

# LEGISLATIVE ASSEMBLY

Wednesday 29 October 2008

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**The Speaker (The Hon. George Richard Torbay)** took the chair at 10.00 a.m.

**The Speaker** read the Prayer and acknowledgement of country.

## POLICE INTEGRITY COMMISSION

### Report

**The Speaker** announced the receipt, pursuant to the Police Integrity Commission Act 1996, of the annual report for the year ended 30 June 2008.

**Ordered to be printed.**

## BUSINESS OF THE HOUSE

### Notices of Motions

**General Business Notices of Motions (General Notices) given.**

## RACING ADMINISTRATION AMENDMENT BILL 2008

**Bill introduced on motion by Mr Kevin Greene.**

### Agreement in Principle

**Mr KEVIN GREENE** (Oatley—Minister for Gaming and Racing, and Minister for Sport and Recreation) [10.03 a.m.]: I move:

That this bill be now agreed to in principle.

The Racing Administration Amendment Bill 2008 has two main purposes. It amends the provisions in the Racing Administration Act 1998 relating to the publication of betting information and the advertising of betting services to remove doubts over their validity under the Australian Constitution. It also clarifies certain provisions in the Act relating to the publication and use of race fields in New South Wales following a recent decision in the Supreme Court. The publication of betting odds on racing events during the course of a race meeting, which includes broadcasting odds on radio and television, is prohibited in New South Wales under section 29 of the Racing Administration Act. Section 30 of the Act contains prohibitions on the advertising of betting services in New South Wales.

There are general exemptions to these prohibitions that effectively enable licensed bookmakers in New South Wales and the New South Wales totalisator licensee, TAB Limited, to advertise their wagering operations in this State. These laws have been challenged in the Federal Court by two interstate wagering operators, Betfair Pty Ltd, which operates a betting exchange out of Tasmania, and Sportingbet Australia Pty Ltd, which is a corporate bookmaker operating out of the Northern Territory. The applicants have sought declarations that sections 29 and 30 of the Racing Administration Act are invalid under section 92 of the Australian Constitution, and a similar provision in the Northern Territory (Self Government) Act 1978, which provides that trade, commerce and intercourse among the States shall be absolutely free. Betfair and Sportingbet have also challenged the Victorian wagering advertising laws.

The Federal Court action follows on from a judgement of the High Court of Australia, handed down on 27 March 2008, in relation to a challenge by Betfair over the validity of certain Western Australian legislation, on the basis that the legislation was contrary to section 92 of the Constitution. In essence, the High Court

declared invalid the Western Australian legislative provisions that prohibited a person physically present within that State from betting through Betfair's Tasmanian betting exchange operation and prohibited Betfair from publishing or making available a Western Australian race field without authority.

The High Court judgement has implications for wagering laws across Australia, placing doubt over the validity of certain laws under the Constitution. It was initially intended to address any Constitutional issues within the New South Wales legislation as part of reforms coming out of a wagering review being conducted by Mr Alan Cameron, AM. The Government has commissioned Mr Cameron to conduct an independent review of wagering in New South Wales to provide a framework for the future growth and sustainability of the racing industry. The laws relating to the publication of betting information and the advertising of wagering services were issues specifically identified for examination as part of that review, which is expected to report in the near future.

The Federal Court challenge to the New South Wales laws has prompted a more immediate response, with the bill designed to ensure that the provisions of section 29 and 30 of the Racing Administration Act are valid under the Constitution. I should stress that the bill will not be repealing the legislative provisions in their entirety. While the restrictions on Australian licensed wagering operators will be lifted, it will remain an offence for a wagering operator who is not licensed in an Australian jurisdiction to advertise in New South Wales. In addition, the betting odds of a non-Australian licensed wagering operator may only be published if the operator is prescribed by the regulations.

Importantly, the bill amends clause 12 of the Racing Administration Regulation 2005 to extend the current responsible advertising provisions applying to licensees in New South Wales to include advertisements relating to interstate wagering operators. The regulations currently provide that wagering operators must not publish any gambling advertising that: encourages a breach of the law; depicts children gambling; is false, misleading or deceptive; suggests that winning will be a definite outcome of participating in gambling activities; suggests that participation in gambling activities is likely to improve a person's financial prospects; promotes the consumption of alcohol while engaging in gambling activities; and is not published in accordance with decency, dignity and good taste and, in the case of a television commercial, in accordance with the Commercial Television Industry Code of Practice as in force at the time the gambling advertising is published.

In addition, gambling advertising in a newspaper, magazine, poster or other printed form must contain the G-line problem gambling message, which includes a telephone contact number for counselling services. Due to the uncertainty surrounding the validity of the advertising laws, a decision was recently taken not to enforce the New South Wales prohibitions until the legal position was clarified. A number of advertisements have since appeared on behalf of interstate-based wagering operators that have included the offer of inducements in the form of free bets to persons opening betting accounts. The Government is concerned that such advertising may contribute to problem gambling by luring persons who can ill afford to bet, or persons with a gambling problem, to open betting accounts.

The bill will address those concerns by amending the regulations to provide that wagering operators must not publish any gambling advertising that offers any credit, voucher or reward as an inducement to participate, or to participate frequently in any gambling activity, including offering an inducement to open a betting account. Understandably, the New South Wales racing industry has expressed concerns that the relaxation of the advertising laws will lead to further erosion of racing industry revenue streams. It has to be expected that interstate wagering operators will attract additional New South Wales customers by advertising their operations in this State.

Although the race fields legislation, which I will refer to in more detail shortly, will give the racing industry some respite from any redirection of betting turnover away from New South Wales wagering operators, it will not fully compensate the industry for any negative impact on betting turnover with this State's TAB. While sympathetic to the racing industry's concerns, on the basis that the advertising legislation in its current form is highly likely to be held as invalid under the Constitution, the Government is quite rightly taking action to address the issue. The Victorian Government is also proposing to amend that State's advertising laws along similar lines. Separately, the bill also clarifies the operation of the race fields legislation in the light of the recent Waterhouse judgement in the Supreme Court. In that judgement the findings were essentially that the definition of "publish" was not wide enough to cover the intended purpose of the legislation, and that the definition of a "race field" meant the whole race field. That ultimately resulted in the opportunity for a small number of bookmakers to put the proposition that they do not publish race fields because they do not use a betting odds board, and that their telephone clients advise them of the details of the bet.

The proposed amendments address these issues by reinforcing the intent and spirit of the legislation. The fundamental principle is that those persons, particularly wagering operators, who publish and use New South Wales race fields information for profit must contribute to the cost of putting on the racing. Accordingly, the definition of "publish" has been overtaken with "use race field information" in new section 32A. The meaning of "use a race field" provides for the usual bookmaker and wagering operator processes associated with taking a bet. This includes all aspects of using the telephone and electronic means to communicate the quoting of odds, the making of a bet and the paperwork associated with bookmaker betting.

The definition of "race fields" is also being amended to "race fields information" so that it includes the name of more dogs or horses that make up the field. The proposed legislation clarifies that publishing, communicating, using, et cetera, the name of a dog or a horse from a New South Wales race falls within the ambit of the legislation. Also included is a defence for the wagering operator, and staff, which provides the opportunity to demonstrate that a particular use or communication was not used in connection with making a bet, as defined in the Act. I repeat, the essential principle is that those who profit from using New South Wales race fields as a wagering platform should contribute to the cost of conducting New South Wales racing.

As I have said on a number of occasions, the Government fully supports the New South Wales racing industry. I am advised of some speculation that if the Government amends the legislation to close the loopholes identified in the Waterhouse judgement there will be a follow-up challenge. If that is the case, my firm intention is to respond as necessary to any future challenge to give effect to the decision of this Parliament when it approved the race fields legislation. In the interim, the proposed amendments include a regulation-making power that enables any new "uses" of race fields information to be prescribed so that they may be brought within the ambit of the race fields legislative scheme.

A new provision deals with the situation where a person causes such uses of New South Wales race fields information. The intent of the provision is to close the door on the practice of certain corporate bookmakers, such as Betezy, from spruiking to New South Wales race clubs and registered clubs an arrangement by which the bookmaker and the club would share in wagering turnover generated through a website created in the name of the venue but which is essentially a front for the bookmaker. Since it may be argued that in such a case Betezy may not itself directly use race fields information, it would at least be causing the information to be used, and therefore be caught by the legislation.

I am advised that the wagering operator Betezy has indicated it will not make application for race fields approval. In the circumstances, I wish to make it clear to all involved that this practice is not in the spirit of the race fields legislation and that it will be an offence to engage in such activities. The underlying principle is that those that earn revenue from exploiting New South Wales race fields information must contribute to the organisers of the racing. The bill also appropriately deals with savings provisions and other miscellaneous matters providing for evidentiary procedure. I commend the bill to the House.

**Debate adjourned on motion by Mr Thomas George and set down as an order of the day for a future day.**

## **GAMING MACHINES AMENDMENT BILL 2008**

**Bill introduced on motion by Mr Kevin Greene.**

### **Agreement in Principle**

**Mr KEVIN GREENE** (Oatley—Minister for Gaming and Racing, and Minister for Sport and Recreation) [10.15 a.m.]: I move:

That this bill be now agreed to in principle.

The Gaming Machines Amendment Bill 2008 contains a range of amendments to the Gaming Machines Act. The amendments seek to achieve a number of aims: to continue to implement appropriate harm minimisation and responsible gambling requirements and to refine existing requirements; to provide greater certainty for industry and to introduce some simplification in the administrative processes; to increase integrity and compliance within the gaming industry; to cut red tape; and to provide clarification and machinery changes to allow the Act to operate more effectively and efficiently. When the Gaming Machines Act came into force, as it

introduced a new regulatory framework for the operation of gaming machines in New South Wales, it included a requirement for a five-year review of the Act to ensure that the objectives of the Act remain valid and that the Act is operating appropriately and effectively.

This review process was undertaken in 2007. Extensive consultation was undertaken with industry participants, community groups, problem gambling counselling services and individuals, and a report was tabled in Parliament in December 2007. The report found that the policy objectives of the Act remain valid but a number of amendments could be made to improve the operation and effectiveness of the Act. The bill before the House contains these recommended amendments. A great deal of time has been spent ensuring that each of the amendments will achieve the intended outcome and will enhance the operation of the Act and will further improve the regulatory environment of gaming machine operation in New South Wales.

This bill introduces a number of additional and significant harm minimisation and responsible gambling requirements. First, the bill reduces the statewide gaming machine cap by 5,000. The cap will be reduced from 104,000 to 99,000. This means that there are 5,000 fewer gaming machine entitlements available for hotels and clubs to operate than there were six years ago. The entitlements for those 5,000 machines have been permanently removed from operation, which means that that number of machines will never be able to operate in New South Wales gaming venues again. This reduction is just the beginning. The Act provides that the cap will be further reduced at least once every five years. The Government is committed to an ongoing reduction in gaming machine numbers in New South Wales.

Another significant harm minimisation initiative included in the bill is prohibiting cash withdrawals from credit cards through ATM and EFTPOS facilities in gaming venues. This further strengthens the already significant restrictions in place on providing credit for gambling in hotels and registered clubs. Another key responsible gambling initiative included in the bill is giving the Director of Liquor and Gaming power to require a venue to take action if gaming machines are located in a way that would inappropriately advertise or attract the attention of people outside the venue. It is not considered appropriate that a venue be able to circumvent the strict prohibitions on gaming machine signage and advertising by using the placement of gaming machines to attract attention to their availability to people outside the venue; this may include machines being both seen and heard. I note that the decisions by the director are subject to administrative review by the Casino, Liquor and Gaming Control Authority, and publicly available guidelines will be available to give guidance on what is inappropriate.

The bill also introduces a limit on the number of multi-terminal gaming machines [MTGMs] that a club may operate. MTGMs are gaming machines that operate casino-style games such as blackjack or roulette. The bill limits the number that an individual club can operate to no more than 15 per cent of its total number of gaming machine entitlements. The review report noted that some club venues had significant numbers of MTGMs in their venue, up to 40 per cent in one case. Given the higher bet limits and prize limits on MTGMs and that they run casino-style games, it is considered appropriate to limit their use to a certain level. It is not appropriate that club venues operate such a significant proportion of MTGMs that their gaming floors resemble mini-casinos. Only 15 clubs have MTGM numbers over the 15 per cent limit. Given the significant investment that these club venues have made in the MTGM technology, it is proposed to give them five years to reduce their MTGM numbers to the 15 per cent limit.

One of the more significant changes introduced by the bill is the introduction of the local impact assessment process, or LIA. This is a new framework for assessing the appropriateness of the placement of additional gaming machines in licensed venues. The new system classifies each local government area [LGA] into band 1, 2 or 3. There are different requirements in place under the new LIA system, depending on which band a venue falls into due to its location. Generally, the bands take into account gaming machine density, the expenditure on gaming machines and relevant social data. The new LIA system will have clear guidelines on what is required of a venue if it seeks additional machines, depending on the number sought and the location of the venue.

For example, if a venue is in a band 3 LGA it is in an area with a high density of machines. Therefore, it will face significant hurdles to getting any additional gaming machines and, in most cases, will have to go through a rigorous class 2 LIA and show an overall positive impact on the LGA before any application is approved. Whereas if a venue is in a band 1 LGA, that is an area of low density of machines. In band 1 LGA fewer requirements need to be met by the applicant in the assessment of an application where only a small or moderate number of machines are sought. This approach seeks to overcome some significant concerns expressed by gaming machine industry participants regarding the current social impact assessment process, which the LIA process is replacing.

The significant information requirements, the detailed analysis necessary and the time taken to consider applications have been sources of frustration to applicants and this new process aims to improve on this. There will be clear guidelines on what is required in an application for additional machines depending on the number of machines sought, the location of the venue and from where the additional machines are being bought. Applicants will no longer be required to provide a cost-benefit analysis as part of their application. Rather, the authority will make this type of assessment based on information provided by the applicant and relevant social profile data gathered by the authority, as required. Under this new process, the applicant will simply provide information on the number of additional machines it wants and detail the positive contribution it will make to the local community in support of its application. This seeks to give hotels and clubs a clear idea of what would be required of them in any application to allow them to make an informed decision on the likely success of an application and, therefore, whether it is worth making the application. This type of certainty is something that industry participants have clearly requested during consultation on this issue.

A number of amendments in the bill relate to requirements for registered clubs. In a number of areas of the bill certain club-specific requirements are included that recognise the important community contribution clubs can make, as well as the specific operational needs of related clubs. The limit of 450 on the maximum number of gaming machines a club can operate has been removed. Removing this limit will encourage larger clubs to amalgamate with smaller struggling clubs, as they will no longer be limited in the maximum number of gaming machines they can operate. Clubs seeking to increase their poker machine entitlements above 450 will be required to submit the appropriate application, which will be assessed subject to the overall threshold of the local government area [LGA]. They will be subject to a thorough review by the Casino, Liquor and Gaming Control Authority. That review will take into account the level of increase and the number of machines in the venue and the LGA.

The Act and regulations will require that venues located in bands 1, 2 and 3 will be subject to the appropriate review mechanism by the authority, depending on the range of the increase in machines proposed and the number of gaming machines in the venue. This ensures that only appropriate increases in gaming machine numbers will be approved by the Casino, Liquor and Gaming Control Authority. That is, clubs in areas with an already high density of machines will find it difficult to obtain approval for additional machines. Clubs will still be subject to the overall State cap and the removal of the maximum limit for clubs will not result in a breach of the overall cap. The review report recommended that the provision giving 10 free gaming machine entitlements to new clubs be repealed. This has been included in the bill and is appropriate given the Government's commitment to reducing gaming machine numbers and avoiding extra entitlements being placed in areas where larger than acceptable numbers may already operate. However, the bill introduces a new provision that assists new clubs in a new way.

The bill proposes a scheme that aims to assist new clubs to establish in new development areas, that is, areas where there is sizable new residential development and there is no registered club present to service the needs of that new community. The bill proposes that a club wishing to establish in a new development area may apply to operate up to 150 gaming machines and for the first 50 machines only one in six needs to be forfeited in any transfer. These areas are to be only in band 1 LGAs, that is, LGAs with a low density of machines, which can accommodate the additional machine numbers. The provision aims to encourage clubs to develop into areas of new growth and establish in areas where there is a need for the type of community facilities that registered clubs can provide. There is also some clarification in the bill about the requirements for gaming venues located in or next to retail shopping centres. The bill retains the current restrictions that state that existing venues in shopping centres cannot get additional gaming machines and that any hotel or club venue establishing in a shopping centre cannot operate gaming machines.

The Gaming Machines Regulation currently has some exceptions to the general requirements that enable clubs to remove or extend into a retail shopping centre. In a number of cases, clubs have sought to redevelop their club facilities and the exemptions have facilitated appropriate development if the club is in a retail shopping area. It is intended to introduce a more straightforward process enabling this type of club development, and it is appropriate that Parliament deal with the making of this, rather than including it in subordinate legislation. The new provisions provide that if a club removes or extends into a retail shopping centre it can only operate gaming machines if patrons will not be able to gain access to the club's premises directly from the retail shopping centre.

The new provisions also provide that the gaming machine threshold for the new premises is no more than the threshold for the club's previous premises and, in the case of a removal, the premises are both within the same suburb or town; and in the case of an extension, the club's premises remain predominantly where it was

before the extension. The provision of these requirements may assist clubs to redevelop by providing certainty regarding the requirements for venues seeking to locate in retail shopping centres. The Government is supportive of clubs seeking to redevelop, as this provides improved services for members and the community. Further, facilitating such redevelopment may assist with diversifying income generation of clubs, thereby reducing reliance on gaming activities for club profits.

The Act currently provides for reduced forfeiture rates for related clubs when they transfer entitlements between venues where the venues are located within one kilometre for metropolitan regions and within 50 kilometres for non-metropolitan regions. With the new local impact assessment [LIA] process setting requirements based on local government area, it is now proposed to amend these requirements to allow related club premises to transfer without forfeiture if both premises are within the same local government area. This is regardless of whether it is a metropolitan or non-metropolitan area. If related club premises are in different local government areas a reduced forfeiture rate of one entitlement in every six transferred will apply, rather than one in every three for a normal transfer. It is important to recognise and support the unique relationship of related clubs. This type of relationship allows larger, more successful clubs to support and assist smaller clubs to continue to operate and provide facilities for communities.

Another amendment in the bill is to repeal amendments made relating to the transfer of hotel poker machine entitlements. The policy intention of this provision is to revert to the position existing immediately prior to the Gaming Machines (Temporary Freeze) Act amendments in 2008. Various judicial decisions considered the application of the laws, as they existed prior to the amendments. On reversion to the former provisions, these decisions should again provide guidance on the interpretation of the provisions as they existed prior to the 2008 amendments. The five-year review report recommended that the legislation be amended to ensure that the licence owner be able to object to the transfer of entitlements from a leased hotel in all cases but that the issue should be kept under review. The New South Wales Office of Liquor, Gaming and Racing has held extensive consultation with the hotel industry over this matter and has concluded that the original legislation provides a reasonable framework to allow lessors to object and that the amendments are not required.

The hotel industry has advised that only a very small number of disputes remain unresolved—only 17—and that any legislative amendment would only disrupt a precedent set by court decisions. The unresolved agreements are private financial arrangements between the parties. These are matters best dealt with between the parties and, if necessary, with recourse to the court system. There is no role for government to interfere in these private disputes. This is the way all private disputes are determined in this State and it is appropriate that these disputes are determined in the same way. The Act will continue to allow lessors with a relevant financial interest in a hotel to continue to be able to object to the transfer of poker machine entitlements by a lessee by making a submission to the Casino, Liquor and Gaming Control Authority.

It is important that the gaming machine industry operates with integrity and that the Act supports this, and ensures compliance and strengthens accountability of gaming-related licensees. A number of amendments in the bill seek to achieve this purpose. There are a number of new requirements related to gaming machine technicians, with a new requirement that work undertaken by technicians on gaming machines be recorded by hotels and clubs, and a new offence to ensure that any work done on a gaming machine by a technician does not affect the way the machine is supposed to operate. There are also new offences for falsely claiming a gaming machine prize on a gaming machine and new clear requirements for the operation of linked gaming systems, in particular ensuring that all machines designated to be on a link are actually connected to the link except where specific approval has been given and strict rules about providing relevant information to players are in place.

The amendments in the bill seek to strike a proper balance between the need to impose a regulatory burden on business to ensure that gambling is conducted responsibly and with integrity, and the need to ensure the Government's policy objective of minimising gambling harm in the community. The five-year review of the Gaming Machines Act was a responsible and effective tool to ensure that the regulatory framework for gaming machines operates appropriately and as intended. It provided an opportunity for industry participants, individuals, community groups and others to advise the Government about their views on the Act's operation, and gave a chance to make improvements where necessary. This type of review of the Act will be ongoing and the proposed changes included in this bill will similarly be subject to periodic review to ensure that they are operating as intended and achieving the desired outcomes. I commend the bill to the House.

**Debate adjourned on motion by Mr Chris Hartcher and set down as an order of the day for a future day.**

**LOCAL GOVERNMENT AMENDMENT (LEGAL STATUS) BILL 2008****Agreement in Principle****Debate resumed from 28 October 2008.**

**Mr CHRIS HARTCHER** (Terrigal) [10.35 a.m.]: The Local Government Association has expressed a number of concerns regarding the Local Government Amendment (Legal Status) Bill 2008. In the advice to all general managers the manager of industrial relations for the Local Government Association of New South Wales and the Shires Association of New South Wales, Mr Adam Dansie, said:

The Associations are seeking urgent legal advice ... We understand that the Bill will be formally tabled in Parliament within a matter of days.

The Associations are disappointed that local government employers were not consulted during the drafting of the Bill (Minister Perry first informed the Associations of the proposed legislation earlier this week).

The Local Government and Shires Associations raises a number of further concerns, which I will put in the form of questions. With the leave of the Minister I will supply a list of the questions to her and she might be minded to answer them when she replies to the debate. The questions are, firstly, in order to iron out any potential problems with the legislation, what consultation has the Government had with the relevant stakeholder groups? Secondly, has the Government given stakeholder groups enough lead-time to prepare for the legislation and to advise their members of any changes required? Thirdly, is the Minister certain that the legislation will have no impact at all on local government's ability to apply for any type of Federal Government funding? Fourthly, clarifying local government's industrial relations status can be done federally through the Workplace Relations Act. Knowing that the Local Government and Shires Associations supports that course of action and the United Services Union, through its recent press release, expressed the view that that is where certainty was required, would the Minister support such a course of action?

There are three main objections to the bill. The first objection I outlined earlier is that it creates a statutory hybrid, which is—to quote Shakespeare—"neither fish nor fowl". It is neither a corporation nor an individual; it is simply a resurrection of an ancient and well-respected medieval concept of the body politic and invests that body politic with the statutory power of an individual and the statutory power of a corporation in that it has perpetual succession. That opens a whole minefield of potential litigation in the years ahead, as different litigants take points as to what the powers are of the body politic, whether those powers are consistent with the actions of local government, and whether the Local Government Act 1993 cures any defect that is found in the powers or lack of powers of a body politic. It is an unnecessary minefield created solely for the purposes of the United Services Union.

The second point relates to Federal Government funding, and this is of acute concern to the Local Government and Shires Associations. The Federal Government assists local government throughout Australia with a program of grants. Applicants for those grants must fall within certain categories and guidelines. It is not clear—and the Minister's agreement in principle speech does not address this issue—whether this form of governance for local government will comply with Federal requirements. That is the special concern of the Local Government and Shires Associations, upon which it is now taking legal advice. Yet the State Government in presenting this bill to the Parliament has ignored that issue altogether, and potentially hundreds of millions of dollars of Federal grants to local government are at stake. Will the Minister guarantee to this House and to local government across New South Wales that local government funding from the Federal Government is secure, and that local government's entitlement to apply to the Federal Government and its ability to comply with Federal Government requirements under the new system of governance are sound?

That is a concern of the Local Government Association and it is a question that the Minister must answer and—more than answer—guarantee to the 150-odd councils across New South Wales. The third point is that this Parliament and the governance of this State are not subject to the whims of the trade union movement. We do not establish structures of governance in New South Wales, be it at the State level or a local level, simply to satisfy the whim of an individual union that is an affiliate of the Australian Labor Party. The Premier came to office with the pledge that a new era has begun for New South Wales. And how does he mark that new era for New South Wales? He introduces legislation that changes the entire governance structure of local government simply to satisfy Mr Kruse and the United Services Union.

**Mr Jonathan O'Dea:** What donations do they give?

**Mr CHRIS HARTCHER:** The member for Davidson rightly asks what donations the United Services Union gives to the Australian Labor Party.

**Mr Alan Ashton:** Point of order: We can strike that. The member for Terrigal does not need to keep going on about that issue. It has nothing to do with the bill.

**Mr CHRIS HARTCHER:** It's embarrassing, isn't it?

**Mr Alan Ashton:** No, it is just—

**ACTING-SPEAKER (Ms Diane Beamer):** Order! What is the member's point of order?

**Mr Alan Ashton:** The point of order is very clear: The member's comments have nothing to do with the bill. Donations are way outside the leave of the bill. We do not care if the union movement has something to do with the Labor Party. So what? The member for Terrigal should speak to the bill. He has been going on for ages. He is just filibustering—wasting time.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! The member for Terrigal will confine his remarks to the leave of the bill.

**Mr CHRIS HARTCHER:** The United Services Union continues to fund the Australian Labor Party and continues to seek legislation from Labor governments. That is set out in its press releases.

**Mr Alan Ashton:** You can say that: that's fair enough.

**Mr CHRIS HARTCHER:** I am delighted to know that the member for East Hills is going to act as censor supremus in this Parliament and determine what members can and cannot say.

**Mrs Karyn Paluzzano:** Standing Order 129—go read it.

**Mr CHRIS HARTCHER:** We hear about Standing Order 129 every question time. Let us move beyond the bleating and the baas of Government members and focus on the United Services Union. The United Services Union is trying to ensure that State control of local government is determined to suit its particular industrial relations desires. That is made clear in the press releases, which I set out earlier in *Hansard*, and it is made clear by the ongoing campaign run by the United Services Union to secure this legislation. Yet, as the Local Government Association points out, if the United Services Union is concerned about lack of certainty in industrial relations that could well be satisfied by simply amending the legislation at a Federal level. The Local Government Association has, in fact, offered to support that particular request by the United Services Union. The third point I set out is that the governance of institutions in New South Wales is not dependent upon or subject to the whims of the trade union movement.

**Mrs Karyn Paluzzano:** Point of order: In light of Standing Order 76, which relates to speeches being relevant to the subject matter of the debate, could you draw the member back to the leave of the bill and direct him to stop waffling?

**ACTING-SPEAKER (Ms Diane Beamer):** Order! I am sure the member for Terrigal will now direct his remarks to the bill before the House.

**Mr CHRIS HARTCHER:** The member is continuing to talk about the bill before the House. The legal status of councils should not be subject to the whims of affiliates of the Australian Labor Party, which in this case is the United Services Union. So what will this proposed legislation do? It will achieve a change in the structure of the governance of local government, it will create a minefield of potential litigation and it will put in jeopardy Federal funding to local government. And for what? It is so one particular union affiliated with the Australian Labor Party can achieve its wish. The responsibility of the State Government is to do something for local government: to make sure that local government functions in this State.

Indeed, we are aware of the financial crisis that is now gripping local government. The State Government has failed to respond to the Allan report for 30 months, despite two undertakings by the previous Minister for Local Government to provide a response. The present Minister has been in office for six weeks; it is over to her now to respond to the Allan report. At the end of the day, this legislation is bad: it is defective and it



subjects the governance of New South Wales to the whim of a particular trade union. Everyone who believes the New South Wales Government should be addressing the concerns of the community of New South Wales in relation to local government funding rather than seeking to keep happy Mr Kruse and his union rejects it. That union may be one of the right-wing powerbroker unions in New South Wales, which it is—

**Mr Frank Terenzini:** Point of order—

**Mr CHRIS HARTCHER:** You're only prolonging the speech.

**Mr Frank Terenzini:** The member for Terrigal says I am prolonging his speech; I am waiting for his speech to begin. Standing Order 59 relates to tedious repetition. The member is going on and on about the United Services Union. He should address his remarks to the bill. I am waiting for his contribution, and I look forward to his starting to make it.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! I am sure the member for Terrigal will now speak to the bill.

**Mr CHRIS HARTCHER:** He is certainly speaking to the bill. In her speech the Minister spoke about the United Services Union, so my comments are relevant to the bill. It is unfortunate that the member for Maitland does not understand what is happening in Parliament. But, of course, his electorate will sort that out in two years time. I conclude by simply restating my initial assertion: The Coalition does not support this legislation. The Coalition makes it clear that the bill's object (a) is rejected and that object (b) should be addressed as a separate piece of legislation; there is no reason for the two to be combined in the same bill.

As long as the New South Wales Government continues to push the legislation in its present form we will not support it. The Local Government Association of New South Wales and the Shires Association of New South Wales do not support it. There has been no consultation about the bill with those associations—in fact, there has been no consultation with anyone at all other than the United Services Union. This legislation shows that the Rees Government is no different from its predecessors. It continues that long trait begun by Bob Carr and made even more permanent by Mr Iemma: Labor acts not for the benefit of the State but for the benefit of the union movement. Each and every member opposite is beholden to their trade union bosses and their trade union paymasters. They are totally indifferent to the needs and requirements of the people of this State.

*[Interruption]*

Every time the member for Penrith jumps to seek the call she just makes me speak for longer. I urge members to go reconsider what they are imposing upon local government and what they are doing in trying to change the legal status and the governance of local government. I urge members to try for once in their lives to act for the benefit of the people of this State, not their union bosses.

**Mrs KARYN PALUZZANO** (Penrith—Parliamentary Secretary) [10.48 a.m.]: I support the Local Government Amendment (Legal Status) Bill 2008. It should be noted that there are two parts to this bill. I would like the member for Terrigal to stand before the parents in his electorate and say he does not support appointments of up to 24 months to fill vacancies caused by parental leave. Parental leave is a key part of this amending bill, and I know that the local councils meeting in Broken Hill this week have supported for a long time the granting of such leave. Workers in local government will benefit from parental leave and workers in Terrigal will benefit from this amendment. If the member for Terrigal does not think he should support the parents in his electorate or his constituency he should go back and research what being a local member means. Last year, before this proposed amendment, families in my area spoke loudly and clearly when they voted to change the Federal Government and when Howard's WorkChoices was well and truly defeated.

A Prime Minister lost his seat for the first time in decades. The people of Lindsay, particularly those from the local council, were concerned about fairness and conditions in their workplaces. I fully support the Minister on this legislation and note that she has stated how unfair the WorkChoices legislation is and how unfair it would be in relation to local councils. In many areas local councils are one of the largest employers. In the Penrith electorate, Penrith City Council and Blue Mountains City Council are among the largest employers. If anything affects people's workplaces I think it is beholden on local members to stand side by side with workers and working families in their area to make sure that conditions in the workplace are fair. Under WorkChoices they would not be fair.

The constituents of Terrigal should note that their member not only did not speak to the leave of the bill but also in saying that the Opposition did not support this bill was confirming that Opposition members do not support parental leave in their constituencies. I look forward to people in Terrigal noting that, bearing in mind that in previous elections the member has won the seat by a handful of votes. I note that the Minister for Local Government is in the chair and I thank her for bringing this legislation before the House. I also bring to the attention of the House that the constituency of Penrith fought long and hard to make sure that awareness of the draconian WorkChoices legislation was raised in the local area. I particularly pay tribute to two local women, Linda and Jo Everingham, and a local gentleman, Tim Hennessy, for their support. They went out weekend after weekend to street stalls to raise awareness of the draconian legislation and the impact it would have in all workplaces. I also thank Mary Yaager for her support for the local campaign.

The amendment to the Local Government Act 1993 will make it plain that local government employees are not subject to Commonwealth industrial relations legislation. It will also allow councils to make temporary appointments for up to 24 months to fill parental leave vacancies. The bill will ensure that local government employees stay within the New South Wales industrial relations system by making it clear that neither a local nor county council can be characterised as an employer for the purposes of the Commonwealth's Workplace Relations Act. I also support the Local Government Amendment (Legal Status) Bill because, as many members will know, in New South Wales many men and women are able to take time off work without having to resign to care for their newborn or newly adopted child, because of the availability of parental leave. This is not common in all workplaces, but it operates in most workplaces. I support the Unions New South Wales campaign for paid parental leave that was launched in Penrith a while ago. We know that Australia is one of only a few places that do not have universal parental leave. People should keep that in mind and support the campaign for paid parental leave.

The importance of parental leave cannot be underestimated. It gives parents time away from work to physically recover from the birth or the adoption of a child and to bond with their babies. It enables parents to care for their children—they will not have to pay someone else to do it for them—while they maintain a long-term attachment to the workforce. Research shows that continuous interaction between a child and parents in the baby's early years is of great benefit emotionally and assists with healthy brain development. I therefore support the amendments to the Local Government (State) Award 2004 that allow staff to be granted parental leave for a period of up to 24 months. I also support the amendment to the Local Government Act to allow persons to be directly appointed to a position for a period of up to 24 months to fill a vacancy arising from the granting of parental leave under the award.

The benefits that flow are not only for the parents taking the leave but also for other council staff and the council itself. Many members on this side of the House work closely with their local councils and know how important it is if the council is running a program—whether it is a Landcare program, a stormwater management program or a child-care program—to fill a vacancy for that set time. It will have benefits for council staff and the council. These benefits will come from career development opportunities for existing council staff who are successful in being appointed to temporary vacancies. Also, the council will benefit from the additional skills and experience staff may develop. In this time of skills shortages that benefit cannot be underestimated.

The Local Government Act requires all councils to engage in merit-based selection when appointing staff to a position for more than 12 months. An exception is made for temporary appointments of not more than 12 months. It is important that councils do not misuse these provisions by exceeding the statutory time limit when recruiting for temporary appointments. The engagement of casual employees should be limited to those instances where the employment is truly irregular. Temporary employees should not be appointed when the work is available on a regular or systematic basis. Where a position within a council's organisational structure remains unfilled on a permanent basis after a period of 12 months, councils should fill the vacancy on a permanent basis and not by way of a further temporary appointment.

A council should also not attempt to manage a permanent vacancy by making a series of fixed-term appointments to it. When a council attempts to manage a temporary vacancy in this way it is failing to comply with the spirit of the Local Government Act, and quite possibly the Act itself. Employing temporary staff when the job holder is sick or on parental leave or other long-term leave is a perfectly acceptable and ordinary practice. The bill will also allow councils to use temporary staff to fill positions where the incumbent is on parental leave for up to 24 months. That is also an acceptable use of temporary employees. However, councils are encouraged to examine whether positions can be filled by way of temporary appointment from existing staff. I commend this bill to the House.

**Mr ROB STOKES** (Pittwater) [10.56 a.m.]: The first thing I wish to do is clarify a point that the member for Penrith made in relation to the position of the member for Terrigal. The member for Terrigal at no stage indicated that he did not support those parts of the bill relating to section 351 of the Local Government Act, which deals with temporary appointments. The part of the bill that the Coalition is opposed to is that which seeks to fiddle with the legal personality of councils themselves. The reason the Coalition opposes this part of the bill is that it is completely unnecessary. In proposing to decorporatise all local governments across New South Wales and reconstitute them as a new type of legal entity called a "body politic", the Government is potentially placing local government and its legal personality in a position of uncertainty and risk.

The Government certainly had better hope it has written the law tightly in relation to transitional provisions whereby it seeks to ensure that councils have a continuity of status because, if not and if new entities are in fact created, it could throw the entitlements of local government workers into chaos as well as any contracts or litigation before the courts involving local government. The bill is apparently designed to minimise the risk of New South Wales councils being caught up in the Federal system of industrial relations by changing their corporate status to remove the possibility that a council might be characterised as a constitutional corporation and therefore as an employer for the purposes of the Commonwealth's Workplace Relations Act.

The Government of New South Wales does not seem to have confidence that the Rudd Labor Government will treat council workers fairly, so it does not want Commonwealth law to apply to council workers. The Government's concerns, and this legislation, are misplaced and unnecessary. The recent judgement of the Federal Court in *Australian Workers' Union of Employees, Queensland v Etheridge Shire Council* considered the very question of whether local councils can be considered to be financial or trading corporations. The court in that case set out a very clear test for determining whether a public authority such as a council could be considered a corporation. The test is to consider whether the predominant and characteristic activity of a council is trading or finance as well as the extent of that activity and its relative significance in the affairs of the council.

In that case, Justice Spender found that all of the activities put forward by the Etheridge Shire Council as trading activities "entirely lack the essential quality of trade", were directed to "public benefit objectives", and the scale was "so inconsequential and incidental to the primary activity and function of the council" as to deny that conclusion. In finding that the council was neither a trading corporation nor a financial corporation, Justice Spender, in obiter, also stated that the objects or purpose of the incorporation of the council under local government legislation was a relevant consideration in determining whether a council could be considered a trading or financial corporation. In the case of New South Wales, the Local Government Act 1993 clearly outlines the charter of a council at section 8. The objects of a council under this charter demonstrate that New South Wales councils are directed towards public benefit and local governance, clearly not trading or finance. The charter states:

8 The council's charter

(1) A council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions

There is a range of other objectives that in no way could be characterised as predominantly for the purposes of trade or finance. Justice Spender in *Australian Workers' Union of Employees, Queensland v Etheridge Shire Council* also raised the point that if the council were found to be a trading corporation, this would mean:

...the Commonwealth has power to regulate the activities, functions, relationship, and the business of the Etheridge Shire Council, the creation of rights and privileges belonging to the Etheridge Shire Council; the imposition of obligations on it; and, in respect of those matters, the regulation of the conduct of those through whom it acts, its employees, and also the regulation of those whose conduct is or is capable of affecting its activities, functions, relationships of business.

Justice Spender considered it inconceivable that the framers of the Constitution intended that the Commonwealth should have such powers in respect of a local government. He therefore concluded that, if he was wrong in his finding that the council was not a trading corporation, the powers of the Commonwealth would "annihilate any concept in the Constitution of a federal balance, and in a very significant way, permit the Commonwealth to nullify the right of the State to govern in its local government areas". So emphatic was the Federal Court judgement that Bill Ludwig of the Australian Workers Union, in a media release entitled "AWU win for local government workers across Australia", stated:

This decision clearly means the Federal Government can't make Federal workplace laws to cover local government workers... Our legal advice is that this decision means no local council in Australia, except for possibly Victoria, can invoke WorkChoice style laws against their workforce.

The Federal Court, the Australian Workers Union and its legal advisers all believe that the law is clear, so there is simply no need for legislative tinkering such as this bill. Legislative tinkering with the very legal nature and personality of local government is inherently risky and may lead to considerable unintended and unwelcome consequences. By de-corporatising local government, this bill challenges the very nature of local government as it was created and understood according to the Local Government Act 1993. In debate at the time the Minister said that the bill would place local government in the context of public sector accountability and public sector performance management. He said that it is important to recognise that the relationships between elected people and appointed officials need to be regularised and modernised in local government as they have been in the other levels of government.

The community's demand for better performance by elected people and by appointed officials is ever increasing. The local government sector needs to be able to organise its structures to best respond to community aspirations. He further stated that rigid and immovable organisational structures, which have been imposed for many years by the system of statutory certified positions, are gone and that the deliberate freeing up of the organisational structure of councils is a crucial reform in this legislative package. Yet, under this bill, the Government is proposing to take local government back to its pre-1993 legal status. However, it is doing more than that. As the member for Terrigal pointed out, the Government is taking us back to the Middle Ages by introducing some archaic legal form dredged up for no good purpose.

The Opposition also opposes this bill on the basis that it creates uncertainty. We are entering a period of enormous uncertainty about the legal responsibilities and obligations of local government. Over the past decade we have seen massive change in local council responsibilities on issues such as non-feasance in relation to their role as highway authorities, liabilities for climate change impacts such as increased flood risk and geotechnical risk, and new responsibilities for councillors and staff, both in relation to the planning function of council and anti-corruption legislation. The last thing any responsible government should be doing is fiddling with the corporate status of local government itself. Its job is hard enough.

In any event, it is questionable whether a body politic, which is not defined in the bill, could be characterised as anything other than a body corporate. I note that proposed amendments to section 220 of the Act seek to change the legal status of a council as a body corporate to a body politic. "Body politic" is not defined in the Act, but it provides in proposed section 220 [2] that a council is not a "body corporate". Without defining a "body politic", the courts will have little option but to go back to case law to make a determination. Case law indicates that it is, in fact, a body corporate. I will provide some authorities to support that proposition. Justice Hungerford in *WorkCover NSW v Police Service of NSW* 2000 said:

A body politic is a body corporate but one established for a public purpose.

Justice Waddell in *Bristol v Water Conservation and Irrigation Commission* 1975 suggested:

For the purpose of maintaining and perpetuating the uninterrupted enjoyment of certain powers, rights, property, or privileges, it has been found convenient to create a sort of artificial person, or body-politic, not liable to the ordinary casualties which affect the transmission of private rights, but capable, by its constitution, of independently continuing its own existence. This artificial person is in our law called an incorporation, corporation, or body-corporate.

The references from case law are clear that, when subject to interpretation, a body politic is found to be a body corporate. Even if the bill were necessary, which it is not, it is unlikely to be effective in any case. The final reason I oppose the part of the bill that seeks to tinker with the legal status of councils is that it really is unbelievable that we are somehow concerned that this is a major issue confronting local government. Councils, council staff and ratepayers to whom I speak are not anxious about the legal status of their local council. No-one from local government has raised passionate arguments, or any arguments, with me about why councils need to

be recreated and rebadged with the amorphous title of body politic. That might be because I have not had a great deal of time to consult with my local community given that this bill was presented to the House only a few days ago. Nonetheless, councils do not appear to me to be terribly worried about their legal status.

However, they are very concerned about their financial status. A local government commentator once noted that Federal Government has the money, State Government has the power and local government has the problems. There is a great deal of truth in that in New South Wales. Local government has huge problems. The Percy Allan report into the financial viability of councils stated that, given the rate of cost-shifting, councils are primarily concerned about their financial status rather than their legal status.

In his epic and detailed contribution my friend and colleague the member for Terrigal mentioned the French philosopher Jean-Jacques Rousseau in his analysis of the term "body politic". As Rousseau once noted, "the body politic, as well as the human body, begins to die as soon as it is born, and carries in itself the causes of its destruction." The same could be said of the potential for unintended consequences emanating from the creation of an effectively new and utterly unnecessary legal person—the body politic—in New South Wales. This bill is seeking to play around with the very legal identity and fabric of local government in this State for no good purpose and like unnecessary heart surgery it is risky and pointless.

I make one final point about the power to enact regulations for the making of corporations by local government. There is certainly merit in regularising the matters that the Minister must have regard to in determining whether to permit the creation of a corporation by local government. One of the things I ask the Minister to answer in her reply is whether the regulation itself could say something about the time it takes the Minister to respond to a request by local government to set up a corporation. The local government areas in my electorate, Pittwater and Warringah, have had to wait a long time for an answer in relation to a proposed corporation they wish to set up for recycling. I understand they have now received a positive answer to their request, but it took a long time and it would be great if this new regulation could give the Minister some direction about the appropriate time to take in answering a request from local government.

**Mr PAUL PEARCE** (Coogee) [11.10 a.m.]: This has been an extraordinarily long debate for what is a short bill. I support the bill and I compliment the Minister for bringing it before the House. Although I disagree with parts of the analysis by the member for Pittwater, at least he presented the House with a rational argument, which is more than can be said for the member for Terrigal, who seemed more concerned about attacking the United Services Union than addressing anything in the bill. The member for Terrigal raised a number of things in his lengthy speech that I do not intend to canvass except to say he has to get over his opposition to and blind hatred of the trade union movement. It is quite extraordinary.

The bill recognises that due to councils' current status as bodies corporate under the provisions of the Local Government Act, local government workers are potentially subject to the unfair provisions of the industrial relations regime that the previous Federal Government sought to impose. Whilst I would argue that the corporations power of the Commonwealth Constitution clearly did not envisage application to corporations established under the Local Government Act, there was a real risk, due to the expansion of the application of that power arising from the High Court's decision, that such application could occur in the future. I say this notwithstanding the recent Federal Court decision referred to in the Minister's agreement in principle speech and also referred to by other members. This clearly would result in detrimental consequences for workers employed in local government.

It is generally acknowledged that the former WorkChoices legislation was nothing short of a direct attack on the rights of workers. The legislation both explicitly and implicitly compromised internationally recognised employee rights. The International Labour Organisation convention, to which Australia is a signatory, has specific provisions dealing with freedom of association and the right to form trade unions, amongst other provisions. The WorkChoices legislation sought to limit or circumscribe these internationally recognised rights. Whilst the Rudd Government has removed the most offensive features of WorkChoices, the future risk remains.

Local government workers, especially blue-collar workers, include some of the lowest paid members of the full-time workforce. Given the nature of their work, including the collection of waste and maintenance of our public facilities, including parks, beaches and public amenities, I believe—having been in local government for 21 years—that our community frequently undervalues their work. At the very least, these workers should have the employment rights and protections afforded by the New South Wales industrial relations system. This bill seeks to achieve this. The terms of the bill make it clear that the change of councils' corporate status does

affect the day-to-day operations of councils. Nothing in this legislation is in any way intended to affect the existing legal rights and obligations of councils or the rights and obligations of any third party. The amended section 220 covers these changes.

The bill also includes a provision that improves the employment conditions for temporary employees. This provision applies to temporary employees who are occupying the position of a person on parental leave. The term of such employment is extended to 24 months instead of the existing 12 months. This is achieved by the amendment of section 351 (2). The member for Pittwater made some comments in relation to transitional provisions. A reading of the bill makes it clear that the traditional provisions are fairly tightly worded and there will not be any disruption in the operation of local government. Opposition to this bill, particularly by the member for Terrigal, is based on hatred of the trade union movement rather than a rational look at what the bill seeks to achieve. I commend the bill to the House.

**Mr JONATHAN O'DEA** (Davidson) [11.15 a.m.]: The Local Government Amendment (Legal Status) Bill 2008 endeavours to amend the Local Government Act 1993 in two regards. One, it converts councils from being bodies corporate to bodies politic and, two, it provides that persons appointed on a temporary basis to fill the position of a council employee on parental leave may continue in that position for up to 24 months instead of the existing maximum of 12 months. The Opposition has made it clear that it has no issue with the second proposed amendment. However, I will concentrate my comments on the first matter. In the past week or so we have seen that perceptions are important when we try to define terms or give them meaning. It is important for us to give some meaning to the term "body politic".

Unfortunately, the Act does not give a definition. Unfortunately, the Minister did not provide a definition. We heard an attempt to give some meaning to the words from the member for Terrigal, who provided historic insight and valuable commentary, and the member for Pittwater equated a body politic with a body corporate. I was most interested to hear his contribution, learned as always, with a particular legal slant. However, to determine what meaning we might give to the term "body politic" we might also look at public perception. I slightly digress by noting that within the past week or so there have been various statements on perception of meanings of words or terms, and comments on those perceptions. The Premier indicated that love should be defined by what people perceive to be love. If they think they are in love, they are in love. Likewise, his interpretation of what we might perceive as traffic was: you are in traffic when you think you are in traffic.

The commissioner of the Independent Commission Against Corruption made comments that were critical of a potential test of whether there is a conflict of interest for local government councillors. He disagreed with a test asking whether or not there might be a public perception of there being a conflict. We have also seen Stephanie Rice, a swimming sensation and a most accomplished and followed young lady, give her insights as to where her love lies, and we read that her love was directed at a car—much, I am sure, to the disappointment of many young men. Who knows where her car's love lies, but certainly if it was driving in Sydney it would want to have a love of traffic because it would spend a lot of time in traffic.

But as to the meaning we attribute to a body politic, the public generally, as indeed I do, has some knowledge of the term but little appreciation of what it might mean. So, I went to the *Macquarie Dictionary*. The *Macquarie Dictionary* defines a body politic as "a people as forming a political body under an organised government". The first thing that came to my mind when reading that definition was that local governments, to me, are not just people or just a political body, but an organised level of government in itself. So, trying to say that local government is just a body politic is further reducing the independence of local government and reducing its status as an important level of government in our society.

As previous Opposition speakers have indicated, this legislation is not necessary. The member for Penrith commented on the WorkChoices legislation. I do not wish to defend or comment on the substance of the WorkChoices legislation—and I note that both sides of politics have clearly put it to bed—but I do want to comment on the philosophy of consistency in our industrial relations system. A national industrial relations system has obvious benefits. It is a ridiculous proposition that an employer should have to grapple with multiple industrial relations systems. It creates unnecessary costs, inefficiency and confusion for both employers and employees.

According to the Australian Chamber of Commerce and Industry an estimated \$150 million a year is lost every year due to inconsistent workplace relations laws across States and Territories. The Iemma Government commissioned an inquiry into options for a new industrial relations system, headed by constitutional expert Professor George Williams, who is friendly with members opposite. The aim of the inquiry

was to "advise the New South Wales Government how a fair and harmonised national industrial relations ... could be put in place, in partnership between the Commonwealth and the State of New South Wales". The inquiry found that a new national industrial relations system was necessary because the current approach cannot and will not deliver a simple and efficient national industrial relations system. Following the release of his report, Professor Williams commented that not since the 1890s has there been a better time for a national system.

I also note comments from Prime Minister Kevin Rudd at the Press Club on 7 April 2007 that "Federal Labor's objective ... is to create a uniform, national industrial relations system for the private sector." A national industrial relations system has bipartisan support at the Federal level of government. However, the constitutional reach of the Commonwealth is limited so it cannot legislate for all employers and employees. If we wish to create a truly national system, Federal and State cooperation is essential. Yet New South Wales is constantly frustrating plans to create a national industrial relations system. I agree wholeheartedly with the Chief Executive Officer of the New South Wales Business Chamber, Kevin MacDonald, who stated in January this year:

The next eighteen months in the workplace relations area will be complicated enough without the state governments positioning themselves to protect parochial interests.

Here we see another complexity, another protection of a parochial interest in this bill. We need increased clarity, increased regulatory consistency and increased efficiency in our industrial relations system, not the type of union pandering that we see in this bill. Unions donated over \$2.7 million to the Australian Labor Party in the past financial year and I cannot but see this legislation as largely a payback to the United Services Union, which is totally inappropriate and not in the interest of the public. I was intrigued by the comments of the Minister in her speech on 22 October 2008 when she said:

The department issued a circular to all councils advising them of the proposal to amend the Act and inviting them to comment. Of the 65 councils and one county council that responded to the circular, 57 supported the proposal and only 2 opposed it. Five councils did not indicate a position. The United Services Union also supports this proposal.

I was not surprised that the United Services Union supported the proposal but I was surprised that councils were supposedly supporting this bill. I went to the department's website to try to find the circular and my office also rang the Department of Local Government trying to find the answer and drew blanks. I sought clarification and I thank the Minister for clarifying that those comments only related to the child-care aspect of this bill. That is an absolutely crucial point and it is consistent with the comments of the member for Terrigal, who indicated that the Local Government and Shires Associations were mystified regarding the proposals for councils to be regarded as a body politic. I would suggest that the bill be withdrawn and that proper consultation be undertaken at the local government level within our system of governance. Local government has been disregarded and is mystified. Local government does not support becoming a body politic and the Opposition does not support it. It is creating confusion, it is defective in its potential operation, it is dangerous and it is unnecessary legislation that is opposed by the Opposition.

Finally, I make a couple of comments about real concerns currently held by local government. People in local government are not concerned about industrial relations, and WorkChoices really is dead in their minds, as it is in the minds of most people in our society. Consistency of industrial nations should not be dead but WorkChoices itself has been put to bed. People in local government are concerned about possible loss of Federal Government grants as a consequence of this legislation; they are concerned about their financial status, and their status and recognition in the community. With respect to their financial status, rate pegging has been in place for some years now. I note comments from Premier Rees only yesterday, as reported on page 6 of the *Sydney Morning Herald*:

The Premier, Nathan Rees, has indicated he is considering scrapping rate-pegging, meaning rate payers may have to pay hundreds of dollars more each year to fund council projects.

On the surface that might be welcomed by local government to give them greater financial means of delivering valuable services to local communities. Then I read in the *North Shore Times* of Wednesday 29 October 2008 an article by Kim Shaw, who reports State Parliament for Cumberland Press, and I suddenly realised a potential connection between today's story and the report yesterday from Premier Rees. Today's story talked about a potential 6 per cent rate rise sting to cover payroll tax. It stated:

Council rates would rise at least 6 per cent if local government was forced to pay state payroll tax, the Independent Pricing and Regulatory Tribunal (IPART) has predicted.

It has recommended that the State Government stop exempting councils from payroll tax in order to increase the "base and efficiency" of the tax.

Local government should be concerned that the real reason for Premier Rees countenancing the scrapping of rate pegging is to introduce payroll tax. They are the real concerns and current issues facing local government. The issues that have been raised in this bill as they relate to the body politic should be opposed, and the Opposition will oppose them.

**The DEPUTY-SPEAKER:** I acknowledge the presence in the public gallery of Mr Ben Kruse, the Secretary of the United Services Union, and Mr Gordon Brock from the Local Government Engineers Association. Welcome to the New South Wales Parliament.

**Mr ALAN ASHTON** (East Hills) [11.30 a.m.]: I also welcome them to the House. It is a pity they were not here 10 or 15 minutes ago to hear their names being slandered by the Opposition for the last couple of hours as we have debated this bill. I am sure they can refer to *Hansard* to see what the member for Terrigal thinks of Ben Kruse and the United Services Union [USU]. It is interesting that the suggestion is that the Labor Government is introducing the bill at the total and only behest of the USU in an attempt to get on side with the workers. I do not think the cheering I have heard outside the Parliament today is because of the speeches that have been given by the members for Terrigal, Pittwater and Davidson; I think the people outside the Parliament are cheering because they are having a shot at the Labor Government. While the Opposition is saying that we are doing everything at the behest of the union movement—

**The DEPUTY-SPEAKER:** Order! There is too much audible conversation in the Chamber.

**Mr Greg Smith:** It's not conversation, it's yelling.

**Mr ALAN ASHTON:** It is just yelling and screaming. But that is all right; I do not expect much more from the Opposition. I support the Local Government Amendment (Legal Status) Bill 2008. The bill will ensure that local government employees and their employers remain in the New South Wales industrial relations jurisdiction. The Government supports an industrial relations system that is based on various matters. I will go through those important matters because, while we heard the members for Davidson and Pittwater pledging their loyalty, they are probably on the soft left side of the Liberal Party—

**Mr Greg Smith:** What side are you on?

**Mr ALAN ASHTON:** We have the two right-wingers sitting opposite, the member for Hawkesbury and his good mate the legal eagle, the member for Epping. I am certainly on the soft left side of the Labor Party. One thing I have to give our former old mate the member for Terrigal due recognition for—he had a shot at me last night; that is old history—is that at least Chris Hartcher knows a little bit about the factions of the Labor Party. We are fairly open about them. We have divisions at times, but we come together in the interests of the party and the Government.

[*Interruption*]

Talking about Bankstown council, recently the Liberal Party had four councillors elected to represent the party. Who was in the audience that night? David Clarke. It was the first time we have ever seen anyone that is so senior and important since he tried to set up a Punchbowl branch of the Liberal Party—

**Mr Greg Smith:** Point of order: My point of order is relevance. The member for East Hills is not speaking to the bill; he is digressing into party politics and factionalism. He is the one who raised the matter. It is irrelevant, and he should be stopped.

**The DEPUTY-SPEAKER:** Order! I uphold the point of order. I ask the member for East Hills to return to the leave of the bill.

**Mr ALAN ASHTON:** I simply make this point in referring to your decision, Madam Deputy-Speaker, with which I totally concur. Debate on this bill began yesterday and continued under three different Presiding Officers. The member for Terrigal countenanced the USU, factions, the Labor Party, me and everybody else, and I am entitled to reply. As you just called a minute ago for order on the other side of the Chamber, I am allowed to respond to the interjections of members opposite. And that is what I will do.

**Mr Greg Smith:** Are you canvassing the ruling?



**Mr ALAN ASHTON:** Of course I am—you heard it. If you do not keep interrupting me, we will not have to deal with any more points of order. The Government is looking after the rights of employers, unions and employees in making industrial agreements. We are interested in making sure that a fair minimum wage is set by a truly independent tribunal, after a public hearing. We are interested in an up-to-date and comprehensive safety net for all workers.

*[Interruption]*

I am being interrupted.

**The DEPUTY-SPEAKER:** Order! I call the member for Epping to order. The member for East Hills will be heard in silence.

**Mr ALAN ASHTON:** Thank you, Madam Deputy-Speaker. The Government supports an industrial relations system that is based on an independent umpire with broad dispute-settling powers, including disputes about dismissal; and special protections for vulnerable workers, including protection from exploitative contracting arrangements. What does this remind members of? It reminds me of what we did in this Parliament 18 months or two years ago when we said we would not have a bar of WorkChoices and it all ended up in Canberra and the High Court. That stacked High Court said New South Wales had to come under the thumb of WorkChoices. However, what the High Court could not do was bring us under the thumb of WorkChoices with regard to local government, because there was confusion about whether councils are corporations. Clearly, there is a window of opportunity there. The New South Wales Government says that councils are not corporations; under the New South Wales system of government, councils are bodies politic. The Labor Party has tried many times to get local government recognised in the Australian Constitution.

**Mr Ray Williams:** Well, bring it up.

**Mr ALAN ASHTON:** We will keep bringing it up. What has the Coalition always done in this Parliament and in Australia generally? It has always opposed getting local government recognised in the Australian Constitution.

**The DEPUTY-SPEAKER:** Order! I call the member for Hawkesbury to order.

**Mr ALAN ASHTON:** The Opposition is again following the line, "Let's all get down here and go on about local government; let's try to create some interest in that." Let us not forget that the Coalition would have had WorkChoices applied to local government except that the law did not allow it. The Coalition made it apply to all corporations across Australia. Fortunately, local government was exempted because it is not recognised as a corporation. And we are protecting that. We will not corporatise local government. If ever it were to be corporatised—and it will not be—we would decorporatise it. Members opposite should keep that in mind.

The New South Wales Industrial Relations Act 1966 and the local government awards support the Government's industrial relations policy and have served councils and their employees well, providing a sound basis for fair and productive workplace relationships. I was on a council for 14 years. My colleague the member for Wyong was also on a council, as I am sure other members on this side of the Chamber would have been. The member for Hawkesbury would have been on a council. The member for Mount Druitt says that being on a council never tainted him. I think the Minister herself was on Auburn council. We are proud to have been involved in local government; it is the closest to the people.

**Mr Jonathan O'Dea:** I was on a council.

**Mr ALAN ASHTON:** I am glad that the member for Davidson was part of a council. We did the best we could. I take the point that we know how much is asked for from the Federal and State governments, and how much is devolved to councils to do. Councils need the justification of having the window open with regard to rate pegging and rate rises. For a long time I have felt that councils often fall to be the bodies that have to do so much because the Federal Government flicks the problems to the State Government. In my electorate we have difficulties at times, they go to council, and we expect council to resolve everything. About 30 per cent of the issues my office deals with relate to council matters.

**Mr Thomas George:** Do you think you are Robinson Crusoe?

**Mr ALAN ASHTON:** I do not think I am Robinson Crusoe. The member for Lismore is quite right. All of us know that our offices would not function if we were not dealing with local council matters and ringing the general managers of the various offices to get answers to various questions. We all have a genuine interest in what happens in local government, hence the nature of this bill. The bill will preserve the industrial relations policy framework. It will also provide certainty for councils, protect council employees from the WorkChoices legislation, and enhance the development and retention of skills in the local government sector. As members may be aware, since the introduction of WorkChoices in March 2006 the biggest issue facing local government industrial relations arrangements has been the continuing uncertainty about which jurisdiction applies. There has been confusion about whether councils are corporations, whether they are entitled to receive Federal grants, and whether those grants should be tied to councils having to become corporatised organisations.

Joe Hockey, the previous Minister for Workplace Relations in the Howard Government—who did not quite know on which side of the fence to jump in this debate, as the Howard Government was smashed last year—conceded that it was not clear whether a local government authority was a constitutional corporation. The most contentious issue for local government has been whether councils met the definition of a constitutional corporation. That definition relies on the sources of income for each individual council and whether that income is the result of trading activity or from other forms of revenue. As members would be aware, councils get their money from various sources: rates, grants and loans. Councils can also charge for services. But they provide a service; they are not there to make a profit per se, and the money they get they have to put back into the community. So it is difficult to understand how councils could be considered corporations.

Serious concerns have been raised that the status of each council could potentially become subject to contradictory legal opinion and even court action. I guess that is why the lawyers are here today, to try to rip the bill apart. The only way to provide certainty for local government employees is to remove them from the scope of the Federal law. The bill is a significant step towards meeting the Government's commitment that local government employees will be covered by the State industrial relations system. Local government employees have said that that is what they want. The member for Terrigal has sat quietly on the other side of the Chamber for the last couple of years since the Hon. David Clarke assumed a position of power and the arrival of new acolytes such as the member for Hawkesbury and the member for Epping. He is not as relevant as he was.

The member for Terrigal and I used to debate the different organisational wings of the party and share a little bit of secret knowledge. He knew a little bit about our party and we found out a little bit about his, but now it is much more obvious. I knew the member for Terrigal was still a believer when he came out of hibernation last night and said, "We do not like this bill. We particularly do not like paragraph (a), to convert the status of local and county councils from their existing status as bodies corporate to the status of bodies politic of the State with the legal capacity and powers of an individual." Members seated opposite at the moment have said they are not believers—and I take their word for it—but the member for Terrigal is still part of that group that would bring WorkChoices back if a Liberal government were elected.

Last night the member for Terrigal led for the Opposition on the bill. It is well known that there is always a fair degree of latitude given to the member who leads for the Opposition, and he took all the latitude he could. Basically what he said was code for WorkChoices would still exist had the Coalition not lost the Federal election and be brought into local government in New South Wales. What the member for Terrigal is really saying is that if the Coalition returns to the Treasury bench in Canberra—what a terrible thing that would be—WorkChoices will be back. Julie Bishop has said WorkChoices has got to stay. The Federal Opposition has not given up on WorkChoices and wants to see it return.

The member for Terrigal said that the Government is terrible for looking after the workers who might be in the United Services Union [USU]. The Government is looking after workers whether they are in a union or not. One does not have to be in the union to work in local government in New South Wales. The member for Terrigal is saying that WorkChoices will return. Anybody who is worried about how the Federal and State governments are progressing should read the long speech of the member for Terrigal. I urged the member through interjection—it is unlike me to interject—that the Gettysburg Address took 2½ minutes and that Edward Everett, the speaker before him, spoke for 2½ or 3 hours and no-one remembers his name, except for people like former Premier Bob Carr and I. The Gettysburg Address is one of the best speeches ever given and the member for Terrigal has never learnt that.

The member for Terrigal went on and on about the terrible unions, the United Services Union, the payoffs, et cetera. The member was basically saying that WorkChoices has never left his mind, he still dreams about it every night and it will return. I heard the member for Pittwater and the member for Davidson say that as

far as they are concerned WorkChoices is sort of gone. I hope they are part of the Left of the party, the more moderate group in the Liberal Party, that recognises that if it brings back WorkChoices, the popularity of the Labor Party would rise another 10 per cent or 20 per cent!

**Mr RAY WILLIAMS** (Hawkesbury) [11.42 a.m.]: On behalf of the Opposition I oppose paragraph (a) of the Local Government Amendment (Legal Status) Bill 2008, to convert the legal status of local and county councils from their existing status as body corporate to the status of body politic. Some of the greatest legal minds in New South Wales are represented in the Opposition in this Parliament and I bow to their expertise. It disturbs me that the time of the Parliament is taken up debating the legal status of local government as contained in paragraph (a)—I believe paragraph (b) of the bill should have been a separate bill—when we could be discussing much more important aspects than the wishes of the United Services Union to replace what could be a Federal award with a State award. From the perspective of a layman, that is why the bill has been moved—end of story. I am upset with the Minister for Local Government, who was a representative of the people of western Sydney and who well understands the implications that councils face across western Sydney, such as run-down assets.

I refer to the report of Percy Allan, which has been raised during debate. That report—completed some years ago and collecting dust on a shelf—firmly raised various aspects in relation to the financial status of councils in New South Wales. That is what we should be debating. I would prefer to debate the issues affecting our local councils and ratepayers rather than debate a bill on behalf of Ms Kruse and the United Services Union—whom we know are the masters of the Labor Party—when, as the member for East Hills fairly stated, there are only a small number of union members in local government. It is a matter of great disappointment to me that we are debating a bill to satisfy the whims and wishes of the United Services Union. In all fairness, I do not think the Minister for Local Government really understood the complexities or legal ramifications of the bill for local government. I think the Minister has been sold a pup. We are seeing once again that bureaucrats run New South Wales and not the Parliament. The bureaucrats purport to move poorly thought-out legislation on behalf of the people who are their masters: the union movement in New South Wales.

I am happy to address paragraph (b) of the bill in relation to child care as a separate bill. Paragraph (b) was included in the bill to overshadow the fact that the Government is trying to remove the legal status of councils. Perhaps what should have been brought before us is the illegal status of councils and the illegal happenings in councils. For instance, over the past few months in Wollongong council we have seen Labor Party members and councillors getting up to all sorts of antics.

**Mr David Harris:** Point of order: My point of order is under Standing Order No. 76, relevance during debate. Whilst there is always latitude given in debates, the member for Hawkesbury is wandering all over the place and his comments do not relate to the bill.

**The Deputy Speaker:** Order! The member for Hawkesbury will return to the leave of the bill.

**Mr RAY WILLIAMS:** I thought Wollongong council was in New South Wales—as the shadow Attorney General has just reminded me. Therefore, Wollongong council and any other council will be affected by the legislation. If we want to raise matters that affect ratepayers we need to put in place changes in relation to donations to political parties. The Leader of the Opposition has insisted for the past 18 months that change is needed, but the Government does not want to put in place changes. The Government knows full well that the developers and the unions feed the coffers of the Labor Party and they fund its campaigns. I remind the member for Wyong that I have not gone as far as America as yet. I will not be addressing the Gettysburg Address, as the member for East Hills did. I will stay firmly in New South Wales and within the leave of the bill.

**The DEPUTY-SPEAKER:** I am sure all members will appreciate that!

**Mr RAY WILLIAMS:** Last night the shadow Minister for Local Government raised several issues, including the fact that the first time a body politic was mentioned was in 1532, quite some time ago in mediaeval times. It is surprising that the New South Wales Government is looking back to mediaeval times to find policy to implement in New South Wales. But when we look at the state of our infrastructure, we can understand it. It is almost mediaeval. Our transport systems, our trains, our gridlock traffic are behind the times. We can be more visionary and do much more on behalf of the residents of New South Wales by implementing better policy in the Parliament rather than discussing the legal status of local government and councils.

Our local government is a level of government that I firmly support. It is where I come from. I served on Baulkham Hills Shire Council for 4½ years. I firmly support the 600 people who work at Baulkham Hills

Shire Council as I support the majority of people who work in local government, whether in an administrative or representative roles, across New South Wales. The local government system works very well. However, it is not supported by the New South Wales Government, as can be seen by the motion that was moved on the floor of the local government conference just two days ago. It moved to get rid of the State Government. It possibly would not want to get rid of a good State government, but it wants to get rid of this State Government. It wants to get rid of this New South Wales Labor Government, as do the majority of people in New South Wales. It now realises that 18 months ago it made a great mistake. We need only look at the results of the by-elections in Cabramatta, Lakemba and in Ryde, where we saw a very successful campaign and the election to the New South Wales Parliament of Victor Dominello. In those electorates the people of New South Wales spoke.

**Mr David Harris:** Point of order: I refer to Standing Order 59, irrelevance or tedious repetition. The member's speech is interesting but it has nothing to do with the bill. He talks about how long we spend discussing the bill, yet he goes on with irrelevant information that has nothing to do with the bill.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! I am sure that the member for Hawkesbury will return to the leave of the bill. I will listen carefully to his speech to ensure that he does.

**Mr RAY WILLIAMS:** As you were involved in local government, Madam Acting-Speaker, you would appreciate what I am saying. Local government provides wonderful services on behalf of our communities. Councils provide local roads, community buildings and rubbish collection. They do a wonderful job. I want to speak about the financial viability of local councils, as Percy Allan raised in his report so many years ago, rather than discuss the legal status of councils from a corporation to a body politic. We can spend our time much more wisely. I want to raise an important issue about the status of councils. Any resident in New South Wales can request the budgetary figures, the financial records of a local council at any time because local councils are accountable to the ratepayers.

I invite members to try getting figures on behalf of New South Wales residents from the New South Wales Parliament. We are about to be told in the mini-budget that we have dropped into a \$1 billion hole. If we were able to obtain figures in the same way that we can obtain figures from local government, perhaps we would not fall into that sort of demise. Perhaps then our budget would not be run down to the state it is in now. As I said previously, I do not believe we should be discussing the legal status of local government. Rather, we should be discussing the legal status of certain councils and the goings-on in councils such as Wollongong and others around the State. The activities that have occurred at those councils have not been acceptable to New South Wales residents and are not befitting of local council areas. Unfortunately, that is what we have come to expect, following some very disturbing outcomes over the past 12 months.

I am disappointed that we are spending our time once again debating the legal status of local government when we could be discussing the financial viability of local councils. As Percy Allan said, he believes in the next few years there will be severe ramifications for many councils across New South Wales. That is when the rubber hits the road. That is when services will be impacted, whether it is Meals on Wheels, rubbish removal, parks and playing fields for our kids or fixing potholes in local streets. The expenditure on those services will have severe ramifications and the financial status of councils will be placed in jeopardy. Why? Simply because the New South Wales Government has failed to raise in Parliament the Percy Allan report and debate the issues identified by Percy Allan. They have failed to do so. Instead, we are discussing this bill. I am pleased to support the Opposition and oppose the bill.

In the past few hours we have heard some wonderful speakers in the Chamber. The shadow Minister for Local Government has forgotten more about local government than any other member will ever know. He firmly placed on the record the legal ramifications faced by councils if this bill is enacted. We heard the very learned legal mind of the member for Pittwater. He explicitly raised all the issues and said that even if the legislation is enacted he is concerned as to whether it will change things because a body politic may still be a corporation. I applaud the Opposition members who have spoken and raised issues on behalf of their local government areas. More importantly, they have raised the very serious legal ramifications that may be faced by councils in all local government areas. As I said previously, I am more than happy to speak at any time on behalf of local government because local government is very close to my heart. I support local government areas and the services they provide for their ratepayers.

**Mr GEOFF CORRIGAN (Camden) [11.57 a.m.]:** I support the Local Government Amendment (Legal Status) Bill 2008. Before I move on to the speech I had intended to make, I would like to comment on

some issues that were raised by Opposition members. I will deal with the excellent contribution by the member for Pittwater, which I listened to very keenly in my office. Unfortunately, I was unable to take down the name of the French philosopher he referred to.

**Mrs Barbara Perry:** Rousseau.

**Mr GEOFF CORRIGAN:** Rousseau—I will read the speech with interest tomorrow. There is one matter where I disagree with the member, besides his thoughts on the body politic—and I am sure the Minister for Local Government will deal with that in her reply. The member said, from memory, that he had spoken to the community and the council workers and that no-one had raised this issue with him. Camden Council, which is an independent council—although it has six members of the Liberal Party—does an excellent job. I will not criticise them; I am not here to do that.

**Mr Jonathan O'Dea:** Chris Patterson is very good.

**Mr GEOFF CORRIGAN:** An excellent mayor, and I hope he remains there.

**Mr John Williams:** Rather than running against you at the next election!

**Mr GEOFF CORRIGAN:** I am sure I will not see him again. I have seen one of them off, and I will see another one off. Never go backwards in life. In relation to the workers, last Friday I attended a farewell in one of my local pubs for "Smithy", who worked for Camden Council in the parks and gardens section. He is moving to Integral Energy and will be working down at Unanderra. I wished him all the best. While I was there many workers asked me when we were going to fix the problem with WorkChoices. When Labor members talk to workers we discover that they are concerned about these issues.

Not all councils are good and not all are bad. Some councils made bad investment decisions in relation to financial instruments in the United States of America and now find themselves in deep trouble. Interestingly, the Local Government and Shires Associations is now looking to the State Government to get some of these councils out of the holes they have dug for themselves. As the member for Coogee said, the Local Government Amendment (Legal Status) Bill 2008 is very brief. I support the bill, but in doing so I note that it requires an understanding of the current legal status of councils, what the proposed changes will mean, and why New South Wales is acting now when a Labor Government is in our nation's capital. First, it is imperative to realise that the legacy of WorkChoices is not just Australian workplace agreements. It is a tentacle-like system that creeps down from the discredited Howard Government's industrial relations radicalism to affect some of today's public sector employees.

**Mr John Williams:** Who's put this together?

**Mr GEOFF CORRIGAN:** I have had to listen to all the stuff those opposite have gone on about—such as the wonderful United Services Union. New South Wales has taken care of State employees but local council employees find themselves in limbo land—as I said, this matter was raised with me last Friday—and it is time to give them certainty. The crux of WorkChoices—which has not yet been repealed in Canberra—is the forcible transfer of employees of constitutional corporations to the Federal industrial relations sphere.

**Mr Greg Smith:** It's your Government.

**Mr GEOFF CORRIGAN:** I am getting to my point; the member for Epping should listen. This bill will ensure that councils cannot fall within the definition of "employer" in section 6 (1) of the Workplace Relations Act and that the local government sector continues to be bound by the Local Government (State) Award. The New South Wales industrial relations system guarantees local government workers rights and benefits that the Federal system does not offer. For example, the New South Wales system recognises the right of employers, unions and employees to make industrial arrangements that suit them, including awards.

**Mr Greg Smith:** It's a soft system that one. It's a you-beaut system: ample pay rises, sick leave—all the bonuses.

**Mr GEOFF CORRIGAN:** I bet the member for Epping supported remuneration tribunal decisions when he was in the senior executive service. The New South Wales system ensures that a truly independent tribunal can set a fair minimum wage following a public hearing and input from all interested parties. It also

provides an up-to-date and comprehensive safety net for all workers, with an independent umpire with broad powers to deal with and settle disputes that include dismissals and special protection for vulnerable workers. Further Commonwealth legislation repealing unfair elements, aside from Australian workplace agreements, will not be introduced until mid-2009, with the new system not fully operational until mid-2010. This is the cautious and consultative approach that Labor took to the electorate in November 2007, and it must be respected.

But the New South Wales Government does not believe council employees should have to wait any longer for certainty, especially when the WorkChoices regime introduced by the previous Federal Government stripped away longstanding protections for many working conditions. Let us be crystal clear about what this bill does and does not do. Like the Queensland legislation, the New South Wales bill removes the body corporate status of councils, which will take councils outside the scope of the Federal industrial relations system. Unlike the Queensland legislation, however, the New South Wales bill inserts a new provision—which has been discussed today—that describes a council as a body politic of the State with perpetual succession and the legal capacity and powers of an individual. It will be a body politic, not a body corporate. It will not be a corporation and therefore it is outside the reach of WorkChoices.

The Government believes this approach achieves the desired policy outcome in the clearest possible way. It ensures that the legal status of councils is clear and that councils' and third parties' existing obligations and rights are protected. Importantly, the status and role of councillors also remains unchanged by the bill. The only change is to the status of the council. Councillors retain the same responsibilities and liabilities as before—no more, no less. Councils retain the same ability to enter into contracts and conduct normal business. By way of comparison, the Australian Capital Territory and the Northern Territory are both constituted under Commonwealth law as bodies politic, which causes no practical problems for contractors. The bill makes it clear that a council will have all the legal powers of an individual, and it also ensures that day-to-day operational issues—such as executing documents and instituting legal proceedings—are unaffected. That will be the new, stable and responsible situation councils find themselves in. I commend the bill to the House.

**Mr GREG PIPER** (Lake Macquarie) [12.04 p.m.]: I thank the Opposition for letting me seek the call. I speak on the Local Government Amendment (Legal Status) Bill 2008 not just as the member for Lake Macquarie but also as a contemporary in local government. As members may be aware, I am also the Mayor of Lake Macquarie—the fourth most populous local government area in New South Wales. Lake Macquarie City Council has around 1,000 employees, and I am very well aware of their concerns. I believe our council, like the vast majority of councils in New South Wales, has been very sensitive to employees' needs when preparing and enacting awards. Having paid considerable attention to the Local Government Amendment (Legal Status) Bill 2008 through reading and rereading both the bill and the agreement in principle speech of the Minister, and by considering the points raised by other members, I am left unconvinced.

Having discussed the matter with others in local government, it seems to me that there is a lack of adequate understanding about what the proposed new status of "body politic" means in a legal sense. This gives rise to very reasonable concerns regarding the possibility of unforeseen, and therefore unintended, consequences. I do not believe there is any serious or significant argument against the intentions behind the bill, as articulated by the Minister. My understanding is that local government employees' entitlements will be preserved through 2010, and that is certainly the case with Lake Macquarie City Council. I believe councils would be very supportive of amendments to allow for the appointment of temporary employees for a period of up to 24 months. This gives flexibility to the council and greater surety for employees—particularly those making use of parental leave. That provision is inherently supportable.

I am unhappy that advice of legal counsel has not been provided to give any understanding of, or surety to, these new hybrid entities of body politic. It is clear that the proposed changes relating to the legal status of councils have been brought about largely to address or satisfy concerns raised by the United Services Union. No convincing argument has been advanced that councils are being exposed to the residue of WorkChoices, and this bill seems to be applying a sledgehammer to a relatively small—and in my view highly speculative—nut. Commonwealth industrial relations legislation is destined to change in 2009, and it seems very unlikely that there will be implications of any significance for local government in the meantime in the industrial relations area. On the other hand, it may well be that very significant unforeseen impacts on local government may come from these changes.

The nature of unintended or unforeseen impacts means that they are, by definition, impossible to list. The system for, and legal identity of, our councils are sound and well understood. To change this without due consultation is unreasonable. I confirm that the Local Government and Shires Associations remains very

concerned about possible implications and is completely dissatisfied with the consultation that has occurred in relation to the bill. That is contemporary information because I spoke to the president of the association, Genia McCaffery, in the past hour. This bill does not represent some minor tweaking of the Local Government Act. Rather, it seeks to change a fundamental component of local government, raises real concerns, and has implications that could be very expensive for councils to resolve in the future. Section 351, relating to temporary appointments, is supportable and should not have been attached to the other measures.

I note that the Minister for Local Government is in the Chamber. I am not here to ascribe any maleficence or suspicion to proponents of the bill, whether they be from the union movement or the Government. The union, understandably, is looking for the strongest protection possible for its members. While laudable, it should be understood that local government would be the entity that carries the risk of any unforeseen outcomes. In seeking to excise local government from Commonwealth industrial relations laws I am not convinced that we may not be changing also other relationships that local government has with the Commonwealth or, for that matter, with other corporate or private entities. This issue should be better understood and legal counsel should be provided to assist in the consideration of this matter. I truly believe it is inappropriate for this bill to be rushed through the Parliament. Its passage should be delayed to give the associations and other interested parties reasonable time for full consideration of any implications.

**Mr MATTHEW MORRIS** (Charlestown) [12.10 p.m.]: I naturally support the Local Government Amendment (Legal Status) Bill 2008. Members opposite have made some interesting contributions to the debate. In fact, their views suggest a different local government agenda. It is fair to say that on the whole we all support local government and recognise the important role it plays in the provision of services to the community. It is good that I am speaking following the member for Lake Macquarie, because I was a councillor on Lake Macquarie City Council when the member was mayor. We had some interesting debates at times, but that is democracy in action and it is a good thing.

The key focus of this legislation is the protection of local government employees. I worked in local government for 13 years and have spent a great deal of time talking to former and current local government employees. They regularly raise concerns about industrial relations matters, particularly given the introduction of Australian workplace agreements and the former Federal Government's WorkChoices package. Unfortunately many people in the local government sector were nervous and unsure about their future, their entitlements, their security of employment, and what Australian workplace agreements and WorkChoices would mean—that is, how it would filter through and impact on the local government sector.

It is interesting that some members in this place will not support a bill that will provide security and surety to local government employees. As the member for Camden said, we have a mix of councils and some operate more appropriately than others, but I give credit where credit is due. I take my hat off to the team at Lake Macquarie, which has done its best to ensure that the council operates professionally and transparently. Its primary focus is looking after the community of Lake Macquarie. While local government still faces challenges, the majority of councils undertake a huge amount of work and do what is right for the community.

This bill must be passed because it provides security and surety to employees in the local government sector. Security of employment is fundamental for everyone because if we have no employment we have no income. Members would all be aware of the challenges that face people when they cannot secure a full-time position and a regular source of income. The only other comparable concern is one's health and wellbeing. Although the WorkChoices package has not faded away, it will progressively disappear. That is a good thing for employees in both the private and public sectors. The sooner that happens the better. Many people in the local government sector will be pleased about the passage of this legislation, because it will give them some security of employment.

I am sure all members agree that parental leave is an important issue for both males and females in the workplace. Having the ability to access up to 24 months of leave knowing that their position is secure is paramount. There are enough other pressures on working families in this day and age, and that will probably not change in the long term. Any measure that the Government implements to ensure that jobs are secure for employees who access parental leave is a step in the right direction. This bill will also change the legal status of councils. About 50 councils are outside the current local government legal structure. They can and will be brought into line, with the passage of this legislation. It is pleasing that the review and roll back of WorkChoices is happening—slowly but surely. Local government deserves a better deal, particularly local government employees.

As I said, local government faces many challenges. This Government, in fact any government, should acknowledge and support the local government sector by examining the laws—the rules, the regulations and the legislation—that affect it. Of course, the Government should also address funding for local government. Local government will benefit from the enactment of this legislation, not only because of the changes to councils' legal status but also because of the protection that it will provide to employees. It will provide for fairly negotiated minimum wages set by an independent tribunal, the retention of an independent umpire to resolve dismissal disputes and, most importantly, protection for vulnerable workers. The bill will have no effect on council liabilities, responsibilities, authorities or contractual obligations, other than to protect employees' rights. The bill will provide greater certainty for councils, councillors and residents—in fact, everyone involved in the local government sector.

While the decorporatisation of councils removes them from the harmful lingering effects of WorkChoices, this bill ensures that for the purposes of New South Wales law applying to corporations, councils will remain, in effect, as if they were still corporate. This means that the revised status of councils as bodies politic has no material effect on their status under New South Wales law. A number of councillors have been intrigued about the potential flow-on effects of WorkChoices, not in respect of their own position but in terms of the organisation as a whole. They are curious about the impact on employees. They have often been collared by employees who are trying to understand what the future may hold.

The status, role and liability of individual councillors are unchanged. Unlike the Queensland solution, this bill does not constitute the councillors themselves as the council. In New South Wales the council will be an enduring entity now called a "body politic", whose governing body will be the councillors. The Local Government Act's protections from personal liability for good faith actions are untouched. That is an important clarification for many councillors who are often a little confused about what their legal liability may or may not be when dealing with council matters.

The bill provides security and certainty for councils, third parties that do business with councils and, most importantly, the employees. Never again will those employees find themselves caught by oppressive Commonwealth legislation limiting their rights as workers. This is a terrific outcome for those individuals and their families. It will be interesting to see what further contributions are made on the bill. I hope that the negativity we have heard about the bill dissipates and that members support the bill for the greater good of local government and employees within that sector. I commend the bill to the House.

**Mr GREG SMITH** (Epping) [12.20 p.m.]: For reasons unexplained, the United Services Union does not want its members to be subject to the Rudd-Gillard industrial relations system. This is the system, the plan, and the changeover that it was said would fix Australia and do away with the evils of the Howard Workplace Relations Act, which was upheld by the High Court. The panacea was the Rudd-Gillard model: it would solve everything. Today, apart from calling for all sorts of reviews and inquiries, and stuffing up the economy by offering things and then taking them back, the Federal Government has not gone far towards honouring its promise. It is clearly going to follow much of the philosophy and provisions of the Workplace Relations Act.

What is the Industrial Relations Commission of New South Wales? It is a bit like a club. Ever since the Workplace Relations Act came into being there has not been much work for the Industrial Relations Commission. The Government has appointed Wayne Haylen to the Administrative Decisions Tribunal and switched things so that he can be a member of the Supreme Court. I have nothing against Wayne Haylen and I am sure that he will do a good job, but he obviously did not have enough work at the Industrial Relations Commission. The Government does not want to give away any more power, and it wants to please the unions because it upset them in the first six months of this year. Former Premier Iemma had to go because he upset the unions. Now we are kowtowing to the unions—and in this case to one particular union that does not have a very large membership. A lot of council workers could not be bothered joining that union.

The reason the unions—and this union in particular—fought so hard against the former Federal Government was not because of conditions at work. Surely the unions do not support malingerers. That is one of the things the Workplace Relations Act achieved: it stopped malingerers, who made others do all the work because they did not do their job. The Act allowed people to be sacked for malingering. The unions want those blokes to go; they want people to work honestly. I am sure the trade union movement believes that. But the unions wanted more members because their membership was dropping. Trade union membership has not exactly boomed over the past 15 years—it has gone down. So the unions fought hard for their survival. They wanted to rebuild membership numbers. They did not want to discourage small businesses, which are the biggest employers in this country, from taking on new staff. I think the unions fought because the Industrial Relations Commission was lenient.



Recently, administrative officers across the public service received a 4 per cent pay rise, and will continue to do so for the next three years. The Government will contribute only 2.5 per cent, and departmental budgets will have to be cut by 1.5 per cent. A sweetheart deal was done between the Government and the unions. The Government will say that it was forced into the arrangement, but the departments have already been pared back by 1.5 per cent as a result of the so-called efficiency cuts that the Attorney General referred to last week when talking about the cash-strapped Office of the Director of Public Prosecutions.

**Mr Geoff Corrigan:** Point of order: It is interesting listening to the member for Epping but he is drifting far away from the leave of the bill. I ask you to draw him back to the leave of the bill.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! The member for Epping will confine his remarks to the leave of the bill.

**Mr GREG SMITH:** As I was saying, the Industrial Relations Commission is a friendly sop for the workers. That suits the Government because it will not have to put in money. It will make the cash-strapped departments provide fewer services.

**Mr Geoff Corrigan:** Point of order: We are debating a local government bill, not an Industrial Relations Commission bill. I ask you to draw the member for Epping back to the leave of the bill before the House.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! I remind the member for Epping that his comments should be relevant to the bill before the House.

**Mr GREG SMITH:** I refer to new section 220 in the bill, which states:

Omit the section. Insert instead:

**220 Legal status of a council**

- (1) A council is a body politic of the State with perpetual succession and the legal capacity and powers of an individual, both in and outside the State.
- (2) A council is not a body corporate (including a corporation).

The current section 220 states that a council is a body corporate. That has a clear meaning in law under section 50 of the Interpretation Act. That section states:

- (1) A statutory corporation:
  - (a) has perpetual succession,
  - (b) shall have a seal,
  - (c) may take proceedings and be proceeded against in its corporate name—

There is no provision in the new section that says a body corporate—

- (d) may, for the purpose of enabling it to exercise its functions purchase, exchange, take on lease, hold, dispose of or otherwise deal with property and
- (e) may do and suffer all things that bodies corporate may, by law, do and suffer and that are necessary for, or incidental to, the exercise of its functions.

There is none of that in the amendment. This new section provides:

- (3) A council does not have the status, privileges and immunities of the Crown (including the State and the Government of the State).

That means a council cannot avoid section 187 of the Evidence Act if it is proceeded against under the Occupational Health and Safety Act, which was the subject of a recent decision by Justice Hungerford in the Industrial Relations Commission. So councils do not get those immunities. The amendment provides further:

- (4) A law of the State applies to and in respect of a council in the same way as it applies to and in respect of a body corporate (including a corporation).

What about the power to sue and to be sued? Where is that in this legislation? Where is the protection for an employee who, through unsafe working practices, falls and becomes a quadriplegic? The council failed to protect him but where is his right to sue? It was in the Act, but it will not be there anymore. What thought has been given to this change? Where is the advice that was given? Where is the consultation and where is the opportunity for councils to get advice about how to protect their workers? What happens if a council's insurer says the council will not be covered because it is not bound under the law, as it cannot be sued in its own name? These points have not been clarified, and will cause concern.

The legislation contains many other subsections that outline what a statutory corporation is. There is no definition of a "body politic" in the Interpretation Act or in the amendments. It has a very vague meaning; it means different things to different people. On 16 November 2000 in the case of *WorkCover Authority of New South Wales (Inspector Keelty) v The Crown in Right of the State of New South Wales (Police Service of New South Wales)* Justice Hungerford said at paragraph 20 of his judgement:

Corporate conduct is often complex. Assessment of a corporation's conduct may only be possible through an examination of its documents. This is particularly so in cases where the alleged wrong is committed as a result of the failure of a system set up by a corporation.

We have a body politic that has no meaning. There is no clear position as to whether it can be sued and can sue. The judge continued:

A true understanding of the corporation's procedures is likely to be gained only through evidence from the corporation itself, particularly from its records. The difficulty in obtaining independent evidence against corporations is sometimes exacerbated by the inability to identify a victim of corporate behaviour who can testify. Often, the victim is an "amorphous entity such as a market". Furthermore, corporations are often well equipped to cover up their activities and to fund their defences.

Are councils going to do that for workers in the future? Has the Government thought this through? Has it given an undertaking to all workers, such as Kevin Rudd has given to people who have up to \$1 million in the bank? There is nothing to protect workers. The Government suggests that the provisions about temporary appointments will have some protection. The Government thrives on temporary appointments in the public service. Since when has it been concerned about those workers? It ensures that those workers remain temporary so that it can get rid of them when it no longer needs them. We will see evidence of that in the next few weeks when the mini-budget is handed down because the Government cannot afford to pay those workers.

The term "body politic" is undefined and has its history in antiquity. It is being imposed on the people of this State without any attempt to define it. Clearly councils are not trade corporations or financial corporations. The High Court made that clear in *The Queen v Trade Practices Tribunal; Ex parte St George County Council* (1974) 130 CLR533. The court held that St George County Council, established under the Local Government Act for local government purposes, was empowered to sell electricity, and sell and install electrical fittings and appliances, and pursuing only those activities, was not a trading incorporation.

Although Chief Justice Barwick was of the view that "a corporation whose predominant and characteristic activity is trading whether in goods and services" was a trading corporation, the majority of the court did not support his view. Also, it did not receive the majority view in the constitutional decision involving the Workplace Place Relations Act that everyone is scared of. In *Australian Workers Union of Employees, Queensland v Etheridge Shire Council* these points were made, just as the workplace relations regime, although it applies to trade corporations and foreign corporations, does not apply to councils. Where is the concern? Why must this be placed under the State regime? Perhaps it is so that workers get the mild and friendly Industrial Relations Commission rather than the Rudd-Gillard regime, which they fear.

**Mr Gerard Martin:** Get them away from predators like John Howard.

**Mr GREG SMITH:** The Rudd-Gillard's friendly combination is supposed to have replaced the Howard situation. I am surprised that the member for Bathurst would attack the Government that he helped get elected. There is nothing really to fear. There is a provision for a change without meaning. The definition of "body politic" goes back to the sixteenth century. It is generally used to cover the Anglican Church of Australia Property Trust, the Uniting Church in Australia or Newington College, which are body politics. They are not organisations that employ people for services to the community generally.

We all benefit from council employees doing their job properly. The Opposition has nothing against council employees. We will fight to protect them. In fact, we believe they are being undermined by this change of legislation. Ultimately they will not have the protection of the council with a clearly defined status of body

corporate. They will be acting for a body politic whose definition is not clear and these additional provisions do not help. Such confusion will not assist the people of this State. Councils seeking to challenge the legislation, perhaps in the High Court, or seeking expensive legal advice to find out what they can or cannot do will not be assisted because that is not set out in the legislation.

**Mr MICHAEL RICHARDSON** (Castle Hill) [12.34 p.m.]: There are parts of the Local Government Amendment (Legal Status) Bill 2008 with which the Opposition would concur. The bill comes in three parts. The objects are to confer the status of local and county councils from their existing status as bodies corporate to the status of bodies politic of the State with the legal capacity and powers of an individual; and to provide that a person who is appointed to an employment position at a council on a temporary basis while the holder of the position is on parental leave may continue in that position for a period of up to 24 months, instead of the existing upper limit of 12 months applicable to other temporary appointments; and to include a regulation-making power to specify the matter is to be taken into account by the Minister in granting consent to a council forming or acquiring a controlling interest in a corporation or the entity, and the condition of such a consent.

The bill would appear to be comparatively simple, but it is not. As the member for Terrigal has so eloquently outlined, the reason that the Opposition is opposed to the bill is the whole idea that we should change the status of local and county councils from their existing status as bodies corporate to the status of bodies politic. It is extraordinary that the bill does not even include a definition of "body politic". As the member for Terrigal said, one must go back to mediaeval times, or even before, to find a definition of "body politic". I shall return to that. In her agreement in principle speech the Minister dealt with this to some extent. She said:

Instead of being a body corporate, a council will be constituted as a body politic of the State and will have the legal capacity and powers of an individual. This change in legal status is not intended to affect the day-to-day operations of the council. It will not expose councillors to greater risk of personal liability. It will not affect the existing legal rights and obligations of councils or third parties to do business with them. Its only impact is to remove the possibility that a council might be characterised as a constitutional corporation and therefore as an employer for the purposes of the Commonwealth Workplace Relations Act.

The Ministers said that it is not intended to affect the day-to-day operations of the council. However, the Government has changed the legal status of councils to a concept that is not found anywhere in current law in Australia. The Government has not defined the concept of body politic yet it states that the change in legal status will not affect the day-to-day operations of the council. How can the Minister know that? No case law exists to substantiate that anywhere in Australia. As the member for Terrigal said, this will be a future goldmine for constitutional lawyers.

Queensland has dealt with the issue. The Federal Court ruled that the Commonwealth corporations powers in Queensland did not extend to councils and the Queensland Government legislated to ensure that this was the case. Why has New South Wales taken the extraordinary step of going down a different path? Why did New South Wales not springboard off the success of Queensland and use that model to deal with this issue, if indeed it is an issue? No council worker has come to me and said that they fear the loss of their job or the slashing of their pay and conditions as a consequence of WorkChoices.

My electorate is covered by two of the largest local government areas in the State—Baulkham Hills and Hornsby—so naturally they employ a lot of people. However, no council workers have knocked on my door and asked me to do something about it. As previously stated, this is purely a speculative concern and an example of the Government doing favours for its union mates, in this case, the United Services Union. This was demonstrated by the fact that Madam Deputy Speaker left the chair so she could have some discussions with United Services Union organisers in the gallery. One really must wonder whether this is not legislation for union donations. It does not seem to be legislation for any other useful purpose. Certainly the case that the Minister has enunciated is in no sense well made out. As the Minister herself said:

Although the worst aspects of WorkChoices are now dead and buried, further legislation to repeal other unfair elements of WorkChoices will not be introduced until mid 2009, with the new system not being fully operational until mid 2010.

But the new system will be fully operational in mid 2010—as will this shocker of a bill, which has changed the legislation governing councils and decorporatised them, essentially setting councils adrift in an unknown sea without a global positioning system, without so much as a compass to guide them on their way. That is what this legislation does. And that will continue in the future. After the Federal Government has changed WorkChoices, after the new system is fully operational, this legislation will remain, sailing on uncharted waters. And who knows where it will end up.

Members should not simply take my word on this; these are very genuine concerns. Genia McCaffery, the newly re-elected President of the Local Government Association, said in a press release, "We've just seen the bill but on first glance it looks as if it may affect our ability to apply for Federal Government funding..." That is a bit of a hoot. The member for Charlestown spoke about how important it is to support councils and council funding. Yet here we have the President of the Local Government Association saying that the legislation may affect the ability of councils to apply for Federal Government funding and the provision of services and facilities for New South Wales communities. Genia McCaffery went on to say:

Local government wants a positive working relationship with the State Government so we can jointly provide NSW communities with the services they need and want.

But the Government is making this difficult by again pushing through unnecessary legislation without consulting the very people that will be impacted by it.

We are mystified as to why the Government is ramming this legislation through.

We've got a new Federal Government in Canberra, so the WorkChoices legislation is no longer the threat that it was under the Coalition.

Her colleague the President of the Shires Association, Bruce Miller, said:

While we support clarification of the industrial jurisdiction covering councils in NSW, preliminary legal advice is that the proposed legislation does not remove uncertainty and may have a significant impact on councils outside industrial relations.

I do not think this Government would care about the legislation having an impact on councils outside industrial relations, because what it is doing is looking after its union mates, as was shown by the fact that the Deputy-Speaker left the chair to consult with the union heavies in the public gallery. Since no definition of "body politic" is provided in the legislation, I thought I would provide one or two. One definition I have seen is that a body politic is the people of a politically organised nation or State considered as a group. That is the normally understood definition of the term. Yesterday I spoke with the member for Ballina about it. He said that he has used the expression himself but never to refer to a council. In this case we are not even talking about the voting ratepayers who elect the council; we are talking about the council itself. It has never been as specific as that.

The *Dictionary of the History of Ideas* has a very good chapter dealing with this issue. The chapter is entitled "Analogy of the Body Politic" and is written by Mr David Hale. In the chapter, David Hale likens the State to the human body. As the member for Terrigal noted, this concept goes back to Ancient Greece, to the time of Plato, Aristotle and Aristophanes. It also has some roots in ancient times in India and Arabia. But, as David Hale wrote, in the Middle Ages the analogy of the body politic was developed substantially. David Hale continued:

Most previous applications had been rather brief; medieval authors extend it in elaborate, sometimes fantastic detail. Though its influence on the West is uncertain, the tenth-century *Encyclopaedia* of the Arabic Brotherhood of Sincerity uses organic analogies at great length: the human body is compared to a city and a kingdom; the senses are to the soul as counsellors to a king, and so on. Among Christian writers the analogy is used for a variety of purposes. Most simply, it appears in devotional literature to explain charity, grace, or some other aspect of doctrine.

There is not a lot of relevance to local government in that quote. David Hale went on:

It could supplement the concept of the three estates: clergy-eyes-guidance, nobility-hands-defense, peasants-feet-agriculture. John of Salisbury's *Policraticus* (1159) adopts for its structure a substantial comparison of the human body and a kingdom. After identifying the soul and the clergy, John discusses in detail the other members of the body: head-prince, heart-senate, hands-soldiers, stomach-treasury, and feet-farmers.

Members can see that there are a lot of applications of this concept that the Government has not thought of. I have no doubt that when the Government ascertains the definition of "body politic", it will be able to extend it throughout the corpus of law in this State. We will probably debate this legislation non-stop for the next 10 years, to ensure that everyone understands the meaning of the concept. David Hale continued:

Secular rulers invoked the analogy repeatedly to enforce conformity and at least passive obedience. Even in matters of religion, the word of the prince had to be followed; rebellion in the state was as unnatural as internal conflict in a body.

So it is a totalitarian concept. It is analogous to Louis XIV's famous line, "L'etat, c'est moi." The last Premier of this State who wanted to invoke those sorts of powers was Bob Carr.

**Mr Thomas George:** Bob the Builder.

**Mr MICHAEL RICHARDSON:** Yes, Bob the Builder. I doubt very much whether the current Premier has sufficient authority to exercise anything like the powers of the Kings Louis in France. David Hale went on to say:

In the sixteenth and seventeenth centuries the analogy persisted as part of the period's vigorous mediaeval heritage, but at the same time other ideas developed which effectively challenged the validity of the analogy.

By the time we got around to the seventeenth century, that is 400 years ago, the concept was already outmoded. But that has not stopped this Government reinventing the concept, bringing it back from the dead. David Hale went on to say:

For the last three centuries extended organic analogies have been generally absent from discussions of political issues. The phrase "body politic" persists—

and this is the line members will love—

but as a dead metaphor rather than a meaningful concept for analysis or argument.

So here we are with the Government dragging out this stinking cat, this dead metaphor, ramming it into the Local Government Act, expecting local government to thank it, bow down to it, make an obeisance before it, saying, "Thank you for saving us from a fate worse than death. Thank you for saving us from WorkChoices." What an extraordinary thing to do. What an extraordinary thing for any government to do. [*Extension of time agreed to.*]

David Hale concluded by saying:

A primitive society evolves into an industrial nation just as a small, simple form of life becomes a larger, more complex organism. Though the state may partially resemble a living being, few modern thinkers are willing to extend similarity to identity.

That is certainly not the case for the Rees Government, which has dragged this dead metaphor out of mediaeval philosophy. Something that died 400 years ago has been resurrected, it has had life breathed into it—

**Mr David Harris:** Point of order: I apologise for interrupting. I was enjoying the member for Castle Hill's presentation; it is colourful and entertaining. My point of order is that the Parliament has been slightly misled here. Both the Northern Territory Government and the Australian Capital Territory Government have been established as bodies politic. Whilst the member's presentation is interesting, it is not relevant because in Australia the concept is operating and working well.

**ACTING-SPEAKER (Mr Wayne Merton):** Order! The member will be able to comment on the matter when he has an opportunity to contribute to the debate. The member for Wyong has claimed that the member for Castle Hill is misleading the House. That is not a point of order.

**Mr MICHAEL RICHARDSON:** I am indebted to the member for Wyong for his brief contribution. The evolution of a society into a modern industrial nation—which I hope Australia is—can be likened to the gradual development of a small, simple form of life into a larger, more complex organism. But the State Government wants to take us back to the Dark Ages or to Ancient Greece. I acknowledge that democracy flourished in Ancient Greece, but the concept of democracy is foreign to the Government. The Parliament of Queensland has legislated to ensure that Queensland councils are outside the Federal corporations power. The Federal Court has ruled that the corporations power does not extend to councils in Queensland. The Minister for Local Government has not at any time, in her contribution, by press release or by press conference, explained why she is taking this extraordinary step to redefine councils from bodies corporate to bodies politic.

I do not know what advice the Minister has about the legal implications of the bill. The Minister could have usefully referred to that advice in her agreement in principle speech, even if it was not provided to the House. She could have explained why it was so essential, and commented on the implications to local government workers if the law is not changed. We do not want the speculation of the United Services Union. We want concrete facts. We want to know what will happen if the law is changed. The Minister has been unable to provide any evidence to support the contention of the union that there are going to be major problems if the law is not changed. By contrast, the presidents of both the Local Government Association of New South Wales and the President of the Shires Associations of New South Wales have said that they see considerable

difficulties ahead for councils as a consequence of the legislation. I would encourage all members to carefully think about their positions. One can only hope that if it does pass through this House—which seems probable—the other place will reject it.

**Mr JOHN WILLIAMS** (Murray-Darling) [12.52 p.m.]: Along with other Opposition members I oppose the legislation, a poorly thought out device created by the Government to find a way around dismantling an effective corporate body. If it ain't broke, don't fix it. We are going to see a sixteenth century device put in place in New South Wales and local government will once again be subject to untested liabilities that have not been practised in the workplaces of this country—

**Mr David Harris:** It has been in the Northern Territory and the Australian Capital Territory. Where else do you want to see it?

**ACTING-SPEAKER (Mr Wayne Merton):** Order! The member for Murray-Darling has the call. The member for Wyong has previously made his point.

**Mr JOHN WILLIAMS:** Councils in New South Wales will be subjected to a potential liability but the Government will say, "It is up to you. You handle it." Once again local government will have to bear the cost of the sheer stupidity of legislation. The aim of the bill is to protect local government workers from the WorkChoices legislation, but that no longer exists: WorkChoices is dead. I do not know whether Government members took part in the last Federal election but I can announce for their benefit that WorkChoices is dead, finished forever and gone. I am glad to see WorkChoices gone and I am sure the Federal Coalition is also glad to see it gone. Unfortunately, the Federal Government has decided to introduce WorkChoices Lite—it is not going away. The Government cannot get rid of the old package. Kevin Rudd has rolled over and got into bed with the big end of town and decided that all these changes cannot be made so we need to lighten it off. We now have WorkChoices Lite and workers need protection.

The last time this was done was for pastoral protection board employees. The Government said, "My God, WorkChoices is still out there and the poor devils employed by the pastoral protection boards need to be protected from it. We will make them State Government employees and pull them out of the system." That was done. In my travels around my electorate I have spoken to a lot of employees of pastoral protection boards who do not believe they are any better off. In fact, most of them believe they are worse off as State Government employees. The Government decides what is best for the worker, it puts it in place and the worker is not consulted or involved in the implemented process. The Government sent the bill to the pastoral protection boards, including GST, and their wages bill costs went up.

The United Services Union is trying to increase its membership. I believe that if the union spoke to local government employees about the benefits of being a union member, union membership would rise. We do not need this type of legislation. The member for Castle Hill mentioned that local government employees who thought they were underpaid or working in conditions they were not enjoying were not knocking down his door. That is also the case for me. The member for Charlestown stated that council employees were complaining about conditions and the threat of WorkChoices. Once again, ghosts of WorkChoices. No names or addresses but ghosts. The Government cannot give one example of where this has happened but the ghosts are still being played with. Unfortunately, the Government has started to believe its own propaganda by referring to people who do not exist.

Genia McCaffery, an ex-chairman of an area consultative committee and a member of a reference group who spent a lot of time looking at Federal Government funding in regional developments, noted in relation to the removal of incorporated body status that one of the pre-requisites for an organisation to gain funding was it needed to be an incorporated organisation. That is a very big problem for local government. Local government has been the recipient of Federal funding, particularly in regional development, but it is facing a change of status. The Federal Government will have to ensure that "body politic" becomes part of the criteria for future regional funding. That opens up the huge bureaucratic problem of assessing what needs to be done to get funding.

The Government has talked about how important it is to look after disadvantaged workers who are employed by Government. An organisation in Broken Hill, which provides meaningful employment for mentally challenged people—they are employed under an award system—has had a contract with the local hospital since 2001. Recently the Government decided, without notice, that the contract was no longer valid and told the organisation not to send its workers back to the hospital. The organisation paid up the workers—

disabled workers, the most vulnerable people in the employment sector—and said goodbye to them. The Government talks about how well it looks after employees, yet it puts the vulnerable and disabled out of employment. It is an absolute disgrace. The Government should never, ever be proud of its overall philosophy on employment issues. Union members who are employed by Broken Hill City Council come under the Municipal Employees Union local award, which is negotiated annually. Broken Hill council, which is an incorporated council, has local award status, and is one example of a council that will be disadvantaged by this legislative change.

The changes to the legal status of councils will immediately remove the confidence that councils currently have in the system: they will be engaged in creating a whole new set of policies and procedures to carry out their duties in relation to contractual arrangements and a range of other functions they undertake within their communities. Another protection for workers in my electorate, particularly in the local shires, is that the councils are very much community organisations. In no way do the councils in my electorate intend to underpay employees or have them work in unsuitable conditions. The Government is limiting State Government employees to a 2.5 per cent pay rise, yet it keeps a huge pay rise for fat cats out of the press before the last round of by-elections.

**Mr David Harris:** Point of order: I take this point of order with great regret because I like to listen to what the member for Murray-Darling, who represents one of our biggest electorates, has to say. But what he is saying now is irrelevant. He has spoken on a range of issues. I have counted 10 issues, and out of the 10 only one relates to the bill. I ask that he be called back to the leave of the bill.

**ACTING-SPEAKER (Mr Wayne Merton):** Order! The bill is broad in its nature and invites a number of comments that are not completely inconsistent with the bill. The member for Murray-Darling will continue.

**Mr JOHN WILLIAMS:** I congratulate you, Mr Acting-Speaker, on your ruling. It is clearly evident that you understand the basic philosophy behind this bill. Local government should not have this instrument shoved down their throats. The legislation is an attempt by the Government to make it seem that it is looking after the workers' interests. But its talk contradicts its actions. Members should ask the teachers, the firefighters, and all those employees who are going to get only a 2.5 per cent pay increase, how they feel about the contradiction. The Government talks about focusing on workers being paid a fair wage.

**Mr David Harris:** The offer to the teachers is higher than 2.5 per cent. It is 11.8 per cent.

**Mr JOHN WILLIAMS:** The Government is happy to underpay professional people. It does not recognise some of their claims. The Government cannot retain nurses because of past industrial relations disasters and the way it negotiates with government employees. The Government says, "Don't do what we do. But we will make the councils do what we should." The Government is happy to contradict itself in its support of government employees. It will force local councils to tighten the reins and make sure they put a system in place to protect workers. But the Government does not do that, and it never will. It employs temporary employees so it can tell them to go away. The mini-budget to be delivered shortly will be very cruel to front-line employees. The Government will slash jobs and do all the things it chastises big business for doing. It will slash jobs, not worry about employee conditions—

*[Interruption]*

**ACTING-SPEAKER (Mr Wayne Merton):** Order! The member for Murray-Darling does not need the encouragement of Government members.

**Mr JOHN WILLIAMS:** The Government works outside its own rules and breaks the rules, but it makes sure that local government complies with the rules. Local government will bear the brunt of the Government's proposals, which the Government would not wear itself.

**Mr CRAIG BAUMANN (Port Stephens) [1.07 p.m.]:** Once again, I defend local government in the State of New South Wales. This bill was introduced last week without any consultation with the 152-odd councils—I cannot quite remember the number—that exist in New South Wales. To rub salt into the wounds, it is being debated while the Local Government and Shires Associations meets in Broken Hill. I note that earlier the member for Cabramatta and the member for Smithfield were present in the Chamber. I first met the member for Cabramatta in 1990 at a conference in Adelaide. I know he is a passionate supporter of local government. He

is the mayor of Fairfield. I also acknowledge the election of the member for Lakemba, who is currently the Mayor of Canterbury City Council. The Lord Mayor of Sydney is also a member and Greg Piper, the member for Lake Macquarie, is the Mayor of Lake Macquarie.

I am sure if Parliament were not sitting, they would be at Broken Hill following the same line as the Local Government and Shires Associations in opposing this legislation. The meeting at Broken Hill would be the perfect opportunity to consult with the councils. But the Government seems to relish the opportunity of once again interfering with the hard work that councils do on behalf of their communities. This is yet another occasion when a Carr, Iemma or Rees local government Minister has run roughshod over the interests of councils, their councillors and their ratepayers. I was first elected to local government 21 years ago and I am passionate about council's determination to put its ratepayers and employees—and many council employees are local ratepayers—before all else; unlike this place, where Government members seem to treat their constituents with contempt.

In the past few years this Government has imposed unbelievable imposts on the ratepayers of New South Wales. When he was Minister for Urban Affairs and Planning, Craig Knowles imposed the coastal policy on all coastal councils from Port Stephens to the Tweed. A cynic might suggest he commenced the policy at Port Stephens because his brother Brett Knowles is the planner at Newcastle—a very good planner, I might add—and I do not think the Minister wanted to argue with his brother over the dinner table at Christmas. The policy allowed the Minister to determine all development approvals within one kilometre of the high-water mark. In Port Stephens the Minister signed off on a 13-metre high building in an 8-metre zone—a zone on Shoal Bay Beach that, over the years, councillors of all colours had held sacred—without any community consultation whatsoever.

**Mr Robert Coombs:** That has nothing to do with the bill.

**Mr CRAIG BAUMANN:** Yes, it has. In 2005 I visited all North Coast councils affected by this coastal policy. I met with mayors and general managers, and they were horrified that Minister Knowles had approved developments that their councils would not have entertained. This coastal policy was eventually extended statewide—

**Mr Robert Coombs:** Point of order: This is a bizarre contribution.

**ACTING-SPEAKER (Mr Wayne Merton):** Order! What is the member's point of order?

**Mr Robert Coombs:** The point of order is the leave of the bill. What the member is talking about has nothing to do with the bill. The member's contribution has gone now back to Mr Knowles, who was a planning Minister five years ago.

**Mr Thomas George:** The bill goes further back than that.

**ACTING-SPEAKER (Mr Wayne Merton):** Order! The member for Lismore will remain silent. The House is debating a broad-ranging bill, which concerns the fundamental restructuring of local government. The bill has a number of ramifications that I believe members should raise if they see fit to do so. The member for Port Stephens has the call.

**Mr CRAIG BAUMANN:** The coastal policy was eventually extended statewide as part 3A, depriving communities of their ability to determine the future of their environment and taking application funds away from councils and wasting them here in Sydney—propping up this Government's inept attempts at fiscal responsibility. More recently, having blown \$8 billion in windfall stamp duty and land tax, the Iemma Government instructed the Department of Lands to screw as much as possible out of its land holdings. Who does that affect? It affects surf clubs, local golf clubs, bowling clubs, sailing clubs and small clubs run by volunteers that cannot afford huge increases in rent; many will simply close. And, of course, many blocks that look like parks to their neighbours are in the sights of the lands department as development sites. I put on record an email I received at 10.29 this morning, which states:

Mr Baumann,

After 10 years serving the community of the Tomaree Peninsula, Radio Bay FM is now facing the real possibility of being forced to close down.



We are a "mom and pop" small business, operated by just my wife and myself. As with most small local businesses we barely make a profit.

Now the NSW Department of Lands have told us we need to pay \$4,000 per year for having our transmitter on Gan Gan Hill. We already pay a fee to General Communications (GenCom) to house our transmitter in their hut, with our small mast on their roof.

By comparison, the local community station Port Stephens FM (who receive more money in sponsorships and grants than our total revenue) are being asked to pay only \$367 per year for housing in their rent-free council hut.

We are being asked to pay the same as in the same category as major corporations such as 2GB and 2UE!

We are licensed by the Australian Media and Communications Authority as a "narrowcast" station, not classified as a "Commercial" station. We therefore have greater restrictions placed on us, but lower ACMA and federal government fees so as to be able to operate.

If the Department of Lands enforces this outrageously punitive fee, we will have no option but to close our business.

Could you please clarify with the Minister as to why such a decision has been taken with respect to a Port Stephens small business?

Yours sincerely,  
Geoffrey Brown  
BAY FM 99.3

I emphasise Mr Brown's concerns for the future of a community radio station that serves the residents of Tomaree and Hawks Nest-Tea Gardens, just across the port, with local news, weather and information as opposed to the larger Newcastle-based radio networks. But this is typical of the unfeeling actions of this miserly Government, and it is striking at the heart of our community groups—those volunteers for whom the Government is so keen to cry crocodile tears. Since Adam was a boy, the New South Wales Department of Health has approved all septic sewage disposal units. This Government gave that responsibility to councils and had them impose an annual inspection fee on all non-sewered systems. This fee was, as usual, nowhere near enough to fund a thorough inspection regime to check all New South Wales Health approved systems, and many dwellings incorporating a pump-to-sewer system were hit with a double whammy: they had to pay the normal Hunter water sewerage fees as well as the draconian septic inspection fee.

In 2005 Port Stephens oyster farmers noted high human faecal counts in Tilligerry Creek and voluntarily reported it to the New South Wales Government. What did this Government do to help? It did absolutely nothing, except to blame Port Stephens Council. Whilst council did all it could to clean up the problem, and whilst individual owners spent tens of thousands of dollars upgrading their New South Wales Department of Health approved septic, the affected oyster farmers were hung out to dry. The oyster farmers could grow, but not sell, oysters until the pollution cleared. Did the Minister lend the oyster farmers enough to keep their businesses going until they could sell their crop and repay the loan? No.

**Mr Robert Coombs:** Point of order: I am trying very, very hard to understand how the contribution from the member for Port Stephens is related to this bill.

**ACTING-SPEAKER (Mr Wayne Merton):** Order! There is some substance to the point of order. While the House is debating a broad bill, I ask the member to look carefully at the bill and to come back to the leave of the bill.

**Mr CRAIG BAUMANN:** To the point of order: I am just talking about how decisions made by Ministers in this place affect local government.

**ACTING-SPEAKER (Mr Wayne Merton):** Order! I am certain that the member will return to the leave of the bill. Does he understand what I mean by that?

**Mr CRAIG BAUMANN:** I will do that.

**Mr Robert Coombs:** That's why we have a local government Minister.

**ACTING-SPEAKER (Mr Wayne Merton):** Order! The member for Port Stephens has the call. He will be heard in silence.

**Mr CRAIG BAUMANN:** It is not just the local government Minister; a range of Ministers spend their time making life miserable for local government. In the end, those oyster farmers went broke and now the State

Government and the taxpayers will have to clean up their leases, which is not a cheap exercise. On Monday Premier Rees talked about rate pegging. That is great: the Government will get rid of rate pegging and do what it always does—dump the expensive jobs on to council or get them to collect the Government's new taxes, insurance levies or land tax and add them onto the rates bill and let councils cop the blame.

Previous speakers have mentioned the findings of the Allan report. I hosted Percy Allan in the Speaker's dining room last night at a University of Sydney alumni reunion. I discussed his report—an excellent report that this Government has conveniently and totally ignored. My father—a very honest, hardworking former union delegate and Labor voter, Government members will be pleased to hear—had a favourite expression: Good liars need a good memory. This Government does not even pay lip-service to that expression.

In 2004 the Carr Government instructed councils to adopt a 28-page code of conduct—and yet we in this place have a two-page code of conduct. Is it any wonder that when a motion to abolish the State Government was moved in Broken Hill no-one spoke against it? The Coalition does not support object (a) of this bill. It is simply another impost placed on local government in New South Wales—an impost the effectiveness of which will be debated through the courts at further expense to the ratepayers of New South Wales.

It is time the Rees Government sat down with councils and had real discussions on how local and State governments can work together. There is no shortage of former and current mayors and councillors in this place on both sides of the House. In his inaugural speech last night, the member for Port Macquarie quoted William Shakespeare in part: "To Thine own self be true". I encourage the member for Lakemba, who also gave his inaugural speech last night, to sit down, wearing his Mayor of Canterbury City Council hat, with the Premier and the Minister and convince them to withdraw this meaningless and dangerous legislation.

**Ms CLOVER MOORE** (Sydney) [1.20 p.m.]: I strongly urge the Minister to defer debate on this legislation for at least 28 days. The Local Government Amendment (Legal Status) Bill 2008 removes the corporate status of New South Wales councils. The Minister said that this move is necessary to ensure that New South Wales councils and, therefore, council employees are protected from the Commonwealth industrial relations laws introduced by the Howard Government under the banner of WorkChoices. The Minister said that the bill ensures that New South Wales laws that apply to corporations will continue to apply to councils.

Although this bill appears to be simple, it could in fact have major implications for councils and their communities. That is why the Local Government and Shires Associations and many New South Wales councils are very concerned that without corporate status councils will not be able to apply for Federal funding. If that is the case, the bill will rob councils of vital funds they need to provide essential services and facilities. Indeed, over recent years local government has remained financially viable because of that Federal funding. Furthermore, the legal implications for elected representatives and the application of important Federal legislation, such as occupational health and safety laws, are not clear under this bill and I believe create uncertainty for councils.

The Minister referred to consultation in her agreement in principle speech. The Local Government and Shires Associations is seeking legal advice on the bill, as is the City of Sydney Council. However, that advice is not yet available. As a result, we cannot properly assess what impact this bill will have on the operations of the City of Sydney Council, which serves the most important city in Australia. Councils clearly cannot give feedback to their local members until they have that advice. We should not be debating a bill when we are not properly informed.

When I shared the balance of power in this House with the then members for the South Coast and Manly we presented a charter of reform to the Coalition Government and the Opposition, then led by Bob Carr. Both the Coalition and the Labor Party signed up to that charter. It required that significant legislation, such as a bill of this nature, lie on the table for 28 days. I remind members that legislation in other Westminster systems, particularly the House of Commons, can sometimes take 18 months to be passed because the members concerned believe it is important to get legislation right, given that it affects how the State will operate.

We clearly cannot have an informed debate on this bill because we simply do not have the appropriate information. There is no need for this bill to be rushed through the Parliament. The new Labor Federal Government has committed to introduce changes to the workplace relations legislation. I call upon the Government to respond to the concerns that have been raised by many members and to assure councils that they will be able to continue to apply for Federal funding, that important Federal legislation will still apply and that

there will be no other impacts on local government. When addressing the local government conference in Broken Hill, the Premier suggested that the Government might be contemplating removing rate pegging to allow councils to meet the needs of their various communities in a responsible manner. That has been welcomed by local government because for a number of years the State Government has asked local government to do more and more with less and less and there has been continual cost shifting; many councils are suffering seriously as a result.

What really alarms me is that the Government is making plans to remove the exemption that applies to local councils in respect of payroll tax and also to require local government to collect additional fire levies. If the Government proceeds with those plans, many councils will be left in dire straits. It is an alarming proposal: there will be very serious consequences and some councils will go under and will not be able to do as they have been elected to do, that is, to provide for their communities. I strongly urge the Minister to defer debate on this legislation so that councils and the Local Government and Shires Associations can get legal advice about its implications. When that happens we can have a properly informed debate in this House and in the House of review—the Legislative Council.

**Mrs BARBARA PERRY** (Auburn—Minister for Local Government, and Minister Assisting the Minister for Health (Mental Health)) [1.27 p.m.], in reply: I thank all members who have contributed to this debate. This bill seeks to restore certainty to local government sector workers and their families. I will address some of the specific matters raised by members. The concept of the body politic was raised by a number of members opposite. The member for Terrigal and the member for Castle Hill gave us interesting lectures about the origins of the concept of the body politic. Far from being soporific, I found both of their dissertations very interesting.

They were full of learned quotes from various scholars such as Hobbes, Locke, Rousseau and others. Of course, the member for Castle Hill amusingly quoted from David Hale's *History of Ideas*. They and other members opposite sought to establish that the concept of body politic is medieval and completely foreign to twenty-first century Australian law. With respect, I am informed that the concept of a body politic is current and relevant in Australian law. I refer members to the useful legal resource at [www.austlii.edu.au](http://www.austlii.edu.au). If they were to access it they would find that the Australian Capital Territory and the Northern Territory are bodies politic established by the Commonwealth Parliament.

Members opposite argued that the law recognises only two entities—individuals and corporations—and that the Government has not addressed whether the entity known as the body politic will have equivalent powers. They also queried whether the Government had considered the legal implications of converting this entity, citing the instance of India, where the conversion from the Crown to a republic created all sorts of problems. This bill makes it clear that a council, as a body politic, will have all the legal powers of an individual. As the member for Terrigal noted, the legislation already recognises that individuals have certain powers and rights. I do not think that this could be simpler or clearer. The functions of councils are not otherwise changed and are clearly set out in the existing sections of the Local Government Act.

The member for Epping raised concerns about the Acts Interpretation Act. The helpful provisions of section 50 of that Act will continue to apply to councils constituted as bodies politic. The bill does not change the application of section 50 of the Acts Interpretation Act to councils. The interpretive note at the end of section 22 of the Local Government Act also continues to be relevant to councils. This bill ensures that the rights of councils to sue and be sued, to perpetual succession and to use a seal, to name a few of the issues raised by the member for Epping, are not affected. Importantly the transitional provisions provide that the council is taken for all purposes to be a continuation of and the same legal entity as the council as it existed before the commencement of the Act. It will have no impact on normal council operations.

A number of members opposite referred to a lack of consultation with the Local Government and Shires Associations. With all due respect to members opposite, this is not a new issue; it has been around for some time. Indeed, the associations have previously made submissions on the issues that are the subject of this legislation. While I note the associations have expressed different positions in respect of this matter, I am advised that they sent a letter to the former Premier in January 2008 asking that the Government give favourable consideration to returning New South Wales councils to State industrial coverage. We have done just that, but we have also incorporated the views of the Local Government and Shires Associations in the bill.

In a more recent letter to the former Premier the associations highlighted concerns about the Queensland approach. This bill avoids those issues. For example, it ensures councillors are legally separate from

the council and the existing protections of the Local Government Act continue to apply. Those protections include the good faith actions of councillors. The Government is conscious of the views of stakeholders, but at the end of the day decisions must be made.

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

*[The Acting-Speaker (Mr Wayne Merton) left the chair at 1.30 p.m. The House resumed at 2.15 p.m.]*

## **ADMISSION OF THE TREASURER IN THE LEGISLATIVE ASSEMBLY**

### **Message**

**The SPEAKER:** Order! I report the receipt of the following message from the Legislative Council:

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that it agrees to the request of the Legislative Assembly in its message dated in 28 October 2008 for the Honourable Eric Roozendaal, MLC, Treasurer, to attend the Legislative Assembly on Tuesday 11 November 2008 at 12 noon.

Legislative Council  
29 October 2008

PETER PRIMROSE  
President

## **LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AMENDMENT (DETAINED PERSON'S PROPERTY) BILL 2008**

**Message received from the Legislative Council returning the bill with amendments.**

**Consideration of Legislative Council's amendments set down as an order of the day for a future day.**

## **BUSINESS OF THE HOUSE**

### **Notices of Motions**

**Government Business Notices of Motions (for Bills) given.**

## **QUESTION TIME**

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## **MINISTER FOR SMALL BUSINESS STAFF MEMBER COMPLAINT**

**Mr BARRY O'FARRELL:** My question is directed to the Premier. Given the conflict between Tony Stewart and his female staff member was important enough for the Premier's staff to raise the matter with him last Thursday, why did it take another five days and today's media reports before he demanded an explanation from the Minister?

**Mr NATHAN REES:** I was made aware by senior staff in my office last Thursday that there were some staffing issues in the Minister's office and that these were being addressed by my chief of staff. At the staff member's request, I am advised that immediate steps were taken to redeploy her from that office the same day and that advice was also sought from the deputy director general of my department. Based on that advice, it was agreed that my staff would check with the staff member in one week as to her welfare, including if there were matters that she wished to pursue.

**The SPEAKER:** Order! The Leader of the Opposition will cease interjecting. He has asked his question and he will allow the Premier to respond. The member for Bathurst will cease interjecting.

**Mr NATHAN REES:** Central to this matter is the welfare of the staff member. I am further advised that the staff member has indicated that she does not wish to take the matter further at this time. If she does wish to reconsider, she will receive my full support. I have to be very careful in relating any details in the event the staff member in question reconsiders her current position.

**The SPEAKER:** Order! The Leader of the Opposition will cease interjecting. Given the seriousness of the circumstances, it would be appropriate for him to allow the Premier to conclude his remarks.

**Mr NATHAN REES:** After a journalist raised the matter with me yesterday afternoon, I asked for an update. I was provided details of the staff member's concerns. I spoke to the Minister this morning. I reminded him that I expected the highest standards of my team and asked him to give his version of events. I made it clear that I expected to be told the full truth. The Minister has indicated to me he does not agree with the reported accounts of what occurred. I made it clear that if it were established that his version of events is wrong, he would be removed from the ministry. That is where the matter lies. On the matter of the Minister's former chief of staff, I am advised that he made a similar request to be moved to another office.

**The SPEAKER:** Order! The Leader of the Opposition will please restrain himself.

**Mr NATHAN REES:** Similar steps were taken to move him to work for another Minister. I am advised he subsequently resigned.

### REGISTER OF LOBBYISTS

**Dr ANDREW McDONALD:** My question is directed to the Premier. What action is the Government taking to ensure interaction with lobbyists is open and transparent?

**Mr NATHAN REES:** As I said last week, transparency and accountability are the cornerstones of good government.

**The SPEAKER:** Order! The House will come to order. I call the member for Terrigal to order.

**Mr NATHAN REES:** Last week I announced that the Government is adopting a new approach to the information it provides to the public. The public has a right to know. The Government has also been looking at measures to improve transparency in other areas. I advise the House that today the Government will establish a register of lobbyists based on the Western Australian and Commonwealth model. The Government will adopt a lobbyist code of conduct, which will permit Ministers, Parliamentary Secretaries, ministerial staff and public servants to be lobbied only by professional lobbyists who have their details on the register. All lobbyists and government representatives will be expected to comply with the code of conduct. No-one will be given any exemption. Professional lobbyists will be required to disclose in the register details of persons who are working for them, their clients and their business registration details. They will also be required to observe ethical standards when lobbying public officials.

These measures will fulfil the public's expectation that contact between lobbyists and public officials is conducted openly and with integrity. The new registration system will complement the obligations imposed on public officials in January 2006 to ensure that lobbying is conducted appropriately. The register will be made available on the website of the Department of Premier and Cabinet and lobbyists will be able to apply for registration online. The Government proposes to launch the online registration system on 1 January 2009 but will do it earlier if possible. The code will come into effect on 1 February 2009, allowing for the development of the website and training of government members, staff and other public servants. This is a small but important step in ensuring that the public can have confidence in their public officials, and I call on the Leader of the Opposition to sign his team up to the code also.

### MINISTER FOR SMALL BUSINESS STAFF MEMBER COMPLAINT

**Mr ANDREW STONER:** My question is directed to the Minister for Small Business. How can the Minister stand by his comment that the alleged incident involving a female member of his staff "didn't happen", despite the fact the staff member was removed from his office into another Minister's office and his chief of staff moved and then quit following the incident?

**Mr TONY STEWART:** I have no further comment to add on this issue.

**The SPEAKER:** Order! The House will come to order.

**Mr Barry O'Farrell:** Point of order: How can you make no further comment when you have not made a comment in the first place, you fool?

**The SPEAKER:** Order! The Leader of the Opposition will resume his seat.

**DEPARTMENT OF PLANNING RESTRUCTURE AND REFORM**

**Mr ALAN ASHTON:** My question is addressed to the Minister for Planning. What action is the Government taking to speed up processes in the Department of Planning, and related matters?

**The SPEAKER:** Order! I call the member for Terrigal to order for the second time. I call the member for Murray-Darling to order. The House will come to order.

**Ms KRISTINA KENEALLY:** In the last two months the world has seen the turbulence created by the loss of confidence in world credit markets. The Rees Government is responding to these challenging times by carefully reviewing government programs and expenditures. The Government is looking for savings where appropriate, but it is also looking for simpler and more effective means to boost economic development and provide much-needed confidence to the property sector. The engine of the New South Wales economy is not just mining development, like other States in Australia. In New South Wales it is our capital markets, our property and services sectors, our access to global markets and our construction sector that drive economic growth. We need to ensure that the focus of our land use planning is on delivering three key things: land release for housing and employment, urban renewal initiatives in key locations, and the approval of major new developments and rezonings to deliver jobs and housing.

In these difficult economic times it is vital to make sure we are doing everything in our power to encourage these sectors to grow. It is for this reason that today I am announcing a package of immediate changes that the Rees Government will institute to encourage development in this State. First and foremost, I am overhauling the Department of Planning to refocus it on three key deliverables: land release, urban renewal, and major development assessment. As a fundamental part of that overhaul, I am integrating the land release expertise of the Growth Centres Commission into the Department of Planning. Having the Growth Centres Commission to kick-start the planning and development in Sydney's growth centres has been a great resource but it is only helping to solve 28 per cent of Sydney's land supply. I want to unlock the expertise of the Growth Centres Commission from its currently narrow task and bring it together with the Department of Planning to ensure that there is a clear focus on the acceleration of land release across New South Wales for the long term. We will make sure that the expertise on greenfield land release that resides within the Growth Centres Commission will be used to drive land release across the State.

Our long-term plans, such as the Metropolitan Strategy and the regional strategies for the Hunter, the Illawarra and coastal areas, show that we will need to build more than one million new dwellings in New South Wales over the next 25 years. More than 400,000 of these new houses will be in greenfield areas, areas such as south-western and north-western Sydney, but also in Maitland and Cessnock, in the Hunter, in West Dapto, in the Illawarra, along the coast, as well as in inland centres in Queanbeyan, Tamworth and Goulburn. Making sure that we plan to accelerate and encourage land release is critical to encouraging a turnaround in the State's finances. The time is right to focus on this issue. I am sure members of the House would have seen media reports about the immediate impact that the drop in interest rates and the changes to the First Home Owners Scheme have had on residential land inquiries in western Sydney. For years the New South Wales property market has struggled as interest rates depressed demand. As interest rates drop, and while governments across the country are doing what they can to help provide affordable housing, it is vital to make sure that the New South Wales Government's land supply program is working as effectively and efficiently as possible.

**The SPEAKER:** Order! The member for Murrumbidgee and the Leader of The Nationals will cease their running commentary.

**Ms KRISTINA KENEALLY:** To make sure that the Rees Government has done everything possible to facilitate the supply of new land, today I inform the House that as part of the restructure of the Department of Planning I am also commissioning a review of land supply planning. I have instructed the Director General of the Department of Planning to use this review to make sure that as the demand for greenfield land picks up it is not held up by delays in the rezoning and development assessment process. The review will look at the processes and procedures behind the rezoning of new residential and employment land, and the procedures for bringing this land to the market. Wherever possible, we will look to see how we can slash time frames and remove redundant processes. This will cut unnecessary red tape and keep development across the State moving in the right direction. We need to make sure that land and housing is as affordable as possible, and improving the speed and efficiency with which it is delivered to the market is critical to that.

We have already made considerable progress with the planning reform program to set the framework for improved speed and efficiency of planning laws across New South Wales. That includes initiatives such as

the Gateway process to improve the rezoning of land, producing complying development codes to give faster approvals for routine applications, and using new regional planning panels to give greater certainty to development assessment processes. These will all help to drive new land release, reviving the property sector and in turn driving a turnaround in the State's finances through growth in construction jobs and property transactions. While improving our delivery on greenfield land release is vital, we also need to improve our performance on major urban renewal initiatives. I want to take the existing expertise within the Government for the planning for key urban renewal sites and apply it across the State.

**The SPEAKER:** Order! There is too much audible conversation in the Chamber. If the member for Murray-Darling wants to ask a question he should seek the call.

**Mr Steve Whan:** We have never seen him do that!

**Ms KRISTINA KENEALLY:** The Parliamentary Secretary for Planning, the member for Monaro, observes that we have not yet heard a question from the member for Murray-Darling. As I said, while improving our delivery on greenfield land release is vital, we also need to improve our performance on major urban renewal initiatives. I want to take the existing expertise within the Government for the planning for key urban renewal sites and apply it across the State. In New South Wales, the majority of new housing will be built in existing urban areas, not greenfield areas—70 per cent of new housing in Sydney, 50 per cent of new housing in the Illawarra, and 70 per cent of new housing on the Central Coast. This will see the planning system focused on the big issues of housing affordability and economic development, instead of seeing Government resources focused on single-issue projects or agencies.

**The SPEAKER:** Order! I call the member for Murrumbidgee to order.

**Ms KRISTINA KENEALLY:** Last week I hosted the Metropolis Conference. It was a chance to talk about how great world cities operate. But it was also a chance to showcase Sydney and, by connection, broader New South Wales as Australia's global city. To develop the city and its counterparts in regional New South Wales—such as Wollongong, Gosford, Newcastle, Coffs Harbour and Dubbo—we need to build strong competitive centres. We need to ensure that we do not just provide great plans for cities but make sure they are realised. I look forward to working further with the Lord Mayor of the City of Sydney. I enjoyed the meeting I had with her and Professor Jan Gehl today to discuss the Sydney 2030 Plan. We need to ensure that our planners understand the market and provide controls that the developers can respond to. The newly refocused department will see a significantly enhanced capability in urban renewal, which will drive key major projects to deliver the housing and land that is needed.

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

**Ms KRISTINA KENEALLY:** To demonstrate the Government's commitment to driving economic growth by reviving the property and development sector, I also announce that additional funding of \$3 million will be provided to the Department of Planning to employ project managers who will reduce assessment time frames for development applications and local environmental plans.

**The SPEAKER:** Order! The House will come to order, including the member for Hawkesbury. I call the member for Hawkesbury to order.

**Ms KRISTINA KENEALLY:** I see the Opposition is excited about a new policy idea. The Rees Government will provide this additional funding allocation to the Department of Planning so it can employ specialist project managers. These specialist project managers will be development problem solvers; they will be a single point of contact for proponents, councils and the broader community to discuss the assessment process for major projects. Project managers will coordinate a proactive approach to the assessment process for major projects across Government. The role of the project manager will be to identify issues with a project early in the assessment phase. They will work with the proponents, other agencies and councils to resolve issues quickly and efficiently whilst maintaining the integrity of the assessment process. I expect that these new measures will see a drastic reduction in the current time frames for planning approvals. I am setting the Department of Planning some ambitious but achievable targets.

**The SPEAKER:** Order! I call the member for Hawkesbury to order for the second time.

**Ms KRISTINA KENEALLY:** The member for Hawkesbury is welcome to meet with me at any time if he would like to raise his views about planning policy. We should see the assessments of the majority of

major projects finalised within three months and even the most complex completed within eight months. The time frames for rezoning will be slashed as the planning reform process and the use of case managers accelerates decisions so that major land release or urban renewal rezonings are completed within 12 months, minor spot rezonings are completed in three months, and a 50 per cent overall reduction in the time taken for rezonings is achieved across the board. By taking these steps to restructure our planning processes the Rees Government is moving quickly to re-invigorate the property market in New South Wales, restore confidence and re-build the State's economic capacity.

#### **MINISTER FOR SMALL BUSINESS STAFF MEMBER COMPLAINT**

**Mr BARRY O'FARRELL:** I direct my question to the Premier. When the Premier dismissed Matt Brown he personally made phone calls to try to verify his version of events. Why has the Premier now simply accepted the word of the Minister for Small Business rather than talking first to others involved? Is the Premier simply afraid of the truth?

**Mr NATHAN REES:** In my approach to this matter I am guided by the wishes of the staff member in question. I am advised that at this time the staff member has indicated that she does not wish to take the matter further.

#### **RAIL NETWORK SECURITY**

**Mr ROBERT FUROLO:** I direct my question to the Minister for Transport. Will the Minister update the House on the latest efforts to crackdown on crime on the rail network, and related matters?

**Mr DAVID CAMPBELL:** I thank the member for Lakemba for his question and I congratulate him on his election to this House. This is the first question that the member has asked. I also acknowledge the inaugural speech of the member for Lakemba given last night, which was a very thoughtful contribution. I am sure the member for Lakemba will continue to take a great interest in safety and security issues on our rail network. Since taking on the role of Minister for Transport I have made it clear that my focus is improving front-line services for passengers. That is why I am currently working with RailCorp to finalise a customer service charter. I want to ensure that we are delivering reliable and clean trains, as well as providing customers with quick and easy to access information about rail services.

Another very important customer service is providing safe and secure travel. This is being achieved with the targeted deployment of the Police Force of New South Wales and RailCorp security staff as part of Operation Vision 4. The aim of Operation Vision 4 is to reduce crime on public transport, focusing on our trains. I am pleased to inform the House that the latest information on this operation shows that since its launch in the first weekend of September the operation has led to 672 people being arrested and 664 charges being laid. Security on our rail system is a top priority and it is good to see RailCorp security and police working so closely together to keep people safe on our trains. Hundreds of criminals and thugs have been locked up as a result of the increased security presence on trains and at transport interchanges in Sydney, Wollongong, Newcastle, and on the Central Coast.

When people catch the train they want to know that they will be safe and not have to deal with harassment and anti-social behaviour. That is why Operation Vision 4 was expanded to include metropolitan Sydney, Newcastle, the Central Coast and Wollongong following the success of Vision 1, Vision 2 and Vision 3. The operation has spanned eight months—longer than the previous operations. Not only do I want our trains to be reliable and clean, but I also want them to be safe. As part of Operation Vision 4, 25,246 trains have been patrolled, 14,996 rail infringements have been issued, and 608 drug searches have been conducted. I thank our hardworking RailCorp staff who, with the assistance of police, are making our trains and transport hubs safer. The Government is committed to targeting anti-social and drunken behaviour on our trains as well as stopping thieves and other criminals.

The success of Operation Vision 4 is linked to the use of our extensive security camera network on stations and our transport hubs. The monitoring of this vision allows for RailCorp security and police to identify criminal activity and catch those responsible. Operation Vision 3 was also a great success, targeting crime hot spot areas on the rail network. The use of the high visibility patrols over three months led to 566 arrests, 5,805 infringement notices, 164 drug charges, and 63 weapons seized. Once again, commuter crime unit police, highway patrol officers, bike squad police and the dog unit worked hand-in-hand with RailCorp security to deliver a safer network. The results continue to get better as the intelligence gathered by RailCorp security and police strengthens.



In Operation Vision 2, 220 arrests were made for offences including robbery, assault and malicious damage. That operation also produced other impressive results with the issuing of 182 court attendance notices, over 5,770 infringement notices, the conducting of over 1,130 person searches, the seizing of over 20 weapons and the issuing of 570 move-on directions. I note the Leader and the Deputy Leader of The Nationals think this is funny. It is serious and I am sure that the member for Lakemba, who asked the question, also considers it serious. It also shows the division between The Nationals and the Liberal Party because I know that the member for the South Coast understands the importance of these operations and has welcomed them. The member for the South Coast has been caught misinterpreting the operations in the past, but I know she is now a strong supporter of them, which, again, shows the conflict between The Nationals and the Liberal Party.

*[Interruption]*

**The SPEAKER:** Order! Members will cease interjecting, and that includes the member for South Coast.

**Mrs Shelley Hancock:** No way.

**The SPEAKER:** Order! I call the member for South Coast to order.

**Mr DAVID CAMPBELL:** I was trying to give the member for South Coast a hand, and now she has put herself on a call to order—goodness me. Operation Vision 1, the first of these joint police and RailCorp initiatives, produced strong results but it also shows how far we have come. It was a five-week blitz and hailed a success for the 60 arrests and 1,000 trains that were patrolled in the initial operation. With greater planning, more resources and a growing cooperation between police and RailCorp, we have increased these results tenfold in just over a year.

The Government is getting on with the job, boosting services and providing a safer public transport system. We need to clean up the rail network, not only clearing food rubbish and graffiti, but also clearing out those criminals who catch the trains. It is all part of the Government's efforts to improve the standards for people who rely on our transport system. The same motivation is driving us to invest over \$3 billion in a new train fleet, which the private sector is contracted to deliver from 2010. The same motivation has led us to making great progress in resolving long-running issues between RailCorp and our train maintenance workers.

The Premier has made transport one of his top priorities. It includes the new infrastructure and front-line services that we are in the process of delivering. Compare this with the policy void that exists on the opposite side of the Chamber—it is a deadset policy void over there. An Opposition preoccupied with infighting and a transport spokesperson that is interested only in whinging, whining and complaining. I again thank and acknowledge the RailCorp security workers and the New South Wales Police Force who are working hard to keep our trains safe, and send a message to those other front-line workers who are doing a good job but, of course, we can always do better through a sense of continuous improvement.

#### **MINISTER FOR SMALL BUSINESS STAFF MEMBER COMPLAINT**

**Mr BARRY O'FARRELL:** I direct my question to the Premier. Why did the Premier not follow standard practice and, instead of moving the female staff member, stand aside Tony Stewart pending an independent investigation of the conflict that occurred? Is there one set of rules for New South Wales Labor and another for the rest of New South Wales?

**Mr NATHAN REES:** The staff member requested a move and that was accommodated on the day. In all of this we will be guided by the staff member's wishes. That is what we have done. We have provided the appropriate support and we have been guided by her wishes.

#### **RED TAPE REDUCTION**

**Ms LYLEA McMAHON:** My question is addressed to the Minister for Regulatory Reform. What action is the Government taking to cut red tape for businesses in New South Wales, and related matters?

**Mr JOSEPH TRIPODI:** I have 17 minutes to talk about the important issue of red tape reduction.

**The SPEAKER:** Order! Actually, no, you do not. The House will come to order.

**Mr JOSEPH TRIPODI:** Red tape reduction has become core business for the New South Wales Government. It is part of our broader commitment to make it easier and more attractive to do business in New South Wales. We have been talking to business about reforming areas of regulation to achieve the same regulatory objectives by more user-friendly means. In the past 18 months we have set up the groundwork necessary to achieve our goals of removing unnecessary red tape and stopping the creation of new red tape. In April we released the Guide to Better Regulation and launched the Better Regulation Office website and in June we introduced new stricter gatekeeping processes. We take the task of regulatory reform very seriously, and we are already achieving savings.

**The SPEAKER:** Order! I call the member for Upper Hunter to order.

**Mr JOSEPH TRIPODI:** Today I am pleased to announce the release of our first annual update on removing red tape in New South Wales. This report outlines achievements in cutting red tape across the New South Wales Government over the 18 months to the end of June 2008. Across the New South Wales Government 128 specific red tape reforms were agreed to or implemented during the 18-month period, and the benefits amount to hundreds of millions of dollars. Red tape reforms save businesses money in forgone fees, charges and administrative costs; they save businesses time and help them run more efficiently; and they lead to benefits for the economy in increased investment.

Also, many unquantifiable benefits flow from an efficient regulatory environment, such as, encouraging innovation. One of the major reforms described in the report was the first targeted red tape review done by the Better Regulation Office into the regulation of shop trading hours. The reforms save time and money for retailers, which is estimated to be about \$2 million a year across New South Wales, while providing customers with the flexibility to shop at times convenient to them. The annual update also details the Government's recent action to reduce the red tape associated with location filming in New South Wales. The reforms will make filming approvals easier to obtain and reduce compliance costs for an industry that contributes almost \$1 billion to the New South Wales economy each year. If the reforms successfully increase New South Wales's share of film production, they could stimulate additional investment of \$540 million in New South Wales over five years.

Significant reforms have been undertaken in planning regulation, including introducing consistent codes for exempt and complying development, streamlining development assessment processes and removing 1,400 concurrence and referral requirements. This will save business more than \$150 million over five years. Reforms to reduce workers compensation premiums and simplify record-keeping requirements will save businesses in New South Wales an estimated \$118 million over five years. New South Wales and Victoria have harmonised the way payroll tax is administered, making compliance simpler for businesses operating in both States. Changes to the administration of payroll tax are saving individual businesses in New South Wales thousands of dollars every year.

**The SPEAKER:** Order! The member for Barwon will cease interjecting.

**Mr JOSEPH TRIPODI:** Other reforms that will benefit business include making it simpler to gain approvals for public entertainment events, reducing processing costs when selling used cars and streamlining environmental reporting, occupational health and safety and titles processing for the mining industry. Also, 23 red tape reforms identified in the report will make life simpler, fairer and more affordable for the broader community in New South Wales. For example, reforms to improve motor accidents claims and dispute resolution processes will cut administration costs by 40 per cent and put downward pressure on the cost of greenslips. Broader exemptions from obtaining pink slips, plus the introduction of the e-safety check system, will lead to a total saving for New South Wales families of \$18.6 million over five years. Modernisation of the land titles system will deliver savings of more than \$20 million to the community this year alone.

The annual update shows how many red tape cuts are happening all the time across the whole of government. The New South Wales Government has been pushing and promoting regulatory reform, and the results speak for themselves. Today I am announcing the release of the Government's second six-monthly progress report on implementing the Independent Pricing and Regulatory Tribunal's [IPART] 74 regulatory reform recommendations, which demonstrates the Government's success in progressing this agenda. Over the past six months a further 14 recommendations have been fully implemented. Now 37 recommendations, or exactly half of the 74 recommendations, are complete. Delivery of the remaining 37 recommendations is on track. Many of the IPART's remaining recommendations are contingent on actions to be taken at the national level, including through the Council of Australian Governments [COAG]. Completed reforms include those in

the areas of shop trading hours, liquor licensing and government procurement of consultancy services. The second progress report shows the New South Wales Government has set up a complete gate-keeping system. We have implemented all 16 of the IPART's recommendations around institutional change.

The Better Regulation Office now reviews all regulatory proposals before they go to Cabinet or to the Executive Council and reports to me on compliance with the Government's principles of best practice regulation. If a proposal does not comply with the seven better regulation principles, it does not pass through the gate to the decision makers—at least not until further work has been done to improve the proposal. In most cases, this has meant more extensive stakeholder consultation; better identification of the costs and benefits of the proposed regulation; or consideration of alternative ways to achieve the same objectives, including non-regulatory approaches. To give an idea of the number of proposals we are talking about, since August last year the Better Regulation Office has assessed more than 130 regulatory proposals going to Cabinet. In June this year the Better Regulation Office began assessing regulations going to the Executive Council and it has looked at about 90 proposals. Going forward, a major focus will be to target red tape reviews in areas where reducing red tape can have benefits for the New South Wales economy.

**Mr Wayne Merton:** Point of order: What the Minister purports to be an answer to a question has now turned into a ministerial statement. I want to raise a further point about a general issue. I am concerned, and have been for some time, about questions that refer to a specific item and then to related matters. This is an example of how an answer to that type of question can get out of control and turn into a ministerial statement.

**The SPEAKER:** Order! The question and the Minister's answer are in order at this stage.

**Mr JOSEPH TRIPODI:** Today I have good news about the work of the Better Regulation Office as we announce another targeted red tape review. The review will examine 11 occupational licences we currently have in New South Wales, which only one or two other States have.

**Mr Adrian Piccoli:** Point of order: I take a point of order on two matters. First, as to the length of the answer, clearly the Minister is trying to waste time during question time. Second, the Minister has announced Government policy. He has an opportunity before question time to announce ministerial statements. This is an excuse to waste time and talk the clock down. There are plenty of questions that need to be answered.

**The SPEAKER:** Order! I draw the Minister's attention to the length of his answer and ask him to commence concluding his answer.

**Mr JOSEPH TRIPODI:** It is a very important review. Even the Opposition has regularly raised as an issue of concern the existence of licences that may not be needed. The Productivity Commission's recent Review of Australia's Consumer Policy Framework motivated this review. The review queried the need for the licensing of occupations licensed in only one or two jurisdictions. The COAG asked the States and Territories to review these licences. The Better Regulation Office has identified 11 of these licences that fit the bill in New South Wales, including motor mechanics, entertainment agents, kit home suppliers, structural landscapers and strata managers. We will draw on the experience of other States to examine whether these licences are necessary and provide the benefits they claim. One problem with having these licences is that the regulation prevents experienced people from other States—

**Mr Brad Hazzard:** Come on, Joe. Sit down.

**Mr JOSEPH TRIPODI:** This is all about skills. It is about attracting skills to New South Wales. It is very important, Brad. I have heard you talk about how important it is. This is about removing the red tape so that skilled workers can come to New South Wales, and it deserves the attention of the House. I know that the Opposition does not have any regard for the reduction of red tape but we believe it is very important. The discussion paper is available online as of today and public comments are being sought over the next four weeks. Once complete, these reforms will contribute to the Council of Australian Governments project of streamlining occupational licensing across Australia.

New South Wales is playing its part in the Council of Australian Governments process to try to secure a seamless national economy through the work of the Business Competition and Regulation Working Group. In New South Wales the Government will maintain its commitment to ensure regulatory proposals are subject to rigorous assessment and comprehensive consultation. We are very committed to the reduction of red tape and, consequently, I am happy to have informed the House of these very important reforms.

**PORT MACQUARIE BASE HOSPITAL EMERGENCY DEPARTMENT UPGRADE**

**Mr PETER BESSELING:** My question is directed to the Premier. Could the Premier please update the House on the latest plans for the upgrade of the Port Macquarie Base Hospital emergency department?

**Mr NATHAN REES:** I thank the member for his question, and what an impact player he is! Just 10 days as a new member in one of the seats opposite—

**The SPEAKER:** Order! The Leader of the Opposition will cease interjecting.

*[Interruption]*

**Mr NATHAN REES:** Nothing deflecting from the white-anting of the Nats' campaign. The member for Port Macquarie is an impact player. Not only has he taken one of the Opposition's seats but has asked a question inside 10 days. I have been waiting since March last year to hear a question from that side.

**Mr Adrian Piccoli:** Point of order—

*[Interruption]*

**The SPEAKER:** Order! The House will come to order. The conduct of the Leader of the Opposition has been unparliamentary today. I will not allow sledging across the Chamber. I will allow points of order when a matter needs to be corrected, but I will not allow continual calling out across the Chamber.

**Mr Barry O'Farrell:** Remind them.

**The SPEAKER:** Order! I remind the members I hear. The House will come to order.

**Mr Adrian Piccoli:** I refer to Standing Order 128, rules for questions. The member for Port Macquarie has asked a serious question on which both he and The Nationals' candidate campaigned very hard during the by-election. What he does not need, and what Port Macquarie does not need, is political grandstanding by the Premier. The Premier should be drawn back to answer the question.

**The SPEAKER:** Order! The Premier has the call. I am sure the Premier is aware of the question that has been asked.

**Mr NATHAN REES:** I am indeed. Like many areas of New South Wales, Port Macquarie has a growing and ageing population. There is no doubt that the Port Macquarie Base Hospital emergency department is a busy unit. It is a testament to the hospital's hardworking doctors and nurses that they have been able to assist the increasing number of patients presenting to the emergency department over the past few years.

**The SPEAKER:** Order! I call the Deputy Leader of the Opposition to order.

**Mr NATHAN REES:** It is in recognition of Port Macquarie Base Hospital's increased activity levels that we have appointed extra nursing staff and a full-time medical director to the emergency department. We also have established the Express Community Care Centre, which sees about 20 emergency department patients a day. The centre fast tracks those patients with chronic treatment needs into an appropriate service and frees up emergency beds. In contrast to the Opposition, whose response to meeting the challenges of delivering health care to an ageing population is to privatise the hospital, we are continuing our investment in public health.

I am convinced that there is a need for an immediate expansion of the hospital's emergency department before any major upgrades of the hospital. Such a proposal is currently under consideration. Planning funds were provided from the 2007-08 capital works program to allow the health service to examine the feasibility of an interim upgrade. Currently this proposal is being assessed and a decision will be made as soon as possible in the context of the mini-budget. I am happy to let the member for Port Macquarie know the moment we have been able to secure funds for that project. I can assure the member for Port Macquarie that the Government will continue to respond to growing demands on our health system. I will be in Port Macquarie at the weekend and I am happy to have a wander through the hospital with the member for Port Macquarie.

**HOME BUILDING ADVOCACY SERVICES**

**Mr MATTHEW MORRIS:** My question is directed to the Minister for Fair Trading. What action is the Government taking to provide advocacy services for home building consumers throughout New South Wales, and related matters?

**Ms VIRGINIA JUDGE:** I thank the member for his question and for sharing my commitment to protecting New South Wales' consumers.

**The SPEAKER:** Order! The House will come to order.

**Ms VIRGINIA JUDGE:** For hardworking New South Wales families, realising the dream of owning their own home is the largest investment they will ever make. It is not just a matter of finance and bricks and mortar; it is also an emotional investment. Approximately 6 per cent of applications lodged with the Consumer, Trader and Tenancy Tribunal concern home building disputes. These residential building disputes can cause consumers a great deal of emotional and financial stress, as well as being costly in time. In some cases consumers are not equipped or do not have the financial capacity to prepare or present their case in a Consumer, Trader and Tenancy Tribunal hearing.

The Rees Government is committed to relieving the distress and anxiety experienced by families facing a home building dispute. Ensuring that home building consumers have access to advice and advocacy services to resolve disputes is a priority. I am pleased to advise members that the Rees Government will provide \$640,000 in funding over three years to Macquarie Legal Centre to operate a Home Building Advocacy Service for consumers. Funded through the Home Building Grants Program, the Home Building Advocacy Service provides another level of support for New South Wales consumers involved in home building. It complements the excellent free dispute resolution service offered by the Office of Fair Trading with practical and common sense advice to hardworking people who experience contractual and legal issues associated with building disputes.

Home Building Advocacy Service staff offer legal advice, they advocate for and represent consumers at tribunal proceedings and they help resolve disputes by negotiating with legal representatives from the other party to a dispute. With approximately 30 years experience, Macquarie Legal Centre has conducted a well-managed and professional Home Building Advocacy Service pilot program for Western Sydney consumers since 1 January 2007. Throughout the pilot period, the Home Building Advocacy Service helped many consumers with complex home building disputes. It handled 448 matters requiring face-to-face or telephone advice and 56 cases requiring preparation or representation at Consumer, Trader and Tenancy Tribunal hearings.

Fair Trading is an agency that touches the lives of everyone in New South Wales. Overall, home building consumers and contractors strike the right balance between what is fair for both parties. On the other hand, there are shonks and rogues whose sole purpose in life, sadly, is to separate consumers from their hard-earned money. The interests of vulnerable consumers are at the heart of everything Fair Trading does, which is why the Rees Government is expanding this crucial program across the State. Many compelling cases illustrate the value of the Home Building Advocacy Service.

For example, a widowed client from a non-English speaking background was seriously injured in a car accident. She was on a disability pension and had received a lump sum payout for the damages caused by the car accident. The client was referred to a person to build her house. The contractor purported to be a handyman, but he was unlicensed. He took \$120,000 in advance to renovate the house, demolished most of it and then left. The Home Building Advocacy Service obtained a judgement in the widow's favour for \$116,000 at the Consumer, Trader and Tenancy Tribunal. Macquarie Legal Centre maintains a strong working relationship with the Office of Fair Trading and the Consumer, Trader and Tenancy Tribunal, which has proved beneficial in achieving the best possible outcome for consumers. Mr Speaker, it is very sad—

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

**Ms VIRGINIA JUDGE:** The mob opposite obviously has no interest in protecting consumers. It is very disappointing, but not unexpected. The Macquarie Legal Centre has also demonstrated a very strong focus on assisting disadvantaged community members involved in disputes with home building contractors. The expanded service will be available to home building consumers across New South Wales from 1 November. This initiative is yet another example of the New South Wales Government's unwavering commitment to protecting and supporting this State's consumers, and I commend it to the House.

**Question time concluded.**

## PETITIONS

### Drink Container Deposit Levy

Petition requesting a container deposit levy be introduced to reduce litter and increase recycling rates of drink containers, received from **Ms Clover Moore**.

### **Central Coast Radiotherapy Services**

Petition requesting funding for a public radiotherapy unit on the Central Coast, received from **Ms Marie Andrews**.

### **Hornsby Area Haemodialysis**

Petition asking that a public haemodialysis centre be established in the Hornsby area, received from **Mrs Judy Hopwood**.

### **Ambulance Rescue Function**

Petition opposing the recommendation of the Head Report to disband the rescue function within the Ambulance Service of New South Wales, received from **Mr Daryl Maguire**.

### **Tumut Renal Dialysis Service**

Petition asking that the House support the establishment of a satellite renal dialysis service in Tumut, received from **Mr Daryl Maguire**.

### **CountryLink Pensioner Booking Fee**

Petitions requesting the removal of booking fees charged to pensioners on CountryLink services, received from **Mrs Shelley Hancock** and **Ms Katrina Hodgkinson**.

### **Pensioner Excursion Bus Tickets**

Petition requesting that South Coast pensioners be able to access the \$2.50 pensioner excursion ticket for bus travel, received from **Mrs Shelley Hancock**.

### **Hawkesbury River Railway Station Access**

Petition requesting improved access to Hawkesbury River railway station, received from **Mrs Judy Hopwood**.

### **Bus Service 311**

Petition requesting improved services on bus route 311, received from **Ms Clover Moore**.

### **Edgecliff Interchange Upgrade**

Petition requesting the upgrading of Edgecliff interchange, received from **Ms Clover Moore**.

### **Companion Animals Travel**

Petition requesting that companion animals be allowed to travel on all public transport, received from **Ms Clover Moore**.

### **TAFE Fees**

Petition asking that TAFE fees be frozen at the 2007 level until 2011, received from **Ms Katrina Hodgkinson**.

### **Greenwell Point and Goodnight Island Development**

Petition requesting the approval of the Greenwell Point and Goodnight Island development application in its entirety, received from **Mrs Shelley Hancock**.

### **Barangaroo Planning Guidelines**

Petition opposing the Sydney Harbour Foreshore Authority proposal to modify Barangaroo planning guidelines, received from **Ms Clover Moore**.

### **Star City Casino Proposal**

Petition opposing the Sydney Harbour Casino Properties proposal for the Star City Casino, received from **Ms Clover Moore**.

### **Shoalhaven River Water Extraction**

Petition opposing the extraction of water from the Shoalhaven River to support Sydney's water supply, received from **Mrs Shelley Hancock**.

### **Pet Shops**

Petition opposing the sale of animals in pet shops, received from **Ms Clover Moore**.

### **Wedderburn Longwall Mining**

Petition opposing Illawarra Coal's exploration lease application 3474 for longwall mining at Wedderburn, received from **Mr Graham West**.

### **Shoalhaven Local Area Command**

Petition requesting additional resources for the Shoalhaven Local Area Command, received from **Mrs Shelley Hancock**.

### **Culburra Policing**

Petition requesting increased police numbers in the Culburra area, received from **Mrs Shelley Hancock**.

### **Rural and Regional Police Resources**

Petition calling for allocation of more police resources to rural and regional communities throughout New South Wales, received from **Ms Katrina Hodgkinson**.

### **Cowra Policing**

Petition requesting that Cowra police station be staffed 24 hours a day, received from **Ms Katrina Hodgkinson**.

### **Shoalhaven Mental Health Services**

Petition requesting funding for the establishment of a dedicated mental health service in the Shoalhaven, received from **Mrs Shelley Hancock**.

### **Preschool Speed Zones**

Petition asking that 40 kilometre per hour speed zones be introduced outside all preschools in New South Wales, received from **Ms Katrina Hodgkinson** and **Mr Don Page**.

### **Falls Creek Traffic Arrangements**

Petition requesting consultation with residents concerning the intersection of the Princes Highway and Parma Road, Falls Creek, received from **Mrs Shelley Hancock**.

### **Barton Highway**

Petition asking that priority be given to Federal AusLink funding for upgrading of the Barton Highway to dual carriageway, received from **Ms Katrina Hodgkinson**.

## BUSINESS OF THE HOUSE

### Reordering of General Business

**Mrs JILLIAN SKINNER** (North Shore—Deputy Leader of the Opposition) [3.11 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Blue Mountains District Hospital Maternity Unit] have precedence on Thursday 30 October 2008.

I seek to reorder business to give precedence to the motion of which I gave notice earlier today calling on the New South Wales Labor Government to honour its commitment to the member for Blue Mountains and local residents that the maternity unit at the Blue Mountains District Anzac Memorial Hospital will remain open permanently. This is an extremely important matter because the women of the Blue Mountains have the right to have their babies in safety at their local hospital, which has been refurbished at considerable expense. I was at this fantastic facility yesterday and spoke to the first-class staff—doctors, nurses and midwives—who are very committed to doing the right thing. I also spoke to some specialists.

The Government closed the unit on 21 July, supposedly because there were not enough obstetricians. As a result of public outcry, it was reopened on 1 September. On that occasion the then Minister for Health, Reba Meagher, said, "Congratulations, you won! This won't happen again." The member for Blue Mountains said that the maternity unit was there to stay. The member is a good local representative because he has stood up for his constituents and their efforts with regard to the maternity unit at the Blue Mountains hospital. Unfortunately, when I visited the hospital yesterday the unit was again closed.

**Mr Alan Ashton:** They knew you were coming.

**Mrs JILLIAN SKINNER:** The member suggests that the unit was closed because the staff knew I was visiting. Is that how this Government runs hospitals? Shame on you! The unit was closed because this Government has not made the appropriate effort to recruit staff. I have spoken to staff who would be willing to work in that unit, including an obstetrician. There are now nine obstetricians available for the roster. The people managing the system are doing a really good job, but the Government has not made a real effort to ensure that the hospital remains open permanently, as promised.

This motion should have precedence because we have recently seen what happens when maternity units are closed. A woman delivered a baby in the back of an ambulance. Fortunately, on this occasion mum and baby were well and there is no suggestion that it was not a reasonable outcome. However, what happens when a mother is turned away because the midwives cannot cope, there is no expert backup and a major trauma occurs on the road—for example, if there is a traffic jam, an accident or the road is slippery—and she must give birth in the back of an ambulance? She might require a general anaesthetic or a caesarean. I am sure that the member for Blue Mountains shares my concern. It is not good enough. The Government must put much greater effort into ensuring that the facility remains open.

I call on members to join me in allowing a debate on this issue to proceed. This issue cannot be fobbed off with smart words from the Leader of the House. It is of great importance to the many people in the Blue Mountains who have contacted me. The local media keeps running this story because they know how important it is, not only to mums but also to their husbands and the rest of the community. I have visited the area a number of times and I will continue to do so. I have spoken to women who are due to have babies and to members of the hospital action group, which has been lobbying strenuously on this issue and which includes many people who attended a public rally to protest against the Government's failure to recruit sufficient staff to guarantee that the maternity unit remains open.

This maternity unit is fundamentally important because of the hospital's geographical location and the fact these mothers must travel down the mountain, sometimes when the road is treacherous, to the Nepean Hospital to deliver their babies. On most occasions that is fine. However, there will be an occasion when a mother's life, and perhaps her child's life, is in jeopardy. As I have asked in the past, and as some of these women have asked me: Will it take a death for this Government to take notice? I urge members on this side of the House, members of the crossbench, and the member for Blue Mountains and his colleagues to allow this debate to proceed. I do not think there can be anything more important than this House discussing matters that are of fundamental importance to the safe delivery of children and addressing the concerns of a community that has very little choice when the road is so often blocked. Please support me in giving this motion precedence.



**Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [3.16 p.m.]: Far from attempting to make a political point, the Government expresses extreme concern about this matter. I will make a number of observations about the issues raised by the member for North Shore. The global shortage of anaesthetists, obstetricians and midwives is creating challenges for many regional hospitals, unfortunately including the Blue Mountains District Anzac Memorial Hospital. As I indicated, the Government is concerned about the impact of staff shortages on maternity services in the Blue Mountains, as is, of course, the local member, who is present in the Chamber.

Families need certainty, the community needs certainty, and the staff need certainty. The families of the Blue Mountains also need certainty; they do not need political intervention in this matter. That is why the Premier has asked the Parliamentary Secretary for Health, Dr Andrew McDonald, who is also in the Chamber, to review the situation and to provide advice about the best ways to deliver safe and reliable maternity services to the families of the Blue Mountains. I do not know that anyone in the Government or the Opposition would challenge the capacity of the member for Macquarie Fields, who is a very experienced doctor in the public health field, to provide advice on this matter.

**Mr Barry O'Farrell:** Point of order: This is an important issue. I am concerned about the stress being caused to the member for Blue Mountains. Say yes and have this issue debated tomorrow. Get it over and take this man off the rack. He does not deserve to have to vote against this motion.

**The SPEAKER:** Order! The Leader of the Opposition knows full well that that is not a point of order.

**Mr JOHN AQUILINA:** I am also advised that the Minister for Health, the Hon. John Della Bosca, and the member for Blue Mountains, Phil Koperberg, met last week to discuss this issue. They will be visiting Blue Mountains hospital to discuss the issue with staff and the community.

**Mr Jonathan O'Dea:** Point of order: I understand the point of this debate is to establish the urgency of the motion, not to reply to the motion.

**The SPEAKER:** Order! I extended considerable latitude to the Deputy Leader of the Opposition during her contribution. I will extend the same latitude to the Leader of the House.

**Mr JOHN AQUILINA:** I am merely answering the issues raised by the Deputy Leader of the Opposition. As I indicated, the Minister and the local member will be visiting Blue Mountains hospital to discuss this issue with the staff and the community. That is the way this matter should be dealt with: the appropriate people who have been provided with the appropriate advice should deal it with in the appropriate way. The safety of mothers and babies is of paramount importance and it will be the key driver in the search for solutions—solutions that the member for Macquarie Fields and the member for Blue Mountains will find.

When there are gaps in the availability of specialist staff, we cannot just hope that those staff will not be needed. The safety of mothers and babies must come first. The hospital system transfers pregnant women to larger hospitals with greater medical capacity because that is the safest thing to do. We are not about political expediency here; we are providing the best and safest solution. I have been assured it is not a question of funding but of the availability of specialist medical staff in the upper Blue Mountains—and in other areas of New South Wales. Each expectant mother is advised by the area health service that, in the event of staff shortages, she may be asked to deliver her baby at Lithgow Hospital or Nepean Hospital.

While this uncertainty is no doubt difficult for pregnant women, their safety and the safe delivery of their babies is the department's priority. High-quality maternity services are provided in more than 80 maternity units in public hospitals across New South Wales. These services assist with the birth of more than 90,000 babies each year. Our community expects high-quality maternity services, and most births happen without complication. New South Wales has the lowest combined perinatal and neonatal death rates of any State in the country. But when things go wrong for the mother or the baby we need to be sure that we have the medical specialists and the intensive care that is needed. This motion is dangerous because it seeks to politicise an issue of great concern to the people of the Blue Mountains and their local member. The motion simply ignores the reality and the risk. Grandstanding by the Opposition should not determine when a medical facility is open or closed. Those decisions must be made by the clinicians with the skills, qualifications and experience to assess the risk and ensure safety. That is exactly how it works in New South Wales hospitals. I do not support the motion.

**Question—That the motion be agreed to—put.**

**The House divided.**

**Ayes, 40**

Mr Aplin	Mr Hazzard	Mr Roberts
Mr Baird	Ms Hodgkinson	Mrs Skinner
Mr Baumann	Mrs Hopwood	Mr Smith
Ms Berejikian	Mr Humphries	Mr Souris
Mr Besseling	Mr Kerr	Mr Stokes
Mr Constance	Mr Merton	Mr Stoner
Mr Debnam	Ms Moore	Mr J. H. Turner
Mr Dominello	Mr O'Dea	Mr R. W. Turner
Mr Draper	Mr O'Farrell	Mr J. D. Williams
Mrs Fardell	Mr Page	Mr R. C. Williams
Mr Fraser	Mr Piccoli	
Ms Goward	Mr Piper	<i>Tellers,</i>
Mrs Hancock	Mr Provest	Mr George
Mr Hartcher	Mr Richardson	Mr Maguire

**Noes, 46**

Mr Amery	Mr Gibson	Ms Megarrity
Ms Andrews	Mr Greene	Mr Morris
Mr Aquilina	Mr Harris	Mrs Paluzzano
Mr Borger	Ms Hay	Mr Pearce
Mr Brown	Mr Hickey	Mrs Perry
Ms Burney	Ms Hornery	Mr Sartor
Mr Campbell	Ms Judge	Mr Shearan
Mr Collier	Ms Keneally	Ms Tebbutt
Mr Coombs	Mr Khoshaba	Mr Terenzini
Mr Corrigan	Mr Lalich	Mr Tripodi
Mr Costa	Mr Lynch	Mr West
Mr Daley	Mr McBride	Mr Whan
Ms D'Amore	Dr McDonald	
Ms Firth	Ms McKay	<i>Tellers,</i>
Mr Furolo	Mr McLeay	Mr Ashton
Ms Gadiel	Ms McMahan	Mr Martin

**Pair**

Mr Cansdell

Ms Burton

**Question resolved in the negative.**

**Motion negatived.**

**CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY**

**Bushfire Season**

**Mr PHIL KOPERBERG** (Blue Mountains—Parliamentary Secretary) [3.30 p.m.]: Few things impact upon communities to the same extent as those occasioned by climate change. A critical component of the climate change phenomenon is, of course, the nature of fire and our natural environment. Every scientific conclusion arrived at in respect of climate change impact suggests that future meteorological conditions will cause more frequent and more severe bushfires. It is not unreasonable to assume that, based on the science, there will be an increase in days of very high to extreme fire weather.

Members of this House will remember all too well the events of 1994, 1997 and 2002-03—just to name a few—when human life and extensive property and other assets fell victim to the ravages of devastating

bushfires in New South Wales and elsewhere. Imagine the impact of even more extreme fire days on countryside already regarded as some of the most fire prone in the world. If there were ever a time when bushfire awareness should permeate the minds of every citizen living in bush or grass fire prone areas—whether they be on the outskirts of our cities, towns or villages, or on farms in rural New South Wales—it is now. Continual high-level support in all forms for our firefighting services from communities and government is paramount if we are to deal effectively with increasing numbers of bushfires in the future. It is for those reasons that I contend my motion should be accorded priority.

### **Minister for Small Business Staff Member Complaint**

**Mr BARRY O'FARRELL** (Ku-ring-gai—Leader of the Opposition) [3.32 p.m.]: I regret that I must argue in support of this motion in opposition to the matter raised by the member for Blue Mountains—someone to whom my following comments do not apply. As a public servant in this State, he served New South Wales well and sought to raise standards. If he had been reappointed to the Ministry the member may have given voice to Premier Rees' claim that the soap opera was over and that his ticket was a fresh start for New South Wales. That is what Premier Rees said on 7 September. On 23 September in this place he also said:

I said in my inaugural speech 18 months ago that I was hopeful that there would be a restoration of high standards of conduct in this place.

But this bloke has not ended the soap opera. We have gone from the soap opera under Morris Iemma to the "Dumb and the Breathless" under Premier Nathan Rees. We saw that in question time today when the Minister for Small Business, and Minister Assisting the Minister for Health (Cancer) was asked about an issue of critical public importance: whether an incident took place and inappropriate behaviour was displayed that resulted in not just the Premier being notified about it last Thursday by his chief of staff but the Minister's staff member being removed from that office and placed in the office of the Minister for Fair Trading.

What did the Minister for Small Business say when asked about the matter and called upon to verify whether an incident had occurred? He said that he had no further comment. You cannot make a further comment if you have not said anything in the first instance! This is a Government led by a man who promised to raise standards, but standards have not got higher. That is demonstrated by the Premier's own failure to do anything about the incident for five days. He did not pick up the phone to the Minister for Small Business and demand an explanation until the media reported the matter. The Premier is happy to be bold, vigorous and hairy chested when it suits him.

**Mr Gerard Martin:** Point of order: Mr Speaker—

*[Interruption]*

**The SPEAKER:** Order! Members will cease interjecting. The member for Bathurst is entitled to take a point of order.

**Mr Gerard Martin:** I ask you to bring the Leader of the Opposition back to the leave of the motion.

**The SPEAKER:** Order! The member for Bathurst will resume his seat. I always extend a degree of latitude in these debates. The Leader of the Opposition may continue.

**Mr BARRY O'FARRELL:** Nothing could be more important than the standards of behaviour of Ministers and members of Parliament, particularly when it involves allegations of inappropriate behaviour between employers and employees. Indeed, I say to the member for Bathurst, I thought that was in part what the last Federal election campaign was fought on. The Premier has failed to follow standard practice. If this were the private sector and the response to the affair had been to move the female staff member from her position to another position and the matter ever got to court, that would be taken into account in awarding aggravated damages.

Let us consider the Premier's response. The Premier's response was that it was all about the staff member concerned who, in his words, may or may not decide to take action. In other words, he condones sitting on his frontbench someone who, at best, may or may not have involved himself in inappropriate behaviour with a staff member and who, at worst—on his own admission and on the admission of the Premier's chief of staff, who had to remove her from that office and put her in the office of the Minister for Fair Trading—had a conflict with the staff member that was so serious she had to move sideways.

**The SPEAKER:** Order! Government members will cease interjecting.

**Mr BARRY O'FARRELL:** This Premier is happy to seek out the truth when it suits him but is not prepared to do so when it goes to public interest. This is a bloke who will hear no evil, see no evil and do no evil, allegedly. This is a bloke who was chief of staff to Milton Orkopoulos but who apparently heard nothing.

**The SPEAKER:** Order! The member for Bathurst will cease interjecting.

**Mr BARRY O'FARRELL:** This the bloke who, in relation to Matt Brown, sought to verify immediately whether he was telling the truth and when he determined the matter—after making what he said were two dozen phone calls—sacked the member for misleading the Premier. But in relation to Tony Stewart the Premier is not prepared to seek independent verification. Why? It is clear: Mr Stewart is one of those factional warlords who helped bring down Morris Iemma and who helped to shoehorn Nathan Rees into the job of Premier of New South Wales.

**The SPEAKER:** Order! Government members will cease interjecting.

**Mr BARRY O'FARRELL:** This is an expedient Premier who is not prepared to stand up for honesty or to impose the same standards on Mr Stewart that he imposed on Mr Brown. He is not prepared to stand up for employees even when they are employees of his own Government. The soap opera is not over. This is *Big Brother*; all that is missing is eviction night.

**Question—That the motion of the member for Blue Mountains be accorded priority—put.**

**The House divided.**

**Ayes, 48**

Mr Amery	Mr Greene	Mr Morris
Ms Andrews	Mr Harris	Mrs Paluzzano
Mr Aquilina	Ms Hay	Mr Pearce
Ms Beamer	Mr Hickey	Mrs Perry
Mr Borger	Ms Hornery	Mr Sartor
Mr Brown	Ms Judge	Mr Shearan
Ms Burney	Ms Keneally	Mr Stewart
Mr Campbell	Mr Khoshaba	Ms Tebbutt
Mr Collier	Mr Koperberg	Mr Terenzini
Mr Coombs	Mr Lalich	Mr Tripodi
Mr Corrigan	Mr Lynch	Mr West
Mr Costa	Mr McBride	Mr Whan
Mr Daley	Dr McDonald	
Ms Firth	Ms McKay	
Mr Furolo	Mr McLeay	<i>Tellers,</i>
Ms Gadiel	Ms McMahan	Mr Ashton
Mr Gibson	Ms Megarrity	Mr Martin

**Noes, 39**

Mr Aplin	Mr Hazzard	Mrs Skinner
Mr Baird	Ms Hodgkinson	Mr Smith
Mr Baumann	Mrs Hopwood	Mr Souris
Ms Berejiklian	Mr Humphries	Mr Stokes
Mr Besseling	Mr Kerr	Mr Stoner
Mr Constance	Mr Merton	Mr J. H. Turner
Mr Debnam	Ms Moore	Mr R. W. Turner
Mr Dominello	Mr O'Dea	Mr J. D. Williams
Mr Draper	Mr O'Farrell	Mr R. C. Williams
Mrs Fardell	Mr Page	
Mr Fraser	Mr Piper	
Ms Goward	Mr Provest	<i>Tellers,</i>
Mrs Hancock	Mr Richardson	Mr George
Mr Hartcher	Mr Roberts	Mr Maguire

**Pairs**

Ms Burton  
Ms D'Amore

Mr Cansdell  
Mr Piccoli

**Question resolved in the affirmative.**

**BUSHFIRE SEASON****Motion Accorded Priority**

**Mr PHIL KOPERBERG** (Blue Mountains—Parliamentary Secretary) [3.45 p.m.]: I move:

That this House:

- (1) notes the start of the official bushfire season for 2008-09;
- (2) commends the efforts of the State's firefighters in responding to and containing a number of bushfires already this season; and
- (3) congratulates the Government on its continued support of fire services across New South Wales.

At the outset I thank the Leader of the Opposition for his kind remarks as they relate to my service to the State in my former vocation. It is ironic that every time I start to speak about bushfires, no matter where it might be, it drizzles. It seems that the more I speak about the issue the more the chances of rain improve. Perhaps I should visit every electorate and talk up bushfires; then it might rain. Members will be aware that last summer New South Wales enjoyed one its most benign bushfire seasons for some years. While we were grateful for that respite, we are under no illusion that we can be complacent in the months ahead. Drought conditions persist in much of the State, and in the areas that have received welcome rain, few as they might be, fuel loads have increased significantly, particularly in the grassy areas in the north-west of the State, around the northern rivers, parts of the central west and so on, notwithstanding the fact that the southern parts of the State are devastatingly dry and people in those areas are suffering terribly. They are not suffering from bushfires; they are suffering from a lack of fodder and all the associated things that are a consequence of the dreadful drought.

The statutory bushfire danger period began on 1 October for all but seven local government areas, which requested and were granted a variation due to their local conditions. Some of the areas I spoke of a moment ago are amongst them. I am advised that records show that between 1 September this year and today volunteer rural fire service crews have already responded to a total of 1,040 bush and grass fires, in addition to 720 structure fires and motor vehicle incidents. In many cases, the rural fire service crews were assisted by firefighters from the New South Wales Fire Brigades and the National Parks and Wildlife Service.

Indeed, as recently as Monday this week Sydney residents received an early reminder of what might lie ahead this summer. At about noon on Monday the New South Wales Fire Brigades received 21 calls to 000 about a fire burning on Riverside Drive in the Lane Cove National Park. Fire crews from the New South Wales Fire Brigades, the Rural Fire Service and the National Parks and Wildlife Service were quickly on the scene and prevented the fire from spreading further into the park and potentially becoming a major incident. Their prompt response limited the size of the fire to about six hectares. Crews had the fire contained by 4.30 p.m. but remained on site well into the night to mop up and ensure that no re-ignitions occurred. Firefighters and police are investigating the cause of the fire and hopefully will draw a conclusion quickly, and more hopefully will rule out the possibility of sinister activity.

As we head towards the height of summer—which is already predicted to be hotter than usual—members will be pleased to learn that the contracts for fire-fighting aircraft for this season have been let and include at least two large water-bombing helicopters, the air or sky cranes that are affectionately known as Elvis and his cohorts. None of the Elvis helicopters will be seen at the local 11 like the original Elvis. A total of 19 aircraft and helicopters have also been contracted for this season and they will carry out direct attack and reconnaissance missions. About 80 more aircraft are available if required.

I am informed that preseason briefings and coordination of all agencies have helped raise the levels of preparedness for the fire season. During 2007-08, the Rural Fire Service and other fire agencies throughout New South Wales completed 2,000 hazard-reduction activities and these works provided protection for more than 60,000 properties. Combined with other prevention and mitigation activities, such as development control in bushfire prone areas, community education and responding to complaints about bushfire hazards, protection has been afforded to more than 185,000 properties worth a total of about \$90 billion.

The Rural Fire Service has said that during 2007-08 the pattern of rainfall in coastal areas severely restricted the availability of burning days. Only three months provided good burning opportunities and two of those were within the bushfire danger period, and that added to the challenge of planning safe burning operations. No-one is complacent about the need for bushfire protection work, least of all the Rees Government, which has allocated \$36 million over four years specifically for hazard reduction work. This year the Rees Government has set the Rural Firefighting Fund at a record of \$201.7 million to ensure our volunteer firefighters have the resources, training and equipment they need for their vital work to protect the community. This is an increase of \$3.1 million over last year, and includes \$31 million for bushfire tankers; \$15 million for new and upgraded brigade stations and fire control centres, and the installation of rainwater tanks; and a further \$14 million in maintenance grants to councils.

Consistently high levels of funding, along with significant reforms, speak for themselves in reinforcing the Rees Government's commitment to the Rural Fire Service and our volunteer firefighters. In fact, the total funding for fire services in this year's budget totals \$780 million, compared with the budget figure in 1994-95, when the Government came to office, of \$292 million. As we prepare for a bushfire season that has the potential to be far worse than that which we might normally experience, the people of New South Wales can be proud that the Rural Fire Service, the New South Wales Fire Brigades, the National Parks and Wildlife Service, and those who support them, are recognised as amongst the best in the world, with morale, resources and facilities to match.

**Mr ANTHONY ROBERTS** (Lane Cove) [3.52 p.m.]: I move:

That the motion be amended by leaving out paragraph (3) with a view to inserting instead:

- (3) calls upon the Government to adequately fund the New South Wales State firefighters and ensure our firefighters have all the necessary support possible.

The Rural Fire Service is comprised of 2,094 brigades and has a total membership of approximately 70,000, with 700 staff situated at headquarters, and is very well led by Commissioner Shane Fitzsimmons, AFSM, who has had 20 years of great leadership and experience in emergency services management. I commend the member for Blue Mountains for the tireless work he continues to do for the emergency service personnel of this State—I will return to that later. As the Parliamentary Secretary has stated, fuel loads have increased across New South Wales, our burning days are down, and the Rural Fire Service has responded to more than 1,000 bush and grass fires since the beginning of September. There are currently six incidents in New South Wales in the council areas of Ku-ring-gai, Port Macquarie-Hastings, Richmond Valley, Shoalhaven, Tumut and Wagga Wagga, but I am pleased to say that, according to the New South Wales Fire Service, all those fires are under control.

The purpose of the Opposition's amendment is an acknowledgement of and tribute to the men and women who give up their time and money to train, prepare and fight in their combat roles as firefighters. We need to adequately fund our fire services in general. Recently the Minister attended a service to pay tribute to Rural Fire Service personnel who died in the line of duty. One such person was Mr Patrick Gehrig, a member of the Wallarobba Rural Fire Service Brigade, who died on 17 September 2000. Mr Gehrig had been a member of the Wallarobba Rural Fire Service Brigade in the Hunter Valley for more than 30 years when he died during a firefighting operation on his family property in the Welshman's Creek area. A 47-year-old schoolteacher, he had attended the fire, which had been burning in difficult terrain, with his brigade and during the course of the operation he was taken ill and returned to the truck, where he died a short time later.

Another Rural Fire Service officer who died was John McLean, who was on his way to fight a fierce 3,000-acre fire on 17 December 1964. Mr McLean was 65 years old. He was a grazier who was travelling to the scene of a fire at Colly Creek between Braefield and Willow Tree, when he was crushed by a full tank of water after the trailer on which it was being carried overturned. He was rushed to the district hospital and admitted in a serious condition but sadly lost his life. It brings home to us all, particularly as the member for Blue Mountains is a former Commissioner of the Rural Fire Service, that these people put their lives on the line each time they go to fight a fire. I share with all members of the House a deep appreciation and gratitude to those who put their lives at risk but particularly to those who make the ultimate sacrifice in protecting lives and property. To the members of their families and the brigades in which they worked, we express our most sincere sorrow.

I recently travelled for almost three weeks throughout northern New South Wales visiting rural fire services and State Emergency Services centres, amongst other things. Tragically, Mr McLean's tanker rolled,

but better firefighting vehicles are providing additional safety to the men and women who fight fires. Leadership has been shown, but there is more to do. I have found in my travels outside Sydney, Newcastle and Wollongong that the age of firefighting vehicles is an issue. Insurance levies and local government fund most of the vehicles that are being rolled out. Most of the money that goes into providing those vehicles does not come from the State Government—it only goes through it. We must ensure that fire services are well funded and have the best available equipment to fight fires. We are doing a great job with cadets but they need more funding, and one of my colleagues will discuss this further.

In the lead-up to the fire season it is essential that we acknowledge and support the work that is being done by our firefighters. Whether honourable members are sceptics or not, we are seeing spikes in the weather that need to be considered in adequately funded planning. That is the purpose of the Opposition's amendment and I hope all members will support it. I again express the appreciation of the House and congratulate the members of the Rural Fire Service on their wonderful work, the work done by community fire units, and the work of our full-time firefighting personnel.

**Mr PAUL McLEAY** (Heathcote) [3.59 p.m.]: This year the Rural Firefighting Fund has been set at an all-time high of more than \$200 million. This money ensures that our volunteer firefighters have the equipment, training and support they need to carry out their vital work in the summer months ahead. I pay tribute to all the firefighters across the State in the Rural Fire Service and the citizens who volunteer for duties with their Community Fire Unit, which is run under the auspices of the New South Wales Fire Brigades. Now that we enter the summer season we must keep in mind those true patriots and lovers of their fellow citizens who have given their lives in the protection of our safety.

Half my electorate is in the Illawarra and the other half is in the Sutherland shire. Both parts of the electorate have a very significant interface of bush and urban areas. In the Sutherland district there are 13 brigades with almost 700 volunteers who are committed to our community's safety. Their hard work is beyond compare. Sutherland Shire Council always goes above and beyond its contribution by providing additional money to the area. I am sure the new mayor, Lorraine Kelly, will continue this course of action. I pay tribute to a couple of local initiatives.

On Community Education Open Day local stations are open to the public and the bushfire volunteers promote fire safety information to their friends and neighbours in a relaxed atmosphere. Ian Nightingale, captain of the Bundeena Volunteer Bush Fire Brigade—of which I am a member and a firefighter—coordinates events such as the open day with other hardworking members like Judith Materna, Jennifer Edwards, Mal Smith, Jackie Stelzer and, of course, Maggie McKinney, who is an extremely hard worker and continues to be devoted to the service. The members undertake activities with the strength and commitment that is part of the basic volunteer ethic, that is, to help and protect. They also forge strong relationships with groups at fundraising events, such as the Art of Living Festival in Bundeena and other public relations exercises.

Last weekend at the Helensburgh District Fair, which is run by the Helensburgh Lions Club, I saw Craig Robertson, group captain from the Illawarra, who does the community relations work. They have magnificent static displays and have built houses for young kids to walk through to learn about fire safety and fire awareness. They also run a FireWise campaign. I have asked the Minister for Roads to make sure that their signs are put on the F6 so that they can continue to do their good work and provide this valuable service to the community.

**Mr GEOFF PROVEST** (Tweed) [4.02 p.m.]: I am 100 per cent for the Tweed. I support my colleague the member for Lane Cove, who spoke to this motion. I too pay tribute to the New South Wales Rural Fire Service. The men and women who are actively involved in the service do a fabulous job. Discussion of the service is relevant up in the Tweed because recently the Government decided to temporarily close one of our fire stations. Currently in the area we have a large number of rural bush fire brigades. Recently we hosted the Rural Fire Service State championships, with more than 500 people coming to the Tweed to participate in 36 different events. The competition was intensely fierce, but the participants' spirit, camaraderie and bravery are second to none.

I have a personal interest in the Rural Fire Service because my young son, Patrick Provest, has been a member of the Bilambil brigade for a number of years and actively participates in its work. I give him my full support. When I have been out with the police in our local area I have often seen the rural bush fire brigades attend bushfires and also other natural disasters and car accidents in our town. They turn out day after day after day, and they ask for very little. We need to do more. I agree with the member for Lane Cove that a number of

the brigades have older appliances and equipment. We must adequately fund these people, but we should go a step further. Firstly, I am an advocate of a proposal to provide payroll tax relief to employers who allow their staff to actively participate in volunteer work, particularly in the Rural Fire Service. I employed some of these people in a previous life at Tweed Head Bowls Club. I know that they lose money and particularly around Christmas time those with young families suffer. So I ask the Government to offer some form of payroll relief.

Secondly, the member for Lane Cove mentioned cadets. I believe that Minister Kelly at one stage gave just over \$20,000 to the cadet program, which I believe is in operation in about 40 schools. The program should be expanded to all schools in regional and rural areas and given proper funding. The brigades, like many other voluntary organisations, are faced with a lack of manpower. Volunteers in New South Wales are generated by creating awareness and interest, particularly in the youth. I ask the Government for payroll relief for employers who release their employees for volunteer work, particularly if they lose wages at a difficult time of the year, and I also ask for more funding for the cadet system because the cadets are the ones who will continue this fine service. Once again I pay tribute to the fine men and women of the Rural Fire Service.

**Ms MARIE ANDREWS** (Gosford) [4.05 p.m.]: I take pleasure in supporting the motion moved by the member for Blue Mountains. The members of the Rural Fire Service and the New South Wales Fire Brigades on the Central Coast are second to none. The Rees Government continues to support our world-class fire services, which have enjoyed record budgets since Labor came to office. The people of the Central Coast will not forget their courage and commitment to protecting our community in the huge and terrifying bushfires that burnt more than 2,000 hectares around the Phegans Bay, Woy Woy Bay, Horsfield Bay and Umina Beach areas on the first two days of 2006. Our firefighters faced some of the worst fire conditions we have seen in the region. Although three homes and several outbuildings were lost, they saved many hundreds of properties and countless lives through their hard work and determination.

As recently as Monday this week firefighters from the Rural Fire Service and National Parks and Wildlife Service responded to a fire in Bouddi National Park. Containment lines were put in place to protect homes and properties in the Killcare, Pretty Beach and Wagstaff areas. The fire eventually burnt out 55 hectares but, given the high temperatures on that afternoon, the fire crews put in a tremendous effort to prevent it from causing more extensive damage. The Rees Government is staunchly committed to supporting our emergency services and has recognised the vital role of our two fire services with total funding this year of \$780 million for their invaluable work. Our fire services, landowners and managers undertake hazard reduction and other bushfire protection activities whenever the weather allows.

Since the 2006 fires I am aware that hazard reduction has been carried out to help protect numerous communities in the Central Coast area, including Point Clare, Windoree Park and Marlow River. I urge all property owners in bushfire-prone areas to take some basic steps now around their homes and gardens to minimise the risk of bushfire. Families should also discuss whether they would stay to defend their homes or leave early in the event of a bushfire. Many residents who enjoy the scenic beauty of living close to our spectacular bushland have taken the extra step of joining a Community Fire Unit [CFU] run by the New South Wales Fire Brigades. This program enables residents in bushland communities who are trained and equipped by the fire brigades to play an active role in supporting firefighters during bushfires and helping to protect their homes.

Next week the New South Wales Fire Brigades is launching a recruitment drive to establish a number of new CFUs in the Umina area, which will add to existing units operating in neighbourhoods in Parkes Bay, Horsfield Bay, Tascott and Umina in the Gosford electorate and Watanobbi in the Wyong electorate. Residents in nine streets bordering bushland will be invited to attend community information sessions in their local area to learn about the benefits of establishing a CFU in their street. I congratulate the New South Wales Fire Brigades on this new recruitment initiative. The Rees Government continues to support the New South Wales Fire Brigades, this year providing a record \$578 million to the New South Wales Fire Brigades budget. I take great pleasure in commending the motion to the House.

**Mr PHIL KOPERBERG** (Blue Mountains—Parliamentary Secretary) [4.08 p.m.], in reply: I pay tribute to the members who contributed to this debate: the member for Lane Cove, the member for Heathcote, the member for Tweed—"I'm 100 per cent"—and the member for Gosford. I will just recap on a couple of things. I am pleased to say, and we can all be collectively proud, that in this Parliament there has always been a bipartisan approach to the needs of emergency services, particularly volunteer services in New South Wales. There are 2,600 brigades in New South Wales. Whilst we are building record numbers of new tankers and providing record amounts of expenditure in training and all the other related areas, of course there are always



more things to be done. The important thing is that they are being done, and were it not so I would have much more sympathy for the amendment moved by the member for Lane Cove. Inherent in his suggestion is that the Rees Government is not doing all it should or that it should do more than it is currently doing.

I can say without fear of contradiction that emergency services—the front-line workers and those who support them—are the recipients of all the possible support that is available. The budget has increased year in, year out for as long as I can recall. There has been a bipartisan approach to it. Therefore, I believe that the amendment is probably unnecessary, but I can understand the motivation of the member for Lane Cove in moving it. The member for Tweed raised the issue of encouragement for employers. Employers make a major contribution to the response to emergencies in New South Wales. If it were not for the generosity of employers we would have difficulty recruiting people who are prepared to go to fires, floods, storms and so on. Any initiatives that will encourage employers to continue their generosity in allowing volunteers to respond and come to the aid of people in distress is something we are prepared to look at, and of course we will. I am pleased to note that Patrick is a member of the Rural Fire Service. He will get great fulfilment from his role in the organisation.

The cadet program is a major initiative, but it is still in its embryonic stages. The Rural Fire Service is still gauging the level of uptake in interest, but in the past few months I was able to visit a number of schools that were very enthusiastic about the program. I am sure that Commissioner Fitzsimmons and others will ensure that the funding for this very important cadet program will continue. I again thank all the members who contributed to the debate. I note that the member for Heathcote is a senior officer in a brigade close to Sydney and makes a major contribution to these sorts of things. I commend the motion to the House.

**Question—That the words stand—put.**

**The House divided.**

**Ayes, 48**

Mr Amery	Mr Greene	Mr Morris
Ms Andrews	Mr Harris	Mrs Paluzzano
Mr Aquilina	Ms Hay	Mr Pearce
Ms Beamer	Mr Hickey	Mrs Perry
Mr Borger	Ms Hornery	Mr Sartor
Mr Brown	Ms Judge	Mr Shearan
Ms Burney	Ms Keneally	Mr Stewart
Mr Campbell	Mr Khoshaba	Ms Tebbutt
Mr Collier	Mr Koperberg	Mr Terenzini
Mr Coombs	Mr Lalich	Mr Tripodi
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Mr Costa	Mr McBride	Mr Whan
Mr Daley	Dr McDonald	
Ms Firth	Ms McKay	
Mr Furolo	Mr McLeay	<i>Tellers,</i>
Ms Gadiel	Ms McMahan	Mr Ashton
Mr Gibson	Ms Megarrity	Mr Martin

**Noes, 37**

Mr Aplin	Mr Hartcher	Mrs Skinner
Mr Baird	Mr Hazzard	Mr Smith
Mr Baumann	Ms Hodgkinson	Mr Souris
Ms Berejiklian	Mrs Hopwood	Mr Stokes
Mr Besseling	Mr Humphries	Mr Stoner
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Mr Debnam	Mr Merton	Mr R. W. Turner
Mr Dominello	Mr O'Dea	Mr J. D. Williams
Mr Draper	Mr Page	Mr R. C. Williams
Mrs Fardell	Mr Piper	
Mr Fraser	Mr Provest	<i>Tellers,</i>
Ms Goward	Mr Richardson	Mr George
Mrs Hancock	Mr Roberts	Mr Maguire

**Pairs**

Ms Burton  
Ms D'Amore

Mr Cansdell  
Mr Piccoli

**Question resolved in the affirmative.**

**Amendment negatived.**

**Motion agreed to.**

**The SPEAKER:** Order! It being before 4.30 p.m., the House will proceed to Government business.

**CHILDREN (CRIMINAL PROCEEDINGS) AMENDMENT (YOUTH CONDUCT ORDERS) BILL 2008**

**Bill received from the Legislative Council and introduced.**

**Agreement in principle set down as an order of the day for a future day.**

**LOCAL GOVERNMENT AMENDMENT (LEGAL STATUS) BILL 2008****Agreement in Principle**

**Debate resumed from an earlier hour.**

**Mrs BARBARA PERRY** (Auburn—Minister for Local Government, and Minister Assisting the Minister for Health (Mental Health) [4.23 p.m.], in reply: Before the luncheon adjournment I referred to a number of matters raised by members opposite with regard to the concerns of the Local Government and Shires Associations. I concluded by saying that the Government is conscious of the views of all stakeholders, but at the end of the day decisions must be made. Members referred to the Queensland legislation. This bill takes a different approach, but it achieves a similar policy outcome. The differences arise only because each jurisdiction established councils differently. Like the Queensland bill, the New South Wales bill removes the body corporate status of councils, which should take councils outside the scope of the Federal industrial relations system. I note that members opposite agreed to that measure.

Unlike the Queensland legislation, this bill inserts a new provision that describes a council as a body politic of the State with perpetual succession and the legal capacity and powers of an individual. The Government believes that this approach achieves the desired policy outcome in the clearest possible way. A number of members also referred to Federal funding. Untied Federal financial assistance grants for this bill will not affect local government. The bill also ensures that councils can continue to enter into contracts including other funding arrangements should they wish to do so. We must keep this legislation in perspective. This is a simple change to the legal status of councils and it will not affect the normal operation of councils' work. It ensures that the legal status of councils is clear and that councils' and third parties' existing obligations and rights are protected. Importantly, the status and role of councillors is also unchanged by the bill. The only intended change is to the status of the council itself.

One or two members opposite referred to strategic alliances, which are flourishing in the local government sector. Just the other day at Broken Hill I was present when representatives from Ryde City Council and Central Darling Shire Council signed a memorandum of understanding covering economic, cultural, social and other initiatives. This bill will not affect that type of partnership or alliance. Well over 50 such alliances have been forged in local government sector and most of them have been a great success. I encourage councils to form partnerships so that they can share not only knowledge but also expertise. Some members suggested that this bill is unnecessary. The Government could not disagree more. The decision in Etheridge is encouraging but it does not resolve the situation once and for all. With respect, let us be clear that Etheridge was a decision handed down by a single judge of the Federal Court on the specific facts and circumstances of the case; it does not apply in globo.

Future disputes about the status of some New South Wales councils may still arise, which would not assist local government employers or employees. This legal uncertainty will be reduced by the proposed amendments, not increased. I note the advice from the Local Government and Shires Associations that current arrangements operate until 2010. This ignores the point that any employer could seek to use the WorkChoices legislation now. While the issue is complex, I am advised that the WorkChoices legislation has provisions that convert State instruments to Commonwealth instruments and disallow certain entitlements—entitlements that

have been agreed to by all parties. That uncertainty is unacceptable. Put simply, we need to act now because each day local government employees and their families are waiting for certainty. While the Commonwealth Government has already dismantled the worst aspects of WorkChoices, there are some remnants.

The Rudd Government is working to support employees and their families by further reforming the Workplace Relations Act. However, it will take time and the final shape that the changes will take is still to be determined. This Government is taking decisive action now to provide certainty. We are talking about a sector that employs more than 40,000 people. There is no advantage in postponing the passage of this legislation. I am sure that any of the workers and their families who will benefit from this measure will be happy to tell members that. This bill will make it clear that local government employees are not subject to Commonwealth industrial relations legislation. It will also allow councils to make temporary appointments of up to 24 months to fill parental leave vacancies.

I sat here today and yesterday listening to members' arguments, and I accept that they were considered. However, I had to ask myself what they were really saying. I have told members that the Government is providing legal certainty. However, it is sad to realise that members opposite are essentially saying that employees and their families do not deserve the certainty for which they have worked so hard. That is the implication of members opposite not supporting this bill, which deals with the legal status of councils. I thank the member for Terrigal, the shadow Minister for Local Government, and other members who have spoken in this debate for their consideration of this legislation and their contributions. I commend the bill to the House.

**Question—That this bill be now agreed to in principle—put.**

**The House divided.**

**Ayes, 48**

Mr Amery	Mr Greene	Mr Morris
Ms Andrews	Mr Harris	Mrs Paluzzano
Mr Aquilina	Ms Hay	Mr Pearce
Ms Beamer	Mr Hickey	Mrs Perry
Mr Borger	Ms Hornery	Mr Sartor
Mr Brown	Ms Judge	Mr Shearan
Ms Burney	Ms Keneally	Mr Stewart
Mr Campbell	Mr Khoshaba	Ms Tebbutt
Mr Collier	Mr Koperberg	Mr Terenzini
Mr Coombs	Mr Lalich	Mr Tripodi
Mr Corrigan	Mr Lynch	Mr West
Mr Costa	Mr McBride	Mr Whan
Mr Daley	Dr McDonald	
Ms Firth	Ms McKay	
Mr Furolo	Mr McLeay	<i>Tellers,</i>
Ms Gadiel	Ms McMahan	Mr Ashton
Mr Gibson	Ms Megarrity	Mr Martin

**Noes, 39**

Mr Aplin	Mr Hazzard	Mrs Skinner
Mr Baird	Ms Hodgkinson	Mr Smith
Mr Baumann	Mrs Hopwood	Mr Souris
Ms Berejiklian	Mr Humphries	Mr Stokes
Mr Besseling	Mr Kerr	Mr Stoner
Mr Constance	Mr Merton	Mr J. H. Turner
Mr Debnam	Ms Moore	Mr R. W. Turner
Mr Dominello	Mr O'Dea	Mr J. D. Williams
Mr Draper	Mr O'Farrell	Mr R. C. Williams
Mrs Fardell	Mr Page	
Mr Fraser	Mr Piper	
Ms Goward	Mr Provest	<i>Tellers,</i>
Mrs Hancock	Mr Richardson	Mr George
Mr Hartcher	Mr Roberts	Mr Maguire

**Pairs**

Ms Burton  
Ms D'Amore

Mr Cansdell  
Mr Piccoli

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill agreed to in principle.**

**Passing of the Bill**

**Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.**

**CRIMES (SENTENCING PROCEDURE) AMENDMENT (VICTIM IMPACT STATEMENTS) BILL  
2008**

**Bill returned from the Legislative Council without amendment.**

**CIVIL LIABILITY LEGISLATION AMENDMENT BILL 2008**

**Agreement in Principle**

**Debate resumed from 28 October 2008.**

**Mr GREG SMITH** (Epping) [4.36 p.m.]: The Liberal-Nationals Coalition does not oppose the Civil Liability Legislation Amendment Bill 2008. The bill amends the Civil Liability Act 2002. According to section 26A of the Civil Liability Act a "protected defendant" is defined as the Crown, a government department or a public health organisation. Therefore, a "protected defendant" includes the Department of Corrective Services as well as certain other public sector defendants. The overview of the bill sets out its object as follows:

- (a) to require a person who may have a claim for damages against a *protected defendant* (the Department of Corrective Services and certain other public sector defendants) in respect of an injury to an offender in custody:
  - (i) to notify the protected defendant within 6 months of the incident that gives rise to the claim, and
  - (ii) to provide certain information about the incident to the protected defendant,
- (b) to provide that Part 2A of the Act (Special provisions for offenders in custody) extends to a claim in relation to a tort for which the protected defendant is vicariously liable,
- (c) to make it clear that the general limitation on the Act's application to intentional acts does not interfere with the operation of Part 2A (in particular the operation of that Part in respect of victim claims that involve intentional acts),
- (d) to make changes to the system under which a victim of an offender can make a claim against damages awarded to the offender against a protected defendant, including:
  - (i) increasing the period within which a victim can make such a claim from 6 months from the date the offender was awarded damages to 12 months from that date, and
  - (ii) authorising the Commissioner of Police to provide information to the protected defendant about persons who may have a victim claim against the offender, and
  - (iii) replacing the requirement that the protected defendant must notify victims within 28 days after damages are awarded to the offender with a requirement that the notification be given as far as practicable within 28 days (so as to facilitate the notification of victims who are identified outside the 28-day period), and
  - (iv) providing that offender damages are to be held in trust by the Public Trustee (rather than the protected defendant),

The bill will amend the Civil Liability Act 2002 to insert new provisions into the Act in relation to claims for damages against a protected defendant in respect of injuries received by a person while the person was an offender in custody. The amendments require the claimant to notify the protected defendant in writing of an incident that may give rise to a damages claim within six months of the incident. Thereafter, the protected

defendant will be entitled to make a reasonable request for information and documents from the claimant that will enable the protected defendant to assess the merits of the claim and any liability, and make a settlement offer where appropriate.

The bill also amends the Civil Liability Act 2002, the Motor Accidents Act 1988 and the Motor Accidents Compensation Act 1999 to make it clear that damages are to be awarded for gratuitous attendant care services only in circumstances where gratuitous services are provided, or are to be provided, for at least six hours per week and for at least six consecutive months. Gratuitous care is care by family, relatives or friends for which there would normally not be payment. The amendment is in response to the Court of Appeal decision in *Harrison v. Melhem* [2008] NSW CA 67, which interpreted section 15 (3) of the Civil Liability Act as being satisfied by a less demanding test than before damages may be awarded for gratuitous care there be at least either six hours per week or six months per week gratuitous care rather than six hours and six months.

Section 15 of the Act is amended in relation to damages for gratuitous attendant care services to make it clear that such damages are to be awarded only if the services are provided, or are to be provided, for at least six hours per week and for at least six consecutive months. The amendment extends to liabilities that arose before the commencement of the amendment but does not apply to proceedings determined before that commencement. Similar amendments are made to the Motor Accidents Act 1988 and the Motor Accidents Compensation Act 1999. Schedule 2 provides that the amendments extend to liabilities that arose before the commencement of the amendments but do not apply to proceedings that were determined before that commencement.

In support of the bill, the Attorney General in his second reading speech on 22 October 2008 stated that the bill will "make it easier for victims of crime to receive a share of damages awarded to prison inmates". That is because the bill increases the time limit in which the victim can make a claim against an offender from six months to twelve months from the date the offender was awarded the damages. The bill prevents offenders from circumventing the provisions of the Civil Liability Act by specifying that part 2A—the special provisions for offenders in custody—extends to a claim for an intentional tort for which the protected defendant is vicariously liable. These amendments close a suggested loophole in the Civil Liability Act. That Act does not generally cover intentional torts, and some inmates have sought to avoid the operation of the Civil Liability Act by pleading their claim in intentional tort and therefore seeking to have it dealt with at common law.

With respect to gratuitous care, the amendment addresses an issue raised by *Harrison v. Melhem*, which determined that gratuitous care was available to plaintiffs in personal injury claims on a far wider and more generous basis than previously considered. Insurance interests consider that premiums will necessarily rise unless the situation is returned to the position that existed before the *Harrison v. Melhem* case. The Government states that this amendment is simply a correction of a drafting problem identified by the Court of Appeal and that the amendment will not make it harder to claim compensation.

Significant arguments cannot be put against the offender damages amendments. In regard to the *Harrison v. Melham* amendment, there is opposition from plaintiff interests, who perceive this as a loss of a recently gained head of damage in personal injury claims. These interests consider, with some justification, that the loss of rights to damages, imposed upon them by the present Government, more than justifies the retention of this recent windfall. Further plaintiff interests consider that insurers have financially benefited to a significant degree over the past few years as a result of the Government's changes to personal injury law. Accordingly, they argue that insurers should be more than capable of absorbing any rise in damages awards. Consultation has been sought with the Law Society, the Bar Association, Justice Action, Allianz Insurance and the Australian Lawyers Alliance. In regard to the offender damages amendments, Justice Action opposes the six-month limit on claims as being unfair. Justice Action considers also that the requirement to assist the Department of Corrective Services by answering questions is an unfair requirement that potentially has the effect of punishing a claimant for making a claim.

The Bar Association opposes the *Harrison v. Melhem* amendment on the basis that the present interpretation is in line with Victoria and Queensland; that any modest increases in damages would easily be absorbed by insurers without the need for premium increases, given the substantial profits that are currently being made; that the present decision provides a positive incentive for claimants to use cheaper gratuitous services rather than more expensive paid services; and that the proposed amendments will also mean that carers of injured people may be deprived of compensation for regular, ongoing care. Insurance interests are clearly in favour of the *Harrison v. Melhem* amendment. In the representations by plaintiff organisations, tort law reform keeps emerging. I remember the words of Justice Ipp, who was one of the architects of the new scheme. He

thought the changes had gone too far and he suggested that at some stage during the term of this Parliament we should seriously consider tort law reform. But that is a debate for another day. The Opposition does not oppose the bill.

**Mr FRANK TERENCE** (Maitland) [4.46 p.m.]: I support the Civil Liability Legislation Amendment Bill 2008, which is an extension of the 2005 amendments. It is often difficult to recover money in damages from offenders—whether as a result of a court order or a hearing—because offenders usually do not have assets or money. Many victims have discovered this when they sought damages in a civil court, or even when an order was made by a criminal court. The 2005 amendments were based on the proposition that should an offender be awarded damages whilst in custody, either by a hearing or a settlement for an incident that happened in custody—be it an assault, an intentional tort or whatever—those damages should be quarantined and the victim notified, wherever possible, and informed of his or her right to make a claim. Any moneys left over after settlement of the claim would then go to the offender.

The bill makes it easier for victims of crime to receive a share of damages awarded to prison inmates. Whilst victims currently have that right to damages, it has been largely illusory. This bill seeks to improve the situation by enhancing the system. Police, through the computer operated police system, can notify the State of any victim who may have a claim against an offender, thereby relaying that information to the protected defendant or the agencies and allowing the victim to make a claim within twelve months instead of six months. In addition, an offender who has a claim for damages from an incident occurring in custody must give notice of that within six months and supply any reasonable information that is requested to the protected defendant.

These changes will improve the efficiency of the system and make it easier for victims to receive the damages they rightly deserve. For those reasons I support the bill. In particular I support the legislative amendment to cover the *Griffiths v. Kirkemeyer* damages aspect. In the Government's view it is clearly the case, and rightfully so, that should this amendment not be made insurance premiums would increase. It was always intended, and accepted for quite a while, that the six hours a week and six months limit applied. If it is to become an and/or situation, there is no doubt in the Government's mind that insurance premiums will increase, which will make it much more expensive for people to take out insurance.

In my view, and based on my experience, these parameters are appropriate. Carers will need to show that they have looked after the injured for the specified period to clearly establish the basis on which damages should be awarded. Otherwise all sorts of claims raising various scenarios would be before the courts, which in my view would result in a significant increase in premiums. For these reasons I support the enhancements set out in the bill, and I commend it to the House.

**Mr DAVID HARRIS** (Wyong) [4.51 p.m.]: The object of the Civil Liability Legislation Amendment Bill 2008 is to ensure that where compensation is awarded to an offender for an injury sustained while in custody, this money can be used, as far as possible, to satisfy claims made by victims of offences committed by the offender. I am sure most members of the community would agree that that is fair and reasonable. Most people—I am one of them—have a deep sense that it is wrong that serious offenders can be awarded compensation without those offenders being required to pay compensation to their victims for the serious wrongs inflicted on them. No offender should expect to "win the lottery" by suffering an injury in a correctional environment. It is New South Wales taxpayers who have to foot the bill and pay compensation to an offender who is awarded damages—an offender who is in a correctional facility in the first place because they have not respected the law or the rights of their fellow citizens.

It is reasonable and fair that offenders do not receive their compensation payout until any valid claims for death or injury suffered by victims of offences committed by the offender are paid out of the money. Under current law, all victims have a right to sue offenders for civil damages; indeed, they have always had this right. In most cases, however, the right is illusory since an offender rarely has sufficient assets with which to pay any damages awarded. However, on the occasions when offenders are awarded large compensation payments for claims made in respect of incidents arising while in custody, freezing their damages means that victims of the offender can be notified and given the opportunity to lodge claims in the knowledge that the offender will not be able to dissipate the award of damages to avoid a claim.

The Civil Liability Legislation Amendment Bill 2008 improves the system by which the offender's victims can seek redress from the offender for the harm and suffering the offender caused them. The bill provides the offender's victims with a better opportunity to claim, and get assistance to claim, redress from any payment the offender has received. In this regard, the bill increases the period within which a victim can make a

claim from six months from the date the offender was awarded damages to 12 months. This will ensure that victims have sufficient time both to obtain legal advice on whether to bring a claim and to have the matter prepared so that a statement of claim can be filed.

The bill also authorises the Commissioner of Police to provide information to the State about victims who may have a claim against the offender, to make it easier for those victims to be identified. As announced by the Attorney General in the other place, the Government will, through the Legal Representation Office, offer the offender's victims free legal advice on the merits of any potential victim claim. If the victim claim is assessed as having reasonable prospects of success, the Legal Representation Office will be available to provide free legal representation to the victim. These extremely important and valuable initiatives are another illustration of the Government's proud record of supporting the needs of victims of crime. It is right and proper that victims of crime should be our prime consideration. The Civil Liability Legislation Amendment Bill 2008 will make it more difficult for offenders who sue the system to keep their spoils. I wholeheartedly support the bill and commend it to the House.

**Mr ROBERT COOMBS** (Swansea) [4.55 p.m.]: I, too, support the Civil Liability Legislation Amendment Bill 2008. The community is rightly outraged when offenders receive large amounts of compensation for injuries received in custody, particularly when the amount awarded is compared with the compensation available to their victims. The bill will make it easier for victims of crime to receive a share of any damages awarded to offender inmates. The bill will also assist in reducing the costs incurred by the taxpayers of this State when the State is required to respond to frivolous and spurious personal injury claims brought by offenders. The Department of Corrective Services advises that, between 1998 and 2007, 120 matters were discontinued or struck out and a further 82 matters resulted in a verdict for the defendant. In many of these matters discontinuance occurred on the hearing date, while many of the verdicts for the defendant were as a result of settlement prior to hearing. Nevertheless, all these matters had to be investigated and prepared for trial.

By way of example, in one matter an inmate gave a total of 11 different versions of the same assault in a negligence claim—involving different witnesses, different assault locations, different assailants and different versions of how he was assaulted—before discontinuing his claim. All the versions had to be investigated, however, and all the nominated witnesses had to be found and questioned. The Civil Liability Legislation Amendment Bill 2008 accordingly imposes duties on offenders who make a claim against a protected defendant to notify the protected defendant of the incident within six months of it occurring, and to provide information and documents reasonably requested by the protected defendant.

It is entirely reasonable that offenders in custody be required to provide such information about incidents that give rise to a claim against the State. Requiring offenders to provide a timely and accurate account of incidents, such as a fall or an assault, that give rise to a claim will enable the State's lawyers to assess the merits of the claim more quickly and easily, and to speak to witnesses whilst their memory is still fresh. These requirements should help reduce unnecessary costs incurred by the State in responding to such claims. The requirements are not novel, as they are modelled on parts 4.2 and 4.3 of the Motor Accidents Compensation Act 1999. The Civil Liability Legislation Amendment Bill 2008 also authorises the Commissioner of Police to provide information to the State about victims who may have a claim against the offender, to make it easier for the State to identify and notify those victims of their potential to claim against the offender.

Currently, following a successful personal injury damages claim by an offender, the State is required to notify within 28 days each person who it appears "from any official records reasonably available" may have a victim claim. This is usually done by way of letter from the Crown Solicitor. A number of factors often make it difficult for the State to identify and locate victims of an offender who may have a claim. The victim need not be the victim of the conduct that led to the offender's current incarceration. The offence against the victim may have occurred some time ago, so that even if the victim can be identified he or she may be difficult to locate. Finally, the victim may not have applied for a Victims Compensation Tribunal payment.

The amendment to section 26N will help overcome these difficulties. It will enable the Commissioner of Police to provide any information in his or her possession that the State may reasonably require for identifying and contacting persons who may have a victim claim. This will authorise the police to provide such information from the computer-operated police system database. While the number of inmates awarded damages for an incident occurring in custody is relatively small, it is important to ensure that the offender's victims have priority claim over these damages for their own injuries. The Civil Liability Legislation Amendment Bill 2008 will ensure that the offender's victims get a better opportunity to make a claim against the money, and receive support and assistance in doing so. I support the bill.

**Mr BARRY COLLIER** (Miranda—Parliamentary Secretary) [5.01 p.m.], in reply: I thank the members for Epping, Maitland, Wyong and Swansea for their valuable contributions to the debate. The amendments to the bill will significantly improve the operation of the offender damages system established by the Government in 2005. It will make it easier for victims to obtain compensation from personal injury damages awarded to offenders whilst in custody. It will do so by increasing the time within which victims may bring claims, and by making it easier to identify victims who may have a claim. The bill will also help reduce the costs incurred by the State, and ultimately by the residents of New South Wales, in responding to sometimes fanciful claims brought by offenders. It will do so by requiring offenders who may have a claim for damages to notify the protected defendant of the incident within six months, and to provide any information or documents reasonably requested.

The issue was raised as to why the time within which victims can lodge a claim should be extended from six to 12 months. At present, a person seeking to make a victim claim has six months from the date on which the offender's claim for damages is finally determined to commence proceedings against the offender. The bill will extend that period to 12 months. It will ensure that victims have sufficient time to obtain legal advice on whether to bring a claim and have the matter prepared so that the statement of claim can be filed. The Government will provide victims with free legal advice on the merits of any potential victim claim through the Legal Representation Office. If the victim's claim is assessed as having reasonable prospects of success, the Legal Representation Office will be available to provide free legal representation to the victim. If the victim's claim succeeds, the legal costs would be payable from the victim trust fund in addition to any award of damages. Section 26U of the Act caps legal fees that can be claimed by lawyers acting for a victim in connection with the victim claim.

The member for Epping also raised the issue of inmates providing documents or information about an incident. That was well covered in the speech by the member for Swansea a few moments ago. The amendments in the bill will also ensure that the objectives of part 2A of the Act are not circumvented by compensation claims based on the State's vicarious liability for intentional torts. Finally, the bill will rectify the drafting problem identified in May this year by the New South Wales Court of Appeal in the case of *Harrison v. Melhem* [2008] NSWCA 67. The change will ensure that the law does what everyone has always assumed it was supposed to do. It will also ensure that claimants must demonstrate that the gratuitous care they receive has been provided for at six hours per week for at least six consecutive months.

The question has been raised as to whether that will mean less compensation for injured people. The proposed changes to the Civil Liability Legislation Amendment Bill 2008 will not mean less compensation for those purposes. The amendments simply ensure that the law does what it was always meant to do. The motor accidents legislation and civil liability legislation were supposed to limit gratuitous care damages to those claimants who met a two-limbed threshold test. It was always intended that the care would be provided for at least six hours per week for six consecutive months. Until the case of *Harrison v. Melhem* the two-limbed test was the standard being applied by claimants and insurers.

As far as the impact on premiums, the limits on civil liability damages, including gratuitous care damages, are there to ensure that compensation is available to the more seriously injured claimants. They are also intended to ensure the continued availability of affordable insurance, including green slips and public liability insurance. If the changes are not made to correct the drafting problem identified in the case of *Harrison v. Melhem*, insurance premiums across liability classes could be expected to rise. Insurance premiums have been set on the basis that the limits on gratuitous care damages require claimants to meet a two-pronged threshold test. Since the decision in *Harrison v. Melhem* it means that only one threshold test must be met, and damages awards for gratuitous care will be easier to obtain. If the statutory limits are not clarified to reinstate the two-pronged test, damages awards could be expected to increase and premiums are likely to move upwards with them. The bill makes important changes to civil liability in this State, and I commend it to the House.

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

**Motion agreed to.**

**Bill agreed to in principle.**

**Passing of the Bill**

**Bill declared passed and returned to the Legislative Council without amendment.**



**TOW TRUCK INDUSTRY AMENDMENT BILL 2008**

**Message received from the Legislative Council returning the bill without amendment.**

**FISHERIES MANAGEMENT AND PLANNING LEGISLATION AMENDMENT (SHARK MESHING) BILL 2008****Agreement in Principle**

**Debate resumed from 22 October 2008.**

**ASSISTANT-SPEAKER (Ms Alison Megarrity):** I call the member for Coffs Harbour.

**Mr Steve Whan:** Which side of the mesh will you be on?

**Mr ANDREW FRASER** (Coffs Harbour) [5.07 p.m.]: I acknowledge the interjection by the member for Monaro. I will not speak in this debate for more than 25 or 30 minutes, so he should sit back and relax. The Fisheries Management and Planning Legislation Amendment (Shark Meshing) Bill 2008 will improve the safety of bathers in New South Wales. As the Minister said in her agreement in principle speech, there are 51 beaches between Newcastle and Wollongong that need to be netted or meshed. Legislation passed previously by the House requires environmental impact statements on the netting of marine species. So if the bill were not passed 51 environmental impact statements—at a cost of approximately \$1 million each, if the truth be known—would have to be prepared up and down the coast.

In the past few years there has been a number of deaths on our beaches. Until 1937, as the Minister noted in her speech, there was basically one death per year on beaches in New South Wales. The death rate has been minimised by the fact that beaches are now netted. Assurances have been given by the Minister that "pingers" will be attached to the nets, and that liaison will be established by the Minister for Primary Industries and an officer of the Department of Environment and Climate Change to report annually on the success of the operation and to ensure that endangered or protected species, such as dolphins and grey nurse sharks, are not being adversely affected by the netting of these beaches. People along the coast of New South Wales lead outdoor lifestyles, and the bill must be passed in the interests of bather safety. However, in view of the tragic incident last year at Ballina when a shark killed a young man, the Government should look at the possibility of meshing beaches in regional areas, particularly major tourist areas.

I am sure the member for Monaro would understand that the north coast and south coast are the playgrounds of people from major metropolitan areas. The population in Coffs Harbour doubles every Christmas and school holiday period. The people in my electorate and the people in Sydney electorates who enjoy the wonderful benefits of our beaches deserve the same protection as those who utilise major beaches in the major metropolitan areas on the east coast. The Opposition is very pleased to support the bill to ensure the safety of bathers and those who utilise the oceans off the east coast. I look forward to a positive response from the Government to at least consider a proposal of meshing the major beaches of regional New South Wales.

**Mr FRANK TERENCE** (Maitland) [5.10 p.m.]: I support the Fishing Management and Planning Legislation Amendment (Shark Meshing) Bill 2008. The Shark Meshing (Bather Protection) Program plays an important role in protecting the public from shark attacks on our beaches and waterways. The bill before the House will enable this program to continue. Whilst the main aim of the program is public safety, a secondary aim of the program is to minimise the impact of shark meshing on threatened and endangered marine life. In order to reduce the impact of the program on whales, the program is suspended from May to August during the main migration period for whales. Additionally, the nets are set with ping-ers and some with whale alarms to deter whales and dolphins from netted areas. The New South Wales Government is striving to protect marine life through a number of programs. The Government was the first in the world to protect the grey nurse shark when it was listed as a protected species list in 1984. As a result it is illegal to catch or possess a grey nurse shark without a permit.

The Government has also established ten critical habitat areas along the New South Wales coast to protect certain marine species. Fishing is prohibited in these sanctuary zones within marine parks and the program does not operate in these areas. The Government has taken a strong stance and is increasingly cracking

down on illegal fishing. In August this year a man pleaded guilty to killing a grey nurse shark after a Fisheries officer from the Department of Primary Industries caught him. The man was fined \$2,000 for this offence. The New South Wales Government has recently added to its fleet of more than 70 Fisheries vessels with a new boat aimed at deterring illegal fishing. The new boat, which is a high-speed vessel with state-of-the-art navigation equipment, will be used to conduct compliance operations. A further four similar vessels will be added to the fleet in future to be used along the New South Wales coastline and in waterways.

The Government is involved in a number of studies into sharks that look at ways of increasing the number of endangered sharks, such as the grey nurse shark. As reported to the House in September, one particular study is a world-first attempt at raising sharks in an artificial uterus. The study, which is being conducted at the Port Stephens Fisheries Centre, hopes to be able to hatch grey nurse sharks in an artificial uterus and then release them into the ocean in order to boost their depleting numbers. The Government is committed to providing up to \$400,000 to this study. The Government is currently conducting research into the migratory and localised movements of the grey nurse shark and the impacts that scuba divers may have on this species. This research will assist in the future direction of the recovery plan for the grey nurse shark and identify the research that will be required to contribute to the long-term conservation of the grey nurse shark.

Another study the Government is taking part in involves research into aquatic reserves in New South Wales. Captive-born wobbegong sharks have been fitted with acoustic tags and then released into the Cabbage Tree Aquatic Reserve. This research is looking at the effectiveness of these areas in protecting wobbegong and grey nurse sharks. The Government has been actively involved in trying to protect endangered species like the grey nurse shark. Further research into the habitats of the grey nurse shark will assist the Government in understanding better how to minimise the impact of the shark-meshing program on this and other marine species. The Joint Management Agreement approach to environmental assessment, as proposed in the bill, identifies a number of actions to minimise the impact of shark meshing on marine species.

The Department of Primary Industries is obliged to conduct annual performance reports on the efforts of the program to reduce the impact of the nets on threatened species. This report is then provided to the Scientific Committee to inform its annual report under the Threatened Species Conservation Act 1995. The Joint Management Agreements are a far more efficient and cost-effective way of managing the Shark Meshing (Bather Protection) Program than what is required under current laws. Also, these agreements will provide for greater public transparency of the program. The Fisheries Management and Planning Legislation Amendment (Shark Meshing) Bill 2008 is a most practical and timely bill. I commend it to the House.

**Mr DAVID HARRIS** (Wyong) [5.14 p.m.]: I support the Fisheries Management and Planning Legislation Amendment (Shark Meshing) Bill 2008. It is most timely with summer, Christmas and the January school holidays just around the corner. There would be very few among us who will not go to the beach with our families and friends sometime over the holiday period. The bill is of particular interest to me, as I am a member of the Soldiers Beach Surf Club. This year I am trying to requalify so that I can do patrols again. I would like to think that when I am out there swimming in the ocean I am safe. Central Coast residents believe that we have some of the best beaches in the country. We have to make sure that the thousands of visitors to the Central Coast beaches are properly protected.

The beach features strongly in our Australian identity. As with images of the bush and the desert, when we think of Australia one of the first images that comes to mind is our beautiful beaches and water. The beach is a place of work and leisure and has long been a source of inspiration for artists and writers alike. The majority of our population lives near the coast and there would be few of us who do not go to the beach. The Australian Bureau of Statistics reports that the New South Wales public has a preference for living near the coast. All the development happening along the coast would support that fact. In New South Wales 83 per cent of our population lives within Sydney and along the State's coastline. This illustrates why the shark-meshing program is so important.

The program operates at 51 busy surf beaches between Wollongong and Newcastle. The aim of the program is to deter dangerous sharks from establishing territories in waters where the program operates. The program involves using specially designed nets to deter dangerous sharks, thereby reducing the threat of shark attacks at our most busy beaches. It aims to do this while having minimal impact on other marine species. It employs a range of measures to reduce impacts on whales and other marine life. My colleague the member for Maitland has already mentioned the use of pingers and whale alarms on nets to deter the mammals from the area. In addition, the nets are set on the bottom of the ocean floor about 10 to 12 metres deep and within 500 metres of the beach. Bottom setting the nets reduces the likelihood of dolphins, turtles and sea birds coming into contact with the nets.

The risk the program presents to whales is considered low. The nets are removed from May to August each season, as this is during the peak whale migration season. Along the coast more and more sightings of whales are occurring during the season. In my local community, there is a good viewing place for whales at Norah Head. Once upon a time whale sightings were rare. Now they happen on a regular basis, although they still cause a lot of excitement. It is good to see the whale population increasing to the point where they are more active. In the last 58 years a total of three baleen whales have been caught. This includes two humpback whales—one released alive—and one minke whale.

These figures clearly indicate that removing the nets during the peak whale migration season is effective in lessening the impact of the program on these wonderful creatures. The program begins on 1 September each year because it is during September and October that the program records the largest number of great white sharks. As a lifesaver and regular user of the beach, that does not necessarily make me feel overly comfortable, but I am glad that the program is in place. Over the past 18 years more than half of all great white sharks recorded by the program have occurred during September and October. As a beach sprinter I do not usually enter the water until November. That makes it a little bit safer.

Removing the nets during September and October could potentially increase the likelihood of interactions between swimmers and great white sharks, thereby increasing the potential for shark attacks. The bill provides for a streamlined environmental assessment and management approach to the shark-meshing program. The environmental impacts of the program will be assessed and managed through joint management agreements and associated management plans. This will include an environmental risk assessment of the overall program. The bill puts forward an approach that allows the continuation of this vital public safety measure that focuses on lessening its impact on other marine species. The bill also provides a sensible approach to assessing and managing a most important public safety measure. As not just a member of Parliament but also as a user of our beaches, I commend the bill to the House.

**Mr MATTHEW MORRIS** (Charlestown) [5.20 p.m.]: It is with pleasure that I support the Fisheries Management and Planning Legislation Amendment (Shark Meshing) Bill 2008. The bill provides for the continued operation of the Shark Meshing (Bather Protection) Program on our busiest beaches during the months of September through to April each year. The program operates at 51 busy beaches between Wollongong and Newcastle. The aim of the program is to deter dangerous sharks from establishing territories in waters where the program operates. The program does this by using specially designed nets to deter sharks, thereby reducing the threat of shark attacks at our most busy beaches. The program aims to do this while having minimal impact on other marine species.

The New South Wales Government has been proactive in its actions to contribute to the long-term conservation of sharks. This is demonstrated by the Scientific Shark Protection Summit held in April 2006. Key scientific experts in the field were invited to provide up-to-date information about shark protection measures in Australia and throughout the world. Representatives from surf lifesaver organisations were also invited to provide an on-the-ground perspective to complement the scientific research. Experts included scientists from a range of State, national and international agencies and organisations, including the Department of Primary Industries, the CSIRO, the Queensland Department of Primary Industries and Fisheries, Western Australian Fisheries, the Australian Museum, Macquarie University, Sydney Aquarium, the Natal Sharks Board from South Africa, the University of New South Wales and Taronga Zoo.

Representatives from the Australian Professional Ocean Lifeguard Association, Surf Life Saving Australia and the Surfrider Foundation also attended. The summit supported the shark-meshing program and a range of recommendations for the future management of the program were provided. One of these recommendations advocated increased funding for lifesavers. Volunteer lifesavers and council-employed lifeguards on many of our beaches contribute to establishing safe swimming areas. They do this by monitoring the area for shark sightings, using sirens to alert swimmers to the presence of sharks and using jet skis or other watercraft to chase sharks out to sea. In response to the recommendation made at the shark summit, the New South Wales Government provided a grant to Surf Life Saving New South Wales to assist it in carrying out activities to complement the program.

The grant was used to buy four new jet skis for use at strategic places along the coast, including Newcastle, the Central Coast, Sydney, and in the Illawarra area. Due to their speed, one jet ski can be shared between multiple adjacent beaches. The New South Wales Government is committed to managing the shark-meshing program in such a way that impacts on marine species are minimised. This commitment is demonstrated by the New South Wales Government's actions in contributing to the conservation of sharks. The

New South Wales Government is represented on two important groups that are focused on the conservation of sharks. Representatives from the Department of Primary Industries sit on the National Shark Recovery Group and the Shark Plan Implementation and Review Committee. The National Shark Recovery Group focuses on the recovery of threatened species. This means the Government actively contributes to the continued development of recovery plans for great white and grey nurse sharks.

The Shark Plan Implementation and Review Committee oversees the national implementation of the National Plan of Action for the Conservation and Management of Sharks. The committee is responsible for meeting national and international obligations with respect to the conservation and management of sharks. One of the actions of the national plan is to review the shark-meshing program to mitigate its potential impacts on sharks. This bill seeks to maintain shark meshing at our most popular surf beaches. At the same time, it will establish processes to reduce unwanted impacts from shark meshing on protected and threatened marine life. That is an important component given what we now know based on scientific evidence in relation to our coastal environments and our marine species. It is very fortunate that in New South Wales we have many beautiful beaches that are very well populated through the summer months. Much reference is made to the beaches of Newcastle and the lower Hunter. We are no different to the residents of many other parts of the State and the coast in having very well presented and maintained beaches that offer great settings for recreation, swimming and all the good things that the community is encouraged to do for health and wellbeing.

Shark meshing is an obligation that we must continue to improve and continue to learn about, not only to protect swimmers but also to protect our fragile marine environment. Many beaches along the coast of Lake Macquarie—and I deliberately use Lake Macquarie as an example rather than Newcastle—have a number of key beaches that are utilised for shark-meshing programs and the feedback is quite good: swimmers feel much more secure and much more comfortable, particularly the younger ones. They are aware that nets are in place and they are aware of the purposes of those nets on our beaches. Any effort that we make in recognising and supporting our marine species whilst protecting our community is a sensible and logical way forward. I commend the bill to the House.

**Mr GRANT McBRIDE** (The Entrance) [5.27 p.m.]: I support the Fisheries Management and Planning Legislation Amendment (Shark Meshing) Bill 2008. The bill provides for the operation of a Shark Meshing (Bather Protection) Program on 51 of our busiest beaches during the months of September through to April each year. When the weather becomes warmer and many locals and tourists are returning to outdoor activities, there needs to be a safe place for them to swim. The beaches in New South Wales are some of the most beautiful in Australia, if not the world; so it is no surprise that thousands of people head out to our beaches each year.

The shark-meshing program is one way the New South Wales Government contributes to public safety. But there are reasonable concerns from some sections of the community that the program is having an unnecessary impact on marine life. In particular, September and October are often cited as months that the program should not operate so as to further reduce impacts on grey nurse sharks and migrating whales. The Government has carefully considered this option and has determined that it is not viable. In addition to other measures to reduce the impacts on marine life, the program currently does not operate from May to August—the main whale migration period.

It is important that this program commences in September and runs through to April each year. Data recorded by the shark-meshing program indicates that September and October are when the numbers of great white sharks peak around New South Wales beaches. This is particularly the case in the Newcastle and Central Coast regions, where nearly 70 per cent of great white sharks have been recorded in the past 18 years. During that period sea mullet move north up the coast and are followed by sharks. I have seen the sharks, in particular at Soldiers Beach, Hargraves Beach and Lakes Beach. I swim throughout the year at those beaches.

**ACTING-SPEAKER (Mr Thomas George):** Politicians are used to swimming with sharks!

**Mr GRANT McBRIDE:** We have seen a bit of that of late in the by-election campaigns. I assure members that it is an unnerving experience seeing great white sharks, which is one of the species that the program aims to deter from our most popular beaches. The two most popular beaches on the Central Coast, Soldiers Beach and Terrigal Beach, both have shark nets. I spoke to some lifeguards a few minutes ago and they assured me that the nets are regularly checked. In spring, when the sea mullet are running, Central Coast lifeguards often see sharks offshore. About three years ago well-known local surfer Michael Valentine—also known as Yappy—was surfing at Lakes Beach at the wrong time.

As I am sure members know, it is not advisable to surf at dusk. A shark attacked Yappy and it is claimed—I do not know whether it is true—that he managed to talk the shark into letting him go. Anyone who had spent any time out on the water with Yappy would know what I am talking about. He never stops talking—and loudly. I understand that the shark took a very clean bite out of his board and he required stitches to his torso. It was a serious incident. One of my sons was at the beach when the attack occurred. This is a serious issue. Attacks do occur and we must protect our community.

My colleague the member for Wyong tells me that Soldiers Beach is the most popular beach on the Central Coast. It is a very attractive and very large beach—it is more than a kilometre long. It is also very popular with young families. Of course, it is meshed. Terrigal Beach is also meshed. It is one of the most well known beaches on the Central Coast. This program is very important and it is sensitive to the welfare of sharks and whales. Two weeks ago on Monday I was at Soldiers Beach and saw two or three whales 200 or 300 metres off the northern point moving towards Newcastle. This program must balance the safety needs of the community when using our marine environment with the welfare of our marine life.

Like the governments of Queensland and South Africa, New South Wales has taken significant steps to minimise the threat to marine mammals posed by meshing. In New South Wales we bottom set our nets to reduce the impact on marine animals such as dolphins, turtles and whales, which go to the surface to breathe. Additionally, the nets are set with pingers and whale alarms to deter marine mammals from the netted areas. Our nets are also out of the water during the peak whale migration season from May to August. In contrast, both the Queensland and South African programs use surface-set mesh nets and drum lines. The drum lines are large baited hooks which are anchored to the bottom and which attract large sharks.

The streamlined approach proposed in this bill will allow for the assessment—and I stress the word "assessment"—and management of the Shark Meshing Program to better respond to our needs. It will reduce costs and cut red tape by removing the current complicated assessment process. The bill is a practical response to an important public safety issue. The passage of this bill will allow for the continued protection of bathers from shark attack on the 51 beaches that have nets. These nets have been installed only on major beaches. I am sure the member for Coogee spoke about the fact that Bondi Beach, Coogee Beach and other popular beaches also have nets.

I lived in that area when I was a young boy. At that time the program was more brutal in that it ignored the welfare of the marine life. Drum lines with baited hooks are designed to attract large sharks. We are not trying to attract them; we are trying to move them from the bathing area and reduce the risk to people enjoying our beaches. I am one of many people who swim in the ocean throughout the year. I was recently at Sussex Inlet and unintentionally swam with dolphins. I happened to be about 30 metres away from a pod and I saw a dorsal fin slicing through the water. It was not diving and I nearly had a heart attack. I froze in the water and then all of a sudden dolphins burst out of the water. They appeared to be laughing about the fact that they had scared the living daylights out of me. I think there is some affinity between dolphins and humans. We are trying to do our best to balance the community's needs with the needs of our marine life. I commend the bill to the House.

**Mr GREG PIPER** (Lake Macquarie) [5.37 p.m.]: The Fisheries Management and Planning Legislation Amendment (Shark Meshing) Bill 2008 deals with an important and emotional issue. I respect the position put by the member for Charlestown and the member for The Entrance. They understand that the issues are critical and they appreciate the sensitivities. They also understand the need for balance. I have some concerns about the bill. It might appear that I am speaking against motherhood because the Government's responsibility to protect members of our community is paramount. I recognise that and appreciate the difficulty facing the Government. However, any consideration of such a bill should be based on science and statistics, not on anecdotes and emotion. I recognise that some data and science has been applied to this issue. However, it is a very difficult area and arguments can be mounted from both sides. I support ensuring the safety of beach users that the bill is purported to reinforce. However, I have grave reservations about its ability to deliver meaningful or improved protection from sharks.

Schedule 1 [4] proposes to remove shark meshing from the list of designated fishing activities. However, expert advice from the Fisheries Scientific Committee lists shark meshing as a key threatening process for a range of threatened species. Defining shark meshing as anything other than fishing is a spurious differentiation. Advice from Dr John Paxton, a marine researcher of some 30 years experience with the Australian Museum, is that none of the research done in Australia has included a detailed risk assessment for shark attacks based on the number of swimmers and the time they spend in the water. Statistics have been cited in the debate on this bill, but it is very difficult to apportion any weight to them because of changes in

populations, lifestyles and coastal management, in particular in ocean areas where the discharge of large quantities of human or other waste has attracted a greater number of sharks. We also know there has been an overall reduction in the number of sharks in the wild.

Risk assessment is the modern and appropriate method of assembling valid information to facilitate good decision making. This bill perpetuates traditional methods of providing psychological support for swimmers who have been led to believe that these nets provide a full barrier for sharks. A number of clauses in the bill would confirm that shark meshing is not a fishing activity, yet that is what it is and that is all that it is intended to be. The current practices, which would remain enshrined in the new Act, do not provide for a full barrier between sharks and swimmers—only a partial barrier and a hazard for sharks and a variety of marine life. A number of threatened species will remain at risk while ever this unproven practice continues. This bill does not offer a way to gain new information on risk of shark attack as a basis for decision making and subsequent action.

In 1996 the New South Wales Environment Protection Authority reported on by-catch mortality since shark meshing began in New South Wales in 1937. It disclosed that there has been a consistent by-catch of other species, including harmless shark species, rays, finfish, turtles and marine mammals, including dolphins and dugongs. While ever this mortality continues there is an acute unmet need for a coordinated biological monitoring program for shark meshing. This would be a supportable improvement. While there have been improvements, more are needed and they are not specified in this bill. Not only are the consequences of by-catch unacceptable, the effectiveness of partial barriers is unproven and the risk of death or injury is statistically insignificant. I realise it is not insignificant to individuals, families and people directly affected, but statistically it is a relatively small number.

For example, it has been documented that in Australia between 1980 and 1990 sharks killed 11 people, while 19 people were killed by lightning and 20 by bee stings. This does not mean the risk of shark attack is not a problem and it should be lightly dismissed, but it means that it should be put in perspective. It means that we should take the time to evaluate the methods we use. I have no reason to suspect, as none of us here would, that the risk to swimmers will be greater in the coming summer than at any other time in recent history. I am uncomfortable supporting a change that will continue the damage done to a variety of threatened species without a risk analysis. The appropriate time to change the current system would be when there is valid information on which to base shark attack mitigation measures. This is an emotive issue and this solution is not optimal. More needs to be done to understand the behaviour of shark species of interest. I call on the Government to maintain funding of research into further improvements to mitigate against shark attack.

**Mr STEVE WHAN** (Monaro—Parliamentary Secretary) [5.42 p.m.], in reply: I thank all members for their contributions to debate on the Fisheries Management and Planning Legislation Amendment (Shark Meshing) Bill 2008. I welcome the contribution by the member for Coffs Harbour, who supported the bill on behalf of the Opposition. He mentioned that he would like to see more netting up the coast. This legislation sets in place a mechanism to assess future netting but the Government is not planning to expand it at the moment. The member for Maitland talked about protection of grey nurse sharks, which is very important. The members representing the electorates of Wyong, Charlestown and The Entrance all did terrific tourism advertisements for their areas—the beaches, the whale watching and all those sorts of things up and down the coast.

The member for Wyong talked about viewing opportunities in his area. The member for Charlestown talked about some other measures to ensure our beaches are safe. The member for The Entrance talked about his encounters with sharks along the coast. The member for Lake Macquarie put an alternative view to that being put forward by the Government. I understand that contrary views are held in the community about shark netting. He is certainly entitled to make the suggestion that he doubted the statistics and that other factors were involved, but the statistics the Government has are that since the program's introduction it has been successful in decreasing the number of fatal shark attacks in New South Wales. Since 1937 there has been one fatal attack off one of the beaches in the program. It has been very successful. I commend the bill to the House.

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

**Motion agreed to.**

**Bill agreed to in principle.**

### Passing of the Bill

**Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.**

### **ROAD TRANSPORT (DRIVER LICENSING) AMENDMENT (DEMERIT POINTS SYSTEM) BILL 2008**

**Message received from the Legislative Council returning the bill without amendment.**

### **PRIVATE MEMBERS' STATEMENTS**

**Question—That private members' statements be noted—proposed.**

### **MANLY JETCAT SERVICES**

**Mr MIKE BAIRD** (Manly) [5.45 p.m.]: I voice the Manly community's complete disbelief that the State Government plans to axe a form of public transport relied on by thousands of commuters without providing any alternative whatsoever. Last week the Premier and the Minister for Transport delighted in sharing with the House—almost laughed and joked about it—that the JetCats were costly and unreliable. Clearly they were pointing to the mini-budget and saying it is time they were scrapped. The New South Wales Labor Government has run Manly's fast ferry service for 13 years, and one would think at this point it would assume some responsibility for ensuring it is cost-efficient and reliable.

We found out today that a fast ferry service is viable. The Palm Beach operators have demonstrated this. The idea was to contact all 12 ferry companies in the international domain, but we found someone next door. The Palm Beach operators have done the figures and believe they can run a cheaper, more reliable, more environmentally friendly and more frequent fast ferry service for the people of Manly. Riverside Marine is one of Australia's largest maritime companies and has been the operator of the Palm Beach ferry service for the past 25 years. It has written to the Director General of the Ministry of Transport with this fast ferry proposal. Matthew Lloyd, the general manager, said in the letter:

As I have explained in previous correspondence I believe I could provide a 100% reliable jet Cat style service for a fraction of the expense it is currently operated at by Sydney Ferries. The service I would provide will have a greater capacity than the existing service, operate to a more frequent timetable, be more environmentally friendly and cost the NSW tax payer approximately 40% less to run if anything at all. I could provide you with a service that operates to a profit for the same fare prices that is currently being charged.

I received an email from a Tim Buckler, who has further ideas on how the State Government should look at the ferry service. He said he has benchmarked Sydney Ferries against an equivalent New York ferry operation. He has been able to show that if we replicated New York Waterways' operations in Sydney, Sydney Ferries would need only about 280 employees, rather than the current 732 employees, a labour saving of around \$30 million a year. He has provided this information in a letter to the Premier. So, not only is the Government quick to abandon Manly commuters with its plans to axe the JetCats, it is not even considering all these ideas coming to it on how to improve the service. I have received a huge number of responses from local commuters as the news surfaced that there is a sinister plot to cancel the JetCats in the mini-budget. Bear in mind that Manly makes up 49 per cent of the use of Sydney ferries. This is what some of those commuters had to say. Andy Holliday writes:

The state's focus should be on improving transport rather than cutting what limited services Sydney has to offer.

Andrew Simpson said:

I thought the Government's job was to improve public transport not make it worse.

There are environmental concerns. Mark Houston had this to say:

It is disheartening that a government of any political persuasion in these dire climatic/environmentally challenging times would be contemplating any proposal that will have the effect of reducing usage of public transport services.

Rebecca and Michael Isaacs wrote:

With the ongoing problem of climate change, not to mention the traffic congestion problems along Spit and Military Roads, the State Government should be supporting and expanding public transport services, not cutting them.

There is an impact on families. Sheldon Rivers pointed out:

My family and I are long time Manly residents and users of the Manly Jetcat service. Both myself and my wife work full time and have 2 young daughters both of whom go to a local child care centre. We are extremely reliant on a fast and reliable service from the city to Manly to enable us to pick up our children before the deadlines imposed by the child care centre. The Manly Jetcat provides this service.

Last week the Premier said, "We have made it very clear that public transport and easing congestion are front and centre of my government," yet the next day he looked like he would cap and cancel this service. He also said there were five people on the JetCat when he caught one, but he caught it in the middle of the day. I invite the Premier to talk to any one of the hundreds of commuters who have written to me. If he visits Manly Wharf during any peak period—for instance, at 7.20 a.m.—he will see the queues of commuters stretching from one end of the wharf to the other. Hundreds and hundreds of people miss out on catching the JetCat every day that the service is provided. I have saved the best for last. Zac Bell, Treasurer and Assistant Secretary of the Northern Beaches Young Labor Association, stated:

The JetCat service is plainly a commuter service, and the Northern Beaches already has substandard commuter transport. The Spit Bridge is clearly inadequate for a major road and subsequently the city bus services take more than one hour and forty five minutes. If the state government scraps the JetCat what alternatives is the State Government going to offer? Please note that additional bus services and ferry services are not a fair solution to the problems listed above. Frankly Manly has a growing population with an ever decreasing infrastructure budget. More to this point the fact that your ministry is planning to retain the more expensive RiverCat to the Western Suburbs, tends to suggest that the decommission of the Manly JetCat is a politically focussed attack on Liberal voting Manly residents. As a fellow Labor member and election campaigner I think this conduct is unacceptable ...

It demonstrates that this issue is of importance to the entire Manly community, not just one side of the political fence. [*Time expired.*]

### UNANDERRA ROAD ACCIDENT

**Ms NOREEN HAY** (Wollongong) [5.50 p.m.]: Today I inform the House of a tragic motor accident that recently occurred in Unanderra in my electorate of Wollongong which resulted in the loss of three young men's lives, and another young man's life hanging in the balance. I highlight the terrible and far-reaching consequences of speeding, particularly by young male drivers. On Friday 19 September at 7.15 p.m. four young men—Roach Bannerman, aged 19; Aaron Sinadinovic, aged 24; Adam Nall, aged 27; and Daniel Schroeder, aged 21—were travelling at what is alleged to have been a high speed. It is believed also that the driver lost control, mounted a gutter and collided with a chain link fence and telegraph pole, then collided with a gas main that ignited.

Daniel Schroeder was lucky to escape with his life but received burns to 30 per cent of his body. He spent 21 days in intensive care at Royal North Shore Hospital before being moved to the burns unit. He has undergone three skin graft operations, beaten a staph infection and overcome pneumonia during his time in intensive care. His time in intensive care was longer than expected as he was so badly traumatised by the accident that he needed to be heavily sedated. I am pleased to advise the House that he is on the way to recovery, at least physically. It is reported that the young men were driving from Andreco Hurll Refractory Services in Unanderra, where they all worked, to have dinner at a leagues club when the accident occurred. The club was just a seven-kilometre drive south down the Princes Highway.

This tragic event affected the entire community, and the ripples of loss spread far and wide. One did not have to have known them to feel the terrible sense of loss and waste of young lives. I talk about this tragedy today in the hope of highlighting the dangers of speeding, and to encourage—even plead with—young people in our community to slow down and take it easy on our roads. This accident happened at 7.15 p.m. It was mid-evening—a time when one would expect to drive safely down the road for dinner. I am a member of the StaySafe committee of this Parliament, which is doing great work in an attempt to keep our young drivers alive. The biggest killer of young drivers is speeding, and around 80 per cent of those killed are male. According to the New South Wales Roads and Traffic Authority, young drivers are overrepresented in all fatal crashes, including drink driving and fatigue. Speeding is a factor in so many deaths on the roads and still we have these tragedies.

Today I wish to acknowledge the families of the young men involved in the accident. First, I acknowledge Ian and Karen Bannerman, the parents of Roach Bannerman. Ian is the manager of the Dapto Old Pub and is well known to our community. I also acknowledge Roach's younger sister, Tayla, and his girlfriend, Skye Leonard, who gave birth to the couple's son, Rhoden Roach Bannerman, just five days after his father's



death. Roach was a well-known member of the Avondale Wombats Rugby Union team based at the Dandaloo Hotel and had been coached for a while in the under 19's by my youngest son, Daniel, with other coaching and management staff. His team played on without him the day after the accident, choosing not to forfeit the game and won, dedicating the win to Roach. They even went on to win the grand final the following week. His team also formed a guard of honour at his funeral. I attended his funeral, along with approximately 1,500 people predominantly from Dapto. Many people had to watch it on television screens outside.

I acknowledge also Eila Tirronen and Micheal Sinadinovic, parents of Aaron Sinadinovic. I acknowledge his sister, Sandra Stankovski, brother-in-law, Sasha, and nephews Jared and Jono with whom he lived in Farmborough Heights. I also acknowledge his fiancé, Tania Manzini. He was remembered at his funeral, which I attended along with hundreds of mourners in Dapto. He was described as a big man, with a big personality and a big heart. His nephew read in his eulogy that his family was devastated at the loss of their beloved "Azza". I remember also Bob and Wendy Nall, parents of Adam, his brother, Brad Nall, sister, Amanda Stannard, her husband, Chad, and their children, Chloe and Cooper. Adam was originally from Merry Beach, Ulladulla, but moved to the Illawarra where he gained an apprenticeship at Andreco Hurlll Refractory Services. His sister remembered him as a quiet and generous man.

I acknowledge the police, firefighters and rescue service men and women who had to be confronted by such devastation. I acknowledge the people who put their lives at risk to assist one of these young men to survive this accident. They are all true heroes. As the mother of four children, two of them sons, I cannot imagine a more tragic thing to occur. I call on all young men to think of their families, think of their parents and particularly think of their mothers before they put their lives at risk and speed. [*Time expired.*]

### **CANCER CARE WEST LODGE, ORANGE BASE HOSPITAL**

**Mr RUSSELL TURNER** (Orange) [5.55 p.m.]: It is with pleasure that I speak about Cancer Care Western New South Wales and its goal of building Care West Lodge alongside the new Orange Base Hospital, which is now underway. I acknowledge chairman John Carpenter and the fundraising chairperson, Jan Savage, who is travelling around the Central West whipping up enthusiasm amongst community groups, rotary and lions clubs in Wellington, Condobolin, Dubbo, Bathurst and elsewhere. She is working almost 24 hours a day on this project. I acknowledge also Dr Stuart Porges and Dr Peter Bilenkij, who have been part of the fundraising campaign and were heavily involved in obtaining the guarantee from the Government for the radiotherapy services we now have at the new Orange Base Hospital.

As members would know, radiotherapy may be required over a number of days or weeks, and it is important that relatives and carers have accommodation nearby so that they can give support to the person undertaking radiotherapy treatment. Cancer Care Western New South Wales has undertaken a fundraising campaign and last year I was proud to lead a delegation to look at radiotherapy and accommodation facilities at Wagga Wagga. An article in the *Central Western Daily* of Tuesday 8 January 2008 stated:

Preliminary plans for the accommodation facility near the planned radiotherapy treatment facility at the new Orange Base Hospital are for a 14-room complex, each with an ensuite and a communal dining and lounge area.

Chairman of Cancer Care Western NSW, based in Orange, John Carpenter said yesterday as soon as a parcel of land is allocated by Greater Western Area Health Service in the next few weeks it will be full steam ahead to engage communities outside Orange to help with the fundraising.

Mr Carpenter said research by the Orange-based Cancer Care group of a comparable facility at Wagga Wagga had shown their 20-unit facility usually had five or six units unoccupied.

"That is why we have settled on the numbers we have.

It was feasible that once the fundraising starts in earnest in areas west of Orange communities could decide to sponsor a room which could be badged with their name.

"We could have things like the Cobar Room or the Dubbo Room", he said.

It is great to acknowledge that within the Orange Base Hospital site at Bloomfield an area has been allocated for Cancer Care West Lodge and for Ronald McDonald House. I acknowledge that Condobolin has already made a commitment to have a room in the lodge named after it, as has Wellington. Wellington has also made a commitment to raise \$50,000 towards the room. I also acknowledge that Orange Rotary Club, of which I am a proud member, has also donated \$50,000 towards the lodge. So it will be a reality and it will be underway very shortly.

The fundraising efforts in Wellington, where the residents have really got on board, have included a combined service clubs fundraising sheep drive that netted more than \$11,000. Farmers enthusiastically responded to the call for the supply of stock, with 118 sheep and lambs being donated to the cause. Some of the donors even contributed up to 10 animals from their flock. Meat buyers at the Dubbo saleyards were also generous in their support, bidding well above the market value. On one fundraising night the Wellington combined services club raised a huge amount of money. The enthusiasm that is coming from towns such as Wellington and throughout the central west will ensure the construction and success of Cancer Care West Lodge.

**ACTING-SPEAKER (Mr Thomas George):** I thank the member for Orange for highlighting the efforts of those in his electorate in relation to cancer. I am sure the House would join me in thanking everyone for taking part in Cancer Week this week. It was disappointing that this morning's Pink Ribbon Day breakfast had to be postponed due to the weather. I remind everyone that the breakfast will now be held in the Strangers Dining Room tomorrow at 8.30 a.m. I encourage all members of the Parliament to attend the breakfast. I call the member for East Hills and congratulate him on his pink tie, pink shirt, and pink glasses to go with it. I think he gets today's prize.

### **PADSTOW ON PARADE**

**Mr ALAN ASHTON** (East Hills) [6.01 p.m.]: Thank you, Mr Acting-Speaker. I concur with your remarks, as I am sure all members would, regarding breast cancer awareness and tomorrow's breakfast. I wish to speak about another very good organisation that raises funds for good causes, Padstow Rotary Club. Padstow on Parade, which is now in its fourth year, is a fun day that is set aside in the main street of Padstow, in my electorate. The objectives of Padstow on Parade are to provide a safe, fun day of activity for the whole community, to showcase the commercial precinct of Padstow, to provide a forum to exhibit local talent, and to raise funds for local charities, projects and needs.

At this year's parade, sponsorship of \$13,500 and some advertising in kind was received after canvassing local businesses. The sponsorship included: Bankstown City Council, \$7,500; Revesby Workers Club Ltd, \$5,000; Sydney Glass Pty Ltd, \$500; and Padstow TAB agency, \$500. The *Canterbury Bankstown Express* provided four weeks of advertising, including an eight-page cover for the week prior to the event. The *Bankstown-Canterbury Torch* provided posters, programs, an editorial and advertising over the three or four weeks prior to the event. Channel Nine provided a master of ceremonies, a former Bankstown boy of whom we are all very proud, Mike Bailey of weather fame, and also brought along its roadshow team.

Padstow on Parade is staged in the main street of Padstow, Padstow Parade, which on the day is closed to traffic from 6.00 a.m. until 6.00 p.m. The event involves four categories of entertainment. The acts perform on an entertainment stage that was eventually covered after two years of extreme heat and one year of rain, as happens when these events are held. It is pleasing that we now have a large covered area that can seat 200 or 300 people. The first act on the day performed at 9.30 a.m. and the last act performed at 4.00 p.m. The Mayor of Bankstown, Councillor Tania Mihailuk, opened the day. Special guests included Daryl Melham, the Federal member for Banks, Councillors Ian Stromborg, Linda Downey and Alex Kuskoff, and me as the member for East Hills.

**Mr Paul Gibson:** An excellent performer!

**Mr ALAN ASHTON:** An excellent performer, indeed. As the Hansard staff know, when a member who is interjected upon acknowledges the interjection, the exchange is recorded in *Hansard*. So I will give myself a rap. I was there, and they were glad I was. The stalls included merchandise, arts and crafts, food, and information displays, 73 in total, running the length of the street. Padstow Parade is not a small street, so it was fantastic to fill the whole area. Obviously all the shops stayed open on the day, and thousands of people turned up. That is what we in Padstow are really proud about. Without trying to be a smart Alec, in some electorates and in other parts of New South Wales events are held every year. For example, I attend the Milton Show on the South Coast whenever I can. These events are great. To be beginning a tradition of having these events held in electorates like East Hills is just fantastic.

Such events could not be held, however, without the support of Bankstown Council, the local clubs, Bankstown police, and Revesby Fire Brigade, which all turn up and show off their facilities to the people who attend. The event also featured a kids area, which included an animal farm and pony rides. The Channel Nine roadshow team provided face painting, balloon artists and giveaways. Five local schools were involved in the

event: Padstow North Public School, Tower Street Public School, Revesby South Public School, Bankstown South Infants School and the De La Salle Revesby Heights. Nine local dance groups performed on the day. Humphrey Bear was there, as always at these events. Other stage acts included Funky Bugs and Paul's Magic, which were paid for by Padstow on Parade. Kang, the local rock band, also performed. Years ago I taught one of its members. Students from the Bankstown Talent Advancement Program also performed on stage. Thirty Padstow Rotary Club members, including 10 partners and family members, assisted on the day with organising the event.

I thank in particular Julie Harris, Glenda Murray, John Reilly, Lauren Christie, Joan Wells, Kaye Townsend, Sharon Bond, Warren Bond, John Earls, Lorraine Cody, Maurie Abbott and Ken Harris. As members can see, this is a true community event supported by the local council, police, fire brigade, local schools, local shopkeepers, the local press, local dance companies and bands, local residents, and the more than 15,000 people who attended on the day. The event gets bigger and bigger each year. Proceeds from this year's event will be directed towards Bankstown Hospital for the purchase of blood warmers for the intensive care unit. I am sure the event will be held in 2009. I thank all those involved in the event for their contribution to such a worthy cause as Bankstown Hospital. I am sure other electorates also hold many such events.

### BINGE DRINKING

**Mr ROB STOKES** (Pittwater) [6.06 p.m.]: A recent spate of drunken and violent confrontations between partygoers and police across Sydney's northern beaches has served to highlight the costs and dangers of binge drinking to young people and the community. Research has warned that in any given week one in five 16- and 17-year-olds have consumed alcohol at an unsafe level. Adolescents are uniquely vulnerable to the effects of excessive alcohol consumption. During these years young people develop and solidify their cognitive and social skills, absorb social norms, set boundaries for themselves, develop abilities for abstract thought, and come to an understanding of their self-identity, self-worth and role in society.

Binge drinking distorts this developmental process and exposes teenagers to harmful medical and social consequences. It can lead to addiction and alcohol dependence in later life, and is associated with mental health problems such as anxiety, depression and suicide. Drinking alcohol at unsafe levels is associated with long-term memory loss, cognitive impairment, and reductions in brain mass. It increases the likelihood of assault, injury and risky sexual behaviour. Alcohol-related medical and social consequences are also a drain on State and Federal finances. Around \$15 billion a year, or around a third of the Federal Health budget, is lost to alcohol-related crime, productivity loss and accidents. Up to 80 per cent of police resources are committed to combating alcohol-related incidents. Binge drinking is therefore a very serious problem in our society.

While recent attention to the problem is welcome, our response to this epidemic remains largely reactive. As the electorate of Pittwater has recently been testament to, much of the burden has been placed on New South Wales police to mitigate the often-violent repercussions of binge drinking. And the very weak laws controlling underage drinking in public places do not help our police. The Summary Offences Act 1988 provides that a police officer can confiscate liquor from a person under the age of 18 and impose a fine of no more than \$20—about the same price as a six pack of beer. And what about the penalty for drinking in an alcohol-free zone? For that offence the Local Government Act 1993 imposes a maximum penalty of \$22. It is little wonder that people can walk down Barrenjoey Road in Avalon or Newport, or through Village Park in Mona Vale or Boondah Reserve in Warriewood, and see school-aged children openly drinking alcohol.

While laws need to be fixed, as the New South Wales Police Commissioner Andrew Scipione has remarked, "We cannot arrest our way out of this problem". Combating binge drinking calls for a deeper engagement with the local community. It calls for a revision of our attitude to the role drinking plays in Australian society. No longer can excessive drinking be a rite of passage for young people, nor a focus of social admiration. As a community, we must reconsider the confused signals we send to young adults about alcohol being a danger and a conduit to financial, social and sexual success. Instead, we must send credible and consistent messages to our young people that alcohol presents significant dangers to both their short-term wellbeing and long-term quality of life.

Parents remain the most crucial source of orienting the values that shape the decision making and behaviour of young adults. As role models, parents are at the front line of affecting this culture shift. However, combating binge drinking requires the support of local schools and police, and, to the credit of the local community in Pittwater, this is precisely the approach that has been taken. Special thanks must be given to the parents, teachers, police officers, Pittwater Council, the Manly Drug and Alcohol Resource Centre, and all

others that took the lead on this issue and organised the Peninsula Community of Schools Binge Drinking Forum. The forum was an exemplary model for future efforts to raise community consciousness about the costs of drinking to individuals and to society. The forum educated both adults and young people on the hazards involved, and offered practical advice to help reduce the incidence of excessive drinking by young people. In particular, I would like to thank Mark Dailhou and Maddie Hewett from Pittwater High School, and Megan Thackerray and Jacqui Lindsay from Barrenjoey High School for their efforts.

While adolescence is a turbulent and experimental time, when risks are taken and boundaries experienced firsthand, ultimately, young people look to and emulate their elders. We must keep in mind that binge drinking in teenagers is a reflection of a problem with society at large. It is therefore incumbent upon all levels of society, from government to the household, to show leadership, to educate, and to raise the consciousness of the potential devastation alcohol can inflict on individuals, families and communities. It is in this context that I repeat my thanks to those involved with the Peninsula Community of Schools Binge Drinking Forum. With the coming of Halloween celebrations this Friday, I urge parents and young people to be conscious of the hazards of binge drinking and to take measures to ensure that the celebrations over the weekend are as safe as possible.

### **MENANGLE PARK PACEWAY**

**Mr GEOFF CORRIGAN** (Camden) [6.11 p.m.]: On Sunday 29 June 2008 my wife, Sue, and I attended the official opening of the revamped Menangle Park Paceway. Although Menangle Park was removed from my electorate in the 2006 electoral redistribution, I retained a keen interest in the progress of the Menangle Park redevelopment. Menangle Park Paceway, which has the appropriate motto of "Where Horses Fly", is now completely different from the way it was when I moved to Camden in 1981. In those days pacing and trotting meetings were held on a Monday night, with large crowds in attendance and two bookmaking rings. At the time the track was a tight 800 metres.

Menangle Park now is the only 1,400-metre track in Australia, and harness racing speed records have been broken continually since it opened. The facilities have been improved immensely and Menangle is family friendly. This was in evidence when the official opening attracted a crowd of 16,000 people, the vast majority of whom were residents of Macarthur and south-west Sydney. In a carnival atmosphere, families picnicked on the lawns, and every sponsor's tent was packed to overflowing. Importantly, there was easy access to food and facilities—something that is not always available at events held at the major race clubs in Sydney.

The opening day's racing was the most impressive I have attended since that magic day in 1988 when I attended the Victoria Derby. But not even that day in 1988 could match the seven group 1 events from the nine-race program staged at Menangle on its opening day. Sue and I were delighted to sit with New South Wales Harness Racing Club chairman Rex Horne, chief executive officer John Dumesny, Harness Racing New South Wales chairman Graham Campbell, and the former Minister for Gaming and Racing, Graham West, and their wives and partners. I also mention the wonderful Wendy Turnbull who sat with us and who has always made Sue feel completely at ease every time we attend a harness racing meeting at Harold Park. Unlike me, my wife is no great fan of harness racing, horseracing, or racing of any type. The day was fantastic and the time just flew. Importantly, several records were broken and every runner was given an opportunity. The days of being locked up on the fence are gone with the 400-metre straights.

In these days when seemingly every sporting group expects a government handout to assist with its development, the financing and construction of Menangle Park Paceway has been carried out completely by the New South Wales Harness Racing Club. The most recent estimate of the redevelopment's cost is \$5.5 million and the estimate of the voluntary contribution is put at \$1 million. The innovative earthworks by the Rock and Earth Exchange saved the club a conservative \$2 million. Although the work was completed without government funding, the club received excellent support from Campbelltown City Council through former mayors Russell Matheson and Aaron Rule, and its wonderful chief executive officer Paul Tosi, who is a good friend of both Mr Graham West and mine.

Campbelltown City Council recognised the importance of having a world-class sporting development in its boundaries and, though there were a few traffic jams, the council worked hard to ensure that the harness racing club's vision fitted with its desire to see Campbelltown as a leader in south-west Sydney. I also thank the Minister for Lands, the Hon. Tony Kelly, who assisted in overcoming a problem at the last moment. I want particularly to emphasise the role played by the many volunteers who gave their time to ensure that the Menangle Park redevelopment happened. I am reluctant to single out any one person but I want to mention my good friends Michael Brown and Tanya Harris for their contributions as volunteers and for the great work they did.

**Mr Paul Gibson:** Did you back a winner?

**Mr GEOFF CORRIGAN:** No. It was a very rare day at Menangle because I did not have a bet that day. Lastly, I pay tribute to the two men who have worked tirelessly for the past three years to see the Menangle redevelopment come to fruition: chairman Rex Horne and chief executive officer John Dumesny. Rex and John had to convince their board that Menangle Park was the future of harness racing not just in New South Wales but in Australia. They then had to work to ensure that the vision became reality. I understand that Rex has been virtually a visitor to his home on the northern beaches for the past 12 months so I am sure that, more than anyone, his wife, Annette, was glad to see Menangle open. I asked John Dumesny to get me a copy of Rex's wonderful opening-day speech but John said to me, "Mate, he just spoke from the heart. There's no written record of his speech." Rex, I say to you: Well done—a fantastic contribution!

Time prevents me from saying more. I simply congratulate the New South Wales Harness Racing Club on its foresight and its commitment to the future of harness racing in Australia through the magnificent Menangle Park redevelopment. I particularly congratulate John Dumesny and Rex Horne on their travelling road show for the past two months. I understand that the members of the New South Wales Harness Racing Club agreed to the sale of Harold Park Paceway, which will continue to finance harness racing in New South Wales into the future, by 270 votes to 37. Well done on the Menangle Park Paceway redevelopment.

**Mr GRAHAM WEST** (Campbelltown—Minister for Juvenile Justice, Minister for Volunteering, and Minister for Youth) [6.16 p.m.]: I join my friend the member for Camden in congratulating the New South Wales Harness Racing Club on such a fantastic event at Menangle Park Paceway. It did a sensational job to make it happen—I know it was touch and go on many occasions. I know the member for Camden personally intervened many times with Campbelltown City Council and other authorities to make sure the day was successful. My colleague the Minister for Water was also hard at work as well.

John Dumesny and Rex Horne have done a sensational job. I do not have as long a history in racing as the member for Camden, but I join him in saying it was the best event I have ever attended. There was a sensational community atmosphere, made all the better by the volunteers who were involved. Indeed, one gentleman who did not live anywhere near Menangle Park used to park his Winnebago-type RV on site and do volunteer work. I also thank John Dumesny and Rex Horne for the extra work they did for the Campbelltown show. At their own expense, they have installed a tunnel big enough to drive steam machinery, trucks and cars through so that the Campbelltown show can be held at the site. The project was not connected with harness racing and I do not think it is a profit-making exercise for them. It is a tribute to them as great community people. It was a sensational day in June, and I am sure that many more successful days and many more traffic jams will result.

#### **NORTHERN RIVERS POSITRON EMISSION TOMOGRAPHY SCANNER**

**Mr DONALD PAGE** (Ballina) [6.17 p.m.]: In July this year a group of local, State and Federal politicians met to discuss the possibility of getting a positron emission tomography-computer tomography [PET-CT] scanner for the Northern Rivers area. At the meeting were medical specialists, representatives from the Regional Community Watch, representatives from the North Coast Area Health Service and media representatives. After a briefing from medical specialists we walked out of the meeting convinced we needed a PET-CT scanner for the far North Coast. I agreed to help with fundraising by holding an event in my electorate. We decided on a fundraising ball, which took place last Saturday night.

A PET-CT scanner is a machine that helps doctors more accurately diagnose and detect different types of cancers, as well as heart disease and brain disorders. It enables doctors to more accurately monitor the effects of treatment, not least because it has three-dimensional imagery. Nuclear radiologists based in Lismore say that the PET-CT scanner is regarded as the best cancer detection machine in the world. Having one available for far North Coast residents would save countless lives. Unfortunately, PET-CT scanners are not found in regional areas and are restricted to capital cities. They cost approximately \$5 million and there are significant ongoing costs to keep the machine operating. The consensus at the first meeting was that we were not going to let the cost of the machine deter us from trying to get one. We knew that raising \$5 million was not possible, but we decided that if we could raise a sizable amount of money to demonstrate our commitment to the project the State and Federal Governments may fund a machine for our region.

The closest PET-CT scanner for us is in Brisbane. A local man and father of two young children, Warren Meanwell, who is being treated for a melanoma, made himself available to the media to talk about the

benefits of having a PET-CT scanner for the region in Lismore. Mr Meanwell is aged 47. While Brisbane is only a two-hour drive away, when you are not well it may as well be on the other side of the country. Mr Meanwell, who was recovering from surgery, had to endure an 11-hour round trip for his PET-CT scan. Last Saturday night I helped organise a black tie ball to kick-start the fundraising effort in the Ballina area. We raised more than \$5,000 on the night. I thank those who attended and give special thanks to Liz Keemink, who was the driving force behind organising the fundraising ball.

Dr John Mulholland, a nuclear radiologist, told the audience at the ball that he receives at least 10 calls a day from doctors inquiring about the best method of investigation for their patients. He said, on average, he would recommend that about four would benefit from a PET-CT scan. Because of the travel distance and lack of transport, Dr Mulholland said, only one or two of those patients would end up making the journey to Brisbane. In other words, North Coast people are missing out on quality prognosis and many are dying because of it. Dr Mulholland also said that an average of two out of ten people would need a PET-CT scan at some stage during their life. Oncologist Dr Adam Boyce also spoke at the ball, as did Mullumbimby resident Tatum Taylor. Ms Taylor, who has a brain disorder, described how PET-CT scans she had in Sydney resulted in enormous positive changes in her life. Information gleaned from the scans resulted in multiple daily seizures, 20 on some days, reduced to one episode every one to two months. Ms Taylor related that her father, a farmer from Dorrigo, must leave his property for a week at a time to drive her to Sydney for her treatment and find someone to look after his farm while he is away. The ripple effect goes on.

It is important to mention that the efforts to secure a PET-CT scanner should not be used by the New South Wales Government to delay the construction of the radiotherapy cancer unit at Lismore Base Hospital, commonly known as stage two of the hospital's redevelopment. This work should and must go ahead, regardless of our desire to have a PET-CT scanner in our region. A PET-CT scanner, however, will complement the services to be offered by that radiotherapy unit. I put both the State and Federal Governments on notice that we will seek a commitment from them to fund a PET-CT scanner when we have raised sufficient funds to demonstrate our regional community's commitment to the project. Following the media coverage, the community is now talking about this machine, how much we need one and how much we deserve one.

Not only is Lismore close enough to Brisbane to be able to access the nuclear isotopes, which have a limited life, but we also have two locally based nuclear radiologists in Dr Mulholland and Dr Lun with the technical and medical expertise to operate the proposed scanner. I thank Mr Bryan Marriott who has made a financial vehicle available so that people in our region can make tax-deductible donations. Donations can be made to Richmond Mortgage Fund Foundation Ltd—PET/CT, and receipts will be issued. Again, I thank everyone who has been supportive of our campaign to have a PET-CT scanner in our North Coast region.

**ACTING-SPEAKER (Mr Thomas George):** Order! I highlight the work of members of Parliament in supporting cancer projects. Having listened to the speech of the member for Ballina, I congratulate him, Liz Keemink and everyone associated with organising the ball to support the needs of cancer sufferers. I thank the members of Parliament who do work in this area, especially supporting the needs of cancer sufferers during Cancer Week.

## **SWANSEA ELECTORATE ECONOMIC DEVELOPMENT AND EMPLOYMENT STRATEGY**

**Mr ROBERT COOMBS** (Swansea) [6.23 p.m.]: I concur with the comments of Acting-Speaker (Mr Thomas George) about the great work that members are doing to ensure we are best placed to tackle the many cancer issues. Tonight I inform the House about a very exciting development in Swansea called the Swansea Economic Development and Employment Strategy. The strategy is supported by the Department of State and Regional Development and local stakeholders—such as Coal and Allied, Saddingtons and Stockland, who are very active in the local community—and Lake Macquarie City Council have contributed to the project. The Department of State and Regional Development has contributed 50 per cent, that is \$40,000, to realise this economic development and employment strategy.

Recently Lake Macquarie City Council announced that it had engaged a group of professional consultants called Buchan Consulting. This group is well renowned and admired. Over the next 16 weeks Buchan Consulting will undertake an assessment plan to give the town of Swansea a facelift and a boost. Swansea is located in a very beautiful area of the east coast, but it is showing some signs of decay and tiredness. One of my first tasks on being elected was to put forward programs to ensure that Swansea survives and gets the economic and development support that is required if it is going to be one of the great towns of the area.

When describing Swansea, I usually say it is an area of great natural attributes with some retail, a lot of people and not much else. That is not quite right. A number of light industrial areas within the electorate provide a very important part of our economic prosperity and development. Our analyses show that many people who live in the Swansea electorate have to travel distances for employment. That is unlike the situation not so very long ago. As most members would know, I grew up in the Swansea area and I attended Swansea High School from 1972 to 1977. At the time three-quarters of the menfolk in the area were employed either in coalmines or by the Electricity Commission. There is only one small coalmine left in the electorate at Mannering Park. Generally speaking, jobs in the mines were fairly well paid but most of them have disappeared. Also, the two power stations in the area at Vales Point and Mannering Park do not employ anywhere near the number of people they used to. It is important that we recognise the economic opportunities in the area and determine what government can do to provide the required conditions for development and expansion in the area.

The economic development and employment strategy in the Swansea area is a necessary and fundamental task of Government. I have a great vision for some Crown land located on Swansea channel opposite the Swansea RSL. I see the possibility of building a maritime precinct there. Maritime precincts are not unique along the east coast of Australia. One only has to take a short journey to places like Port Stephens, Port Macquarie and Coffs Harbour to see these maritime precincts. They usually have boat building and boat repair facilities, fish markets, restaurants, cafes and tourist information centres. It is a very important development and I will keep the House apprised of further developments there. I congratulate the organisations that have made a contribution already: Swansea Hotel, Swansea RSL, Caves Beach Resort and Woolworths, which has said that it will put up a building in the main street of Swansea

#### **ALBURY MEALS ON WHEELS INC.**

**Mr GREG APLIN** (Albury) [6.28 p.m.]: Throughout the year I attend numerous annual general meetings of charities and community organisations in the electorate of Albury. It is a pleasure to meet many of the volunteers who make such a huge contribution to our society, to thank them for their unstinting efforts and to participate in some small way in their work. This year I again attended the annual general meeting of Albury Meals on Wheels Inc.—its forty-fifth annual general meeting—and was again invited to conduct the election of office bearers. Former Albury Citizen of the Year Frank Lange was returned as President and long-serving committee member John Martin agreed to another term as Secretary/Treasurer.

At the meeting all volunteers were briefed by the coordinators on the updated policy and procedure manual, Department of Ageing, Disability and Home Care performance monitoring, occupational health and safety issues and various other matters. In view of the issues I will bring before the House today, it is instructive to understand the mission of Albury Meals on Wheels Inc. That mission is to deliver, seven days a week, quality meals, encouragement, fellowship and concern to citizens of the City of Albury, particularly the aged, frail, sick and needy living alone, whilst continuing to comply with the reasonable and practical terms and conditions of the Department of Ageing, Disability and Home Care funding agreements.

The meals delivered by Albury Meals on Wheels are purchased from the Albury Base Hospital at commercial rates and costs are mostly passed on to clients—although after the last price rise the cost of the orange juice delivered was paid for by a donation from the Commercial Club Albury. Following the annual general meeting I was briefed by Rob Salisbury, Vice-President of Albury Meals on Wheels, on concerns that the Government is making it difficult for organisations of volunteers to continue to provide services to aged, disabled and vulnerable clients. Mr Salisbury outlined the government policies that threaten to deter volunteers from participating, and he concluded that services could face closure if no action is taken. As he said to me, many established organisations experience difficulty attracting new volunteers, particularly younger volunteers, and the Government could do more to promote the importance of volunteering instead of increasing the burden of regulation and compliance with paperwork.

Mr Salisbury said the organisation had been frustrated in recent years by increasing government red tape and by over-enthusiastic public servants who imposed unreasonable compliance procedures on volunteers, treating them as if they were full-time paid public servants with vehicles and all the equipment necessary to do the job. While compliance requirements can be imposed as conditions of employment, volunteer deliverers are not public servants, they are not employees of Meals on Wheels, and many are not even members but come from other service organisations. Community groups such as incorporated service clubs, incorporated churches and public companies—such as one of the big four banks and a large building society—provide a volunteer team leader and a team of volunteers with their own vehicles. They are coordinated, trained and supervised by Albury Meals on Wheels Inc. to deliver meals, and many have been doing so for more than 20 years. Up to 1,000 volunteers may be involved over the course of a year.

Mr Salisbury noted that a recent Department of Ageing, Disability and Home Care integrated monitoring of Albury Meals on Wheels Inc. involved three performance and quality improvement project officers over two days; prior preparation and subsequent follow-up; and manager review and report writing over four months. This was in addition to ongoing liaison, a review of annual budgets, a review of annual requests for funding, a review of annual expenditure acquittals and a review of annual audited financial statements. In effect, the New South Wales Government's costs for administering the volunteer service would appear to be nearly as much as the small but adequate grant allocated to the Meals on Wheels service.

The Government investigation process required the participation of the two coordinators for two full days plus the attendance of four members of the volunteer committee for a full day, despite the fact that one member runs an accountancy practice. The extensive paper and computerised evaluation questionnaires imposed unreasonable demands on volunteers, critiqued their service to the community and failed to express any gratitude for the tens of thousands of hours worked since 1963. The key performance indicators do not include questions concerning delivery of meals to customers, the cost efficiency of meals delivered and the effectiveness of the service.

The interpretation therefore is that the New South Wales Government is less concerned about cost efficiency and service than about bureaucratic compliance such as police checks on volunteers, many of whom are community leaders; vehicle accreditation covering drivers licences, car registration certificates, third party and comprehensive insurance; compulsory volunteer training and accreditation in Department of Ageing, Disability and Home Care policies and procedures; prohibition on performing other services such as changing a frail person's light globe or removing a fallen branch from a driveway; the use of sterilisation kits and thermometers to test food temperatures; safe food handling courses if meals are opened for blind people; and non-entry to houses considered to be below normal standards of cleanliness. Mr Salisbury is preparing a submission to the Minister on the compliance issues confronting volunteers, with suggestions for improvements. It seems to me that a healthy dose of common sense and practicality will go a long way towards retaining and encouraging our wonderful volunteers across New South Wales.

#### **JAYME LEAH PARIS SPORTING ACHIEVEMENTS**

**Mr PAUL GIBSON** (Blacktown) [6.33 p.m.]: This evening I speak about a young lady in my electorate of whom I am very proud. I know that her very supportive mum and dad, Tracey and Stephen, are also proud of her, as is the entire city of Blacktown and probably all in Australia who know of her. The young lady I speak of is Jayme Leah Paris, who I think is 19 years old. Jayme Leah has cerebellar ataxia—cerebral palsy. Jayme Leah is not only a magnificent sportswoman but very committed to breaking down the barriers for disabled people. She is a strong advocate for educating people about living with a disability. Because of her desire to get the message across to people, Jayme Leah is a Telstra Paralympic Education Program speaker and she is also a New South Wales Premier's Sporting Challenge 2008 ambassador. Only a few weeks ago the Premier presented her with the Blacktown Premier's Award at a special function at St Marys Leagues Club—an award that gave her great joy.

Jayme Leah is a very strong, level-headed young woman with a great get-up-and-go attitude. Jayme Leah's favourite saying is, "It's all good", and that sums her up perfectly. She has a never-say-die attitude and that is why she has been very successful on the sporting field. She was a swimmer until a few years ago, but after seeing the Paralympic Games results in 2004 and hearing that we did not have enough women cyclists at the Paralympics level in this country, she decided to take up cycling four years ago. She began to cycle competitively in 2005. During this time Jayme Leah won two gold medals and unofficially broke the world record in the 500-metre time trial. She won two gold medals at the National Road Championships in 2007.

She won three bronze Arafura and three bronze Oceania medals at the Arafura/Oceania Paralympic Games, broke the world record for the 500-metre time trial by three seconds, and took three seconds off her personal best time for the 3,000-metre pursuit at the Paracycling World Championships. She was a finalist in the 2007 Womensport Sue Fear Courage and Achievement Awards, and she was a finalist in the 2007 National Blacktown City Young Citizen of the Year award. In 2008 at the Australian National Track Championships she set world records and won two gold medals in both the 500-metre time trial and the 3,000-metre individual pursuit, and she was named Champion of Champions at that meet.

Jayme Leah's most recent success was competing in the 2008 Beijing Paralympics, at which she not only won a bronze medal for Australia in the 500-metre time trial but broke the world record in doing so. It was a courageous effort. It comes at great cost, of course. Competing at such a high level—whether as an



able-bodied or disabled athlete—costs a considerable amount of time and money. Jayme Leah's mum and dad, Tracey and Stephen, are so supportive of this young lady that they have mortgaged their home and downsized and downgraded their motorcar in order to get money to support her sporting ambitions. We often see people who are successful and often wonder how they got there and what sorts of hardships they encountered along the way. Jayme Leah Paris is a credit not only to the people of Blacktown but to everybody in this nation. She has the attributes that this nation was founded on: a never-say-die attitude and great warmth of character. She is a character, and comes across as a typical Aussie when you speak to her.

Upon meeting Jayme Leah and her wonderfully supportive parents, Tracey and Steven, I immediately sensed, as does everyone, their combined passion for disabled youth in sport and, most important, their desire to get the message out to people that anything is possible, no matter what the circumstances. If people are looking for a speaker, a few unions have invited Jayme Leah, after hearing about her, and the response after she spoke to these people have been absolutely tremendous. She is the type of person we should be looking to. Not only that, if we are looking for role models, you could never get a better role model than Jayme Leah Paris.

### **ROBERT WILSON, OAM**

**Mrs DAWN FARDELL** (Dubbo) [6.38 p.m.]: On Saturday 25 October I attended in Parkes the testimonial dinner for the former Mayor of Parkes, Robert Wilson, OAM. Parkes Shire Council hosted the evening and the master of ceremonies for the evening was the newly elected Mayor of Parkes, Ken Keith. Mayor Keith was Robert's loyal deputy for nine years. Robert Wilson's local government journey began when he was elected to Peak Hill shire in 1965 and elected as mayor in 1968. This was followed by a period as a Goobang shire councillor in 1971, and later he was elected to Parkes Shire Council in 1981. In 1985 he was elected as the Mayor of Parkes Shire Council—a position he held for 23 years. His 43 years in local government came to an end with his retirement in September this year.

Robert Wilson has helped drive Parkes development as a transport hub and national freight distribution centre, ensuring a resilient, diversified economy that has managed to sustain the local community despite the ravages of drought on the agricultural sector. In 1997 he was awarded the Order of Australia medal for his service to local government and the Parkes community. In 2007 he was awarded a PhD from Warnborough University in the United Kingdom for "leadership qualities, community service and philanthropic and charity endeavours", particularly in regard to research into Parkinsons Disease.

It was a different world in 1965 when Robert Wilson first entered local government. Australia had just joined the Vietnam War. The Great Train Robber Ronnie Biggs had swapped Wandsworth prison for a vista in Brazil. The *Sound of Music* was going gang busters at the box office, the mini-skirt was causing a stir in London and the Beatles had just released their album *Help*. Thankfully Robert Wilson answered the call. After four decades and a bit he was still at it—and significantly the 23 years he served as the mayor of Parkes. The stability, vision and persistence that Robert brought to this position has contributed greatly to the success and vibrancy of the shire today.

In late July at the Cabinet meeting in Parkes, the former Premier of New South Wales, Morris Iemma, referred to Robert as the Bradman of local government. And that he is, not only for his long time at the crease but also for the number of runs on the board. Robert Wilson has redefined what it means to be a councillor and set a new benchmark for those entering local government. For the late Tony McGrane and me he was a partner in progress, a confidante, someone who offered support and guidance, particularly in those early days as a local member. He did that not only because he is, by nature, a thoroughly decent man but also because he always had his eye on the greater good. Robert entered every political debate and negotiation with the one standard: what is best for Parkes shire.

Besides the certain OAM, Robert is the recipient of the Bluett Award and the National Award for Innovation in Local Government. Parkes Rotary Club has bestowed upon him the Paul Harris Fellow. On Saturday morning Robert and his wonderful, supportive wife, Vicki, attended the North Parkes Mine Open Day, where Craig Steedman presented them with the key to the mine. This honour is not known to be given to any other individual. At this point I must mention the numerous tributes received from mayors and retired mayors, councillors, and the business community last Saturday evening. Even the Speaker of this House forwarded his best wishes. Among those present who delivered tributes were the Mayor, Ken Keith; the Mayor of Forbes, Councillor Phyllis Miller; the General Manager of Parkes council, Alan McCormack; family friend Ross Symons; his daughter, Trudie; and me. The many tributes also acknowledged the support of Vicki Wilson, who is as much respected and admired as her husband, Robert.

The great American athlete Jessie Owens once said, "Awards become corroded, friends gather no dust." There was no dust in the room last Saturday night. In the large numbers of well-wishers gathered there, and in the many personal messages of appreciation Robert has received, he has the greatest reward of all. Robert is only retired from local government. However, when government or organisations are seeking or head hunting for an ideal, honest individual to join their board or organisation, there would be no better candidate than Robert Wilson. In my time in local government and as a State member of Parliament he has impressed me more than any other councillor or mayor. Robert's achievements are too many. He was fortunate to be the son of parents whose own names feature on many plaques in the Peak Hill and Parkes district for their community service.

Robert's mother, Evie Wilson, was still delivering meals to elderly people at 99 years of age. Robert and Vicki Wilson have planned a well-earned holiday with friends. They will also have more time to spend on their Trewilga property. Many present and past members of this House know Robert. We thank him for his commitment to the Parkes district.

### TAFE PRIVATISATION

**Mr RICHARD TORBAY** (Northern Tablelands—Speaker) [6.43 p.m.]: Madam Deputy-Speaker, I commend you on your leadership this afternoon. Any attempt by the Federal Government to privatise TAFE will be strongly resisted in regional areas. It is surprising that a Commonwealth Labor Government should be leading the charge on a scheme that is clearly socially inequitable and will have disastrous results. But that is the situation. At present State governments are being coerced into signing a new intergovernmental agreement on vocational education and training. Victoria has already signed up, and today I urge the New South Wales Government and the Minister for Education and Training not to follow suit.

The scheme is not being called privatisation but that is what it is, and the National Partnership Agreement and national competition policy are driving it. Under the plan, TAFE colleges would have to compete against each other and with private providers for funding to offer vocational education and training courses. It would mean dismantling the current TAFE system. It would mean more centralization. It would mean that people living in rural and regional areas would inevitably lose their local colleges and training opportunities. It would also mean that country people on low incomes looking for a second chance at education could no longer afford the travel or would have difficulty in accessing courses.

What can the Federal Government be thinking? We already have the failed Howard model of creating Commonwealth-funded super TAFEs in competition with the States. They are foundering through lack of enrolments. Now we are looking at applying more market-based ideology to the sector for which it is least appropriate. Perhaps we should remind ourselves that our society was built on the basis of equitable access to education opportunities. We have a public system that is open to all, regardless of geographic location, race, religion or income. TAFE has always been an extension of that nation-building philosophy.

In my Northern Tablelands electorate each major centre has a TAFE campus, part of the larger New England Institute. There are campuses in Armidale, Glen Innes, Inverell and Tenterfield. As well as offering a wide range of courses for the local population, these colleges work with local schools, industry, councils and community groups to offer flexible training options. There are also articulation and outreach agreements with the University of New England, Higher School Certificate courses, and literacy and numeracy courses. Only the other day I was at Armidale TAFE to mark the start of a new literacy and numeracy course for the Aboriginal community to enable them to obtain driving licences and the basic skills to find work.

Should this new Commonwealth initiative succeed, I wonder how many of these colleges would survive. In the dog-eat-dog environment of competitive tendering the smaller campuses would be the first to fall. The larger might survive but they would be hard-pressed in competing for resources against even larger centres. I am sure that other country-based members of Parliament in New South Wales will not be content to stand by and see their successful and accessible local TAFE colleges demolished through an ideology which threatens to erode the quality of life and the opportunities of rural and regional communities.

We have known about the skills shortage in Australia for many years, yet TAFE has remained under-resourced all that time. My advocacy for the TAFE system includes upgrading it and changing it to meet the national need for skilled workers. The TAFE network is of immense value from an educational and social perspective and should be strengthened, not torn apart. This mad ideological drive towards privatisation is looking tarnished in the current environment. Unbridled market forces are not the answer. Australia was built on

a solid conviction of excellent public education available to all regardless of where they live. That conviction has served us well. TAFE is no longer free, and I agree that student loans should be made available. But that should not mean pricing courses out of the reach of the poor and the underprivileged.

TAFE offers access to disabled students, non-English speaking students and to those with other difficulties who are trying to reposition themselves in society. What happens to them in country regions if their local colleges close? Does some other government agency step in at equal or greater expense to try to mop the damage? By all means, let us modernise, resource and upgrade the TAFE system to supply the skilled workers needed to meet national workplace demands. However, we should not dismantle a system that offers equitable access as far as possible to the majority of people in rural and regional Australia and metropolitan Australia.

**Question—That private members' statements be noted—put and resolved in the affirmative.**

**Private members' statements noted.**

**The DEPUTY-SPEAKER:** Order! Private members' statements having concluded, the House will now consider the matter of public importance.

## **LOCAL GOVERNMENT**

### **Matter of Public Importance**

**Mr NINOS KHOSHABA** (Smithfield) [6.49 p.m.]: I ask the House to note as a matter of public importance the role of local government in New South Wales. There are 152 local government areas in New South Wales and they constitute the closest branch of government to the grass roots of society. Local government is crucial to service-delivery. The local library, the local park, the garbage and recycling collection—it is the nitty gritty of governance and it is vitally important. Local councils maintain about 85 per cent of the State's road network. Local government is an equal partner in Australian governance. Indeed, it has been a trendsetter and an innovator. For example, it was councils that led the recycling revolution in the 1980s.

The Rees Government is committed to improving the quality of local government in New South Wales. We plan to do this in partnership with councils, councillors, and residents. Some reforms will be controversial, and some will involve raising revenue. The Premier gave the first real consideration to ending rate pegging in decades on the weekend, at the Local Government and Shires Associations meeting in Broken Hill. The Productivity Commission issued a report in April entitled "Assessing Local Government Revenue-Raising Capacity". The Commission said:

The combined impact of rate-pegging and partial reimbursement of concessions in New South Wales clearly constrains revenue raising by councils in that state.

The Government takes this very seriously. In Broken Hill the Premier said:

There is an appetite in the community, not just in New South Wales but across Australia for recognising that sometimes in order to get better results, we need to spend a little more.

The Premier laid out some clear prerequisites to considering an end to rate pegging. The case for ending rate pegging could be brought by the Local Government and Shires Associations, but it must acknowledge community desire for accountable and transparent government. The case for ending rate pegging would have to meet the test for it to provide increased services. In short, the Premier said that if a proposal has united support among councils, if it is backed up by ratepayer support and it meets the increased service test, it would be seriously considered. The point about ratepayers is imperative. The Premier has said that this Government is not in the business of making promises that cannot be kept. The Premier said in Broken Hill:

That's why ... consultation is crucial—not just consultation with councils but consultations with ratepayers and residents.

As the President of the Local Government and Shires Associations, Genia McCaffery, said in Broken Hill:

Councils would rate fairly and based on local needs—and if they didn't they would face the wrath of their communities at the ballot box.

Ms McCaffery also said:

... every community deserves the right and the respect to determine their own plans for the future and set a rate which provides the funds to deliver those plans—which means the removal of rate pegging altogether.

The Government is keenly aware of the importance of local politics. As the Premier said about the recent by-elections:

We took a heavy hit in the by-elections last weekend. We were punished by the electorate and punished by the community for what they believe was a disconnection with the local community.

That is why this Government is turning its attention to a renewed focus on local issues, and local government is the key to this approach. We are very proud of our record on local government initiatives. We have delivered on promises such as cutting red tape from the Local Government Act, improving councils' asset management and financial reporting, and providing direct grant funding to local councils to upgrade playgrounds around the State. Of course, the most pressing short-term issue is that of financial solvency. The Cole report found that New South Wales councils face potential losses of \$320 million, and \$200 million of that relates to collateralised debt obligations. The report also found that New South Wales councils had invested \$450 million in structured projects and \$2.4 billion in managed funds, which face potential losses. The Government took action to adopt all eight recommendations of the Cole report to ensure more prudent management of public funds.

The Commonwealth Government's announcement that it will guarantee for three years money invested in interest-bearing deposits with authorised deposit-taking institutions is a reason for councils to breathe a deep sigh of relief. It means greater security for councils that have invested in these institutions. The fact remains, however, that when it comes to council investments, there are three broad guidelines: diversify the portfolio; protect the capital component of investments; and seek independent financial advice. In summary, that is financial prudence. That is the strategy the New South Wales Government has adopted, and the mini-budget will no doubt reflect that. The credit worthiness of our governmental institutions is paramount.

The Government's track record on reforming local government is impressive and shows the hallmarks of its consultative, considered approach. The current legislation decorporatising councils is a good example. At the moment councils are bodies corporate and therefore come under Commonwealth legislation pertaining to corporations. What is the problem with that? The problem is WorkChoices. Unlike New South Wales State Government employees, local council employees are still subject to the unfair provisions of WorkChoices that have not yet been repealed.

The Commonwealth Government has plans to reform the national industrial relations system throughout 2009 and 2010, but the New South Wales Government is of the view that councils and council employees deserve certainty and security about their employment. Decorporatisation will remove councils' corporate status and replace it with a virtually identical legal status. Instead of being bodies corporate, councils will soon be bodies politic, just like the Australian Capital Territory. There will be no practical implications for councils, councillors, or council employees, except for one thing—it will get council employees out of the reach of the Commonwealth powers to curtail workers' rights. Council employees deserve certainty and fairness, and the New South Wales industrial relations system ensures a fairer go for them.

The liabilities and responsibilities of councillors will remain unchanged. There will be no substantive change—not to contractors and not to the ability to bring suits. The conversion of local and county councils to bodies politic does not mean councils are reconstituted as new legal entities. However, because of the conversion of their status, local and county councils will not be constitutional corporations for the purposes of laws of the Commonwealth, including workplace relations laws. They will be bodies politic, and thereby immune from WorkChoices throughout the years it will take Canberra to dismantle it completely.

Employment status is a big issue, but there are myriad issues that affect councils. This Government has developed a focus on the future that encompasses four broad areas: overall strategic planning; community consultation; promoting good governance; and delivering improved services and infrastructure. Those four approaches will ensure that a healthy local government sector survives the current global financial uncertainty and continues providing much needed services to communities across New South Wales.

**Mr CRAIG BAUMANN** (Port Stephens) [6.56 p.m.]: A councillor elected in 1987, like the member for Cabramatta, I have seen several iterations of the Local Government Act and I have seen local government Ministers come and go with both Liberal and Labor governments. However, one thing remains the same: the constant interference in local government by both State and Federal jurisdictions. As a councillor I was often reminded of Gloucester's line in *King Lear*:

As flies to wanton boys are we to the gods—

**Dr Andrew McDonald:** "They kill us for their sport."

**Mr CRAIG BAUMANN:** Very good, Andrew. Such are councillors to the New South Wales Government. Councillors are easy to blame for shortcomings in local administration, but this Government has a very short memory. Councils also undertake roles that were previously the purview and responsibility of the State. Local government is the darling of State administration when it is cutting costs for the State Government. However, they fall victim to poorly thought out legislation when something goes wrong, as it has done in some very high profile cases.

Our councils are our most intimate level of government. Our councillors are the closest of all those in public life to their respective communities. Councils are more representative of their communities. In many ways councils are the communities they strive to represent. I believe strongly that the role of the State Government in administering the Local Government Act should be to support the role of councils to uphold best practice in council management and, importantly, to listen to councils, council staff and councillors. The Government might have a multi-million dollar media-monitoring budget, but it is local councillors who are the best source of intelligence on the goings-on in their communities.

I do not support any move by government to erode the independence or democratic character of local government, and I am rather disappointed that the Local Government Amendment (Legal Status) Bill 2008 passed through this House earlier today, if only because it sends a clear message from this Government to all New South Wales councils that they are not worthy of consideration or consultation in matters that affects councils and their ratepayers, who I might remind the House are also our constituents. I find this attitude disconcerting, especially when one realises that we have four members who are mayors sitting in this House, two of who are present, and countless members have distinguished local government background.

I note that the bill was supported along party lines by two of our newest members, both of whom are popularly elected mayors. I hope that the Minister's assurance on the bill is legitimate. It would be a shame for the two members to remember their first bill if, in fact, it was badly thought out or clumsily drafted. As we approach the 2011 election I know the Liberal-Nationals Coalition will have meaningful and wide-ranging discussions with all councils in New South Wales. We will listen, and more importantly, we will act when the people of New South Wales have the opportunity to show when they use the ballot box what they think of this Government. We will act to support, not oppress, New South Wales councils, most of which are at the end of their emotional and financial tethers. Just about every Minister in this place has helped put the boot into New South Wales councils.

Planning Ministers have taken away councils' ability to protect the environment of their ratepayers, the ratepayers' right to comment on developments that they feel may adversely affect their amenity. As the mayor of Port Stephens I saw the stalling of all rezonings as we waited for the introduction of the Lower Hunter Strategy. Four years later the strategy is in place but no rezonings have resulted from it and the Land and Environment Court, with its seemingly random verdicts, further acts to make council planners and councillors afraid to make any contentious decision.

Roads Ministers have reduced funding to councils, especially in non-urban areas such as Port Stephens, leaving them with a road network that kills ratepayers and visitors without discrimination. The simple reclassification of a major road means it will never be upgraded as there is simply not enough left in any council's financial coffers. Lands Ministers are desperately trying to squeeze a dollar out of volunteer not-for-profit clubs and sell properties treasured by the community for development, all in a valiant attempt to balance this State's budget by selling the family jewels. Councils are more than capable of efficiently managing many of the functions carried out by this State Government but they must be compensated. I seem to remember calculating that if Port Stephens had to raise rates to account for inflation since rate pegging started, we would have a one-off increase of around 30 per cent.

If this Government could budget properly and not constantly cost-shift to councils rate pegging could probably remain, but when this Government looks to flick the fire levy to councils to collect, or add 128 per cent to the cost of the local government elections, as it did in Port Stephens, something has to give. I am happy to offer support to the former councillor and member for Smithfield. I know he and many on the Government benches share my passion for and trust in local government. I ask them to search their souls and use their influence to change the direction the Carr-Iemma-Rees Government has taken in the past and start supporting local government in New South Wales.

**Mr ROBERT FUROLO** (Lakemba) [7.03 p.m.]: I am pleased to speak on an issue very close to my heart, that is, the relationship between the State Government and local government. Being the tier of government closest to the population, councils deal with the day-to-day issues that are at the very grassroots of our communities. The Premier highlighted the value and importance of local councils to the community this week when he attended the Local Government Association conference in Broken Hill. He described local councils as "better connected than any other tier of government to what their communities need", and I can vouch for that. He outlined a fresh way forward for local, State and Federal governments to work together to achieve common goals for their communities.

Another recognition of the role of local government is the establishment by the Commonwealth of an Australian Council of Local Government. Australia's 565 mayors will meet in Canberra next month for the first meeting of the council. I am pleased that I will attend the meeting representing the people of the City of Canterbury. Local government peak bodies and State planning Ministers will also be there. In fact, all levels of government will be brought together with a shared purpose—to acknowledge the importance of local government and the need to form partnerships to address local issues. The New South Wales planning Minister, Kristina Keneally, has already given a clear commitment that the New South Wales Government will be consulting and working more closely with councils. The New South Wales Government is working to build stronger ties with local councils.

We have already made significant advances in some areas and it is worth reporting to the House that the Government, in partnership with local government, has recently delivered some practical, effective solutions. Partnerships between State and local governments are critical to delivering important services to the community. An example of this successful partnership, and one that has great support from local government, is the State's funding of 100 council playgrounds across the State. This initiative was a commitment during the 2007 election. The first phase includes 57 grants, out of a total of 100 grants, of up to \$20,000 each. Spread across 33 local government areas, the first phase of grants provide new playground equipment and infrastructure for children's play areas. We cannot underestimate the value to our communities of having vibrant outdoor spaces for young children. This funding will help improve the range and quality of facilities that are available to them and shows what can be achieved when State and local councils works together for their communities.

Better, safer outdoor recreation areas will encourage families and young people to enjoy the outdoors as well as keep fit and active. It will help reduce obesity, which is a major issue affecting many developed countries. Modern materials make today's playgrounds safer than ever before, but they are not inexpensive. This investment in playgrounds and recreation areas is therefore needed and appreciated by the many communities that have received grants. Additionally, safe, secure and attractive playgrounds encourage community building and bring a sense of freshness and vitality to our cities and towns.

**Mr NINOS KHOSHABA** (Smithfield) [7.06 p.m.], in reply: I acknowledge the contributions made by the member for Port Stephens and the member for Lakemba. I also take this opportunity to congratulate the member for Lakemba on his recent election and I wish him all the very best in this House. The member for Port Stephens said that this Government is trying to take away powers from local government. I know he is a former councillor and former mayor but I believe that statement could not be further from the truth. The Premier has placed on record his commitment to improving the quality of local government in New South Wales. The member for Port Stephens also mentioned that the plan of the Premier was to do it in partnership with councils, councillors and residents.

I had the privilege of being elected to Fairfield council along with several other members who are present who have come from a council background. We should know the importance of funds to provide important projects and deliver services. Fairfield council was a very well managed council and was able to meet the services required by the residents. However, other councils, through no fault of their own, especially in growth areas, have been forced to provide new infrastructure programs and works. Many members in this place started in local government and currently four members are still mayors of a council in their electorate. They also know the importance of rate pegging from a council point of view and they know the reaction of the community if they get it wrong.

In the short time I have been in this place I have heard nothing positive from Opposition members. They are negative, which is unfortunate given that the Government is trying to get on with the job and sometimes has to make the hard decisions, something which the Premier is not scared of doing as long as it is in the interests of New South Wales. Again I acknowledge the contributions of the member for Port Stephens and the member for Lakemba.

**Discussion concluded.**

**The House adjourned at 7.09 p.m. until Thursday 30 October 2008 at 10.00 a.m.**

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