1,600 Australians waiting for organ donations, this represents nearly five times the number of donors. In New South Wales a lot has been done to boost donation rates, including but not limited to scrapping the Road and Traffic Authority's organ donation registry in favour of moving to a single national registration scheme and by training specialist staff in hospitals in their conversations with families of potential donors.

Recently, the Federal Minister for Rural Health, Fiona Nash, announced a plan to triple the number of organ donors in Australia through the new online registration process. This new procedure means that prospective donors will no longer have to complete a paper form which must be signed and returned by post; they can finalise their registration online. At this fantastic event to celebrate the ANLTU's thirtieth anniversary, we also celebrated

the 10-year anniversary of the Royal Prince Alfred Hospital Transplant Institute. This is a great organisation that promotes and supports transplant research projects of clinical relevance.

Each year a number of awareness programs are celebrated in Australia, including the white ribbon to raise awareness of domestic violence or, most famously, the pink ribbon which supports efforts to combat breast cancer.

While we have made significant inroads into helping to educate the community, there are better and more ways in which we need to inform people about life-saving organ donations. At the event I had the enormous pleasure of launching the first Royal Prince Alfred Transplant Unit green ribbon. Through this new initiative it is hoped that together we can help to encourage our citizens to give the gift of life by registering to become an organ donor. I was honoured to launch the green ribbon at the momentous event. I express my sincere and heartfelt thanks to those involved for inviting me to launch such an incredible initiative. I hope we will see many more people wearing green ribbons on their lapels and talking about organ donation in the years to come.

DEPUTY PRESIDENT (The Hon. Bronnie Taylor): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 00:04 until Thursday 5 May 2016 at 10:00.