

# LEGISLATIVE ASSEMBLY

Tuesday 22 September 2009

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**The Speaker (Mr George Richard Torbay)** took the chair at 1.00 p.m.

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

## BUSINESS OF THE HOUSE

### Notices of Motions

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

## PRIVATE MEMBERS' STATEMENTS

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### BONDI ROAD CLEARWAY PROPOSAL

**Mr PAUL PEARCE** (Coogee) [1.09 p.m.]: Today I bring to the attention of the House a matter of concern to my electorate, namely, the proposal by the Roads and Traffic Authority to create a clearway on the southern side of Bondi Road westbound, between the hours of 3.00 p.m. and 7.00 p.m. every Saturday, Sunday and public holiday from December until the end of February. This system was trialled last year and was found to be detrimental to my community. The Roads and Traffic Authority guaranteed that a full review would be undertaken, including the impact on the community and local businesses along Bondi Road.

The Roads and Traffic Authority produced a typical report, which deals purely with traffic flow issues. The history of the matter is that for a number of years the Roads and Traffic Authority wanted a clearway down Bondi Road to increase the amount of traffic going to Bondi Beach. In reality, once motorists reach the beach, there is nowhere to park. It is fairly common knowledge that if every resident with a vehicle in Bondi Beach in fact parked their car on the road, there would be more cars than there are on-street parking spaces, and that is before any visitors arrive! The rationale of encouraging more traffic into the Bondi basin is nonsensical. I will leave the debate on that to my colleague the member for Vaucluse in whose electorate Bondi is situated.

My concern relates to the southern side of Bondi Road in the electorate of Coogee. The Roads and Traffic Authority carried out a trial under the guise of creating improved public transport flow. I have a copy of the report and assessment on this matter prepared by the Roads and Traffic Authority. It should be noted that the report contains a number of fallacies. For a start, the measurement refers to traffic flow and does not involve any increase in bus journeys. The only difference is a couple of minutes saved from point to point in bus journeys; there is no increase in the number of bus journeys. However, there is an increase in the amount of traffic flowing up Bondi Road in a westerly direction. Therefore, the argument that this will encourage greater public transport usage is nonsense. To the contrary, it will encourage people to drive their vehicles into the Bondi basin in the false expectation they will have somewhere to park and then be able leave the area.

The proposal fails to take into account the detrimental affect this will have on the amenity of the area. Interestingly, the Roads and Traffic Authority sent out surveys to residents, covering virtually the entire area of the basin between Bondi Road and Curlewis Street to the north. However, the impact is on the southern side of Bondi Road in the electorate of Coogee, where surveys were only handed out back one street length into the neighbourhood. Needless to say, very few responses were received. However, I circulated a couple of thousand letters and received many responses from residents in that area in opposition to the proposal. I have also been in regular contact with the chamber of commerce.

I state for the information of the House that with respect to the loss of access by vehicles into Bondi Road shopping centre, 17 per cent of respondents who were surveyed had driven into Bondi Road, which is a strip shopping centre with limited off-street parking. The Roads and Traffic Authority has dismissed the argument of traders on the basis that they did not provide the authority with financial data that indicated a fall in profits. First, the Roads and Traffic Authority had no right to ask for that data and, second, a number of traders

indicated a willingness to provide the data on a commercial-in-confidence basis. Those businesses are suffering a 10 per cent to 15 per cent reduction in trade on Saturday and Sunday afternoons and public holidays. They are small businesses, the ones most affected, and this is a critical period in their trading week.

The Roads and Traffic Authority is dismissing the rights of those traders and this may result in the decline of this strip shopping centre. The only beneficiary in this instance will be Westfield at Bondi Junction. There is also some half-baked proposal in relation to parking alternatives, which assume availability for a residential parking scheme on the southern side. This survey shows that these parking spots are already 90 per cent occupied. These are all residential properties and there is no capacity for a residential parking scheme in that area to offset the loss of parking in Bondi Road. It will be a net loss for Bondi Road, a net loss to my community, and I call on the Roads and Traffic Authority to rethink this nonsense.

### **TANILBA BAY FITNESS CENTRE PROPOSAL**

#### **TILLEGRA DAM**

**Mr CRAIG BAUMANN** (Port Stephens) [1.14 p.m.]: Today I speak about two petitions currently circulating in my electorate, both very different but both sparking a great deal of interest in Port Stephens. The first is a petition put together by stage three students at St Philips Christian College, Salamander Bay. The students are currently studying the role of government and they decided to experience the State parliamentary system for themselves by presenting a petition on an issue of which the children are very supportive, that is, providing more services and things to do for young people in Port Stephens, particularly on the Tilligerry Peninsula where youth crime is a serious concern.

The students decided a possible solution to the problems facing youth in Port Stephens was to establish a fitness centre on the site of a disused supermarket at Tanilba Bay. The proposal has some merit; the fitness centre could provide a range of activities for children, getting them healthy and active and giving them something to do rather than being caught up in vandalism and other antisocial activities. Earlier this month I visited St Philips Christian College at Salamander Bay where the students explained to me what the petition was all about and also told me what they had learnt about government so far. For years 5 and 6 students, their knowledge was impressive. This was really apparent when it came to question time. Some students clearly had a good grasp of the parliamentary process, with one asking specifically how many debates I had won in this House.

Regardless of whether the school's petition, which already has hundreds of signatures, will gain any traction with the Government, it is certainly a fruitful learning exercise for the students, and I look forward to tabling the petition later this year. Petitions in Port Stephens have proven to be effective in forcing this State Government to wake up and listen. One example is the Myall River issue. I have raised the issue of the ailing river in this House many times as well as the subsequent pleas for help from the local community. In answers to questions on notice and during Question Time, as well as in local media reports, the Government has repeatedly refused to acknowledge any serious problems with the river, despite mass fish kills, murky brown water and drastically low salinity levels.

In October last year I tabled a petition from the local community with more than 3,000 signatures calling on the Government to address the issue. Today, after continued lobbying, a public protest and a private meeting with the Minister, the Government has finally agreed to fund a study into how to fix the Myall River—an admission there is something wrong. This is an unbelievable win for the people of Tea Gardens and Hawks Nest. Now the people of Port Stephens are turning their attention to a fresh petition—fighting increased water charges to fund the Government's ludicrous Tilleggra Dam project.

Let me start by saying water storages in the Hunter region are currently at around 95 per cent capacity, and have been for some time. Even in the thick of the recent drought, one of the worst on record, Port Stephens still did not go on water restrictions. Yet this Labor Government, in all its wisdom, is planning to increase water charges for Hunter water ratepayers by more than \$200 over the next four years to pay for the Tilleggra Dam, and that is after pulling over \$300 million out of Hunter Water surpluses in the last few years. The Tilleggra Dam, at least where the Hunter is concerned, is not needed and certainly is not wanted.

There is a huge question mark over exactly who is going to use the water storages of the Tilleggra Dam. Is it the Hunter, the Central Coast or Sydney? Just last week, freedom of information documents revealed the Government has intentionally stopped referring to the Central Coast in comments and material about Tilleggra

Dam, probably because the Government knows that will raise the ire of Hunter ratepayers, who are solely paying for a water supply for the Central Coast. Taxpayers in Port Stephens are already paying for the \$2 billion desalination plant in Sydney that they will never use. On top of that, they are paying for a \$500 million dam they do not need.

The community is making its anger about this proposal known. The results of a survey that I included in my recent community newsletter showed that the people of Port Stephens are against paying for the dam, with 79 per cent of respondents in strong disagreement, compared with 3 per cent who agree with paying for the dam. I have launched a petition for the people of Port Stephens to make their anger and outrage over these increased water rates for a useless dam known to the New South Wales Labor Government and the response has been overwhelming. Daily people are coming to my office to sign the petition from across the region. That speaks volumes, given the geographical size of my electorate. A number of constituents are sending me pages and pages of signed petitions. It is an issue that has unified the Port Stephens electorate and I look forward to tabling the petition in Parliament shortly. Hopefully, like the Myall River petition, we will be successful in making this incompetent Government sit up and listen.

**Ms ANGELA D'AMORE** (Drummoyne—Parliamentary Secretary) [1.19 p.m.]: I thank the member for Port Stephens for highlighting these issues in the Chamber today in his private member's statement. In particular, I commend the students of St Philips Christian College for the fantastic work they are doing in understanding how government works and the petition they have put together. I draw to the attention of the member the community partnership program under which his electorate has received \$300,000 toward stimulating local jobs and upgrading facilities.

I am not sure whether students, who have identified a fitness centre as an appropriate outlet for their youth to come together as a group, have made a submission in relation to a number of funding sources that are available at both the State and Federal level, in partnership with local councils. I draw that to the attention of the member. We could possibly look at the refurbishment of an existing building to assist students to realise their goal. It will be wonderful if the member for Port Stephens reports back to this House in a few months about what sources of funding he has found and what has eventuated in respect to his local community.

In relation to the Myall River, and the petition about it, the State Government is listening, as the member for Port Stephens stated, because it has agreed to fund a study into that issue. Whilst he has made some criticism it would have been nicer for him to actually acknowledge that fact and that the community have worked with the State Government to secure that funding to undertake that study. That shows that the Government is actually working and looking at the issues that are important to the local member. I thank the member for Port Stephens for raising these matters today.

### CESSNOCK POLICING

**Mr KERRY HICKEY** (Cessnock) [1.20 p.m.]: We have all heard of the destruction of Mr Genetzakis's home in Cessnock last week. This man has been very public with his views about the level of drugs, street crime and policing in the community. He has called for law and order. One can agree or disagree with Mr Genetzakis and his way of getting things done, but no-one, in any community, deserves to have their home and cars destroyed in a fire in retaliation against a voice that spoke up. That is law-lessness! I have written many letters to many police Ministers about my community and the way that illicit drugs are distributed, through certain individuals and families, around the Cessnock community and across the Cessnock electorate.

My latest letter was on 2 March 2009 to Tony Kelly, the former Minister for Police, in which I highlighted the level of public scrutiny of well-known families in my community, and also how often matters were being brought to my attention. The behaviour of those persons is an ongoing concern for many members of the community, especially those who are unlucky enough to live close to certain premises. This issue has been raised on numerous occasions with the many successive local area commanders who have been appointed since I became the member for Cessnock in 1999. My community is constantly pleading for more action to be taken against illicit drug sales in the community. My community is pleading for more action to be taken by police—both covert and overt—to address this very serious issue.

People are concerned about the known drug houses in the community and yet we have seen no action taken by the police. There are numerous known properties across the Cessnock township and in the outlying villages, and neighbours complain, and they have every reason to do so. Unfortunately, it is an all too familiar scene: A car pulls up to the house, remains in idle while the passenger goes to the front door, and a few short

moments later the passenger returns to the car and off it drives. A few minutes later, another car pulls up. This is common local knowledge, well known by local people. The community and I are fully aware that this happens, so the police must also be aware of what is happening. The community has raised concerns about police inaction.

The response to the Minister by Superintendent John Gralton, Commander of the Central Hunter Local Area Command, spoke about operation "Nellinda" targeting drug supply by a well-known Cessnock family. The response advised that this operation had effectively dismantled a family-based drug supply syndicate, and further stated that on average 39 persons are searched and close to eight drug-related arrests are made each month. When I explain that to my constituents, the majority of them say, "This could be done each and every Friday and Saturday night in the local establishments." The community is very clear. It says not enough is being done to address the problem and that the family is still distributing drugs. Now people's homes and cars are under attack because they wish to speak out against these persons. This is like a nightmare from the big-screens of Hollywood, right now, in my electorate. As the storyline goes, when a person speaks out against crime, the criminals silence the objector by using damage and violence. The centralisation of the police command is just not working!

In Cessnock electorate, the centralisation of police in Maitland has had a major impact on the local knowledge and contacts that police once had. The shifting of detectives to a cluster in the Maitland centralised office, 30 kilometres away, has allowed these issues to grow and flourish in the Cessnock community. The lack of attention by police in Cessnock resulted in last week's attack, and my community deserves much better. I hope that the new Minister for Police will look at centralisation for what it is. To suggest that police are addressing local problems and creating better outcomes for our communities is farcical.

In the Beresfield community much the same problem is occurring. Beresfield once had a police station that was staffed by local police who had effective local knowledge. That police station has been replaced by mobile policing—and it simply does not work. This is not a question of police working harder. This is a question about the system under which police are forced to work—a system that simply does not work. It is time for police to get back on the ground, back to being local cops who look after local communities and create outcomes that communities expect and deserve. This problem has been raised with me time and time again over the past 10 years, and the quicker we get back to local policing the better off we will be.

**Ms ANGELA D'AMORE** (Drummoyne—Parliamentary Secretary) [1.25 p.m.]: The member for Cessnock has highlighted a number of concerns of his constituents. It is important that he work with his local area commands to address those concerns. As Parliamentary Secretary to the Minister for Police I am more than happy to work with the member for Cessnock, his local area command and his community to identify possible strategies to be implemented. For example, he highlighted a strategy in nearby areas on weekends that identifies people who are distributing drugs. It is of great concern that those who indulge in that type of behaviour intimidate members of the local community who speak up. Freedom of speech is very important to all Australians. I undertake to work with the member for Cessnock to look at possible forums with the local area commanders and the community to find suitable measures to be implemented to reassure people in that community that the police are there to assist them and keep them safe in their homes.

### **ILUKA PUBLIC SCHOOL**

**Mr STEVE CANSDELL** (Clarence) [1.26 p.m.]: I refer to the Building the Education Revolution program funding of \$850,000 allocated to Iluka Public School. The community at Iluka want value for money, which is not too much to expect. A library and classroom do not seem unreasonable additions, but at \$850,000 they are very expensive. The school met with three Reed Construction senior managers for the North Coast last week to discuss the costs of a building that is being built at another school that is very similar to Iluka Public School's additions, to see if they could come to some kind of agreement. All they want is a no-frills library and a classroom.

The Department of Education and Training and Reed insist they just have enough for an 11.5 metre by 12 metre library: 138 square metres divided into \$807,000 equals \$5,874.82 a square metre. The Department of Education and Training is keeping 5 per cent, or \$43,000, in case extra works need to be undertaken when this Taj Mahal of libraries is completed. Interestingly, the quote and the Department of Education and Training money exactly equals the Rudd grant—no change. Five of the most expensive Coral Homes designs could be built for that amount of money—that is, five kitchens, five laundries, five home theatres, five family rooms, five living rooms, 10 bathrooms, 10 car spaces, 20 bedrooms, in 1,254.5 square metres of building. Yet this little library does not even have a toilet.

The Minister for Education and Training and the Department of Education and Training say the school can just have a 138 square metre brick-veneer box. Is it any wonder the local community is upset? The school is seeking answers to a number of questions. Why does the design and documentation cost \$55,000 when a generic library plan and blueprint has been used since 2003? What is the breakdown of costs? What about the preliminaries? Will they cost Iluka Public School, as quoted, \$116,000? Why is Reed Constructions also charging preliminaries? Will they cost Iluka Public School \$68,825? What interactive infrastructure and equipment does the school get for \$38,500? The questions go on. What are the external works and why do they cost \$35,000. The parents of Iluka Public School students would like a full cost breakdown of all costs over \$10,000.

The money that is being provided by the Rudd Government under the Building the Education Revolution program is welcomed by schools across the State. However, there is simply too much interference with the running of Iluka Public School as to how the funding being provided to the school should be spent. An estimated cost of \$5,800 per square cubic metre simply beggars belief, given that a Catholic school had a similar building constructed for less than half that price, at \$2,500 per square metre. I received an email from one of the school's teachers who has done a fair bit of investigation into the matter. The teacher said that the costs set out in Reed Construction documents for a seven-core library measuring 11.5 metres by 12 metres at another school were much less than the company's quote for the library at Iluka Public School. The sad thing is that this funding is virtually a one-off offer.

Recently a school at west Casino applied for funding to build a school assembly hall. The school was told it could have only a certain size hall that would hold 162 pupils. However, given the number of students and teachers at the school, the total school population is more than 420. I pay credit to the Minister for eventually intervening in the matter. The department told the school it could have exactly what it wanted for the funding. Yet prior to the Minister's intervention it was virtually a lay-down misère: the school was going to get something that was little more than a white elephant. We spoke to representatives from the Casino school some months ago. They said that when they tried to go through the education department they got nowhere; they hit bureaucratic brick walls all the way. As for Iluka Public School, we do not need bureaucratic brick walls. We need some answers, some common sense and some value for money for these students. [*Time expired.*]

#### INGLEBURN MILITARY HERITAGE PRECINCT

**Dr ANDREW McDONALD** (Macquarie Fields—Parliamentary Secretary) [1.31 p.m.]: I was fortunate to represent Minister Graham West at the National Servicemen's Memorial Day Service on Sunday 2 August 2009 at the Ingleburn Military Heritage Precinct, which is in my electorate. The service also incorporated both the seventieth anniversary of the start of World War II and the commencement of the building of the Ingleburn Military Camp. This camp was built over five weeks in 1939 on the site of a dairy farm, which was resumed in 24 hours in 1939. The Ingleburn Military Heritage Precinct is a significant part of my electorate and will be kept as a permanent memorial to the Ingleburn Military Camp.

The National Servicemen's Association has lobbied hard to preserve the Ingleburn Military Heritage Precinct. Most of those in the Australian Imperial Force, among others, spent a significant part of their training in the Ingleburn camp. The representatives of the 6th Division Association were there on the day. This may be one of the last formal activities of the 6th Division Association as many of the members are getting on in years. The 6th Division was the first division of the second Australian Imperial Force, and trained at Ingleburn in 1939 and 1940. I was even more pleased to be at the service with Danna Vale, the Federal Member for Hughes and former Minister for Veterans Affairs, whose father was a member of the 6th Division. Since that day I have heard that Danna will soon enter a well-deserved retirement. I wish to place on record my admiration of her committed service to our people, and I thank her very much for the example she set me about how to be an ethical and caring member of Parliament. The main address was given by Major General Paul Irving, the ex-commander of the 2nd Division and a patron of the National Servicemen's Association.

As was said on the day, national service is a story filled with honour, bravery, self-sacrifice and tragedy. Around 300,000 Australians have done national service since World War II. From 1951 to 1959, all 18-year-olds were called up—a total of 227,000 in 52 intakes. Those men did three months basic training, then two years in the militia, and then on recall for five years. A total of 80 per cent of them went to the Army, 10 per cent to the Navy, and 10 per cent to the Royal Australian Air Force. From 1965 to 1972, 20-year-olds were called up by birthday ballot. Those men did two years full time and were incorporated into existing forces. A total of 63,790 were conscripted, 17,424 went to Vietnam, 212 of them died on active service in Malaysia and Vietnam, and 1,500 were wounded.

The unveiling of the National Service Memorial on 8 September 2010, the anniversary of Long Tan, has been declared a National Day of Significance. The National Service Memorial near the Australian War Memorial will be dedicated on that day. Members of the National Servicemen's Association of Australia will gather in Canberra to march up Anzac Avenue and pass the National Service Memorial, which will be dedicated at 11 o'clock that day. I would like to pay special tribute to Ron Brown, OAM, the President of the National Servicemen's Association, who, when aged 18, spent three months at Ingleburn doing military training. The National Servicemen's Association has branches in every State. Mr Brown has informed me that many members of Parliament in Victoria notified their constituents by mail-out that all national servicemen are eligible to collect their national service medals: the Australian Defence Medal and the Anniversary of National Service Medal. About 150,000 medals are yet to be claimed.

Stan Edwards, the son of E. W. Edwards, the original builders of the camp, was present on the day to unveil a photo presented to the National Servicemen's Association by the company as a memorial to the tradesmen who built the camp in 1939. Bunnings at Hoxton Park contributed the sausages on the day as part of a sausage sizzle. The Ingleburn Military Heritage Precinct is well kept and will be an excellent resource for teaching our young people for many years into the future. For example, the girls school captain, Natalie Wiggins, and vice captain Jasmine Carter of Ingleburn North Primary School, with their principal, Brett Moseley, were there on the day to lay a wreath. I pay tribute to the National Servicemen's Association and commend the Ingleburn Military Heritage Precinct to the House.

### WATER AND ELECTRICITY PRICE INCREASES

**Mr RAY WILLIAMS** (Hawkesbury) [1.36 p.m.]: The New South Wales Government may think that the massive increases in charges for water and electricity are going largely unnoticed in the community, but I can assure it they are not. The Rees Government may also think that, because the Independent Pricing and Regulatory Tribunal announced the increases in water and electricity charges, the people of New South Wales will believe that the increases are out of the hands of the New South Wales Government. Of course, both these facts are incorrect. The Independent Pricing and Regulatory Tribunal may announce the increases, but the simple fact is that it is only doing the bidding of the New South Wales Government. The people of New South Wales know exactly who is to blame for the massive increases in electricity and water charges now being imposed upon them. This State Government has failed to implement initiatives that would stimulate our economy, and instead is determined to send hardworking people to the wall by imposing excessive costs and charges for necessary services.

**Ms Angela D'Amore:** Point of order: The usual purpose of private members' statements is for members to raise issues that relate to our electorates or have been raised by our constituents. I have yet to hear the member for Hawkesbury make such a statement. I draw your attention to that aspect of his speech.

**ASSISTANT-SPEAKER (Ms Alison Megaritty):** Order! I uphold the point of order. The member for Hawkesbury will state how this issue relates directly to his electorate.

**Mr RAY WILLIAMS:** Many people have contacted my office in the past few days to tell me of the horrific charges recently imposed by Integral Energy and Sydney Water. To give some idea of how much these prices have increased I will read from a water bill given to me yesterday by a resident from Kellyville who is a self-funded retiree. This person will now pay \$259.80 for water usage for the last quarter. The bill is for the same amount of water that the resident used in 2006 when he paid \$184.25 for the quarter—an increase of over \$75. The reason I draw attention to this particular resident is that the resident is like so many in my electorate of Hawkesbury who paid the very expensive recycled water charge when they first bought into the area. The charge at that time was an up-front cost of \$1,500 each for new homes due to the fact that recycled water was piped to the properties.

Two years ago the Government announced the construction of the unwanted and unnecessary desalination plant at a cost of \$2 billion—a price that has already blown out. The cost of the desalination plant is being paid for through a massive increase in water charges, but residents in my electorate are being charged twice and will never use desalinated water. The New South Wales Government is ripping off these people by first charging them for recycled water and now imposing massive increases to both the potable water and the recycled water charges. In 2006 the cost per kilolitre of recycled water to residents of my electorate, in areas such as Rouse Hill, Beaumont Hills and Kellyville, was 29¢. Today that cost has blown out to nearly \$1.50 per kilolitre—almost the same price as potable water and a 500 per cent increase in recycled water charges in three years. This is disgraceful. It is disgraceful to impose a 500 per cent increase on anyone's water charges, especially those residents who use recycled water and had to pay an up-front cost of \$1,500 for the privilege.

A Kenthurst resident contacted my office yesterday. He is now faced with a 50 per cent increase in electricity charges. This increase will mean an additional cost of \$90 per quarter for his electricity—it is on top of what he is currently paying. This person explained to me that he expected to retire in the next two years but will never be able to retire while the cost of living in Sydney is as high as it is. Another person from Windsor has written to me. Windsor is outside my electorate, but this elderly resident is obviously getting no assistance from his local member. He is forced to pay \$533.51 per quarter for electricity to a unit in Windsor. The cost in 2008 was a mere \$84—a 700 per cent increase in the cost of electricity in a year. This person has been faced with the embarrassment of having to ask for St Vincent de Paul vouchers to the value of \$120 to keep his electricity switched on. This is disgusting overcharging and the Government must do something about it before this resident is forced to live in the dark.

The Government must also rein in the Independent Pricing and Regulatory Tribunal [IPART] before any more people are forced onto the streets. That is exactly what will happen to many in our society if the cost of electricity and water continues to rise in the way it has over the past two years—and all because the Government persists with an unwanted desalination plant that we do not need. The Government must be condemned for this action and never forgiven for the fact that it lied when it told us that construction of the desalination plant would not commence unless water storage in our dams dropped below 30 per cent.

**Ms ANGELA D'AMORE** (Drummoyne—Parliamentary Secretary) [1.41 p.m.]: The member for Hawkesbury has raised a number of issues in his private member's statement. He is the second member today who has brought up the distribution of taxes. It seems that Opposition members are saying that our residents' taxes should be redirected only to their local areas and that the taxes the State Government collects should not be distributed throughout New South Wales for the benefit of the six million people who live in this State. The member for Hawkesbury raised some issues about water and he can make the appropriate representations to the Minister concerned.

However, this is the second time I have heard the argument that the taxes people pay should go only to their electorates. Opposition members have done very well for their constituents in the State budget and I think it is inappropriate that two Opposition members have highlighted the fact that they do not want taxes collected on behalf of New South Wales residents to be spread throughout New South Wales. I am sure that regional and rural Opposition members would be concerned about that because those areas get a significant slice of the State budget and taxes collected—and rightly so. The member also mentioned the Independent Pricing and Regulatory Tribunal. I remind the member that that is an independent body—I stress that point. I will leave it at that.

**Mr Daryl Maguire:** Point of order: I listened intently to the presentation by the member for Hawkesbury and I believe he did not mention taxes. The member referred to the charges being levied for services provided by water and electricity companies. I suggest that that is not a tax; it is a charge for a service. Therefore, the member for Drummoyne has misled the Parliament by suggesting that the member for Hawkesbury was complaining about the distribution of taxes. That is not right, and I seek that the record be corrected.

**ASSISTANT-SPEAKER (Ms Alison Megarrity):** Order! Is the Parliamentary Secretary prepared to say "taxes and charges"?

**Ms Angela D'Amore:** I am happy to say "levies and taxes".

### **BLACKTOWN FIRE SERVICES**

**Mr PAUL GIBSON** (Blacktown) [1.43 p.m.]: Recently I had the privilege and pleasure to represent the Minister for Emergency Services, Mr Steve Whan, and officially hand over the new \$578,000 fire engine to firefighters at a special ceremony at Blacktown fire station. This vehicle has been specially designed for firefighting in urban areas and carries state-of-the-art rescue equipment. Fire and emergency protection for residents and businesses in western Sydney has been boosted by the recent handover of this great new fire engine. The new Blacktown appliance features a pump that supplies up to 4,000 litres of water per minute for firefighting operations and a foam system to fight chemical, petrol and bushfires. Firefighters from Blacktown responded to more than 1,800 emergency calls in 2008-09, ranging from building and grass fires to rescues and hazardous material incidents. The Blacktown brigade does an extraordinary job protecting its community and the new fire engine will allow it to do its work even more effectively.

As I have said many times in this Chamber, Blacktown has a population approaching 300,000 people, so it has grown from a small western Sydney suburb to a major city in its own right. This engine is a great addition to western Sydney. The Rees Government's record \$903 million in the 2009-10 Emergency Services budget includes \$589 million for fire brigades, providing \$18 million to continue updating their fleet with more than 20 new fire engines and specialised vehicles. This is the largest rollout of new and upgraded fire engines in New South Wales Fire Brigades' history. It means that since 1995 the Labor Government will have allocated more than \$243 million to provide almost 550 new and refurbished fire engines for communities around the State.

Also present at the ceremony was New South Wales Fire Brigades Acting Commissioner John Benson. He said that the new specialised vehicle would further enhance the responsibilities and capabilities of Blacktown fire station. He also said that fleet upgrades such as this mean that front-line firefighters have the best equipment and the latest technology to ensure the safety and protection of their local communities. I totally agree with him. Also present was Marcus Baker, the Acting Assistant Commissioner and Director of Metro Operations, and Superintendent Alex Scott, the Zone Commander. I had great pleasure in handing over the keys to station officer David McPherson. The new fire engine will be greatly effective in the Blacktown area.

The fire engine currently at Blacktown is a primary rescue vehicle with registered rescue crew and equipment. Blacktown firefighters provide primary rescue response in the area and offer a back-up service to the Hills, Penrith and Parramatta areas. Blacktown firefighters are actively involved in the fire brigade's Doonside Project, which aims to reduce arson in the area and generate in residents a greater awareness of fire safety programs. They actively participate in a program providing special smoke alarms for the hearing impaired. We have an array of people living in the Blacktown area, from Filipinos to Aborigines to Asians—you name it; we have virtually every nationality of the world living there—and they are all very appreciative of the new fire engine.

We have a good story to tell in Blacktown not only about the \$578,000 fire engine last week but about how on Monday we put on display in the library at Blacktown City Council plans for the commuter car park that will be built—a project that I promised would be delivered before the next election. We are just about ready to turn the sod at Shelley Public School for \$3 million improvements—and that is typical of many schools in the area. Crime figures are down in nearly all categories. On-time running of transport is at 95 per cent across the State. We have retained our triple-A credit rating—and retaining the triple-A credit rating in the present economic climate is not an easy achievement—which helps not only people in the city but also major businesses in western Sydney. The Government has a good story to tell and the people of New South Wales will be hearing that story between now and the next State election. I am certain we will convince them that we are worthy of re-election.

### **GOCUP ROAD UPGRADE**

**Mr DARYL MAGUIRE** (Wagga Wagga) [1.48 p.m.]: I wish to raise the issue of the Gocup Road. The *Tumut and Adelong Times* of 25 August stated:

Adelong truck driver Bunny Brown is calling for the night-time curfew placed on heavy vehicles through Adelong to be lifted.

He suggests that it needs to be lifted because of the condition of Gocup Road. Mr Brown said that it is a safety issue and the curfew forces drivers to use Gocup Road. On many occasions I have mentioned the fact that Gocup Road is in desperate need of funding. Tumut Shire Council wrote to the Roads and Traffic Authority the next day, and said:

I advise that Council considered a report on the Gocup Road last night—that is 25 August—

and expressed serious concerns in the following matters:

1. Gocup Road does not meet RTA Guidelines for the assessment of B-Double routes.
2. A recent road safety audit shows this road is deficient in many areas, and is considered to be unsafe in relation to B-Double usage.
3. The Roads Minister has ignored the recommendation of his own NSW Road Classification Review Panel, in reclassifying Gocup Road to State Road status.



4. RTA, in providing the annual Regional Roads Block Grant to Council, requires Tumut to indemnify RTA from any claims arising from incidents on that road. Council believes this is an unreasonable and unacceptable risk to Council especially given the predicted increases in heavy vehicle movement associated with the mills.
5. The State Government was the approval authority for both stages of the Visy mill, and has not required or provided adequate roads infrastructure to cater for the development of the industry.
6. Successive Ministers have ignored all of the above facts and believe that Local Councils should fund the estimated \$80 million in the cost of upgrading the road.

Council has resolved:

1. That the B-Double status of this road be removed.
2. That an 80 Kmh speed limit be introduced along the entire length of the Gocup Road.
3. That Council convene a public meeting and invite all stakeholders, including RTA and Ministers to discuss the future of the Gocup Road.

Gocup Road is the main arterial road from Gundagai, the Hume Highway and Tumut. It services a much wider area of Tumut and more industries than Visy, including State forests, Tumbarumba, Batlow and others. The council carried out its threat to remove the status and placed a speed limit on the road. A rescission motion was moved a week later to reinstate the B-double access. However, the council has been unable to resolve the deadlock between the State and Federal governments. The upgrade of the road was originally forecast to cost about \$22 million. The Federal member for Eden-Monaro, Mike Kelly, became involved and demanded that a study be carried out. The cost of the upgrade has now escalated to \$88 million but no funds have been forthcoming from either the State or Federal governments. Gundagai and Tumut councils cannot fund the upgrade of the road; it is clearly unaffordable and a solution has to be found.

I approached the previous Minister for Roads, Mr Michael Daley, and asked him to visit Tumut to look at the road, and he agreed. Circumstances have since changed and we now have a new Minister. I need a commitment from the new Minister to meet with council and Minister Albanese to sort this matter out. I have no doubt that people will be killed on the road. The amount of traffic on the road will be increased due to the Visy stage 2 upgrade and other developments in the area. Mr Des Downes, known as Demon Des, took matters into his own hands and organised a protest about the road. Des collected more than 1,600 names. I seek leave to table a petition containing more than 500 names and addresses.

**Leave granted.**

**Document tabled.**

Sadly, Mr Downes took matters further, and the weekend before last he was arrested and is to face court—I will not go into that matter further. Mr Downes is a paraplegic and he camped on the road in his wheelchair for four weeks, protesting about the safety issues that he, council and the region in general have identified. This matter is a number one priority for the region. Unless the State and Federal Ministers get together and find a way to resolve this problem children, family members, individuals and workers will lose their lives. There are no passing lanes on this road, which is deteriorating so quickly that the council will be unable to service it. The 80 kilometres per hour speed limit will stay in place and towns such as Adelong will suffer because of these curfews. The problems will be ongoing. I urge the Minister to accept my invitation to come to Tumut and help to resolve the crisis.

### COMMUNITY LANGUAGE SCHOOLS

**Mr NINOS KHOSHABA** (Smithfield) [1.53 p.m.]: I recently had the honour of attending the New South Wales Federation of Community Language Schools annual dinner at Club Marconi, Bossley Park. The dinner was a great success, with people from all over New South Wales attending. There were a number of acts by people from different cultures, and it was a very enjoyable evening. The New South Wales Federation of Community Language Schools was established in Sydney in 1978. The aim of the federation is to unite all community language schools in order to promote language education, and to provide more benefits and recognition for the schools and their students.

Since those early days of multiculturalism, the nature of cultural diversity has changed. Today, overseas migration is the major component of the nation's population growth, with New South Wales having the largest proportion of people born overseas. An increasing proportion of new settlers have been accepted on

humanitarian grounds. It is often difficult for the children of these migrants to combine the language and culture of the home with the education and language of mainstream schooling. Community language schools help bridge the gap between school and home, and enhance the educational and cultural development of diverse linguistic communities. The success of the schools today is such that many students now study languages completely different from those familiar to their background.

The role of the New South Wales Federation of Community Language Schools is vital in uniting and assisting community language schools to meet their needs and achieve common outcomes. The federation provides all the essential networking, information and clerical support required to maintain effective communication between bodies that deal with the administration, accreditation and implementation of community language schools and their policies. The federation works tirelessly to promote and encourage community language schools by arranging cultural, educational and social events, such as its annual dinner, to raise the profile of the schools and an awareness of all the benefits gained from our richly diverse society.

It is through the efforts and lobbying of the federation that all community language schools registered with the Department of Education and Training are provided with free access to government school facilities for community language classes during school terms. Recently the New South Wales Government provided grants totalling \$28,000 to four schools in my electorate as part of its \$2 million Community Languages Schools Program. The organisations to receive the grants include: Bodhi Vietnamese Language School Incorporated, \$8,760; Khmer Community of New South Wales Incorporated, \$4,860; Timor Chinese Association of New South Wales, \$4,740; and St Thomas the Apostle Chaldean Catholic Church, \$10,260. This package includes funding for the delivery of language programs outside mainstream school hours in 46 languages across 426 locations, and the provision of three full-time education officers to support community language schools.

The operational success of after-hours community language schools would not be possible without the assistance of volunteer management committees that work towards improving their school by ensuring that staff are adequately trained, the syllabus is followed, and appropriate resources are made available so students are given the best possible learning opportunities. The support and benefits provided to community language schools would also not be possible without the hardworking and passionate commitment of representatives of the federation, such as President Albert Vella and Executive Officer Eva Tzadouris. Not only do they provide assistance to their member schools in New South Wales, but they also work closely with representatives from other States striving for better conditions for community language schools all over the country. I commend the federation's ongoing commitment to and support of community language schools in New South Wales and wish it continued success.

**Ms ANGELA D'AMORE** (Drummoyne—Parliamentary Secretary) [1.58 p.m.]: I thank the member for Smithfield for highlighting the fantastic service that the New South Wales Federation of Community Language Schools provides. The learning of a second or third language is vital in our community. In fact, I benefited from learning Italian at Saturday school and so understand the importance of such courses. Our community languages and cultural diversity give us an economic competitive edge. They are skills that we can export and for which Australia is well known. Good on the State Government for giving students free access to New South Wales schools, both during the week and on weekends.

### SMALL BUSINESS INCENTIVES

**Mr DONALD PAGE** (Ballina) [1.59 p.m.]: The rivalry between New South Wales and Queensland has a long history. Normally a New South Welshman takes pride in telling his northern neighbour what a great State we live in. After all we have it all— rich agricultural land, rainforests, snow, beautiful beaches, a climate that is not too hot and not too cold and, of course, very friendly people. One thing we cannot claim to be is a State that is committed to encouraging small business.

Queensland is outperforming New South Wales in this area. Business operators are finding it cheaper to do business in the Sunshine State. Just ask the owner of a Ballina removal business who has been to see me. The proprietor of this removal business operates in New South Wales and Queensland. As he has staff working in both States, he has to pay two lots of workers compensation premiums. The premium he pays in New South Wales is more than double the premium he pays in Queensland to cover the same workers. This Ballina business owner pays more than \$1 million in wages every year and must have, as required by law, a workers compensation policy in each State. In New South Wales he pays a premium of \$70,900. That equates to 5.5 per cent of his total wage bill. In Queensland, however, his premium is only \$29,900, or just 2.6 per cent of his total wage bill. In other words he pays more than twice the premium for workers compensation in New South Wales that he pays in Queensland on the same wages bill.

This is at a time when the incompetent Rees Government is trying to tell the public of New South Wales and us that it is serious about attracting new businesses as well as retaining existing ones. How can the State Government in one breath be asking small businesses to support it while charging some businesses workers compensation fees that are more than double those in Queensland? Figures from the Australian Bureau of Statistics show that 22,000 people moved from New South Wales to Queensland last year, and I can understand why. The New South Wales Labor Government needs to clearly outline what plans it has to encourage, attract and retain small business in this State.

New South Wales is currently uncompetitive and it is easy to understand why we are losing businesses to Queensland. This is especially relevant in electorates like Ballina. Premier Rees and his colleagues need to look very closely at how small businesses are treated in this State. Small and medium businesses in New South Wales are really struggling. The Reserve Bank of Australia said recently that the level of bad loans in the business sector in New South Wales is six times higher than in the home mortgage sector. Also, 56 per cent of business liquidations in Australia are occurring in New South Wales. That is, more liquidations are occurring in New South Wales than in the rest of Australia put together. And according to the Sensus Business Survey, the New South Wales Labor Government is regarded as the least business friendly Government in Australia. This is not a new phenomenon; it has been the case for 20 consecutive quarters, or five years.

So what is this State Government doing about these issues? What solutions, strategies or ideas does the Government have to make New South Wales more competitive in the small to medium business sector? What is the Government doing to help people like the owner of the furniture removal business in Ballina? This Labor Government has had ample opportunity to show some leadership and to position New South Wales in such a way that it is the most competitive State in which to do business. The New South Wales Government needs to ensure workers compensation premiums are as competitive as those in Queensland.

It is a difficult time for small businesses as they struggle to ensure their viability in these turbulent economic times. I acknowledge there has been some slight improvement in payroll tax, but clearly not enough. Payroll tax should immediately be reduced by 15 per cent, which would put New South Wales on a par with the Queensland rate. Queensland has a payroll tax threshold of \$1 million. In New South Wales it is only \$638,000. So not only do businesses pay more payroll tax in New South Wales, they start paying it earlier. In New South Wales payroll tax is payable when there are about 11 or 12 employees, whereas in Queensland businesses have to employ around 20 people before they pay payroll tax.

Last year a study by the Institute of Public Affairs found that a typical medium-size business in New South Wales paid \$27,000 more in State taxes than the same type of business in other States. It is a disgrace that the biggest source of State taxation revenue in New South Wales is payroll tax. It amounts to around 34 per cent of tax revenue, with stamp duty around 28 per cent according to the latest State budget. A tax on jobs is the biggest source of State tax revenue, yet this Government says it is concerned about jobs and that New South Wales is open for business. Is it any wonder this State has the highest unemployment in Australia?

The New South Wales Government has had years to develop proactive and innovative policies to encourage business development in this State and it has continually baulked at the job. Business owners, like the gentleman who owns the Ballina furniture removal operation, deserve a working environment where they are not disadvantaged by owning and operating a business in New South Wales, particularly when they are so close to the Queensland border.

## SOCIAL HOUSING

**Mr PETER DRAPER** (Tamworth) [2.04 p.m.]: I have recently received correspondence from the Minister for Housing informing me about what is being described as a historic shift in social housing policy in New South Wales. The initiative will see up to 7,000 Commonwealth and State Government-funded social housing homes transfer from Government ownership to community housing organisations, with just over 100 properties in the Tamworth area affected. At the same time, the public housing stimulus package that has been rolled out locally is very welcome, and over the next two years we will see more local redevelopment than would have been possible in 10 to 15 years under the existing funding model.

It has been suggested that transferring properties from Housing NSW to community organisations will result in increased housing options for people on low incomes. Such an outcome would be very welcome, provided housing remains affordable for the most vulnerable in our society. Tamworth currently has approximately 800 public housing properties, 150 community housing properties and 125 Aboriginal Housing

Office properties. Given the current availability of stock, people are presently on a waiting list of 18 months to two years to obtain a home in Tamworth. Of course, these waiting times are often greatly reduced for the most needy and, in fact, managing public housing is now only a small proportion of the assistance provided by Housing NSW. Many more people are now helped into private rental situations, for example by paying a bond plus two weeks rent in advance.

In Gunnedah, there are about 100 properties and the waiting time is about six months; however, all public housing in the town has recently been transferred to HomesNorth. Initially I received quite a few phone calls of concern, and while only time will tell, as long as people can get a properly maintained roof over their heads and the home remains affordable, it probably does not matter to the tenant how the system is administered. Efficiency and affordability are the key important factors, however a lot of other factors must be taken into account when determining future needs.

Tamworth is a regional hub and like many other localities around the State it is seeing a significant increase in homeless people. There are a number of contributing factors, including a lack of suitable accommodation, the fallout from the current global economic cycle, and health issues, in particular mental health issues. Amongst other emergency accommodation, Tamworth has a women's and children's refuge, a youth refuge, an Aboriginal hostel and a homeless men's support group. Every one of those is in high demand. The women's and children's refuge can accommodate five families and, sadly, it is fully occupied most of the time. Last week this organisation had to turn away 10 families, and they regularly turn away up to five each week due to a lack of resources.

Tamworth Youth Refuge reports it has kids stuck in the refuge or in transitional supported housing for extended periods of time, because no suitable long-term housing is available. They too regularly turn young people away because of insufficient accommodation. They currently have eight places, four male beds and four female beds, but, sadly, they often have to turn young women away due to the limitations. They report that these numbers are increasing. Tamworth Homeless Men's Support Group has 25 units, which are generally full, and it also looks after up to 20 other men in alternative accommodation. They too report increased demand and frustration at being unable to assist all of those in need. Finally, early each morning there is ample evidence in Peel Street and other areas of Tamworth, of an increasing number of people who are living rough on the streets.

There is no doubt that many homeless people have either a severe alcohol or drug problem, or a severe mental health problem. Very commonly they have both. This is the dilemma: it is futile to try to treat a mental health problem if the patient does not have a decent place to live. Similarly, it is very hard for that patient to sustain a tenancy if they have an ongoing mental health problem, or an alcohol or drug problem. There is a clear need for better, integrated responses in these situations.

My office recently took a phone inquiry from a gentleman who lives in public housing in Tamworth. He was concerned that during a recent conversation with the department he was advised that he "should get used to the idea of paying market rental rates, because there will be decreased funding from the Government". Community housing providers charge market rent, but if a tenant cannot afford this amount, based on their assessable income, they can apply for a rent rebate. This should ensure the tenant does not spend more than 25 per cent of their assessable income on rent.

Australians who experience homelessness do not aspire to be part of an underclass; they aspire to be part of mainstream society. They have modest goals, so no matter what changes take place in public housing provision it is critical to ensure that it remains available and affordable for the most vulnerable in our community.

#### **NORTH COAST HEALTH FUNDING**

**Mr PETER BESSELING** (Port Macquarie) [2.09 p.m.]: Much has been reported recently on the struggle by the various area health services around the State to operate within their allotted budgets. In the North Coast Area Health Service region our community has campaigned relentlessly for equity of funding through the Government's resource distribution formula so that the North Coast can compete on an equal footing with the rest of the State. Presently a number of the area health services are overfunded to the detriment of our area, the fastest growing region in the State. There is, however, a more personal impact on communities resulting from the recently announced \$7.4 million dollar budget blow-out for the North Coast Area Health Service—the impact on small business owners.

Small business owners with five or fewer employees account for more than 80 per cent of businesses in the Port Macquarie area. They provide a valuable contribution to the ability of many residents to afford life on the mid North Coast, where employment rates and average wages are some of the lowest in the country. Many of the goods and services that are supplied to the North Coast Area Health Service are provided by small business. They are often sole traders, husband and wife teams or a small band of dedicated employees making their best efforts to keep the business ticking over and, hopefully, turn a profit in order to secure their future within the business and our community. As a result of the business practices of the North Coast Area Health Service, small businesses are being put under increasing strain to carry the debt burden for a Government that they support though various fees, charges and taxes imposed upon their business. They often have the double whammy of keeping silent for fear of retribution from the service if they speak up for fair and equitable payment terms.

This dilemma facing suppliers and contractors to the area health service is not a recent phenomenon. It has resurfaced as an issue on a number of occasions in the past. I put this same question to the Minister for Health in December last year in relation to the payment of outstanding invoices to small business owners in regional areas. To simply suggest that it is a budgetary issue at this point in time ignores the reality and further delays the fundamental, structural and philosophical changes that are needed to the way government departments approach the payment of creditors across this State. Cases that have been brought to the attention of my office have highlighted outstanding balances of over \$10,000. I have been told that other service providers are in far worse situations, but they will not complain for fear of negative outcomes, which have been experienced by outspoken business operators—that is, their services are no longer required by the North Coast Area Health Service.

Past practice was for accounts to be paid at a local level, but the centralisation of accounts has led to worse outcomes for suppliers. These suppliers are at the coalface, trying to survive difficult regional economic conditions, which are rarely appreciated by those in control of paying the accounts. As one supplier testified, "The North Coast Area Health Service needs to understand that it is not a business, it is a service provider. There is no need for them to make a profit, there is only a need for them to allocate funds in an efficient and effective manner." The late payment of accounts has had an effect upon employment within these small businesses, with expansion plans put on hold and employees who move on not being replaced—all because of the uncertainty created by inconsistent account payments by the area health service.

Every small business in regional areas has a difficult enough time attracting and keeping customers and staff, as well as trying to satisfy the administrative and regulatory requirements that come with running a small business. To add further stress and pressure to this environment can have dramatic results for communities, particularly at a time when jobs are difficult to find, let alone maintain. The best way that government departments can aid this situation is to simply pay their accounts in a timely, consistent fashion, rather than using the late payment of accounts as a form of finance, underpinned by those who can least afford it. It is often said that the Australian economy rode on the back of sheep. Let us hope the Government addresses this current situation in New South Wales, where the health system finances are riding on the back of small business.

#### **Private members' statements concluded.**

*[The Assistant-Speaker (Ms Alison Megarrity) left the chair at 2.14 p.m. The House resumed at 2.15 p.m.]*

### **DEATH OF THE HONOURABLE VIRGINIA ANNE CHADWICK, AO, A FORMER MEMBER OF THE LEGISLATIVE COUNCIL, A FORMER MINISTER OF THE CROWN AND A FORMER PRESIDENT OF THE LEGISLATIVE COUNCIL**

**The SPEAKER:** It is with regret that I inform the House of the death on 18 September 2009 of the Hon. Virginia Anne Chadwick, a former Minister of the Crown and President of the Legislative Council. On behalf of the House, I extend to the family the deep sympathy of the Legislative Assembly in the loss sustained. This will be the subject of a motion of sympathy on a future day.

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

### **ASSENT TO BILLS**

Assent to the following bills reported:

Aboriginal Land Rights Amendment Bill 2009  
 Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2009  
 NSW Lotteries (Authorised Transaction) Bill 2009  
 Occupational Licensing Legislation Amendment (Regulatory Reform) Bill 2009  
 Parliamentary Remuneration Amendment (Salary Packaging) Bill 2009  
 Crimes (Forensic Procedures) Amendment (Untested Registrable Persons) Bill 2009

## MINISTRY

**Mr NATHAN REES:** I inform the House that on 14 September 2009 Her Excellency the Governor accepted the resignations of the following Ministers:

The Hon. Carmel Tebbutt, MP  
Minister for Climate Change and the Environment, and Minister for Commerce

The Hon. John Hatzistergos, MLC  
Minister for Health, and Minister for the Central Coast

The Hon. Verity Helen Firth, MP  
Minister for Women

The Hon. Ian Michael Macdonald, MLC  
Minister for Energy

The Hon. Anthony Bernard Kelly, MLC  
Minister for Police, and Minister for Rural Affairs

The Hon. Barbara Mazzel Perry, MP  
Minister Assisting the Minister for Health (Mental Health)

The Hon. Michael John Daley, MP  
Minister for Roads

The Hon. Jodie Leyanne McKay, MP  
Minister Assisting the Minister for Health (Cancer)

On the same day Her Excellency the Governor appointed the following persons to the offices indicated:

The Hon. Nathan Rees, MP  
Minister for the Central Coast

The Hon. Carmel Mary Tebbutt, MP  
Minister for Health

The Hon. Linda Jean Burney, MP  
Minister for Women

The Hon. Michael John Daley, MP  
Minister for Police

The Hon. John Cameron Robertson, MLC  
Minister for Climate Change and the Environment, and Minister for Energy

The Hon. Jodi Leyanne McKay, MP  
Minister for Commerce

The Hon. David Lawrence Borger, MP  
Minister Assisting the Minister for Transport

The Hon. Steven James Robert Whan, MP  
Minister for Rural Affairs

The Hon. Barbara Mazzel Perry, MP  
Minister Assisting the Minister for Health (Mental Health and Cancer)

## REPRESENTATION OF MINISTERS IN THE LEGISLATIVE COUNCIL

**Mr NATHAN REES:** I advise the House of the following representation of Government responsibilities in this Chamber:

The Deputy Premier, and Minister for Health representing the Attorney General, Minister for Industrial Relations, and Vice-President of the Executive Council

The Minister for Transport, and Minister for the Illawarra representing the Minister for Climate Change and the Environment, Minister for Energy, Minister for Corrective Services, Minister for Public Sector Reform, and Special Minister of State

The Minister for Education and Training representing the Minister for Primary Industries, Minister for Mineral Resources, and Minister for State Development

The Minister for Planning, and Minister for Redfern Waterloo representing the Minister for Lands

The Minister for Finance, Minister for Infrastructure, Minister for Regulatory Reform, and Minister for Ports and Waterways representing the Treasurer

## BUSINESS OF THE HOUSE

### Notices of Motions

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

## QUESTION TIME

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*[Question time commenced at 2.21 p.m.]*

## JOBS CREATION

**Mr BARRY O'FARRELL:** I direct my question to the Premier. Remembering the pledge he gave when he became Premier to end the spin and deal honestly and directly with the public, given that Treasury has now exposed as false his repeated claims of creating 160,000 New South Wales jobs, will he own up and apologise?

**Mr NATHAN REES:** For a man who was shredded mercilessly on radio today for the release of what purported to be a policy document, that is rich indeed. I have here a letter from the head of Treasury:

I refer to statements in the 2009-10 Budget Speech regarding the State's \$62.9 billion infrastructure program over the forward estimates period. I wish to confirm ... will support on average up to 160,000 full-time equivalent jobs each year over the four years.

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

**Mr Barry O'Farrell:** Point of order: My point of order is taken under Standing Order 129. I give the Premier the benefit of the doubt that he misheard the question. It was not about 160,000 jobs; it was about New South Wales jobs.

**The SPEAKER:** Order! The question of the Leader of the Opposition came immediately after he gave notice of a motion to be accorded priority on a similar topic.

**Mr NATHAN REES:** I am happy to talk about New South Wales jobs, to wit, this week's New South Wales Government tenders. Again, we roll out the largest infrastructure spend of any government in Australian history. This week alone, in New South Wales jobs, are the design and construction of Royal Hill and Church Hill concrete reservoirs in Cooma, involving some 72 jobs; construction of the Ourimbah commuter car park, with 15 jobs; the service of recreational areas to forest plantations for Forests NSW, with 6 jobs.

**The SPEAKER:** Order! Members will cease interjecting.

**Mr NATHAN REES:** Every week we have more jobs for the people of New South Wales. A couple of weeks ago the New South Wales unemployment rate was stable—in the face of the global recession; 4,000 new apprenticeships across New South Wales, and we are ahead of schedule on that front; 2,000 cadetships for those youngsters who want white collar jobs, and we are ahead of schedule. The Government has a plan for jobs. The Leader of the Opposition spoke nonsense in his document. The best he could do in that so-called policy document released yesterday—

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

**Mr NATHAN REES:** —was absolutely shredded by the media today. That was the very best he could do. He wants to talk about undertakings to the community.

**The SPEAKER:** Order! Members will cease interjecting.

**Mr NATHAN REES:** Immediately after the last election, when asked about policy delivery for the people of New South Wales and policy development by the Opposition, the Leader of the Opposition said: We'll get back to you in a couple of years. Those two years are well and truly up, and the pack that he rolled out yesterday was an embarrassment to him and to every one of the shadow spokespersons on so-called social policy. It contained a litany of statistics out of context, and not a single original idea—except go to the people of New South Wales and ask them. Guess what? My Government is already doing that through the State Plan, which has been in place for years and is now being refreshed.

**Mr Barry O'Farrell:** A State Plan that tells lies.

**The SPEAKER:** Order! The Leader of the Opposition will come to order. The member for Wakehurst will come to order. He should not use up all his calls to order in the first 10 minutes of question time.

**Mr NATHAN REES:** Our stimulus package, with the spending that it entails, is clearly working for the people of New South Wales, in the face of a global recession. Our triple-A rating and the economic outlook shows a return to stable, and unemployment is stable, in the face of global recession. This is the largest infrastructure spend of any government in Australia. With regards to education spending and public housing spending, this Government leads the nation. The Coalition has had 2½ years to come up with a single policy on anything, such as water or energy. Yesterday, the Leader of the Opposition released a so-called social policy—and it was an embarrassment to him, and he knows it.

### HUNTER COAL PLAN

**Mr FRANK TERENCE:** My question without notice is directed to the Premier. Can the Premier update the House on the latest developments in the Government's efforts to secure a long-term coal export plan for the Hunter Valley?

**Mr NATHAN REES:** I can, precisely. As the Minister for Transport says, "More jobs." Newcastle is the world's largest coal export port, with a record 90.5 million tonnes of coal, worth more than \$14 billion, shipped from the port last financial year. But this is also a facility that is facing capacity constraints that, if left unmanaged, would have brought growth in the Hunter to a standstill. That is why for the past two years the Government has been undertaking extensive and detailed negotiations to achieve three significant goals: first, to provide long-term certainty for investors; second, to grow coal industry exports from the Hunter; and, third, to protect the rights of new and expanding mines. Unlike those opposite, who wanted a quick and nasty solution, the Government held out until it got the right solution. The House would recall that the Opposition team flip-flopped on a Civic Place redevelopment in Parramatta, risking billions of dollars of investment there. This is the Opposition that would tear up existing contracts for new rail systems.

**The SPEAKER:** Order! I call the member for Murray-Darling to order.

**Mr NATHAN REES:** That would make New South Wales an international byword for sovereign risk.

**The SPEAKER:** Order! Members who continue to interject will be asked to leave the Chamber.

**Mr NATHAN REES:** Opposition members would have signed on for any old deal in the Hunter, with scant regard for the export industry's long-term future. That is in their DNA. Port Macquarie Hospital was bought back again, after the Coalition botched it. The State Bank sale was botched. The airport rail line was botched. Eastern Creek was botched. The State Office Block sale was botched. This was all under the Coalition.

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

**Mr NATHAN REES:** We do not believe that getting any deal is a good deal.

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

**Mr NATHAN REES:** Just as Prime Minister Rudd and Stephen Conroy have done with Telstra, we believe that major infrastructure arrangements must be based on good public policy and good economics. That means maximising competition and minimising protectionism. That is why in Newcastle we were not going to allow existing dominant users to lock out smaller or newer entrants. As a result, we have achieved an agreement



that brings both certainty and flexibility to the port. Today's agreement means that future infrastructure capacity will meet demand because any coalmining firm starting up or expanding can demand extra capacity and the port will be required to build it.

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

**Mr NATHAN REES:** In other words, automatic triggers are built in to avoid individual arguments down the track each time a mining firm needs extra capacity. This is micro-economic reform on a large scale. It comes from the same Government that corporatised the electricity industry and is now commercialising key aspects of that industry, privatised FreightCorp and is signing up to a national rail freight system, privatised Tabcorp and, more recently, New South Wales Lotteries, reformed workers' compensation and tort law, and corporatised and streamlined the State's three ports, to name but a few of our reform achievements.

**The SPEAKER:** Order! The member for Barwon will come to order.

**Mr NATHAN REES:** All of that would have hit the sand if those opposite were ever near the Treasury benches.

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

**Mr NATHAN REES:** The Leader of the Opposition has had 14 years to think about things and yesterday he came up with nonsense—absolute nonsense that was mercilessly shredded. The social policy shadow Ministers hung their heads in shame and stitched up the Leader of the Opposition nicely. Well done! On this side of the House the serious business of economic reform continues. Our triple-A credit rating has been well and truly secured with \$62.9 billion in new infrastructure fanning out across the State and record support for the housing industry, a downward march of payroll tax from the 8 per cent we inherited to 5.5 per cent under us, and today the unlocking of growth in the port of Newcastle. We would proudly stack up that record against the Leader of the Opposition's growing mountain of motherhood statements—not my words; the words of the commentator. He has laboured mightily and brought forth a gnat over the past 2½ years. Just as Neville Wran unlocked the first 25 years of expansion at Newcastle back in the early 1980s, our plan will help secure jobs and investment over the next 25 years. As Anthony Albanese, the Federal Minister for Infrastructure, said:

This agreement unlocks billions of dollars in new investment and will create thousands of jobs.

Thanks to this agreement, for the first time coal exporters will have access to long-term contracts for export capacity. The certainty provided by these contracts will underpin \$5 billion of investment in new port and rail infrastructure, with construction works alone creating an average of 4,100 jobs over the next five years. This investment in infrastructure will double export capacity to 180 million tonnes per annum by 2016, boosting export earnings by \$6.5 billion each year. Today's agreement not only underpins 16,000 existing jobs; it also will create almost 25,000 new jobs by 2016. That represents 25,000 new jobs in just seven years. Importantly, growing exports under this agreement also will mean extra coal royalties for the people of New South Wales. By 2016 up to \$500 million in funds each year will go straight to the front-line in health, education and transport services. The signing of the Hunter Coal Export Agreement is a major milestone in the history of Newcastle and the Hunter Valley, securing growth in the industry for decades to come. It is a tribute—

**Mr Andrew Stoner:** To Nick Greiner.

**Mr NATHAN REES:** —to this Government's capacity to deliver major micro-economic reform. Yes, wasn't he a help! This agreement delivers a solution to a problem that has plagued coal exporters for over 20 years. Many critics said we would not be able to make this agreement. Like all those who make a living under-estimating this Government, they were wrong—dead wrong. It also is another strand of the Opposition's doom-and-gloom narrative confined to the dustbin.

## HEALTH SERVICES

**Mr ANDREW STONER:** My question is directed to the Premier. Given that the Premier promised to protect front-line workers in his mini-budget and last week the Chief Executive of the North Coast Area Health Service revealed "we're working hard to reduce our staffing levels", including nurses and cleaners due to budget pressures, will he now admit to misleading the people of New South Wales?

**Mr NATHAN REES:** Our commitment to front-line staff remains.

**BUREAU OF HEALTH INFORMATION ESTABLISHMENT**

**Dr ANDREW McDONALD:** My question is addressed to the Minister for Health. Can the Minister provide the House with an update on the establishment of the Bureau of Health Information, which was a key recommendation of the Garling report?

**The SPEAKER:** Order! Members will come to order. The Minister has the call.

**Ms CARMEL TEBBUTT:** I thank the member for his question. I know his passion and commitment to health in New South Wales. It is the case that we have one of the finest health systems in the world. I have spent the last week, and will spend much more time in the future, getting out and meeting the fine doctors, nurses, allied health staff and administrators who work in our health system. They are dedicated, committed and highly trained and are delivering quality care every day across the New South Wales health system.

**The SPEAKER:** Order! Members will come to order. Members who wish to conduct private conversations will do so outside the Chamber.

**Ms CARMEL TEBBUTT:** The Government supports our health system by providing record funding year after year. In the current 2009-10 financial year we have provided a record of nearly \$15.1 billion for health in New South Wales. That is almost one-third of our expenditure in New South Wales, more than a 10 per cent increase on last year, and a 174 per cent increase since we came into office. I stand by that record but, of course, there are always challenges. In health we know that demand is rising. We know that the ageing of our population puts particular pressures on our health system. We know that the cost of medical technology continues to increase. The mark of a good government, and of a good health system, is preparedness to acknowledge the challenges but also to put in place a careful plan to address those challenges. That is precisely what we have done.

The House knows that Mr Peter Garling, SC, undertook a comprehensive review of acute care services—the most comprehensive review ever undertaken. No doubt the Garling report has wide-ranging ramifications for health care in this State. In preparing his report Commissioner Garling carried out an extensive and far-reaching consultation process throughout the State. It bears repeating that 61 public hospitals were visited, Mr Garling heard evidence from 628 people, including patients, community members, doctors, nurses and allied health professionals, and he received more than 1,200 written submissions from over 900 individuals and organisations. It was a comprehensive review and the Government's response is comprehensive. Caring Together: The Health Action Plan for New South Wales is the Government's \$485 million response to the Garling review. It is our blueprint for moving forward. One of the clear messages we received from the Garling report is that those who use the health system, as well as those who work within it, want clear information about the hospital they are attending and the care they can expect to receive.

**Mrs Jillian Skinner:** Did you read our policy?

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

**Ms CARMEL TEBBUTT:** I will contrast the many volumes of the Garling review with the four or five pages that comprise the Opposition's policy any day.

**The SPEAKER:** Order! Members will cease interjecting.

**Ms CARMEL TEBBUTT:** As the Garling report noted, public reporting of information is the single most important driver for the creation of public confidence in our health system, the engagement of clinicians, the improvement and enhancement of clinical practice, and cost efficiency—Mr Garling's words, not mine. The establishment of the Bureau of Health Information will help provide us with that vitally important information, making our health system more efficient, transparent and accountable.

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

**Ms CARMEL TEBBUTT:** The bureau will provide independent reports to government and the community and will offer doctors and nurses the opportunity to compare the performance of their services in providing quality care to their patients. I am pleased to inform the House today that Professor Bruce Armstrong

has accepted an invitation to become Chairman of the Board of the Bureau of Health Information. A member of the Order of Australia, Professor Armstrong has a wealth of experience in health service management, academia and research, and is a Professor of Public Health at the University of Sydney.

I further advise the House that on the advice of an independent selection committee, Dr Diane Watson has been appointed to the position of chief executive. Dr Watson has an impressive background in health service information analysis and reporting. As the Director of Research and Analysis of the Health Council of Canada, she played a key role in the development and publication of public reports to Canadians on their health and health care services. I welcome the appointment of Dr Watson.

The functions of the new Bureau of Health Information will include the production of regular reports on the performance of the New South Wales health system; the development and distribution of tools to allow users to interrogate data; and the development of new measurements to provide more comprehensive feedback on patient care, including the outcome and appropriateness of treatment, the safety and quality of clinical care, and the costs associated with the care provided. Doctors, nurses, paramedics and community members have told us how to improve the safety and quality of health care in New South Wales and we have listened. We must ensure patients get not only the best medical treatment in our hospitals, but also the best care. A key means of achieving that goal is maintaining the momentum in implementing Mr Garling's recommendations. The Government intends doing just that.

With today's announcement of appointments to the Bureau of Health Information, we have allocated funding for 500 clinical support officer positions across New South Wales. The support officer positions will allow more time for patients and less paperwork for clinical staff. The appointment of executive medical directors also has occurred in many of the health services. These positions will support local decision-making and strengthen the adoption of new innovations and improved models of care. Another important step forward is the introduction of the new role of nurse/midwife in charge. I remind the House that while Commissioner Garling raised significant challenges, he was also very positive about the standard of care in New South Wales. The commissioner stated:

I have formed a clear view that the level of health care provided in New South Wales and Australia is comparable with, if not better than, most of the first world and developed countries. By any world measure, Australia's healthcare is amongst the best. This fundamental attribute ought never be overlooked or forgotten.

We do not intend to, but will maintain our commitment to continuing to reform and strengthen our health system in New South Wales.

### **HORNSBY KU-RING-GAI HOSPITAL**

**Mrs JILLIAN SKINNER:** My question is directed to the Minister for Health. Will she confirm statements by her own senior bureaucrats to doctors at the Hornsby hospital that it has the most dilapidated and ancient infrastructure in the State and that the hospital will face budget cuts of at least \$3 million this financial year, contrary to her claim there would be no cuts to the budget?

**The SPEAKER:** Order! The House will come to order. The member for North Shore has asked her question. She will listen to the Minister in silence.

**Ms CARMEL TEBBUTT:** I thank the Deputy Leader of the Opposition for her question. I am able to say that the Hornsby hospital is a very proud hospital with a long and proud history of serving its local community. It is an older hospital; we know that. Health infrastructure commissioned a consulting firm to undertake a review of the conditions of buildings at the Hornsby Ku-ring-gai Hospital. I am advised that the review was completed in August this year. I am advised that the consultant's report will be provided to the Northern Sydney/Central Coast Area Health Service for appropriate action. It is worth reminding the House that over the last five years there have been significant and service enhancements at the Hornsby Ku-ring-gai Hospital. With regard to the budget, the area health service and the Hornsby Ku-ring-gai Hospital have, like every other area of the State, received an increased budget in 2009-10: \$15.1 billion.

**Mrs Jillian Skinner:** It is not the same thing.

**Ms CARMEL TEBBUTT:** The Deputy Leader of the Opposition does not like the fact, but the facts speak for themselves. She should go and check the budget papers.

**Mrs Jillian Skinner:** Point of order: My point of order relates to Standing Order 129, relevance. The question is not about the increase in the budget. It is about the cuts.

**The SPEAKER:** Order! The Minister's answer clearly is relevant to the question that has been asked.

**Ms CARMEL TEBBUTT:** As I was saying, every area health service is subject to an increased budget. There are no plans to reduce the budget for the Hornsby Ku-ring-gai Hospital. We have responded to the growing demand for medical care by increasing the budget allocation for the Hornsby Ku-ring-gai Hospital. The initial expenditure budget for 2009-10 is \$103.7 million, which is a \$7.4 million increase on last year's budget. It is an increase.

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

**Ms CARMEL TEBBUTT:** Rising demand means that every area health service and every hospital has to manage their health dollar wisely—of course they do—and the Hornsby Ku-ring-gai Hospital is no exception. Taxpayers would expect no less. We manage the health dollar wisely so that we can make sure that we can provide the best possible patient care to the people of New South Wales. We do that across the health system as a whole; we will do that at the Hornsby Ku-ring-gai Hospital.

### OUTLAW MOTORCYCLE GANG COUNTERMEASURES

**Mr ALLAN SHEARAN:** My question is addressed to the Minister for Police. Will he update the House on the recent successes of police operations targeting gangs?

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

**Mr MICHAEL DALEY:** I thank the member for Londonderry, who takes a great interest in law and order issues in a very dynamic electorate, for his question. When the Government and the New South Wales Police Force delivered a fast and tough response to the fatal brawl at Sydney airport on 22 March this year, some commentators accused us of overreacting to the situation relating to bikie gangs. We were accused of demonising a group within society for the sake of populist politics. Unfortunately for the public relations people and academic apologists, the bikies just cannot help themselves.

Just last weekend, officers from Strike Force Raptor, which is the specialist anti-bikie gang squad, raided the Bandidos clubhouse in Petersham. What did they find? Bikie enthusiasts polishing the chrome on the Harley? No, they did not. What they found is something that should be of concern to all members of the House. They found up to 70 extremely intoxicated teenagers, many of whom were under the age of 18 years, and in one case as young as 13. One young girl was so drunk she had to receive medical attention from ambulance officers. After providing immediate medical assistance and other assistance to these children, police also raided and searched another place, taking away alcohol and cigarettes worth—

[*Interruption*]

I would have thought the member for Murrumbidgee would consider this matter worthy of respect. He is not funny.

**The SPEAKER:** Order! Members will cease interjecting. The Minister has the call.

**Mr MICHAEL DALEY:** After providing immediate assistance to these children, police took away alcohol and cigarettes worth an estimated \$10,000, a cigarette vending machine, a gaming machine, a 30-centimetre hunting knife and significant amounts of cash. The day before that raid, gaming squad detectives laid 10 additional charges against an alleged Comanchero associate, who had previously been charged with aggravated firearms offences, and charged him with various offences relating to the supply of commercial quantities of drugs and possession of explosives.

Since this Government gave the Police Force the legislation and the powers it needed to dismantle bikie gangs, officers involved with Strike Force Metter and Strike Force Raptor have worked day and night to stamp out this level of violence and overt criminality. The statistics are impressive: 400 arrests and 800 charges to date. May I also remind the House that police have charged 15 men in relation to the fatal brawl at the Sydney airport. That includes 12 members of the Comanchero gang, all of whom now have been charged in relation to

the murder of Anthony Zervas who was killed during that brawl. Those men, in addition to two members and an associate of the Hells Angels, also have been charged with riot and affray. While I will not comment on proceedings currently before the court, I note the comments of the Chief Judge at Common Law, Justice Peter McClellan, who said:

The level of violence and disregard for safety in these matters cannot be ignored.

Outlaw motorcycle gangs have rightly received great attention in relation to our new organised crime efforts. The recent outrageous acts of public violence make this unavoidable. However, I remind members that our legislation is not bkie specific. Regrettably, many other organised criminal groups, besides bkie gangs, are working in this country and in this State. If police are able to identify groups of people acting in ongoing criminal enterprises with sufficient certainty, there is every likelihood that this new legislation will be used against them in the future as well. The advantage of this legislation is that it does not require a criminal organisation to have a name or an overt identifying feature, as bikies helpfully do.

As long as the court is satisfied that a group of people associate on a continuing basis to commit serious crimes, that group can be declared under the legislation and then police can obtain control orders against individuals, preventing them from doing many things, some as simple as even talking to each other—a powerful but warranted law enforcement tool. This is not all the Police Force is doing to target gangs. Each day police from local area commands are targeting bikies with simple but effective measures: routine firearms inspections, premises inspections, traffic stops and bail compliance checks. The police are driving them crazy. They have raided club houses run by outlaw motorcycle gangs, which have resulted in the seizure of firearms, motorcycles, cars, cash, illegal drugs, drug manufacturing equipment and the dismantling of large-scale drug manufacturing and distribution networks.

Despite all these activities, last Friday night's raid on the children's booze and cigarettes party hosted by the Bandidos was of great concern. It is pretty clear what the marketing strategy here is: "Kids, come and get your smokes and drinks from us now, come back in a few year's time for your ecstasy and meth amphetamine." That will not be tolerated and police will jump on top of it. We all hold that sort of behaviour in contempt. I take this opportunity to congratulate the Commissioner of Police and the hardworking officers of the New South Wales Police Force on their achievements in the fight against bikies and other criminal gangs in this State.

#### **PUBLIC HOUSING TENANT DENNIS FERGUSON**

**Mr VICTOR DOMINELLO:** My question is directed to the Minister for Housing. What advice did the Minister receive from his department regarding the matter involving convicted paedophile Dennis Ferguson before he made statements to the press last Monday that Mr Ferguson would be evicted by the end of the day?

**Mr DAVID BORGER:** It is not good enough for Opposition members to beat their chests on this issue—

**The SPEAKER:** Order! I call the Leader of The Nationals to order for the second time.

**Mr DAVID BORGER:** —because they have no answers on this issue.

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

**Mr DAVID BORGER:** They have no answers because they have no policy, and they have no policy because they have no leadership. Obviously this is a difficult issue. We can all understand exactly how the residents of north Ryde feel. I am a father and I know exactly how they feel.

**The SPEAKER:** Order! I call the Leader of The Nationals to order for the third time.

**Mr DAVID BORGER:** These are normal human emotions. We all want our children to be protected from the horrors of sexual abuse. That is a simple fact. The important thing is that we are doing everything we possibly can to ensure that there is an alternative place.

**The SPEAKER:** Order! Government members will come to order. I call the Minister for Transport to order.

**Mr Greg Smith:** Point of order: My point of order relates to Standing Order 129. The question asked the Minister what information he received from the department before he made his statement last Monday.

**The SPEAKER:** Order! The member for Epping is debating the issue, not taking a point of order. I will listen further to the Minister.

**Mr DAVID BORGER:** As I said—

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

**Mr DAVID BORGER:** It is a sad affair when members of Parliament are laughing about this tragedy.

**The SPEAKER:** Order! I appreciate the sensitivity of some questions that are asked in this place. However, I will not tolerate such unparliamentary behaviour. All members who have been called to order are now deemed to be on three calls to order. I will not hesitate to remove members from the Chamber.

**Mr Adrian Piccoli:** Mr Speaker, if you make a ruling like that, you have to make a ruling about ministerial answers as well.

**The SPEAKER:** Order! The member for Murrumbidgee will resume his seat. The proper forms of the House are available to all members. The Minister has the call.

**Mr DAVID BORGER:** As I said, I believe all members of this House find the horrors of sexual abuse absolutely shocking, and we all wish to protect children from that. The important thing is that we are doing everything that we possibly can to find an alternative place for Mr Ferguson. Last Monday my advice from the department was that it was confident that Mr Ferguson would leave by Monday night. It is unfortunate that that did not happen. However, Mr Ferguson has now moved out of the north Ryde complex.

**Mr Barry O'Farrell:** Permanently?

**Mr DAVID BORGER:** Mr Ferguson is not there at the moment. We will do everything we possibly can to make an alternative offer. Mr Ferguson has to live somewhere. Even Tony Abbott accepts that Mr Ferguson has to live somewhere. Certainly, the Prime Minister accepts that this fellow has to live somewhere. It would be a much worse outcome for the community and the children of New South Wales if this person were wandering around the main streets in the suburbs and towns of any electorate or if he were sleeping under bridges or in parks because the police would not be able to keep track of him. We know that fundamental to reducing the reoffending rate is having some sort of decent housing for people exiting corrective institutions. That is a simple fact of life. No-one wants to see people come out and reoffend. We will continue to pull out all the stops to resolve this issue. Now is the time for cool heads to prevail and to let us get on with that work.

Previously I have said that I was unhappy with the location at North Ryde, where Housing New South Wales chose to offer a tenancy to Mr Ferguson. The moment I became aware of it I asked that everything be done to ensure he was rehoused and moved to a more appropriate location. But the simple fact is that Mr Ferguson has to live somewhere. Housing New South Wales advised me that he met all the normal requirements for priority housing. While the Opposition does not like it, temporary housing is sometimes needed in the short term to house people who are homeless or at risk of homelessness. Frankly, the community wants to see us work together to find a solution to this problem. As John Stanley said, "I haven't heard other solutions. They're just bleating on about saying he should be kicked out. Barry O'Farrell is making political capital out of this. Where does he go? You put this bloke on the streets and it's a sure-fire recipe to have them reoffend and to go back to jail."

#### WEEMELAH-MOREE GRAIN LINE

**Mr KEVIN HUMPHRIES:** My question is directed to the Minister for Transport. Why has the Minister withdrawn \$700,000 in maintenance funding for the Weemelah-Moree grain line, which will result in its closure, jeopardising \$100 million a year in export income and forcing more trucks onto country roads, despite recommendations from Federal Labor in a soon-to-be-released report into the New South Wales grain freight network that calls for the track to be kept open?

**Mr DAVID CAMPBELL:** As the member for Barwon knows from our recent discussions, the Rail Infrastructure Corporation has decided to suspend the use of that particular rail line on the basis of its engineering analysis of the line and its potential to be unsafe if it were operated.

## SCHOOL ABSENTEEISM

**Ms LYLEA McMAHON:** My question is addressed to the Minister for Education and Training. What is the latest information on measures to further reduce school non-attendance?

**Ms VERITY FIRTH:** I thank the member for Shellharbour for her interest in this matter. We can rightly be very proud of the education system that we have built in New South Wales and the achievements of our students. Research shows that the longer a person stays at school, the greater their choices will be later in life. Education for some is the only way that they will escape intergenerational disadvantage. As is often said, education really is the great equaliser in an unequal world. That is why from January next year all students will be required to stay at school until the end of year 10 and continue to be in some form of education, training or employment until they are 17 years old. Ensuring regular school attendance is the responsibility of all parents. Although a relatively small number of students skip school, it is important to do all we can to deal with more serious cases of non-attendance.

Today I announce that the Rees Government is introducing legislation that will provide more flexibility to the education department and the courts to deal with cases of school non-attendance. The aim is to get children back to school by introducing a wider range of intervention options. Currently, the education department has limited options in handling cases of non-attendance, which means that the most serious cases end up in court. Courts are also limited in the penalty options they can apply, and when the main penalty is a fine it often has no effect on the ultimate goal, that is, getting the child to attend school regularly. This new legislation will enable the education department to seek information relating to the causes of the child's non-attendance and convene conferences of parents, education authorities and other government and non-government agencies to help develop an attendance plan for that student.

Instead of just issuing simple fines for cases that do proceed to court, magistrates will be able to order parents to attend rehabilitation or parenting programs and order a child to undergo counselling, as well as call in other relevant government agencies to assist. In all cases it would be up to magistrates to decide which of the options would best suit a particular case. Students who, for cultural or other reasons, have difficulty in complying with compulsory schooling requirements will have access to alternative education programs. This could include programs such as the Salvation Army's Oasis program, which is designed to assist homeless children and programs focused on supporting Aboriginal students.

Across New South Wales the Government employs 85 home school liaison officers to work with students, schools and families to improve school attendance as well as 11 dedicated Aboriginal student liaison officers to work specifically with Aboriginal students and communities on attendance. As part of the Keep Them Safe Action Plan, in response to the Wood inquiry into child protection, the Government is employing an additional 25 home school liaison officers and 15 Aboriginal student liaison officers across the State. This new legislation also supports recommendations by the Wood inquiry into child protection that suggested strengthening the approach to school attendance. At its base, it is about early intervention and support for those families that need help to get their children to school.

The National Partnership Agreement on Youth Attainment and Transitions, endorsed by the Council of Australian Governments in July provides reward payments of up to \$33 million for New South Wales in return for an increase in the enrolment of students in years 11 and 12. The agreement aims to have 15,000 15- to 19-year-olds enrolled in a vocational training course by 2012, and a further 15,000 by 2015. Enforcement of these new compulsory schooling provisions will be an essential step if New South Wales is to reach these very noble targets. A person under the age of 18 will not be subject to an offence of failing to enrol in or attend school. That responsibility remains a parental one. However, if the student is between 15 and 17, the bill provides a modest fine of up to one penalty unit, which is \$110, for failing to comply with a compulsory schooling order.

The court cannot proceed to a conviction and can order the child to participate in specified programs instead of imposing a fine. It will ensure we comply with the national partnerships agreement and meet our targets of greater enrolments. Importantly, it is a balanced approach that recognises, as the law does generally, an increasing capacity for children to exercise adult-like judgement and responsibility as they approach 18. Overall this new legislation will reduce the need to proceed to court action and better serve our primary goal of regular school attendance for all children.

**BREAST CANCER**

**Ms MARIE ANDREWS:** Mr Speaker—

**The SPEAKER:** Order! The House will come to order. Hansard is having difficulty hearing the member for Gosford.

**Ms MARIE ANDREWS:** My question is addressed to the Minister Assisting the Minister for Health (Mental Health and Cancer). Will the Minister update the House on the Government's latest efforts to detect breast cancer?

**Mrs BARBARA PERRY:** This Government is determined to improve access to the latest breast screening technology to aid the early detection of breast cancer. This year approximately 4,200 women in New South Wales will be diagnosed with breast cancer, and more than 900 women will lose their lives to the disease. In fact, breast cancer is the most common cancer in women. While breast cancer does not discriminate, a woman's risk increases with age, with more than 75 per cent of cases in New South Wales diagnosed in women aged over 50 years. Risk also increases in women who have a family history of breast cancer, such as a mother, sister or two or more relatives. Other risk factors include excessive alcohol consumption, obesity and reproductive factors such as not having children, or having children after the age of 30 years.

We all know that breast cancer is extremely common. Almost all of us in this House have been touched by breast cancer in some way, be it directly in a parent, a spouse, a close relative or a friend. The stark reality is that one in nine women in New South Wales will develop breast cancer by the age of 85 years. This Government's strong investment in early detection screening and education programs is helping to ensure better outcomes for the people of New South Wales. In the last decade death rates from breast cancer have reduced by 14 per cent in New South Wales. Like many cancers, breast cancer has a high survival rate if detected and treated early. The chances of surviving breast cancer are 88 per cent for all breast cancer patients and 97 per cent when the disease is localised and has not spread before treatment. This is why the Government is investing \$26 million in the statewide rollout of digital breast screening technology. The Government is supporting the two most effective measures that improve survival from breast cancer, that is, early detection and cancer research.

Digital mammography equipment enables a much higher quality image to be taken of the breast tissue than was previously the case with x-ray films. This improves the chances of detecting an abnormality in its very early stages. Digital technology also enables scans to be transmitted electronically from screening centres to well-resourced central reading rooms for analysis by experienced radiologists. The rollout of digital breast screen technology was a 2007 election commitment by this Government. We have delivered on that promise. It has been a mammoth capital upgrade, including the purchase and installation of 40 new digital mammography machines at 28 fixed sites and 12 new or refurbished mobile clinics. Next month I will officially open the last three sites to be upgraded to digital technology at Myer Castle Hill, Myer Blacktown and Myer Penrith. The Castle Hill clinic began screening on Monday and incredibly has 500 bookings already.

BreastScreen New South Wales is currently implementing high-speed data links between the centralised picture archiving and communications system in Redfern and selected screening hubs across the State to allow for real-time transfer of digital mammography images. These high-speed links coupled with state-of-the-art screen reading centres, such as the \$825,000 BreastScreen Reading and Radiology Training and Education Centre opened in Redfern in February this year, will provide radiologists with clearer images and faster results, leading to better and earlier detection of cancers. This is great news for the people of New South Wales. We are also expanding out-of-hours screening appointments to include late nights, early mornings and weekends to meet the needs of women who are unable to attend during normal business hours.

We know that the earlier we detect and treat cancer, the better the chance of recovery, and that is why the Government is determined to improve access to breast screening for New South Wales women, delivering results quickly and boosting the number of women undergoing breast screens. Every woman aged over 40 years, and especially women aged between 50 and 69 who benefit most from mammograms, now have access to the world's most advanced population breast screening service. October is Breast Cancer Awareness Month, and I have a simple message for all women in New South Wales: If you notice any changes in your breasts, talk to your doctor immediately, and if you are over the age of 40 make sure that you book yourself in for a mammogram every two years by calling 13 20 50. Early detection of breast cancer offers the best chance of survival. The Government will continue to support initiatives that boost community awareness and access to these services.

**Question time concluded at 3.12 p.m.**



**DEATH OF STATE EMERGENCY SERVICE DEPUTY COMMISSIONER GREG SLATER****Ministerial Statement**

**Mr STEVE WHAN** (Monaro—Minister for Emergency Services, Minister for Small Business, and Minister for Rural Affairs) [3.13 p.m.]: It is with great sadness that I inform the House of the death last week of the Deputy Commissioner of the State Emergency Service, Mr Greg Slater. Mr Slater had a long and distinguished career in the emergency services and, as Deputy Commissioner of the State Emergency Service, had been instrumental in the development of the agency over the past 11 years. Mr Slater's career in emergency services commenced in 1981 when he joined the Australian Federal Police undertaking general duties as a member of the police rescue squad. From 1986 to 1987 he gave distinguished service with the twenty-fifth and twenty-sixth contingents of the Australian Civilian Police attached to the United Nations Force in Cyprus and was awarded commendations by the Australian Federal Police Commissioner and the United Nations Force Commander for brave conduct.

Returning in 1987 he recommenced duties with the Australian Federal Police Rescue Squad developing its capability in vertical rescue, swift water rescue, search and rescue coordination and disaster victim identification. Mr Slater was involved in the development of leadership, team building and survival training for senior Australasian police undertaking management of serious crime studies. In 1998 he commenced service with the New South Wales State Emergency Service as Oxley division controller located at Taree on the New South Wales mid North Coast. During the 1999 Sydney hailstorm he led the vertical rescue task force, which coordinated the multi-agency technical response to undertaking emergency repairs to high-rise buildings in Sydney's eastern suburbs.

In March 2001 he was the State Emergency Service operational controller for the mid North Coast floods in the Oxley division where he led the State Emergency Service's response operations in the Kempsey area following the most serious flooding there in over 30 years. He re-entered the Australian Federal Police in 2001 and was posted as a member of the Australian Civilian Police sixth detachment for the United Nations Transitional Administration in East Timor where he led the investigations team and later undertook the role of district operations controller in the Viqueque district of East Timor. Mr Slater was appointed as Deputy Director General of the New South Wales State Emergency Service in August 2004 at the State headquarters based in Wollongong.

His role as State Emergency Service Deputy Director General included operations management as the State Emergency Service Deputy State Operations Controller, the leadership and development of the service's 17 region controllers and membership of the service's senior executive group. Mr Slater was a recipient of the Australian Federal Police commendation for brave conduct and the United Nations Fire Commander's commendation for brave conduct. Mr Slater also held a State Emergency Service Director General's unit citation and commendation for service.

On behalf of the Government I attended yesterday's funeral, which was held at Andrew's Church in Canberra. The church was absolutely packed with members of the State Emergency Service as well as fellow emergency services members from many different areas throughout New South Wales and the Australian Capital Territory. Almost one thousand people attended the funeral. They formed an amazing line guard of honour as the funeral procession pulled away, accompanied by Federal police motorcyclists. It was an incredibly emotional tribute to a person who has made an amazing contribution to the SES and to emergency services in general.

Our thoughts and prayers are with his wife, Jenny, daughter, Madaline, and son, Alex. He will be sadly missed by volunteers and staff of the State Emergency Service, his former colleagues in the Australian Federal Police, and by his many friends and family. In his short life Mr Slater made an outstanding contribution to the Australian community. I ask members to join me in extending our collective sympathy to Greg's family, colleagues and friends.

**Mr ANTHONY ROBERTS** (Lane Cove) [3.17 p.m.]: I speak on behalf of the Coalition, which was represented at Greg Slater's funeral yesterday by the shadow Minister for Emergency Services, Melinda Pavey. Like many who knew Greg, we were shocked and saddened when we heard that he died while competing in an endurance mountain bike race on the South Coast at the young age of 46. His wife, Jenny, also served with the State Emergency Service. He leaves behind two wonderful children—Madaline who is 19 and Alex who is 15. Alex was in fact attending the event with his father when Greg passed away.

Greg was a close age to many of us, having been born in 1962 in Sydney. As mentioned previously, he carried out an incredible service with the Australian Federal Police in 1981 before moving to the New South Wales State Emergency Service in 1998. I draw the attention of the House to the contributions this man made in such an incredibly short life, which are reflected not only in the wonderful family and friends he has left behind, but in what our society saw fit to award this great man. He was awarded the Australian Federal Police commendation for brave conduct; the United Nations medal for Cyprus; the United Nations Fire Commander's commendation for brave conduct; the police overseas medal, the national medal, the United Nations medal for East Timor; the Director General's unit citation with respect to the Hunter storms; and the director general's commendation for 10 years service in the State Emergency Service. One can only imagine what he could have done had he been alive now when one considers the contribution he made in his very short life.

David Lane, the President of the State Emergency Service Volunteers Association, asked me to pass on the association's thoughts regarding Greg. They are succinct. He was a very good man and an exceptionally good deputy director. He was also pro-volunteers and always backed the volunteers. He was a thorough gentleman and a really nice bloke who did a very good job. Having known Greg personally, I can say he exemplified all that is good in the Australian spirit. He was a brave man, an intelligent man and a great man. He was a great father. He was a great leader of men and women. He was a great Australian.

Greg Slater died young, but his contribution will live on in this State. On behalf of the Liberal-Nationals Coalition I extend our sincerest condolences to his family, especially Jenny, Madaline and Alex. May God embrace his soul and bring comfort to his wife, family, friends and colleagues.

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

#### **VARIATIONS OF RECEIPTS AND PAYMENTS ESTIMATES AND APPROPRIATIONS 2009-10**

**Mr Joseph Tripodi** tabled, pursuant section 26 of the Public Finance and Audit Act 1983, the variations of the Consolidated Fund receipts to payments estimates and appropriations for 2009-10 arising from the provision by the Commonwealth of specific purpose payments in excess of the amounts included in the State's receipts and payments estimates—NSW Treasury.

#### **FORESTRY AND NATIONAL PARK ESTATE ACT**

**The Deputy-Speaker**, in accordance with section 21 of the Forestry and National Park Estate Act 1998, announced receipt of the Implementation Reports on the NSW Forest Agreements and Integrated Forestry Operations Approvals for the Upper North East, Lower North East, Eden and Southern regions for the years ended 30 June 2003, 30 June 2004, 30 June 2005, 30 June 2006 and 30 June 2007.

**Ordered to be printed.**

#### **LEGISLATION REVIEW COMMITTEE**

##### **Report**

**The Clerk**, in accordance with section 10 of the Legislation Review Act 1987, announced receipt of the report of the Legislation Review Committee entitled "Legislation Review Digest No. 12 of 2009", dated 21 September 2009.

#### **PETITIONS**

**The Clerk announced that the following petitions signed by fewer than 500 persons were lodged for presentation:**

##### **Wagga Wagga Base Hospital**

Petition requesting funding and the nomination of a start date in the current parliamentary term for the construction of a new Wagga Wagga Base Hospital, 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**.

**Tumut Hospital and Batlow Multiple Purpose Service**

Petition asking that vital equipment be provided immediately to both Tumut Hospital and Batlow Multiple Purpose Service, received from **Mr Daryl Maguire**.

**Tumut Hospital Anaesthetic Services**

Petition asking that anaesthetic services at Tumut Hospital be made available immediately, received from **Mr Daryl Maguire**.

**Bus Service 311**

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

**Pymont Metro Station**

Petition opposing the Metro proposal for a Pymont station at Union Square and requesting community consultation for a suitable site, received from **Ms Clover Moore**.

**Darlinghurst Planning**

Petition requesting that the 2006 master plan for the Garvan St Vincent's research precinct be adhered to and that the plan incorporate the heritage classified terrace, received from **Ms Clover Moore**.

**Pet Shops**

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

**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**.

**National Parks Tourism Developments**

Petition opposing the construction of tourism developments in national parks, received from **Ms Clover Moore**.

**Game and Feral Animal Control Amendment Bill 2009**

Petition opposing the Game and Feral Animal Control Amendment Bill 2009 in its entirety, received from **Ms Clover Moore**.

**The Clerk announced that the following petition signed by more than 500 persons was lodged for presentation:**

**Robinson College, Broken Hill**

Petition opposing the sale of Charles Sturt University's Robinson College in Broken Hill, received from **Mr John Williams**.

**CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY****Central Coast Services and Jobs**

**Mr DAVID HARRIS** (Wyang—Parliamentary Secretary) [3.24 p.m.]: The Central Coast is a growing region with many challenges. This motion deserves priority because it is time to expose the lack of commitment by the Opposition to the Central Coast. This motion deserves priority because the people of the Central Coast should hear about the achievements of this Government and the hardworking members on this side of the House who really represent their interests.

The Opposition constantly misrepresents and ignores the achievements of the Government on the Central Coast, so I thought it prudent to discover its plans. A search of the Liberal Party website for the words "Central Coast policy" returned a zero result. One can only assume it has no plans, no policies and no commitment at all to the Central Coast. In contrast, a search of the New South Wales Labor Government's State Plan website reveals a whole section dedicated to the Central Coast, complete with regional delivery updates and a performance dashboard. That demonstrates the differences between the two sides.

The Opposition does have a strategy, and it is very clear: it is to criticise the hard work of public servants on the Central Coast, which members opposite do all the time. We need to debate this issue today because while the Government is increasing infrastructure and services for the people of the Central Coast, the Opposition consistently demonstrates its disdain for the area by having no plans and no policies. The shadow Minister for the Central Coast has been around for a long time but has produced nothing in the way of specific Central Coast policies.

Whether it is health, transport, roads, education, mental health, aged care, tourism, law and order or any other area, the Government is producing tangible, identifiable and targeted strategies for improvement. We should consider these achievements and identify our commitment to further improvements, as the job of building a sustainable community is never complete. We must have plans and policies that continue the hard work already being done. Sadly, the Opposition seems devoid on both fronts. This is its opportunity to outline its plans for the Central Coast and not whinge, wine and complain.

We on this side are proud to talk about the massive redevelopment of Wyong and Gosford hospitals. We are keen to discuss the \$300 million road program. We cannot wait to acknowledge all the new schools that are being built, such as the ones at Kariong and Warnervale. We are happy to demonstrate our future plans for new police stations, railways stations, commuter car parks, better school facilities, and more rail carriages and buses. The challenge for the Opposition today is to support the motion and to tell the people what it will do. The Opposition should not simply criticise and carp, which is its usual strategy. This motion should receive unanimous support from both sides of the House if the Opposition really has the same level of commitment to the people of the Central Coast that the Labor Government has. I challenge those opposite to put the Central Coast first.

### Government Performance

**Mr BARRY O'FARRELL** (Ku-ring-gai—Leader of the Opposition) [3.28 p.m.]: We will not support the motion of the member for Wyong for two reasons. I searched the ministerial announcement today in vain hope. I got a zero result when I searched for a Minister based on the Central Coast who was the Minister for the Central Coast under those opposite. We are proud on our side of politics to have a shadow Minister who has lived his life on the Central Coast. We are proud to have a shadow Minister for Police who has also shared the experience of those who live on the Central Coast. It stands in stark contrast to those opposite who have such a dearth of talent in members from the Central Coast that not one of them is fit to be the Minister for the Central Coast.

The second reason this motion should be opposed is that the first priority members of Parliament should have is to be upfront with people and not to make promises they cannot deliver. They should not pretend. This latest episode is yet another example of the Premier being incapable of living up to his own standards. On 6 September, when he became Premier, he pledged publicly that he would deal directly and honestly with the people of New South Wales. Yet time and again the hope that the public had for him has been dashed. We saw it dashed when, in a handshake deal in a pub last October, he walked away from a commitment to campaign finance reform. We saw it in the December mini-budget, when he promised no cuts in front-line services across New South Wales. Yet on the North Coast and across New South Wales front-line jobs are being lost from the health system.

There was no greater example than what we saw in estimates last week. In an estimates hearing last week, the Government was quizzed about the 160,000 New South Wales jobs that Ministers continue to talk about. In fact, at the start of the Treasury estimates committee hearing Treasurer Eric Roozendaal talked about the infrastructure program that is "supporting 160,000 jobs in this State". Yet, five minutes later, when the Hon. Greg Pearce quizzed the Treasurer and the head of Treasury about those figures, we found out something different. As Greg Pearce says, these ABS statistics are obviously national. "Are we confident," he asked, "that using those statistics we are actually talking about jobs located in New South Wales, or are they jobs located somewhere else in Australia?" Mr Schur said they were "Australian jobs".

Mr Pearce, rationally, said, "Look, New South Wales contributes a third of the national economy, so therefore the real figure is simply a third of the 160,000." Eric Roozendaal jumped in and said, "No, you cannot make that assumption." Mr Pearce said, "How many of them are located in New South Wales?" Mr Schur responded, "I don't believe the ABS analysis can indicate that." Not only are 160,000 jobs in New South Wales not being supported; no-one knows whether a single job in this State is supported. That is the import of what Mr Schur told the estimates hearing last week.

As for the letter that was produced by the Premier today, that letter was accurate. It said, as the ABS formula says, that the program will support 160,000 jobs. The letter does not say what Nathan Rees has said in this House, what Eric Roozendaal has said in another House, and what has been embedded in the State Plan documents, behind which thousands of dollars of taxpayers' funds have been spent—that is, that the program will support 160,000 jobs in New South Wales.

Since Nathan Rees became Premier we have seen a loss of jobs in New South Wales. We have seen a Premier who leads a government, the only government anywhere in the world, that failed to put in place a stimulus package. This is a government that, at a time when every other government has been trying to support businesses and the families who rely upon them, put up taxes in the mini-budget and cut infrastructure spending. It cut infrastructure spending to the south-west and the north-west of this city, and it has cut infrastructure spending on the Pacific Highway.

The Premier has been caught out in his lying. When offered the chance to do the honourable thing and fess up, say he got it wrong and apologise, he is incapable of doing so. That is a long way from 120 weeks ago, when he stood here and said in an inaugural speech that the public expect their members of Parliament to be upfront with them—not to promise what they cannot deliver and not to pretend. It is a long way from what he said on 6 September, and it is another reason why he does not deserve to be the Premier of this State. He is loose with the truth; he lies. Until we are honest about the problems confronting New South Wales, there is no hope of getting on and fixing them.

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

**The House divided.**

**Ayes, 47**

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

**Noes, 38**

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

**Pair**

Mr Sartor

Ms Hodgkinson

**Question resolved in the affirmative.****CENTRAL COAST SERVICES AND JOBS****Motion Accorded Priority****Mr DAVID HARRIS** (Wyang—Parliamentary Secretary) [3.42 p.m.]: I move:

That this House:

- (1) congratulates the Government for continuing to deliver services and support jobs on the Central Coast;
- (2) condemns the Opposition for refusing to outline any policy for the Central Coast and continuing to talk down the region; and
- (3) calls on the Opposition to support the Government's initiatives in health, education, transport and roads on the Central Coast.

It is time for the Opposition to stop talking down the Central Coast. The Rees Government understands the tough times we face. Unlike the Opposition, we have stepped up to the challenge. On this side of the House we are not whingeing; we are investing in the Central Coast to support jobs and give families the services they need. The Premier recognised this and we welcome his decision to also become the Minister for the Central Coast. This important decision ensures that the people of the Central Coast have a senior voice at the budget table during funding negotiations. That is a good outcome for the people of the Central Coast. I will have to provide an overview of the delivery of programs because it would take the whole day to outline everything the Government has been doing lately, particularly in transport and roads, including in the electorate of the member for Terrigal.

This year the Rees Government delivered a record-sized \$3.1 billion infrastructure budget for 2009-10. This is fantastic news for the Central Coast community because we are set to benefit from new trains, buses and commuter car parks. New OSCar carriages already are operating on some Central Coast services, with the budget providing for more to commence operation this year. The OSCars are new modern trains with up-to-date furnishings, air-conditioning and spacious interiors. Central Coast commuters have warmly welcomed them and I expect that reception will continue with the delivery of more new trains in the next 12 months. The other day I was pleased to meet a young fellow from Wyong Trade School who is doing his school-based apprenticeship with Downer EDI in Newcastle, which is one of the companies building new trains for New South Wales—again creating more opportunities for the community.

Also on the way for the Central Coast is a fleet of new buses for local services. Three new buses have commenced operation as part of a \$6.7 million program to purchase 16 growth buses and expand the Central Coast bus fleet by the end of 2010. We are investing in five new commuter car parks for Central Coast commuters—great news. Work has been scheduled on new car park facilities at Wyong and Ourimbah stations, in addition to existing works on interchange and car park facilities at Tuggerah, Morisset and Woy Woy stations. More spaces at local train stations mean finding a spot faster and with greater ease. These car parks will make such a difference for hard-working local families who commute to the Sydney central business district and other regional centres for work.

The Government's commuter car park program is creating jobs in local communities across the Central Coast. I was pleased to meet many local contractors, particularly at Tuggerah, who are working on that project, which is progressing well. With construction of those car parks I have just mentioned jobs are being created, local economies are getting a significant boost and commuters are getting a better deal. The program is providing better services for commuters and attracting much interest from construction companies. Everyone is on board with this important work except, of course, the Opposition transport spokeswoman and her friends on that side of the House. While the Government gets on with delivering better transport services and creating jobs across the State, Opposition members continue to do nothing but whine and complain. I can only assume they would prefer not to create any jobs or invest any money in commuter car parks. How would we know? No-one has seen a policy from that side of the House on this important issue.

Trains on the Newcastle and Central Coast lines are running at 92.9 per cent reliability against a benchmark of 92 per cent at the same time that record numbers of people are using the rail system. This is a credit to front-line rail staff across the network. The Rees Government is investing in infrastructure that is creating jobs, stimulating the local economy and, most importantly, delivering better access to public transport and other services across the Central Coast. The New South Wales Government also is investing more than \$111 million in the 2009-10 budget on roads projects on the Central Coast to the benefit of all our electorates, including that held by the member for Terrigal.

**Mr Chris Hartcher:** Thank you.

**Mr DAVID HARRIS:** I was waiting for him to say thank you. This investment is supporting more than 1,300 jobs. The Central Coast roads program comprises projects to upgrade major routes including the Pacific Highway, the Central Coast Highway, Avoca Drive and Terrigal Drive, as well as funding to complete improvements for incident management on the F3 Freeway. Work has begun on the upgrade of the Central Coast Highway between Carlton Road at Erina and Ocean View Drive at Wamberal. Local people have commented that the works not only have been completed, but also are of a high standard. They recognise that the Government takes the Central Coast seriously through the quality of the work delivered. The \$32 million 2009-10 allocation by the State Government towards this upgrade will support more than 350 local jobs. This is one of many projects the New South Wales Government is funding throughout the Central Coast, with more than \$111 million allocated to our region in this year's record roads budget.

The Central Coast Highway through Erina Heights provides an important connection to Gosford and to the F3 Freeway carrying 28,000 vehicles every day. That is why it is such an integral part of improving the Central Coast road network. The upgrade includes expanding the road to two lanes in each direction and installing bus and parking lanes at specific locations. Upgrading from two lanes to four lanes will reduce traffic delays, improve safety and increase traffic capacity. The New South Wales Government is providing almost \$3.5 million in repair and block grants for Gosford and Wyong councils in 2009-10 to spend on local and regional roads. The New South Wales Government is providing more than \$500,000 in funding in the 2009-10 budget for workshops to educate supervisors of learner drivers, including eight workshops being run on the Central Coast in 2009-10. It is clear in the transport area alone that this Government is delivering across every service area on the Central Coast: work can be seen everywhere one goes. It is time the Opposition acknowledged all the hard work.

**Mr CHRIS HARTCHER** (Terrigal) [3.49 p.m.]: Madam Deputy-Speaker, the impact that Central Coast members of the Labor Party are making on the New South Wales Parliament was well attested when you gave the call to the member for Wyong, but referred to him as the member for Maitland. That is no surprise because, out of the Central Coast Labor members, and there are three of them, one would have expected—

**Mr Grant McBride:** Point of order: Earlier the member for Terrigal made a sly joke, and I am merely correcting his latest sly joke, which similarly fell over. There are four Labor members who represent electorates on the Central Coast.

**The DEPUTY-SPEAKER:** Order! There is no point of order.

**Mr CHRIS HARTCHER:** There are four Labor members on the Central Coast, but not one of them was found worthy to be appointed as Minister for the Central Coast—not one. The member for The Entrance was previously the Minister for the Central Coast, but was passed over this time. The member for Gosford has represented an electorate on the Central Coast since 1995, and she was passed over. Both those members have much longer service than has the member for Wyong, who was given the great job of—wait for it—being the eyes and ears of the Premier. When the Premier said he had appointed the member for Wyong as his Parliamentary Secretary for the Central Coast, he was asked, "What is he going to do?" The Premier replied, "He won't do anything. He'll just be my eyes and ears." The member for Wyong should speak more often in this Chamber. It is no wonder he is referred to as the member for Maitland—he is the eyes and the ears. I move the following amendment:

That the motion be amended by leaving out all words after "That" with a view to inserting instead:

this House:

- (1) notes the ongoing degrading of State Government services under the Government;
- (2) notes the comprehensive failure of the former Minister for the Central Coast to advocate for the coast;

- (3) calls upon the Premier, as the self-appointed new Minister for the Central Coast, to visit the Central Coast at least once a week to ensure satisfactory services to the Central Coast; and
- (4) notes that the Premier thought that none of the local Labor members was good enough to be Minister for the Central Coast but instead appointed the most junior Labor member to be his eyes and ears.

During the speech made by the member for Wyong, he listed all the achievements of the Rees Labor Government. After 15 years in government, the number one achievement was three new buses, and the people of the Central Coast might get more in 2010. Boy, the people of the Central Coast are grateful! They are on their hands and knees in gratitude. The next achievement was five new commuter car parks, which have been promised. They have not yet arrived. The Government has been in office for 15 years. It has given the people of the Central Coast three new buses and has promised five new commuter car parks, none of which has yet arrived.

But it got even better! The number three achievement was that the trains are now 92 per cent running on time. However, the member for Wyong failed to inform the House that the trains from Newcastle to Sydney are now slower than they were in 1880 when the rail service was delivered by a steam train. The present electric train service is slower by 20 minutes than was the steam train. Every article that has ever been written on the topic has attested to that. The steam trains were 20 minutes faster on the same route than are the electric trains now under Labor, but that somehow never made it into the speech of the member for Wyong.

The next point was the upgrading of the road in my electorate from Carlton Road to Ocean View Drive. The member for Wyong touted that as a great achievement that would result in hundreds of new jobs and he said that work is proceeding apace. Do members know what progress has been made? I drive along that stretch of road every day. All they have done is knock over half a dozen trees and erect a safety fence. That is all! I am sure that the 28,000 motorists who use that road each day are extremely grateful. The road widening from Tumbi Road to Ocean View Drive took 2½ years and cost \$14 million for 1.5 kilometres of roadway. This project is nine kilometres, and its commencement has been marked by knocking down half a dozen trees. One can only wonder about this project.

The real test of the member for Wyong will be whether he delivers on his commitment to make sure no coalmining will be allowed in the Wyong valleys. The member for The Entrance knows all about coalmining in the Wyong valleys. Thousands of leaflets were distributed in his electorate to reveal the failure of the member for The Entrance to support the people of the Central Coast in their battle to retain their water catchment area. The member for The Entrance was not impressed. Two weeks ago the Central Coast *Express Advocate* ran a front-page headline telling people what the food is like for women who give birth in the maternity ward of the Gosford Hospital—a lump of mashed potato and a few stalks of broccoli—yet that is the hospital that Government members are praising. Last week's editorial in the Central Coast *Express Advocate* states, "Among the many recurring complaints received by this newspaper is the issue of policing on the Central Coast, or rather the lack of it." The Kincumber police station was closed and sold, the Terrigal police station was downgraded, and the Wyong police station, which has been under construction since 2002, is due to be opened in 2012.

I will say one thing about this Government: it moves about as fast as does the electric train from Newcastle to Sydney. Under any other government, the Wyong police station would have been built within a year, but it has taken 10 years for the Government to build it. The Kincumber fire station, which was promised in 2001 and to which staff were allocated in 2007, still does not exist. The budget states that staff have been allocated to the Kincumber fire station, but they do not have a fire station to go to. That illustrates the planning standards of the Government. The Rees Government also has downgraded the education office on the Central Coast and the Central Coast area health service, which it merged with the North Shore area health service. A newspaper article states, "Cough up for kids", and points out that the Rees Government has turned its sights on babies and preschoolers. Even babies and preschoolers are under attack from this Government.

**Mr GRANT McBRIDE** (The Entrance) [3.56 p.m.]: First, I congratulate the Premier on his appointment as Minister for the Central Coast. I am sure that any region of New South Wales, including the Western Plains, would be more than happy to have the Premier as its regional Minister. I can say with absolute confidence that that is the case on the Central Coast. There can be no better illustration of the priority accorded by the Premier and the Government to the Central Coast than that ministerial appointment. I also congratulate my colleague David Harris on his appointment as Parliamentary Secretary to the Minister for the Central Coast.

The member for Terrigal referred to the Central Coast's hospital system. There is a sharp contrast between what is stated in the media and the reality of treatment and care at the Gosford and Wyong hospitals.



His comments provoke me to think back to when the member for Terrigal was part of a Liberal government and when Peter Collins was the Minister for Health. It took a Labor member, the late Harry Moore—not the then member for Gosford—to campaign against the Liberal government doing nothing about hospitals and health on the Central Coast, and that brought the Liberal government to its knees. The member for Terrigal was part of that, despite being a parliamentary representative for the Central Coast. When Labor came into office, Labor members representing the Central Coast not only renewed Harry Moore's commitment but also expanded health services on the Central Coast. There are now twice the number of hospital beds and twice the workforce as there were when Labor started to rebuild the hospitals on the Central Coast.

I will give the member for Terrigal an example of Central Coast health services. Less than 18 months ago my mother, aged 80 years and six months, underwent a grade three operation in Gosford Hospital. My mother will not be happy that I have revealed her age, but of course I have also given an intimation of mine. A grade three operation is the most serious operation anyone can have in a hospital. It is a life-threatening operation, as my colleague the member for Macquarie Fields, who is a doctor, will verify. Everything that could possibly have been done for a patient was done for my mother in Gosford Hospital.

**Mr Chris Hartcher:** I am pleased.

**Mr GRANT McBRIDE:** I took the opportunity to talk to other patients in the surgical ward and to their families. Every one of them was overwhelmed by the service provided by the hospital and there was universal approval. On the issue of hospital food, I make the point that the criticism was a beat-up, and since has been proved to be a beat-up. It reflects very poorly on the member for Terrigal when he criticises the hospital because those who cop the brunt of his remarks are the people who work there. But the member for Terrigal is happy to use them and to denigrate them even when there is no doubt they are doing a great job.

Under the previous Coalition Government, there was one paltry mental health service for the whole of the Central Coast. In contrast to that, Labor has tripled the number of mental health beds in hospitals on the Central Coast. Mental health and disability services are a priority for the Rees Government and for all Labor governments. Labor governments look after people and do their best for the people—and that was never more evident than in relation to health-care facilities on the Central Coast. The member for Terrigal should visit the Wyong Hospital and note the facilities provided there.

Wyong Hospital was nothing under the Coalition Government. When the Coalition was in office it was a vacant plot of land. We had a courageous Labor member who turned himself into a missile. He was a bit like the member for Murray-Darling—someone who calls a spade a spade and who acknowledges when something is done well by the Opposition or, for that matter, by the Government. I often see the member for Murray-Darling nod his head when the Premier announces a new facility in his electorate. He gives credit where credit is due.

The member for Terrigal is a harping, carping nobody who has no control over the Liberal Party on the Central Coast. The Nationals leader in the upper House told me, "Chris Hartcher runs the Central Coast. He runs the Liberals on the Central Coast. Well, he couldn't deliver. Not only that, he hasn't been able to deliver all the time I've been a member of Parliament." How many Liberal councillors has the member for Terrigal put into council who have ratted on him and turned him into a laughing stock in the Liberal Party? Malcolm Brooks has been kicking this guy's butt for all the time I have been on the Central Coast. He has been rubbing his head and telling him to be a good boy and behave himself. And it shows!

The member for Terrigal has done nothing. He has not worked with us. He could have worked with us on many projects. If we had his cooperation we could achieve even more. But the member is not about the Central Coast; he is about himself, the Liberal Party and being a Minister. However, he will never be a Minister because he cannot deliver in local government on the Central Coast. What does the member think the boys down here think about him now? He is laughing but it is with pain, because they all know that he cannot deliver. [*Time expired.*]

**Mr ROB STOKES** (Pittwater) [4.01 p.m.]: I support the amendment and oppose the motion as moved by the member for Wyong. Frankly, we are debating the importance of the Central Coast to New South Wales. The Coalition acknowledges the importance of the Central Coast—a beautiful, unique region extending from the Wattagans up to Lake Macquarie and down to Broken Bay, where it joins with my beautiful community of Pittwater. If this region is so important to the State Labor Government—it is the third largest urban region in New South Wales—where is the Minister for the Central Coast in this debate?

**Mr Grant McBride:** Point of order: It is the second largest regional area in this State. I hate to correct the member for Pittwater and show his ignorance.

**Mr ROB STOKES:** No, the Central Coast is the third largest urban area in New South Wales, after Sydney and Newcastle. I am pleased to enlighten the member for The Entrance on that point. Frankly, if this area is so important to the Government where is the Minister for the Central Coast in this debate?

**Mr Grant McBride:** How much more important do you want to make it?

**Mr ROB STOKES:** Is the member for The Entrance suggesting that the Premier has more important things to do than debate the Central Coast? This motion is directly about the Central Coast. The Minister for the Central Coast could be here but he is not. He did not even bother to turn up to support his members. The hardworking member for Terrigal, the shadow Minister for the Central Coast, participated in this debate, yet the supposed Minister for the Central Coast has not even bothered to turn up. I listened with some interest to the statistics put up by the member for Wyong in support of his motion. As the member for Terrigal indicated, there has been a commitment to deliver three new buses and a promise for five new commuter car parks. Surely that misses the point. Three buses for 300,000 people do not go far, and five commuter car parks merely reinforce the point that we need more local jobs on the Central Coast.

The Central Coast is 80 to 100 kilometres from Sydney. The challenge is not to plan for how to move the workforce from the Central Coast to the Sydney central business district every day; the challenge for the Government—the Opposition is keen to take up this challenge—is that of providing sustainable employment opportunities on the Central Coast. Yet far from doing that, I note that according to an article in the *Central Coast* of 3 June 2009 a health program for young people at risk of mental and physical problems is facing drastic funding cuts, which will mean the loss of 20 Central Coast jobs. The Head Smart program on the Central Coast is funded by the Federal Government. The State Government is always keen to claim credit when the Federal Government funds a program, but when the Federal Government withdraws funding from a program members opposite are nowhere to be seen.

We need to encourage sustainable local employment on the Central Coast so that people do not have to commute to Sydney every day. People can stay in jobs close to their families and their communities, and create an even more sustainable Central Coast than we have at present. The Government does not care about the Central Coast, no matter how much it bleats about it. Indeed, the only thing this Government seems focused on is squeezing more and more people, without the necessary supporting infrastructure, into what is already the third largest urban area in New South Wales. We have already seen a failed attempt by the former planning Minister to join the Central Coast entirely with Newcastle by redeveloping Catherine Hill Bay, which was rightly turned down in the Land and Environment Court.

We have also seen more and more houses squeezed in without the necessary supporting infrastructure. The Government cares so little about the priorities of the Central Coast that it does not even deal with the Central Coast as a region in terms of planning. It is classified only as a sub-region. It is bundled in with Sydney; it is not treated separately. The same applies in relation to health, with the Northern Sydney/Central Coast Area Health Service. Frankly, it is not appropriate that bureaucrats in North Sydney determine staffing and service levels for Central Coast hospitals. It is appropriate that responsibility for Central Coast health be devolved to local people. [*Time expired.*]

**Mr DAVID HARRIS** (Wyong—Parliamentary Secretary) [4.06 p.m.], in reply: I thank the member for The Entrance, the member for Terrigal and the member for Pittwater for their contributions to this debate. This debate highlighted exactly what I said when I argued that this motion should be accorded priority and what I argued during my speech. We did not hear from members opposite one plan, one policy or one idea for the Central Coast. Instead, we heard whinging, carping and criticism of public servants and the services provided by hardworking people on the Central Coast. More importantly, members opposite did not listen to the key sentence at the beginning of my speech. I was concentrating on what the Government will do into the future. If members opposite want to talk about all the things that have happened or are being delivered already, we would need one hour, two hours or three hours to mention all the projects that are happening on the Central Coast.

Clearly, members opposite have a lack of commitment to the Central Coast. The Government has a clear agenda of improvement for the Central Coast. Indeed, the Labor Government formally recognised the Central Coast with a ministerial position—that is, the Minister for the Central Coast—and it appointed a dedicated regional coordinator position to the Department of Premier and Cabinet. Labor has set the standard for

recognising the importance of the Central Coast as a region. The member for Terrigal mentioned that many projects in his electorate have not commenced. Maybe it is a reflection on his efforts on behalf of his constituents that all those projects have failed. My electorate is getting a new police station, aged care facilities, schools, roads and car parks—and I could go on. A range of things are happening in my electorate. The member for The Entrance and the member for Gosford can say exactly the same thing about their electorates. Unfortunately, the member for Terrigal simply reiterated all his failures.

In the State Plan there is a definite strategy for the Central Coast. We have heard about the large spending programs being undertaken on the Central Coast. As I said, the Opposition has not given us plans, policies and, above all, a commitment to the people of the Central Coast. Members opposite want to talk about all the things that are being undertaken.

**The DEPUTY-SPEAKER:** Order! Opposition members will come to order.

**Mr DAVID HARRIS:** Interestingly, the member for Terrigal seemed to be saying that as soon as something is announced it can be magically made to appear yesterday. One has to plan, tender and go through the construction phase and anything else that needs to happen. He mentioned Wyong police station, but he failed to mention that Wyong council did not approve the relevant development application for 12 months—he blamed the State Government for that.

This debate has delineated once again that we on the Government side are the builders, planners and doers—which can be seen right across the Central Coast—but members of the Opposition are the whingers, whiners and critics. Earlier I set the challenge for them to outline their vision and plan for the Central Coast, but they failed and did not mention one plan or vision. The member for Pittwater gallantly tried to talk about the Central Coast but, unfortunately, he did not know that Catherine Hill Bay was part of the Central Coast until Wyong Council changed the boundary, so it is now in the seat of Lake Macquarie. There are a number of national parks in that area, so this wall to wall with Newcastle is absolute rubbish.

Since this Government has been in office it has had a strong record of delivering new services, facilities and infrastructure in the Central Coast in the south to the far north. The Opposition has no plans or commitment but wants to spend all its time criticising. Members of the Opposition do not want to offer ideas and back the Government to try to get more services to the Central Coast. They fail on every single front to represent the people of the Central Coast and their fraud will be exposed when contrasted with the work being done by this Government. This motion needs to be supported.

**The DEPUTY-SPEAKER:** Order! The question is as originally moved by the member for Wyong, upon which the member for Terrigal moved an amendment. The question is, That the words stand. All of that opinion say "aye".

**Mr Chris Hartcher:** I require you to state the words of the amendment under the standing orders.

**The DEPUTY-SPEAKER:** If that is the case, I will read out the original motion as well. The member for Wyong moved:

That this House:

- (1) congratulates the Government for continuing to deliver services and support jobs on the Central Coast;
- (2) condemns the Opposition for refusing to outline any policy for the Central Coast and continuing to talk down the region; and
- (3) calls on the Opposition to support the Government's initiatives in health, education, transport and roads on the Central Coast.

The member for Terrigal moved the following amendment:

That the motion be amended by leaving out all words after "That" with a view to inserting instead:

this House:

- (1) notes the ongoing degrading of State Government services under the Rees Labor Government;
- (2) notes the comprehensive failure of the former Minister for the Central Coast to advocate for the coast;

- (3) calls upon the Premier, as the self-appointed new Minister for the Central Coast, to visit the Central Coast at least once a week to ensure satisfactory services to the Central Coast; and
- (4) notes that the Premier thought that none of the local Labor members was good enough to be Minister for the Central Coast but instead appointed the most junior Labor member to be his eyes and ears.

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

**The House divided.**

**Ayes, 47**

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

**Noes, 38**

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

**Pair**

Mr Sartor

Ms Hodgkinson

**Question resolved in the affirmative.**

**Amendment negatived.**

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

**Division called for and Standing Order 185 applied.**

**The House divided.**

**Ayes, 47**

Mr Amery	Mr Furolo	Ms McMahon
Ms Andrews	Mr Gibson	Ms Megarrity
Mr Aquilina	Mr Greene	Mr Morris
Ms Beamer	Mr Harris	Mrs Paluzzano
Mr Borger	Ms Hay	Mr Pearce
Mr Brown	Mr Hickey	Mrs Perry
Ms Burney	Ms Hornery	Mr Shearan
Ms Burton	Ms Judge	Mr Stewart
Mr Campbell	Ms Keneally	Ms Tebbutt
Mr Collier	Mr Khoshaba	Mr Terenzini
Mr Coombs	Mr Koperberg	Mr Tripodi
Mr Corrigan	Mr Lalich	Mr West
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Mr Debnam	Mr O'Farrell	Mr R. W. Turner
Mr Dominello	Mr Page	Mr J. D. Williams
Mr Draper	Mr Piccoli	Mr R. C. Williams
Mr Fraser	Mr Piper	<i>Tellers,</i>
Ms Goward	Mr Provest	Mr George
Mrs Hancock	Mr Richardson	Mr Maguire

**Pair**

Mr Sartor

Ms Hodgkinson

**Question resolved in the affirmative.****Motion agreed to.**

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

**LEGISLATIVE COUNCIL PRIVILEGES COMMITTEE REFERENCE**

**The DEPUTY-SPEAKER:** 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 has this day agreed to the following resolution:

- (1) That the Privileges Committee inquire into and report on the development of a Memorandum of Understanding between the President and the Commissioner of the Independent Commission Against Corruption [ICAC] covering the execution of search warrants by the ICAC on the Parliament House offices of members, with particular reference to:
  - (a) the draft protocol recommended by the Privileges Committee in its Report No. 33 of February 2006 entitled "Protocol for execution of search warrants on members' offices",
  - (b) the ICAC protocol entitled "Procedures for Obtaining and Executing Search Warrants", with particular reference to section 10, and

- (c) recent Answers to Questions on Notice concerning the execution of search warrants at Parliament House provided by the ICAC to the Committee on the Independent Commission Against Corruption as part of its Review of the 2007-2008 Annual Report of the Independent Commission Against Corruption.
- (2) That the Committee report by the last sitting day in November 2009.
- (3) That a message be forwarded to the Legislative Assembly informing of the terms of reference agreed to by the House, and requesting that the Legislative Assembly Privilege and Ethics Committee be given a similar reference.

Legislative Council  
10 September 2009

PETER PRIMROSE  
President

**Consideration of message proceeded with forthwith.**

## **STANDING COMMITTEE ON PARLIAMENTARY PRIVILEGE AND ETHICS**

### **Reference**

#### **Motion by Mr John Aquilina agreed to:**

That:

- (1) the Standing Committee on Parliamentary Privilege and Ethics inquire into and report on the development of a Memorandum of Understanding between the Speaker and the Commissioner of the Independent Commission Against Corruption covering execution of search warrants by the Independent Commission Against Corruption on the Parliament House offices of members, with particular reference to:
  - (a) the draft protocol recommended by the Legislative Council Privileges Committee in its Report No. 33 of February 2006 entitled "Protocol for execution of search warrants on members' offices";
  - (b) the Independent Commission Against Corruption protocol entitled "Procedures for Obtaining and Executing Search Warrants", with particular reference to section 10; and
  - (c) recent answers to Questions on Notice concerning the execution of search warrants at Parliament House provided by the Independent Commission Against Corruption to the Committee on the Independent Commission Against Corruption as part of its review of the 2007-2008 annual report of the Independent Commission Against Corruption;
- (2) the Committee report by the last sitting day in November 2009;
- (3) the Standing Committee on Parliamentary Privilege and Ethics have leave to meet together with the Legislative Council Privileges Committee to discuss development of a general protocol for execution of search warrants on members' offices; and
- (4) a message be sent informing the Legislative Council accordingly.

**Message sent to the Legislative Council advising it of the resolution.**

## **OCCUPATIONAL HEALTH AND SAFETY AMENDMENT (AUTHORISED REPRESENTATIVES) BILL 2009**

### **Agreement in Principle**

#### **Debate resumed from 3 September 2009.**

**Mr ANTHONY ROBERTS** (Lane Cove) [4.27 p.m.]: The Coalition will not be opposing the Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009. The purpose of the bill is to clarify the definition of "authorised representative" in the Occupational Health and Safety Act 2000 following a recent court decision of which many members in this House would be aware that blurred the accepted position and practice regarding who may enter a workplace and perform health and safety functions as an authorised representative of a trade union.

Further, the bill seeks to maintain consistency with Federal occupational health and safety laws and what has been endorsed in the National Review into Model Occupational Health and Safety Laws in 2008 and 2009 and the Workplace Relations Ministerial Council. The bill validates entries and inspections carried out under the Occupational Health and Safety Act prior to the commencement of the amendment, which would be

valid as a consequence of the amendment, with that validation flowing on to other Acts relying on definitions of "authorised representative" in the Occupational Health and Safety Act, including the Coal Mine Health and Safety Act 2002.

Custom and practice in New South Wales enable officials and employees of trade unions to exercise occupational health and safety powers in workplaces provided they hold the relevant permit from the industrial registrar and satisfy the industrial registrar that they are a fit and proper person to hold such a permit. A recent decision in the Federal Court gave strict interpretation to the definition of "authorised representative" as enabling officials of trade unions, but not employees holding an appropriate permit from the industrial registrar, to exercise occupational health and safety powers in workplaces.

It is expected that a draft national occupational health and safety bill will be released for public consultation later this year, which will harmonise union rights of entry across the nation to allow both officials and employees of trade unions to enter and to exercise occupational health and safety powers in workplaces. The amendment is consistent with the position endorsed by the National Review into Model Occupational Health and Safety Laws and the Workplace Relations Ministerial Council, and will be incorporated into the draft National Occupational Health and Safety Bill. I understand that will be released for public consultation later this year.

The bill makes no changes to union right of entry, other than to clarify who is an authorised representative of a union. The usual notice periods and rules concerning union entry will continue to apply. Occupational health and safety is an important tenet of our industrial practices in this State. It should be acknowledged. It is also something that we worked on extensively in our time in Government, and we continue to work proactively with the current Government. Consequently we welcome this change. It has been a while coming. We will continue to monitor changes with respect to occupational health and safety in New South Wales. The Liberal-Nationals Coalition will not oppose the bill.

**Mr ROBERT FUROLO** (Lakemba) [4.31 p.m.]: I am pleased to speak in support of the Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009. I am sure all members will agree that workplace safety is a matter of great concern to all of us. The New South Wales occupational health and safety legislation acknowledges the important role of workers, unions and industry in making workplaces safe; for example, by requiring employers to consult with workers and their representatives when assessing the risks to health or safety of workers and when making decisions about measures to eliminate or control those risks. Occupational health and safety legislation recognises that workplace safety is not just the role of one party, but requires all people with occupational health and safety obligations at a workplace to discharge their obligations in a coordinated manner.

Authorised representatives are one of the parties with an important role under the New South Wales occupational health and safety legislation. Since 1983, the occupational health and safety legislation has provided for authorised representatives to exercise rights of entry to workplaces to support the role of inspectors in ensuring that employers understand their occupational health and safety obligations. However, in June this year, the Federal Court held that Construction, Forestry, Mining and Energy Union officials did not have a right of entry under the New South Wales Occupational Health and Safety Act 2000 to enter the desalination plant at Kurnell because they were not "officers" of the union within the meaning of the Act. The effect of the decision was that only elected officials of unions could be appointed as authorised representatives under the Act. Before this decision it was accepted that both elected union officials and union employees could exercise right of entry under occupational health and safety legislation.

The bill amends the Occupational Health and Safety Act 2000 to restore the previously accepted position, which is also consistent with the New South Wales Industrial Relations Act 1996. The bill will ensure that authorised representatives can continue to exercise their powers to enter workplaces for occupational health and safety reasons. The Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 reinforces the role of authorised representatives in making workplaces safe by ensuring that properly authorised union officials are able to enter New South Wales workplaces for the purpose of investigating any suspected breach of the occupational health and safety legislation. It makes clear the legal position that was thought to exist for many years, prior to the recent Federal Court decision. By continuing to allow right of entry to New South Wales workplaces to authorised representatives, both employees and elected officers, the Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 will allow unions to continue their important role in making New South Wales workplaces safer. I commend the bill to the House.

**Mr MIKE BAIRD** (Manly) [4.34 p.m.]: We understand and support the tenets of the Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 but the bill raises a general question

about occupational health and safety and the way it has been dealt with in this State. We certainly understand the object of the bill, which is to clarify the definition of "authorised representative" in relation to the Occupational Health and Safety Act 2000. For many years officials and employees of trade unions have entered workplaces to carry out health and safety inspections. However, a recent Federal Court case applied the strict interpretation of that law that only officers of the union, and not employees, had right of entry. The bill in essence restores the previously accepted position. It also maintains consistency with the Federal occupational health and safety laws and what importantly has been endorsed by a recent national review and the Workplace Relations Ministerial Council.

However, there is an overriding concern because the reform of the occupational health and safety system has been on the agenda in this State for a number of years. Upholding safety in the workplace is imperative and indeed the recent work in relation to the national system is moving towards that. However, businesses in this State have been unfairly punished by a draconian occupational health and safety regime that has put them at a disadvantage in relation to their competitors and made New South Wales a very difficult place to do business. It is worth putting on the record some of the features of the New South Wales system and encouraging the Minister to add to the reform contained in the bill the reforms proposed by none other than the Government. I will refer to the report that has been mentioned.

A draft national bill is expected to be approved by a ministerial council later this month. All States except Western Australia have agreed that there is a case for a national system. This will slash red tape for businesses and allow them to be more productive. At the same time it will ensure a critical balance so that workplaces are made safe. I point out there are some distinctive features in the New South Wales system that put it very out of step with Victoria, which probably has the best legislation. In New South Wales, unions have the power to prosecute. This is contrary to the widely observed principle of criminal law that a prosecutor must be independent, unbiased and free of any conflicts of interest. Only New South Wales and the Australian Capital Territory have that provision in their Acts.

The Victorian Maxwell review of 2003 strongly recommended against anyone other than the relevant authority having the right to prosecute. It said, "The prosecution of persons for criminal offences is a matter of the utmost seriousness. It is in my view properly the exclusive function of the State and should be performed by a State agency, whether a Crown prosecutor subject to the DPP or a prosecuting authority." New South Wales is the only jurisdiction where moieties apply. Under this system, unions can keep half the fines from successful prosecutions they initiate. I have referred to the conflict in unions prosecuting cases. Not only do they prosecute cases, but they receive half of any fines that are imposed. That sort of conflict goes against the essence of what we are trying to do. It goes well beyond a desire to keep workplaces safe. It becomes a fee-generating exercise for vested interests. It goes against the very essence of what this legislation should be about.

New South Wales and Queensland are the only jurisdictions in which industrial courts—the Industrial Relations Commission—hear occupational health and safety matters. They are also the only jurisdictions in which there are no rights of appeal beyond that forum. It is worth noting that having no right of appeal runs counter to the principles of democracy. No-one, other than the two jurisdictions I have mentioned, has this provision. Also, in New South Wales, and again in Queensland, the normal onus of proof provision in criminal matters is reversed. The New South Wales Government recently indicated it would consider removing the reverse onus provision from prosecutions against individuals but retain it for corporations. Again, the required reform is not being carried out.

It has been well stated that the occupational health and safety legislation is putting a huge burden on business and is making New South Wales uncompetitive. It is making day-to-day business activity very difficult. This is not about safety; every business one talks to is concerned about safety. It is about a regime that oversees legislation that is not about safety but about other matters. The Government has said it understands that the system should be fixed. The New South Wales Government released a report on the Occupational Health and Safety Act 2000 in 2006. That is what the Iemma Government said at that stage.

In May 2006 the New South Wales Government released a draft Occupational Health and Safety Amendment Bill, which included the following proposed amendments: adjustment of the duty on employers of a reasonably practicable test, in line with other jurisdictions; introduction of an additional duty on employees to take reasonable care for their own health and safety, when currently their duties extend to only other employees; clarification of directors' duties to ensure that an officer of a company will be liable only if they fail to take reasonable care to prevent occupational health and safety risks, rather than simply be concerned with the management of the enterprise; elimination of the rights of prosecutorial appeal against acquittals, in line with



general criminal law principles; introduction of enforceable undertakings by which employees would agree to rectify alleged contraventions, in return for which WorkCover cannot then prosecute for that breach; introduction of the ability of WorkCover inspectors to provide written advice on compliance strategies; and elimination the right of WorkCover to appeal acquittals.

The New South Wales Government ultimately decided not to proceed with any of those reforms. The real question is: Why not? I want the Minister to reply to this question. Why are we not standing up for the reforms that have been identified by the Government's own review, to take some of the onuses and unfairness out of the system and give businesses in this State a level playing field? That is what we are looking to achieve. We have heard that there is a commitment to sign up to a national framework. If that is so, why have we had to wait so long to get to that point—when this report came out in May 2006?

The Government also commissioned a report by retired Judge Paul Stein, which recommended reforms to the Act, including the introduction of a reasonably practical test. This report also has not been acted upon. Whilst we on this side acknowledge that the bill has a very small amendment that makes some sense in the context of the bill overall, we ask very strongly: Why has the Government not acted on some of the reforms that are proposed in its own report? I look forward to hearing what the Government and the Minister have to say in response to the question. Certainly, members on this side of the House strongly urge expedition of an occupational health and safety policy that is directed at a national framework and gives businesses in this State a chance to operate on a level playing field, at the same time ensuring that safety is maintained.

**Mr DAVID HARRIS** (Wyong—Parliamentary Secretary) [4.42 p.m.]: I will speak briefly to the Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009, which I am pleased to support. Properly authorised union officials, otherwise known as authorised representatives, have long had an important role in workplace safety under New South Wales Occupational Health and Safety legislation. The Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 maintains that role, while also maintaining the necessary checks and balances to ensure that statutory powers are properly used. While under New South Wales occupational health and safety legislation authorised representatives have a right of entry to workplaces, but that right of entry cannot be exercised unless the authorised representative is a fit and proper person authorised by the Industrial Registrar under the Industrial Relations Act 1996. Authorised representatives are also required to hold a permit under the Commonwealth's Fair Work Act 2009 in relation to workplaces to which that Act applies, and must also be fit and proper persons to be eligible for Fair Work Act permits.

The New South Wales Occupational Health and Safety Act contains notice requirements for entry to workplaces, and provides that right of entry can only be exercised at a reasonable time in the daytime. The authorised representative cannot exercise the powers of entry in relation to residential premises unless the occupier agrees. In certain cases an authorised representative may seek the assistance of a WorkCover inspector. The Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 ensures that the previously understood definition for authorised representatives will continue to apply, while maintaining the above-mentioned checks and balances that are an important feature of occupational health and safety law in New South Wales.

Improving workplace safety has tangible outcomes for workers and their families, and in recent years significant progress has been made in reducing workplace fatalities and injuries in New South Wales. WorkCover's statistical bulletin provides a portrait of New South Wales occupational health and safety performance on a year-to-year basis. The 2007-08 bulletin indicates the number of fatalities has fallen by 41 per cent and the incident rate has declined by 62 per cent since the scheme commenced in 1987-88. Encouragingly, work-related fatalities for persons under the age of 25 years declined by 37 per cent from 2006-07. New South Wales remains on track to meet the national target of a 20 per cent reduction in work-related fatalities by 2012.

Each year I go to the Construction Forestry Mining Energy Union's Central Coast Wall of Remembrance memorial for those who have passed away as a result of injury in the workplace. While statistics are important, they reflect people who are part of families, and it is important that we do all we can to ensure that more families do not lose loved ones who do not come home after work. The rights of authorised representatives to enter workplaces for occupational health and safety purposes are an important feature of the occupational health and safety framework. Authorised representatives play a vital role in educating employers and employees about occupational health and safety, and make a significant contribution to the reduction of incidents in workplaces. The bill will ensure that this role continues. I commend the bill to the House.

**Mr MICHAEL RICHARDSON** (Castle Hill) [4.46 p.m.]: The Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 is ostensibly a very straightforward bill. It seeks to amend the Occupational Health and Safety Act to clarify the definition of "authorised representative". The move follows a Federal Court decision that affects the ability of these so-called "authorised representatives" to enter workplaces on occupational health and safety related matters. As is usual with these sorts of matters, it is a little more complicated than that. This was illustrated in the court case of *John Holland Pty Ltd v The Construction, Forestry, Mining and Energy Union*.

Apparently, a couple of union heavies visited the desalination plant in Kurnell on 12 September 2007 and drove straight past the security guard, ignoring her instructions to stop. They left soon afterwards. But on 18 September 2007 they returned, this time in a dark blue sedan. The driver, Peter Primmer, said that they were from the CFMEU and had "come to inspect the site". The passenger, Scott Wilcox, held up a yellow laminated card and told Ms Williamson, who was at the gate, that this gave them authorisation and "even the police can't stop us". While the security guard was phoning for advice, the vehicle sped off in the direction of the site office.

Mr Cotts, the site superintendent, asked for a right of entry permit and mentioned that 24 hours notice was required. Mr Primmer said he was not required to give notice because it was an "occupational health and safety issue". Scott Wilcox asked for the company's "Safe Working Method Statements". When this request was refused, he said that the company was "in breach of the Act". Mr Cotts explained that he needed authorisation from someone senior to him to comply with their requests. That authorisation was not forthcoming and the union officers were told that if they had not left the site by 10.30 a.m. the police would be called.

Stephen Sasse, Group General Manager, Human Resources and Organisation Strategy for John Holland, called the CFMEU offices and asked to speak to the State Secretary, Andrew Ferguson, but he was not available. I note that the company is supposed to be available at all times, but the CFMEU's officers are available only when they want to be. At about 10.50 a.m. Peter Primmer told Mr Cotts that he intended to contact WorkCover, Mr Ferguson, the police and Mr Della Bosca. Mr Della Bosca probably would not want to be contacted right now, but at the time he was the Minister for Industrial Relations. That did not work. Cronulla police were called and shortly after this Ms Williamson observed the union organisers' vehicle leaving the site.

Later in the day two inspectors from WorkCover attended the site and held a discussion with Peter Primmer and Scott Wilcox outside the premises. Under section 83 of the Occupational Health and Safety Act, union "authorised representatives" can request assistance from an inspector, although it is interesting to note that at this stage, as is borne out by the court judgement, neither Mr Primmer nor Mr Wilcox was an authorised representative. In other words, the inspector should not have been there with the union representatives. The inspectors were invited onto the site—that is entirely appropriate—but the union organisers were denied entry because they had not revealed the nature of the safety breach or which employer was involved. As I understand it, two companies are involved in the construction of the desalination plant.

Scott Wilcox refused to give the inspectors these details, saying that it was confidential information. The union representatives left the front gate area at about 3.10 p.m. The inspectors left 10 minutes later and did not enter the site, as the safety concern was not identified. In other words, no safety issues existed and could only have been fabricated. On the evening of 18 September 2007 Mr Rick Bultitude, head of the Construction Inspectorate of WorkCover (New South Wales), discussed the incident at the site with Mr Sasse to see if a compromise could be reached. Mr Sasse explained that there was no code compliance by the union organisers and mentioned that the inspectors were welcome to visit the site at any time.

The following day Mr Bultitude told Mr Sasse he would be sending two of his inspectors to the site. On 20 September 2007 Mr Sasse received a letter from Mr Noonan, national secretary of the Construction, Forestry, Mining, and Energy Union rejecting Mr Sasse's assertion about illegal entry of the union organisers. On 25 September a letter arrived from Mr Ferguson rejecting the assertions that the union or its officials had breached the law. On 12 October 2007 Mr Sasse attended a meeting convened by Sharan Burrow of the Australian Council of Trade Unions, and attended by representatives of the union, including Mr Ferguson. The union proposed a protocol for exercising entry to the Kurnell premises. Mr Sasse rejected this suggested protocol in a letter of 14 October 2007, which explained that judicial interpretation would be necessary to resolve the issue.

The key is that the Occupational Health and Safety Act does not contain a scheme for issuing permits or authorities to facilitate entry. Instead, it relies on the process of authorisation under the Industrial Relations Act. Under section 76 of the Occupational Health and Safety Act an authorised representative of an industrial

organisation of employees means an officer of that organisation, including any person who is concerned in, or takes part in, the management of that organisation, who is authorised under part 7 of chapter 5 of the Industrial Relations Act 1996. Under part 7 the Industrial Registrar can issue an instrument of authority to two classes of representatives of an industrial organisation: officers and employees. "Officer" was specifically defined to include "any person who is concerned in, or takes part in, the management of the organisation" and "employee" was widened to include "any person who is concerned in, or takes part in, the management of the organisation". The court held that when the Occupational Health and Safety Act was passed, Parliament chose to limit the class of representatives of an industrial organisation who could exercise a right of entry under the Occupational Health and Safety Act to officers.

Under the rules of the Construction, Forestry, Mining, and Energy Union the officers of the construction and general division shall consist of divisional president, divisional secretary, two divisional assistant secretaries and divisional management committee members, together with such organisers as may be deemed necessary and as the divisional council or divisional management committee from time to time determine. The judgement in *John Holland Pty Ltd v Construction, Forestry, Mining, and Energy Union* continued that under section 81 of the Occupational Health and Safety Act "the right of entry appears, as a generalisation, to be conferred only for a less straightforward purpose, namely, investigating suspected breaches of occupational health and safety legislation, which can involve making searches and inspections, including taking photographs ... and inspecting and copying them." Justice Moore stated:

One can understand that in relation to this purpose, Parliament intended to limit the class of individuals to those who have a more substantial connection to the industrial organisation than simply being employees. Their status within the industrial organisation must be that of officer.

The Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 seeks to overturn that decision and give any employee of a union the same right of entry to a workplace as an officer or organiser of the union being classified as authorised representatives. Section 77 "Powers of entry of places of work" of the Occupational Health and Safety Act states:

An authorised representative of an industrial organisation of employees may, for the purpose of investigating any suspected breach of the occupational health and safety legislation, the *Coal Mine Health and Safety Act 2002* or the *Mine Health and Safety Act 2004*, enter any premises the representative has reason to believe is a place of work where members of that organisation (or persons who are eligible to be members of that organisation) work.

They do not have to be members of the union. Those provisions are pretty far reaching, but do not go so far as to say that any union employee can enter any workplace that he or she believes contains employees who are eligible to be members of the union on the basis of a suspected breach of the occupational health and safety legislation. That will come about only when this legislation is passed. Not only will the new law apply to future entry to workplaces, but also it will be retrospective, to use the words of the Minister, "to ensure that any powers exercised by authorised representatives before the commencement of the amendment are valid." I am aware of what most members think about retrospective legislation.

The Coalition supports occupational health and safety. We understand the role unions play in maintaining the safety of workplaces. However, as the member for Manly said in his contribution, we are out of step with what is happening elsewhere in Australia. In this State, unions have the right to prosecute workers for alleged occupational health and safety breaches and, of course, keep half the amount of a fine imposed in a successful prosecution. Not only does the existing legislation presume against the employer, but also a success fee is paid to unions for a successful prosecution. Through that provision this bill will facilitate increased litigation.

We believe and, indeed, as John Holland told the court in the case that pre-empted this legislation, the role of WorkCover inspectors is welcomed, as are their site visits. Not every employee feels the same about WorkCover inspectors. Recently I received a complaint from an employer of a medium-sized manufacturing company in my electorate who said, "An inspector can walk in here, look around, find absolutely nothing and charge me \$550 for the privilege." The Government needs to address that issue because we are facing difficult economic times. I do not believe even this Government can obfuscate the fact that economic conditions are not as good as they were a couple of years ago. Putting in place such charges when absolutely nothing has been proven while not improving occupational health and safety one iota does not seem to be an ideal way to encourage business to operate in this State. It certainly does not help businesses compete when they are exposed to global markets.

Of course, this legislation is supposed to be nationally harmonised with other States. The Minister went on to say that he anticipated that a draft national occupational health and safety bill would be released for public

consultation later this year. I guess he is not just anticipating that the bill will be released for consultation; he is also anticipating its contents. It is interesting to note that the right of entry provisions for unions contained in this bill are not necessarily consistent with the Rudd Government's own literature regarding the Fair Work Act. The Rudd Government's Fair Work Act states that a union official must hold a valid right of entry permit issued by Fair Work Australia; the permit holder must give at least 24 hours notice before entering the workplace and must set out the basis on which he or she has entry rights, including by referring to the relevant parts of the union's rules that give the union the right to represent their employees; that person can enter the workplace only if they have reasonable suspicion that there has been a breach of the fair work bill; and they must comply with any reasonable requests from an employer that discussions or interviews take place in a particular part of the premises and they take a particular route to reach that location.

In other words, they cannot take a circuitous route just to spy on what the employer is doing. That is very different from the provisions of the New South Wales Occupational Health and Safety Act under which no notice will have to be given by union representatives or union employees before entering a workplace. As I said before, while the Coalition supports improved occupational health and safety measures, we are concerned at the possibility that this law could be used in an obstructive fashion to make life more difficult for employers who are coping with today's difficult economic environment.

**Mr PAUL GIBSON** (Blacktown) [4.58 p.m.]: I support the Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009. This bill demonstrates the commitment of the Rees Government to preserving the right of entry provisions in New South Wales. I note that each Opposition member who has contributed to the debate has made a big issue of unions having a right of entry to workplaces. Why should they not? When we get up in the morning, our wives, our sons and daughters go out to work, and why should we not take every measure to ensure that they have the safest working conditions of anywhere in the world, thereby ensuring that we will see them again when they return from work? Members opposite have said that the legislation in Victoria is different, but that has nothing to do with legislation in New South Wales. The right of entry should be enshrined in legislation.

I cite the example of restaurants or hotels and health inspectors being empowered to inspect at any time—even at 12 o'clock at night—without prior notification and exercising that level of power in relation to the relatively minor matter of food. The right of entry provisions in the bill before the House are designed to ensure that workers' lives are looked after in the best possible way. The Opposition's argument against the right of entry is untenable. The Opposition suggests that the right of entry should be exercised in a manner that is separate and distinct from other inspectorial rights of entry, and that occupational health and safety inspectors should not be allowed to inspect business premises. Of course inspectors should have the right to look around premises. If a boss is doing nothing wrong, he or she will have nothing to worry about.

Members opposite expressed great concern about the actions of unions and accused unions of bullying. I am proud to have been a member of a union for nearly all my life—the National Union of Workers, which was formerly the Storeman and Packers Union. Without unions, no worker—including the sons, daughters and wives of members opposite—would have the conditions they enjoy today. When there are plaudits by members of Parliament, we should remember that unions have played a great role in building this nation. Yet members opposite still knock the unions. As I said earlier, I am very proud to be a member of a union, and I will be until the day I die.

This amending bill will bring New South Wales into line with national occupational health and safety laws that are currently being coordinated by the Commonwealth Government's Safe Work Australia. In July 2008, the Council of Australian Governments agreed to the harmonisation of occupational health and safety laws throughout Australia by signing the Inter-Governmental Agreement for Regulatory and Operational Reform. Under that intergovernmental agreement, all States, Territories and the Commonwealth Government made a commitment to work together to develop and implement model occupational health and safety laws as the most effective way to achieve harmonisation in Australia. Harmonisation of occupational health and safety laws will benefit both workers and industry.

An independent national review panel prepared two reports on the optimal structure and content of a model Occupational Health and Safety Act. The Workplace Relations Minister Council made decisions in relation to the recommendations of those reports in April this year, and a draft national model bill, which gives effects to those decisions, is being prepared. It is proposed that a national model occupational health and safety bill will be released for public comment in late 2009. Some of the key recommendations of the reports concern the role of union representatives in workplace safety. In particular, the reports recommend that the national

model occupational health and safety bill should provide a right of entry for occupational health and safety purposes to union officials and/or union employees who are formally authorised for that purpose under the model Act.

To obtain authorisation, a person will be required to satisfy the authorising authority that, among other things, they have satisfactorily undertaken the required training and are a fit and proper person. Such authorised persons will have the capacity to inquire into suspected contraventions of the model Act or regulations and consult workers on occupational health and safety issues. They also will be able to provide advice to workers and consult with the person conducting the business or undertaking in relation to occupational health and safety issues.

The Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 makes clear that in New South Wales authorised representatives, who are employees of the union, will be able to continue to exercise their occupational health and safety right of entry. By introducing this bill, the New South Wales Government is ensuring that New South Wales takes an approach that is consistent with the direction of national model occupational health and safety laws and will ensure, in the interim period until the national model laws can be enacted, that authorised representatives will be able to continue to play an important role in workplace safety. I fully support the bill. If a business or a boss is paying workers well and looking after them the way that workers should be looked after, they will have absolutely nothing to worry about. Earlier I mentioned unions, and I will conclude my remarks by saying this: all that unions have ever looked for is a fair day's work for a fair day's pay under the safest conditions possible. Surely that is not too much to ask.

**Mr THOMAS GEORGE** (Lismore) [5.04 p.m.]: The shadow Minister has indicated that the Opposition will not oppose the Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009. The objects of the bill are to ensure that any person who is an authorised industrial officer within the meaning of part 7, entry and inspection by officers of industrial organisations, of chapter 5 of the Industrial Relations Act 1996 in respect of an industrial organisation of employees is also an authorised representative of that industrial organisation of employees for the purposes of division 3, entry and inspection powers of authorised employees' representatives, of part 5 of the Occupational Health and Safety Act 2000, and to provide that a person who was an authorised industrial officer but not an authorised representative before the commencement of the proposed Act is taken to have been an authorised representative, and to validate certain acts or omissions of such a person.

There would not be one member of Parliament who is not striving to ensure safe conditions in workplaces, but when occupational health and safety inspectors come onto a site there have been examples of a failure to work with people involved in the workplace. Only this week a plumber visited my electorate office and told me he had been engaged to replace roofing at a site following big storms that had hit Lismore. Scaffolding was provided by a local professional scaffolder. The plumber was on the roof and doing the job when suddenly an occupational health and safety inspector arrived at the site. The inspector examined the job, called the plumber and issued a prohibition order, which prevented the plumber from continuing his work. The plumber asked what was wrong with the work, and the inspector said, "It's not right. You'll have to get it fixed up." The plumber telephoned the professional scaffold supplier, who subsequently arrived at the site. The supplier provided a bit more gear and assured the plumber that everything was then all right.

The plumber returned to the roof to resume his work, but the occupational health and safety inspector again appeared on the site and prevented the plumber from continuing. He said, "No, that's not right. You've got to stop. My certificate is still in force." The plumber asked what was wrong with the scaffolding and the inspector replied, "It's not up to me to tell you that. You have to work that out." The plumber was completely prevented from continuing his work. The scaffold supplier had assured the plumber that the scaffolding complied with requirements of the Act and was confident that everything was as it should be. However, the occupational health and safety inspector said that the scaffolding was not right, and moreover would not provide any guidance in attempts to put it right. As members of Parliament, we must put a stop to that type of Gestapo approach. If a business person is in error, occupational health and safety inspectors should be prepared to work through the problems with them and recognise that a business person's livelihood is at stake.

It is not on for an inspector to arrive at a site and prevent work from continuing by simply saying that the procedures are not right. I would have hoped for a much more conciliatory and helpful approach by an inspector working with people from various walks of life in a workplace rather than the adoption of Gestapo tactics. I use the term "Gestapo" because I know of no more appropriate description of the approach the plumber complained of.

**Mr Richard Amery:** I do not think the Gestapo was into workplace health and safety.

**Mr THOMAS GEORGE:** It may be all right for the member for Mount Druitt to treat this lightly, but it is a different set of circumstances for business people in country areas. The plumber reacted by coming straight to my electorate office. My electorate office staff and I bore the brunt of someone's failure to explain what was wrong with the procedures so that the plumber could get back on track and finish the roof. The problem I have described is fairly typical of the problems that occur in relation to enforced compliance with occupational health and safety requirements on worksites.

I encourage occupational health and safety representatives to adopt a more conciliatory approach when they attend a worksite. If there is a problem, naturally we all want that to be addressed, but inspectors should work with business people to try to resolve problems rather than simply issuing a certificate and walking away saying, "When you get it right, ring me up and I'll come back and check it." That is hardly a satisfactory approach. People should work together to resolve problems and to keep jobs going. After all, an employer's livelihood is at stake, and there would not be one person who is not in favour of safe working conditions. In conclusion, I reiterate that the Opposition will not oppose the bill.

**Mr JOSEPH TRIPODI** (Fairfield—Minister for Finance, Minister for Infrastructure, Minister for Regulatory Reform, and Minister for Ports and Waterways) [5.09 p.m.], in reply: I thank members for their contributions to this debate. The Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009 is needed to address an anomaly in the legal interpretation of the New South Wales Occupational Health and Safety Act 2000 that has arisen as a result of the Federal Court decision. This decision differs from the custom and practice in New South Wales, which has been that union employees, even if not elected as officers of a union, have been allowed to have a right of entry to workplaces for health and safety purposes. It appears that this challenge is the first of its kind, despite the definition being in place since 1996 in the previous legislation and carried over to the current legislation.

The amendments contained in this bill are also consistent with the position of the New South Wales Government throughout the national harmonisation process. We acknowledge the important role played by workers, employers and unions in making workplaces safe. This bill makes it clear that employees of unions, as well as union officials, have a right of entry to workplaces in order to investigate any suspected breach of the New South Wales occupational health and safety legislation. The bill reinstates the previously understood legal position and validates actions taken by union employees under the Occupation Health and Safety Act. 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.**

### **SHOP TRADING AMENDMENT BILL 2009**

#### **Agreement in Principle**

**Debate resumed from 5 September 2009.**

**Mr ANTHONY ROBERTS** (Lane Cove) [5.11 p.m.]: The Coalition will not be opposing the Shop Trading Amendment Bill 2009. The purpose of the bill is to provide guidance to retailers considering seeking an exemption to allow them to trade on a restricted trading day; to establish a general presumption against trading on restricted days; and set out how requests for an exemption can be made, the tests they will have to satisfy, when applications for exemptions can be made and how and when decisions on such applications can be made. The bill extends the obligation on retailers to use only workers who willingly agree to work on a restricted day to workers of exempted retailers permitted to trade on these restricted days—for example, small businesses and shops—consistent with the Commonwealth Fair Work Act 2009. The bill further introduces a new section that will void the provision of any retail lease that forces a retailer to open on a restricted trading day.

As members would be aware, currently under the Shop Trading Act all general shops and medium to large retailers—supermarkets, hardware stores, clothing outlets and furniture outlets—in New South Wales are free to trade on any day of the year except for five restricted days: Christmas Day, Boxing Day, Good Friday, Easter Sunday and the morning of Anzac day, which are all important days for our community. Retailers permitted to trade on these restricted days are small shops, shops selling certain categories of goods and shops operating in major tourist zones. Under the amendment, retailers applying to trade on any of the five restricted days will have to meet clearly defined guidelines. They must outline the lines of merchandise to be sold and why it is necessary to open the shop on the restricted day and show evidence of real community need. All staffing must be voluntary, and no-one can be forced to work on these holidays.

The decision-maker on any application by a retailer to trade on the restricted days must take into account the general criteria set out in the Shop Trading Act 2008. They must be satisfied that it is in the public interest to grant the exemption, they must consider the impact on small businesses operating in the local vicinity and they must not consider other matters in the decision-making process. Under the amendment, only actual retailers may make an application to trade on a restricted day, and approvals are limited to a maximum of three years. This bill clarifies some grey areas in the operation of the Shop Trading Act by establishing a general presumption against trading on the restricted days and clarifying how an application to trade on the restricted days can be made, what it should include, what can be taken into account by decision-makers and the time frame and process for making decisions on such applications.

As I said, the bill limits new approvals to a maximum of three years. That will ensure that exemptions remain relevant and, most importantly, reflect community expectations. The amendments include appropriate protections against erosion of current trading restrictions by limiting applications to trade on restricted days to actual occupiers of shops only and specifically protecting workers who do not wish to work on restricted trading days. From time to time my colleagues and I come across, for example, young people or old people who participate in marches or attend the Cenotaph on Anzac Day and who should not be forced to work should they not wish to do so. Furthermore, the gazetted of public holidays such as Anzac Day shows a level of leadership from the Government that Anzac Day is a day to commemorate the fallen and remember what we owe to those who gave their lives for this country. Public holidays should not be days on which normal practices are undertaken.

Currently, retail leases, particularly in shopping centres, can be, and are, used to force small businesses to open against their wishes. The amendments will void the provision of any retail lease forcing a retailer to open on a restricted trading day. The only issue I have with that is that most small businesses within large retail shopping centres have leases for four or five years. What is to stop a retailer turning around at the end of the lease period and not renewing the lease of an individual shop owner because they chose to respect those holidays in the past? The amendments define the processing times to be applied to applications by retailers to trade on the restricted days, to provide greater certainty and prevent retailers arguing for an exemption at a late stage, leaving objectors with little time to respond. We saw that most recently when a plethora of large retail firms wanted to open on usually gazetted public holidays, and Anzac Day in particular. However, they were forced to do a backflip only when radio stations such as 2GB and newspapers such as the *Daily Telegraph* sent out the message that these people would be flouting what would normally be a day of reflection.

The Commonwealth Fair Work Act 2009, which came into operation after the Shop Trading Act 2008 commenced, will regulate the industrial relations aspect of public holiday trading for many retailers and retail industry workers from 2010 onwards. The amendment should clarify the operation of the New South Wales Act now that the Commonwealth legislation is in place. The argument generally against this is that the presumption against trading on a restricted day is a departure from the 2008 reforms, which permitted widespread trading on Boxing Day. It has been argued that such legislation, which is intended to constrain retail trading and business activity on these holidays, possibly constrains economic growth and is potentially anti-competitive as it prevents retailers from trading on days when other businesses are not prevented from trading. In effect, this bill puts the rights of smaller retailers before the rights of shopping centre owners and managers. With all that in mind, the Coalition will not be opposing the bill.

**Mr PAUL PEARCE** (Coogee) [5.18 p.m.]: The starting point when looking at this bill is the significance of the five restricted trading days in our calendar. Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day are our most important public holidays. These are days when we come together as families and as communities. They are days that have significance beyond just having a holiday; they are days that mean something to the overwhelming majority of people in New South Wales.

Each of these days means something in its own right. Christmas Day brings families together for the well-established rituals of gift giving and receiving, and of sharing food and drink. Only the hardest heart could not be gladdened by the sight of children's faces beaming on Christmas morning as they unwrap their presents, which I imagine would also delight their fathers, mothers, grandparents, other relatives and friends. These are rituals of deep significance, religious or secular. There is a cultural significance that goes beyond the pure elements of religious faith. These rituals reinforce the importance of giving and sharing. They connect generations of family members. Boxing Day serves to extend these rituals. The fact that we have holidays on two consecutive days recognises the importance of Christmas in our society.

Good Friday and Easter Sunday are of similar significance. The promise of new life, the central meaning of Easter, is universal. Although personally I am not a believer, I firmly respect those who hold religious beliefs. For those who follow the Christian faith, Easter celebrates the defining event of their faith, the mystery of the resurrection. Every member in this Chamber would recognise the significance of Anzac Day. It is important that places like Gallipoli, Flanders Fields, Tobruk, Kokoda, and Long Tan, amongst others, are etched into our national consciousness, lest we forget the sacrifices that have been made in the service of our country. The Act that the bill seeks to amend, the Shop Trading Act 2008, significantly deregulated retail trading regulation in New South Wales. That Act repealed legislation that was convoluted and complex and replaced it with a regime that might be described as minimalist, in the sense that regulation has been kept to a minimum.

What we now have in terms of restricted trading days should be regarded as the acceptable minimum. We should not fall below this standard. This is, of course, an anathema to the neo-liberals. To the economic rationalists—a very unusual phrase; irrationalists, I would have thought—or economic fundamentalists, the goal of deregulation is no regulation. They promote the unhindered operation of all markets as an academic ideal. This is the type of rubbish that is perpetually circulated by the Institute of Public Affairs and its ilk. In this view of the world, public holidays have no intrinsic value and community celebrations serve no public good. This is a view that the New South Wales Government rejects. Whilst the Shop Trading Act has delivered tangible reductions in red tape, this bill draws a line in the sand. This bill recognises that days of community significance ought to be protected. Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day deserve a special place in our calendar. They are the days that help make our society what it is.

There are those who would say that since no-one wants to trade on those days, what is the point of restrictions? Such an approach denies reality. Retailers are subject to intense commercial pressure. There will always be a small number of retailers intent on trading on Christmas Day and Anzac Day. They may seek to trade only for a limited period at first but over time their intent is for these days to be ordinary trading days. This, as I understand it, has been the experience in many parts of the United States of America, where shops routinely open on the afternoon of Christmas Day. This is something that I never wish to see occur in Australia. It is important that we never have such a practice here. We are not merely an economy; we are a society. This bill preserves the traditions and customs that bind our society together. Accordingly, I commend the bill to the House.

**Mr RUSSELL TURNER** (Orange) [5.27 p.m.]: The Opposition does not oppose the Shop Trading Amendment Bill 2009. The purpose of the amendment is to provide guidance to retailers considering seeking an exemption to allow them to trade on a restricted trading day. There were some grey areas in relation to whether one could trade and the type of restrictions, but this bill seeks to clarify and re-establish the general presumption against trading on restricted days. The bill sets out the tests that have to be satisfied in relation to applications for exemption and how and when they can be made. The bill extends the obligation on retailers to use only workers who willingly agree to work on a restricted day to workers in exempted retailers, such as small shops that are permitted to trade on restricted days, which is consistent with the Commonwealth's Fair Work Act 2009. I understand that is another reason why this amendment is needed.

The Shop Trading Act 2008 has been in force for just on 12 months now. Shopkeepers in the City of Orange, including the small towns and villages, report no difference in shop trading hours. Over the years Woolworths and Coles have tried extended trading hours. A few years ago Coles reopened a remodelled store and traded for 24 hours a day for a few months but, as it was not financially viable, it now closes at about midnight and reopens at about 6.00 or 7.00 a.m. Even though large stores can remain open for 24 hours a day, in country areas very few shops do so, except for service stations with a general store. The bill introduces a new section that will void the provision of any retail lease that forces a retailer to open on a restricted trading day. That was an issue in the two major shopping centres in Orange, and I presume in other major country towns including Dubbo and Bathurst, because of the constant pressure on small retailers to trade for extended hours seven days a week by the owners of major shopping centres who want to attract as many customers as possible. There is that conflict between some smaller leaseholders and owners of large shops.



Currently under the Shop Trading Act all general shops, medium to large retailers, supermarkets, hardware stores, furniture and clothing outlets are free to trade on any day of the year except the five restricted days—that is, Christmas Day, Boxing Day, Good Friday, Easter Sunday and the morning of Anzac Day. I hope this bill will clarify what is meant by the morning of Anzac Day because a few years ago it meant nothing was open until 1.30 p.m. but now some places open at 11.30 a.m. Retailers say they should have a free hand to trade whenever they want but, as earlier speakers have mentioned, some days should not be available for people to shop. There remain 360.5 days on which one can shop theoretically 24 hours a day, if the demand is there.

**Mr Barry Collier:** We have fridges too.

**Mr RUSSELL TURNER:** We have fridges and freezers. When I was a wee little lad a few years ago, at Christmas and Easter all shops would be shut for up to four days, and we survived. People would make homemade bread, and there were not the freezers we have today. People survived and made provision. However, these days when a shop is closed for one day people queue up the next morning, as if they are going to starve. We all use extended trading hours and assume we can go to shops for what we need, which is great, but it does not need to be done on those 4.5 days a year. I am glad that those restrictions still apply. No-one can be forced to work on those holidays, but there will always be someone who will work, providing the relevant hourly rate is offered. People will decide to work on those days to get that little bit of cash for whatever it might be—something for the kids or saving for the holidays. Someone is usually prepared to work after hours providing they are financially compensated, which I assume is still in the bill, as it should be.

I note that the Shopping Centre Council has disagreed with the amendments, but I suppose it must. We have taken into account its views, but that does not mean we necessarily agree with them. Currently retail leases, particularly in shopping centres, can be used to force small businesses to open against their wishes and the amendments would void the provision of any retail lease forcing a retailer to open on a restricted trading day. One of the other members referred to the fact that some major shopping centre owners may refuse to renew a lease to a business that has used its right to stay closed on restricted trading days. I would hope that that does not happen or, if it does, on only a few occasions.

The amendments define the processing times to be applied to applications by retailers to trade on restricted days so as to provide greater certainty and to prevent retailers arguing for an exemption at a late stage, leaving objectors with little time to respond. I note that an application must be submitted at least 28 days before the first day of the restricted period, which gives small retailers the time to object to any application that major retailers might make. In effect, the bill puts the rights of small retailers before the rights of shopping centre owners, and for that reason I support the bill. The Shopping Centre Council is opposed to it, but in general the Opposition supports the Shop Trading Amendment Bill 2009. We think it contains good restrictions and clarifies the rights of retailers and when they are able to apply for an exemption from restricted trading days.

**Mr FRANK TERENCEZINI (Maitland) [5.32 p.m.]:** I support the Shop Trading Amendment Bill 2009. The intention of the bill is to ensure that restricted trading days are just that—days when trading is restricted out of respect for the days in question and what they mean to our community. The bill will ensure that the process to obtain an exemption allowing a retailer to trade on a restricted trading day will not be a mere rubber stamp. There will be a more rigorous process in place. The bill will ensure that exemptions are granted only in exceptional circumstances where retailers prove that there is a significant community interest in them trading.

It is true that there have been varied outcomes in relation to the Shop Trading Act, the Act that this bill proposes to amend. Under that Act all shops were allowed to trade on Boxing Day 2008. In contrast, very few stores were allowed to trade on Good Friday, Easter Sunday or on the morning of Anzac Day this year. I think we would all agree that this is unacceptable to the community and to us as members of Parliament who make these laws. Consumers, retailers and retail workers ought to know with some certainty whether trading will take place on a restricted trading day. The bill will provide such certainty. In providing certainty, the bill deliberately aims at replicating the outcomes that occurred at Easter and on Anzac Day this year, where the only non-exempt stores allowed to trade were sole retailers in remote regional locations.

It is appropriate that I address the mechanics or workings of the bill. The bill amends the process for determining applications under the Shop Trading Act. Under that Act general stores must seek an exemption should they wish to trade on a restricted trading day. Small family businesses and shops of necessity, such as chemists and service stations, are exempt from this requirement. So too are retailers in areas that were the subject of exemption under the previous legislation, the Shops and Industries Act 1962. Under the bill, general stores will need to meet a higher threshold before they will be allowed to trade. They must address all the

criteria currently provided for in section 10 (3) of the Act. They must also address the anticipated impact of their trading on a restricted trading day on small businesses in the area. They must demonstrate that the factors in their application constitute exceptional circumstances and they must also overcome a clear presumption against trading on restricted trading days, which I think is one of the key parts of the bill.

Applicants will be limited to addressing the criteria in the bill as the bill removes the broad discretion currently possessed by the Director General of the Department of Services, Technology and Administration in determining applications. These criteria are reflected in the mandatory application form that will be prescribed by regulation under the Act. A failure to address the criteria will result in rejection of the application. Further, any claims made in support of an application will need to be substantiated by the applicant. Where there is doubt over claims made by an applicant and hence doubt that the criteria under the Act are met, the director general may require an applicant to substantiate their claims under section 11 (3) of the Act. A failure to substantiate such claims will result in a refusal of the application. There is no doubt that these elements will constitute a much tougher test. The only general retailers who will be allowed to trade on restricted trading days will be those who clearly demonstrate that trading is in the community's interest.

The bill goes further to protect the status of restricted trading on our calendar by providing the same protections that the Shop Trading Act provides to retail workers, small business owners and operators. The bill will ensure that no small business operator will be forced to trade on a restricted trading day. The terms of any lease compelling a retailer to open on a restricted trading day will be null and void, which is a fundamental part of the bill I particularly support. Small business owners deserve the same protection as retail workers. Many work six or seven days a week, year round. They deserve the respite that restricted trading days provide. This bill will ensure that the decision to trade on a restricted trading day lies with small business owners themselves. The Government has already delivered on promises it made in light of the Jobs Summit earlier this year to provide simpler processes for determining applications under the Shop Trading Act. The \$100 fee will be removed. In June of this year guidelines were published to assist parties applying for and objecting to exemptions under the Act. Applications under the Act will remain free of charge and the guidelines will be revised in light of the changes to the bill.

Picking up on some of the comments by the member for Orange with which I think we agree, we have come a long way with shop trading in retail centres over the past 20 or 30 years. The member for Orange recalled days when he was younger—a few years ago—and how our practices have changed. It is now perhaps the case that people shop more regularly. Retailers, such as big grocery outlets, have just-in-time delivery, which means that produce is delivered just in time and put straight on the shelf. Perhaps people shop more frequently because of that. I know I do. Nevertheless, I think everyone here will agree that those five days—Good Friday, Anzac Day, Boxing Day and so on—are ones we value very much. I agree with the member for Orange and cannot see why there is such a fuss from organisations about the bill.

**Mr Michael Richardson:** Profit.

**Mr FRANK TERENCE:** That is right, there is that element. However, five days out of 365 is not too much to ask, I would have thought. Effectively, we have 24-hour trading on other days. As the member for Orange said, there is something wrong when people who were unable to shop for 24 hours are lined up at the door early the next day. I think five days out of 365 is fair enough. Even though we have changed our habits, I still regard this as a very good bill. It confirms and clarifies the situation with regard to restricted days. That means there is a presumption against shops opening on those five days because ordinarily families want to do things on those days, spend time together and attend Anzac Day ceremonies—all the family, not just most of the family with some people having to go to work.

I think it is fair that those days remain the exception rather than the rule. The presumption against opening shops on those days is a very good measure, as is the more rigorous application process that allows them to open only in exceptional circumstances where it is in the interests of the community. I think members of the community in all electorates will be very happy that we have moved to clarify the situation and make sure that those shops will open only in exceptional circumstances. For those reasons I commend the bill to the House.

**Mr MICHAEL RICHARDSON** (Castle Hill) [5.40 p.m.]: The primary object of the Shop Trading Amendment Bill 2009 is to amend the Shop Trading Act 2008 to limit the circumstances in which exemptions to enable trading on restricted trading days may be granted. The member for Miranda said in his agreement in principle speech that the bill was needed because of the introduction of the Commonwealth Fair Work Act. He said that the public trading regime laid down in that Act overrides any New South Wales laws in relation to

major national retailers, such as Coles and Woolworths, even though the Fair Work Act recognises the authority of State governments to regulate shop trading generally and public holidays in particular. That seems rather a contradiction to me. Either the Commonwealth Act overrides the Shop Trading Act or it does not.

My understanding is that the States retain the power to regulate trading hours for all retailers, not just for small ones. I give as an example what has happened in Western Australia. In Western Australia last month the Labor Opposition combined with the National Party to defeat a bill that would have extended trading hours in the Perth metropolitan area to allow shops to open until 9.00 p.m. on all weekdays, rather than just on Thursdays. Under the existing rather odd legislation in Western Australia, the tourism precincts of Perth and Fremantle can trade extended hours, including on Sunday. Shops outside the metropolitan area can trade extended hours if their local council has obtained an exemption from restrictions. That strikes me as a fairly unusual arrangement.

The fact is the Liberal bill never made it past the Legislative Assembly and I have not read anything anywhere about the current regime, particularly in the tourism precincts and in regional areas where local councils can obtain an exemption from restrictions, being contrary to the Commonwealth Fair Work Act. Indeed, I would have thought the Western Australian Premier, Colin Barnett, who introduced the legislation, would have been very keen to use the Fair Work Act as justification for pushing his bill through, if what the member for Miranda said in his agreement in principle speech is the case.

Many people were very critical of the defeat of the bill. Wesfarmers boss Richard Goyder—Wesfarmers owns Coles supermarkets and Bunnings among other retail outlets, as members will know—slammed the defeat of the bill in the *Sydney Morning Herald* and elsewhere on 20 August, as did Harvey Norman boss Gerry Harvey. Both of these men run very large national retailing empires. If the situation were truly as the member for Miranda represented it, it is axiomatic that the Western Australian Parliament could not have rejected changes to its trading hours legislation. The member for Miranda is on more certain ground when he says, "Amendments were required to provide greater certainty as to the operation of the Act." At the moment, retailers are allowed to trade on Good Friday, Easter Sunday, Christmas Day, Boxing Day and Anzac Day morning only if they are granted an exemption to trade on those days. The process is cumbersome, although as the member for Miranda said:

These days are of such significance to the community restrictions on retail trading are warranted.

We have heard a number of speakers refer to the importance of those days to the community in general. With regard to the comments of the member for Orange, I can remember that every Christmas Day when I was at university I used to pump petrol at the Caltex service station on the Pacific Highway at Killara. I did it because I got double or triple time and it was a great way of earning some money. I had Christmas dinner and then went and pumped petrol. I stress that it was entirely voluntary. I certainly was not coerced to go and pump petrol.

Under the bill, any requests from larger shops to open on these days will need to meet clearly defined guidelines and show evidence of real community need. The bill confirms that exemptions will be granted only in exceptional circumstances—there is a general presumption against trading on these days. The bill also carries over the condition from the 2008 Act that if an exemption is granted, the only staff that can be used to work on those days are volunteers, which is only right and proper, although I have suspected for some time that a degree of coercion is likely to be used in some instances, regardless of the fact that it is contrary to the Act.

Not everyone supports the bill. In effect, as other members have noted, it puts the rights of smaller retailers before the interests of shopping centre owners and managers. The shopping centre owners are opposed to the removal of their ability to apply for an exemption to trade on a restricted day, claiming the limitation is unjustified and unfair and restricts business freedom. But shop owners and shop assistants should have the right to be with their families on these special days. I agree with the comments of the member for Coogee in this regard. I do not agree with him about too much but in this case I agree with him 100 per cent. We live in a society, not just in an economy. In many respects the legislation makes sense and I will certainly not be opposing it.

**Ms ANGELA D'AMORE** (Drummoyne—Parliamentary Secretary) [5.45 p.m.]: The Shop Trading Amendment Bill 2009 proposes to amend the Shop Trading Act to provide that exemptions under the Act are granted only in exceptional circumstances; provide there is a presumption against the granting of exemptions; establish a more rigorous test that must be met before an exemption is granted; remove the discretion given to the Director General of the Department of Services, Technology and Administration in determining applications

for exemption; provide that applicants for an exemption must be able to substantiate any claims they make in their application; provide an appeal mechanism to interested parties where an exemption is granted; provide that all exemptions, including those carried over from the previous legislation, are subject to the condition that all employees work voluntarily; provide that exemptions may be made for a maximum of three years; provide that exemptions may be granted only in relation to shops in existence at the time an application is made; and provide enhanced compliance powers in relation to the Act.

These changes will not alter the fundamental structure of the Shop Trading Act. The number of restricted trading days will remain the same, those days being Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day. The categories of stores automatically entitled to an exemption will also remain the same: small family businesses and shops of necessity such as chemists and service stations will be exempt from the Act. This bill does change the manner in which applications to trade on restricted trading days will be treated. The bill will ensure that applications for exemptions will be granted only where such trading meets the needs of the community. At Easter and on Anzac Day this year the only retailers who gained exemptions were those who were the sole supplier of essential goods to remote regional communities. This is an approach that the bill promotes. The tough test established by this bill ensures that restricted trading days are treated with the respect they deserve whilst ensuring sufficient flexibility so that all communities have access to essential goods. This bill extends the condition of voluntary work to all exemptions from this legislation. Section 13 of the Shop Trading Act currently provides that any exemption granted by the Act is:

... subject to the condition that the exempted shop is staffed only by persons who have freely elected to work on that day, without any coercion, harassment, threat or intimidation by or on behalf of the occupier of the shop.

Given the significance of restricted trading days, this is only reasonable. If people are to give up time with their families on these days, they should do so by choice and not as a result of any pressure being brought to bear on them. However, this condition does not currently apply to exemptions that have been carried over from the previous legislation, the Shops and Industries Act 1962. The bill corrects this anomaly. The Shop Trading Act, like any piece of legislation, is only as good as the capacity to enforce it. Accordingly, the bill proposes to increase the capacity currently possessed by the Office of Industrial Relations to ensure that the Act is complied with.

The bill enables inspectors of the Office of Industrial Relations to obtain documentary evidence from retailers of those staff working on restricted trading days and of the opening hours of stores on those days. This may include receipts and other business records. Such records are important in ascertaining compliance with conditions, including the condition of voluntary work I have mentioned. The Shop Trading Act currently provides for offences in relation to breaches of the Act but the most significant sanction that a retailer who breaches this legislation may face is the loss of an exemption. Exemptions under this bill are not granted as of right, they are granted where retailers substantiate their claim that their application meets the test established by the Act.

I wish to touch on one further aspect of shop trading regulation, that of the need for both Christmas Day and Boxing Day to be restricted trading days. Firstly, nothing in this legislation will affect the Boxing Day sales that traditionally take place in the Sydney central business district. The sales are one of the many Boxing Day rituals that are protected by this bill. There are others that are equally protected, but there is one aspect that ought to be addressed—the nature of working in the retail industry. The nature of working in the retail industry at Christmas time is such that if stores across the board were able to open on both Christmas Eve and Boxing Day, staff would be forced to work on Christmas Day. Retail staff work flat out in the lead-up to Christmas and many then work flat out during the post-Christmas sales.

The demands on staff in the lead-up to Christmas leave little time to prepare for post-Christmas sales. If we facilitate a situation whereby stores across the board close only on Christmas Day significant numbers of retail workers will work on Christmas Day to prepare their stores to open on Boxing Day. In effect, we deny these workers Christmas. In many cases these workers will be supervisory employees with young families and family responsibilities. We are not merely talking about teenagers eager to earn some extra spending money. These workers deserve to spend Christmas with their families as much as any other workers and parliamentarians. The Government recognises this, and this bill protects the interests of these workers. I commend the bill to the House.

**Mr GREG APLIN** (Albury) [5.51 p.m.]: I wish to address the Shop Trading Amendment Bill 2009. It has been one year of operation for the Government's Shop Trading Act 2008 and it is indeed timely to address its looseness of legislature. Essentially, this bill clarifies how the provisions of the principal Act are to be

implemented, for things were already going awry. We have heard of inconsistent determinations on applications for exemptions from trading on restricted days. There is a need to clarify who can make the application; there is a need to put more detail into the actual tests; and there is a need to clarify the objection rights of small business owners who might suffer loss as a result of a trading exemption granted to a competitor.

The process began with the aim of "removing unnecessary regulation of the retail industry". The saving to the business community, as estimated by the Better Regulation Office in 2008, is \$1.2 million a year. If we were to apportion this saving across every business in the State it would mean that each retail operator or owner could spend his or her notional red-tape savings on perhaps a lamington to eat on a restricted trading day. It is not a lot of money to save, but it has cost a lot of taxpayers' money to get to this point—\$1.2 million—and we are already up to the second Act of this saga after little more than a year. I hope someone somewhere is saving money out of all this. There are just five of these restricted trading days: Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day before 1.00 p.m. Exempted retailers include small shops, shops retailing prescribed categories of goods and shops that trade in major tourist zones. Other retailers can seek approval to trade on a restricted day by application to the Director General of the Department of Services, Technology and Administration.

Let us examine liberalisation of trading hours. One of the first areas of liberalisation was Sunday trading. Most areas in New South Wales have had Sunday trading for more than 17 years, initially allowing shops to open from 10.00 a.m. to 4.00 p.m. and, 12 years ago now, gaining exemption to trade from 8.00 a.m. to 8.00 p.m. Research into Sunday trading also tells us something about trading on public holidays. For example, the retailer Coles, in its submission to the Better Regulation Office in September 2007, noted:

Coles has found that people tend to shop more frequently, often just for the evening meal, and expect more ready-to-eat meals. We expect that buying habits will continue to change, so the legislative regime needs to be able to cater for and encourage continued innovation.

It went on:

Our transaction figures indicated that on a typical Sunday in New South Wales in the order of 400,000 people shop at Coles' supermarkets. Given our share of the market is approximately 23%, this suggests that more than 1.6 million people shop in New South Wales supermarkets each Sunday. It seems logical that more than this number shop at other types of stores on the day. Our data also indicates that in New South Wales, Victoria and Tasmania where Sunday trading is freely available, there is a fairly even spread of sales across the seven days. Between 13% and 14% of the sales occur on Sunday, with between 14% and 15% for the other days. The exceptions being the lead-up to Christmas, where Sunday trading can outstrip other days considerably.

These views were echoed by the Shopping Centre Council of Australia in its 2007 submission:

For many retailers the Christmas-New Year period (with the exception of Christmas Day itself) is one of the most important trading periods of the year and is often an opportunity to make up for poor sales at other times of the year. It is also a time when there are many international and interstate visitors in Sydney. It is not a positive tourism image for these visitors to be greeted with a 'closed' sign on Boxing Day and New Year's Day or Easter Sunday. Although trading is allowed in the Sydney central business district on certain public holidays, contrary to common perception not all tourists shop in the CBD—many are visiting friends and relatives (who live in the suburbs) over the holiday period and would like to be able to shop at their local shopping centre.

The pressure will remain strong to remove other trading days from the restricted list at the heart of this bill. The Shopping Centre Council has said:

Removing public holiday trading prohibitions altogether would be to the benefit of consumers, retailers and government alike. It would give consumers greater choice because they would not be limited to shopping at 'small shops' and 'scheduled shops'; it would allow retailers to decide for themselves when to open based on customer demand; and it would eliminate the need for government to maintain a bureaucracy to administer trading restrictions.

The Shopping Centre Council and Coles, as examples, have a common goal: for trading day restrictions to be limited to just three days: Good Friday, Christmas Day and before 1.00 p.m. on Anzac Day. Recent consultation with the Australian Retailers Association confirms the same outlook—indeed a preference for no restrictions on trading hours. This is part of the context in which we must consider the current bill. What do New South Wales consumers get out of this bill? Nothing beyond what they already had. What do New South Wales shop employees get out of this bill? The main benefit for employees is that it at last becomes clear that their labour on the restricted trading days must be voluntary and provided without pressure from the boss. Second, the bill tidies up the issue of workers for those shops with an historic exemption from the former 1962 Act. These workers must also volunteer. That is a good move.

What do New South Wales shopkeepers get out of this bill? First, a new section makes void a provision in any retail lease that forces a retailer to open on a restricted trading day. I endorse this improvement. However,

there is more that could be done here. The Australian Retailers Association is the peak industry body in Australia's \$292 billion retail sector, which employs over 1.5 million people. In discussions with the New South Wales office of the Australian Retailers Association, we have been informed that while this provision is welcomed it will not prevent more subtle abuse. In particular, the problem arises in larger shopping complexes where, on public holidays, there are examples of security staff taking note of which traders have not opened for business and reporting this information to centre management. While there might not be any direct "force" applied to a trader to open on a public holiday, the concern is that the taking of the holiday might be prejudicial when one's lease falls due for renegotiation.

Second, who can make the application for an exemption? One will not find the answer to this key question in the Shop Trading Act 2008. The bill says it must be the "occupier of a shop"—section 10 (1). That too is an improvement. Third, the Government has moved to put more detail into the application process. As section 10 says:

- (2) The Director-General must not grant an exemption for a shop unless the Director-General is satisfied that it is in the exceptional circumstances of the case in the public interest to do so, having regard to the following matters:
  - (a) the nature of the shop and the kinds of goods sold by the shop,
  - (b) the need for the shop to be kept open on the day or days concerned,
  - (c) the likely effect of the proposed exemption on the local economy, tourism and small businesses and other businesses in the area, and
  - (d) the likely effect of the proposed exemption on employees of, or persons working in, the shop.

We are told by the Minister that "Applicants will need to fully substantiate any and all claims they make in their application", and that "retailers will be obliged to outline the lines of merchandise being sold and why it is necessary that the shop be opened for trade on the restricted trading day". And they must "show evidence of real community need and support". It seems as though there might be a thorough, testing process to trade on one of the five restricted days. But what will this mean in practice? Let us take a look at the Government's application form. The application must be made using the form set out in schedule 1 to the amended regulations. Required information in the application includes this question for the retailer to answer:

What is the likely effect on the local economy, tourism, small businesses and other businesses in the area if the exemption is granted?

What do you reckon the applicant is going to say to this one? The format of the regulations provides an indication by setting out two-and-a-half lines for the answer. Another difficult question is:

What is the likely effect on employees or persons working in the shop if the exemption is granted?

Surely the applicant will say, "They are all happy about it." We are left no wiser by this revamped process. The problem really is that small business shopkeepers will have no data to rely upon and, therefore, will answer the questions briefly and inadequately—and who can blame them? It will be even more difficult for them if they lack strong English language skills. However, major retailers can be expected to annex lengthy documents in support, written in appropriate marketing-speak and industrial relations-ese. Again, probably no-one will be any wiser about the real consequences for the locality and for competing businesses. In the end has anything been gained by the new, improved process? I suspect that the new provisions—wading through this new red tape, which has replaced old red tape—simply will take up more of the shopkeeper's time.

I think the Government has taken a bite out of everyone's lamington here. The Australian Retailers Association, New South Wales branch, shares this view. The forms do not achieve the stated aim and, indeed, to quote the Australian Retailers Association, "The bill has created more red tape". One of the stated aims of the revised application process is to remove the discretion of the decision-maker. The decision-maker must not take into account anything other than the tests themselves. But, as we have seen, the tests are so wide, vague and general that it cannot be said that this aim has been met. It comes down to the unspoken discretion of the decision-maker as to what evidence he or she will ask for and, upon its provision by the application, consider sufficient. Discretion remains at the core of the process.

Fourth, the bill seeks to clarify the process for objecting to another trader's application for exemption. Local businesses can object to another trader's application but, according to the Australian Retailers Association, "many will find objection too hard". The association has told us that, "small retailers are more reactive than

pro-active. They have no time to know what's going on until it happens." Retailers within a major shopping centre can expect the large retailers to lead the way in seeking exemptions, and then for centre management to alert everyone else that they similarly should make their own applications as the centre will be open for business. New section 11A, says there must be publication of orders and reasons for granting an exemption. The bill states:

**11A PUBLICATION OF ORDERS AND REASONS FOR DECISIONS**

- (1) The Director-General must publish on the Departmental website an order granting an exemption and the reasons for any decision made by the Director-General to grant or not to grant an exemption.

I am not convinced that small retailers will know where this is. We are hearing from industry that small retailers will struggle with the process and with knowing what others are doing around them. The bill does not really come to grips with these issues. In conclusion, the Coalition does not oppose the bill; indeed, the bill contains many improvements, as I have indicated. However, we are concerned about ongoing pressures on retailers to open their shops every day, that the objection process is still too difficult for small business operators to use effectively and that the application process appears to swap the previous Act's general uncertainty for a certain increase in meaningless red tape. I ask the Minister to take on board these concerns. I take this opportunity to thank the Australian Retailers Association and CHOICE for their assistance. It is much appreciated.

**Mrs KARYN PALUZZANO** (Penrith—Parliamentary Secretary) [6.02 p.m.]: I support the Shop Trading Amendment Bill 2009 and in doing so I will address the questions of transparency on the approval process and how the bill interacts with Commonwealth laws about public holiday trading. Prior to addressing those questions I shall refer to trading hours and days in the context of the local Penrith area. The Penrith electorate has a huge retail arm with many major retailers. Consequently, many workers are employed at Coles, Big W, Target, Bunnings Warehouse, Officeworks, Woolworths, Myer, Kmart, JB Hi-Fi, Domayne, Lincraft and many of the small retail outlets and bulky goods outlets within major shopping centres. I have spoken about the amendments contained in the bill with those workers, many of whom have been employed permanently with one of the organisations. I have spoken also to workers who have been employed as casuals in the retail industry for many years, as well as young workers who still attend school but who use their out-of-school hours to earn money in the retail industry to purchase iTunes or pay their mobile telephone bills, or use as general pocket money.

The workers of 2009 are a little different from those of years ago whose first job, like many of us in this Chamber, would have been in the retail industry. In the 1970s when I was a year 9 student I began working in a retail shop within a large shopping centre in Penrith. My choice was to work for three hours on a Thursday night or a Saturday morning. In those days the working hours were clearly defined. There was no Sunday trading and Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day morning were excluded from retail trading. Today young workers have to contend with workplaces operating 24 hours 7 days a week. However, in 2009 the family life of retail workers is of equal value to the economic value that has been outlined during this debate. Young and mature workers, whether part-time or full-time, some of whom would be the major breadwinner, must make decisions about their work and family-life balance. For that reason I support the amendments contained within this bill, particularly greater transparency in the approval process for exemptions not to trade on restricted days.

This bill will ensure the continuation of balanced and effective laws governing public holiday retail trading. The bill introduces a number of new processes, which are aligned with regulatory best practice. The Shop Trading Act 2008 followed an extensive consultation process and was a good example of regulatory best practice. The outcome was the complete deregulation of Sunday trading and substantial reform of the restrictions on public holiday trading. That Act restricted retail trading on five days. Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day morning were recognised as being of civic, religious and community significance, and retail trading restrictions were warranted. The 2008 Act permits retailers to trade on these days if they hold an exemption to trade under the repealed Shops Industries Act 1962, that is, a retailer may be approved to trade on a restricted day by the Director General of the Department of Services, Technology and Administration.

Under the Shop Trading Amendment Bill 2009 the test obliges the decision-makers to take into account the statutory criteria when considering an application for amendment. The decision-maker is obliged to approve an application only if satisfied that it is in the exceptional circumstances of the case and is in the public interest to grant the exemption. The approval test also is amended in one further respect. It abolishes the scope for the decision-maker to consider any other matters in the process. The removal of this part of the approval test will

more closely align the outcome of the decisions with the criteria decided by Parliament to be relevant only to certain considerations when determining applications. A number of procedural matters introduced by this bill improve the transparency of the decision-making process. The Shop Trading Act 2008 is silent on who may make an application to trade on the restricted trading days.

The bill limits the application process to retailers only, which will enable the decision-maker to seek specific information and undertakings about each retailer's compliance with the Act. Coupled with that, the bill also gives the decision-maker explicit power to request a retailer to provide information and documents in support of an application for exemption. This approach will ensure that the applicant retailer quantifies the anticipated public benefit accruing from an application.

The bill also limits the period of operation of exemptions. The experience with exemptions granted under the 1962 Act shows that the conditions justifying an exemption may change over time. Issues may arise that either would preclude the grant of an exemption or justify the imposition of specific conditions on an existing exemption. To ensure that exemptions remain relevant and appropriate, the bill limits an approval to a maximum of three years. To avoid difficulties associated with an application for exemption concerning a shop that is not currently trading, the bill also restricts applications to shops in existence at the time of the application. This recognises that an application relating to a shop that does not yet exist cannot demonstrate how the retailer will meet the statutory test set out in the legislation.

Section 11 of the Shop Trading Act 2008 currently permits the approval process to be determined by the director general. This provides a maximum degree of flexibility to adjust the process in extenuating circumstances. However, this degree of flexibility also permits retailers to argue for an exemption at an extremely late stage and that leaves objectors with little time in which to respond. After consideration, the bill has been formulated to include a defined processing timetable to provide greater transparency, equity and certainty. Defined processing times also will enshrine a reasonable opportunity for the community to voice opinions about trading hours on days of significant commemoration. I should add that in undertaking research in preparation for my speech, I met Cath Simpson from Coles, Myles Anderson from Big W, Chris Fry from Bunnings, Margie Bourke from Woolworths, Robyn Greenup from Myer and Val Benson from Kmart, and I thank them for visiting my electorate office and expressing opinions about trading hours.

Accordingly, the bill establishes that applications must be made at least 28 days before the nominated restricted trading day. Furthermore, all applications must be subject to a 21-day public review process and a 40-day period in which a decision must be made. Any application that is not determined within a 40-day period will be deemed to have been refused. That is consistent with similar legislation, such as the Weekend Bank Trading Act. The bill also establishes wider rights of appeal for people and organisations that are affected by decisions of the director general to permit or refuse retail trading applications. The current legislation permits only an aggrieved shopkeeper to appeal a decision to refuse the grant of an application for an exemption to trade. The bill will expand the right to appeal by recognising the legitimate concerns that other organisations may hold about the grant of an exemption.

The Government envisages that this approach will permit religious organisations to be able to demonstrate standing in relation to trading on public holidays at Christmas and Easter. Similarly, this approach also will permit organisations, such as the RSL, to demonstrate standing in relation to trading on the Anzac Day public holiday. While the notion of sufficient standing is judged on a case-by-case basis, the Government intends this legislation to open up the scope for airing legitimate grievances relating to decisions. Two final procedural matters are dealt with as part of the bill to produce greater public scrutiny of the decision-making process. First, references to the director general and the department are updated to reflect current administrative arrangements. Second, the bill permits online publication of applications, orders and reasons for decisions on the appropriate departmental website.

The bill has a number of important features to increase the transparency of the decision-making process around exemptions for retailers to trade on restricted trading days. In relation to how this bill interacts with Commonwealth laws about public trading, I point out that all major retailers in New South Wales are corporations. The public trading regime established under the Commonwealth Government's Fair Work Act 2009 overrides any New South Wales law to the extent of inconsistency. Nevertheless, the Fair Work Act 2009 recognises the authority of the State Government to continue to regulate shop trading generally and to a point public holidays. It should be noted that the previous Commonwealth legislation, the WorkChoices laws, failed to provide adequate protection for workers on public holidays.



The WorkChoices laws permitted employers to remove public holiday penalty rates as well as the opportunity for employees to elect not to work on public holidays. By contrast, the Commonwealth's Fair Work Act 2009 restores an entitlement to penalty rates for employees working on weekends or on public holidays under modern awards. The Fair Work Act 2009 also creates an entitlement for an employee to be absent from his or her employment on a public holiday. While an employer may request an employee to work on a public holiday, the employee may refuse that request in reasonable circumstances. Thus the Commonwealth legislation provides a balanced and workable framework for work to be performed on public holidays.

Now that the Commonwealth's Fair Work Act 2009 is in place, the bill has been introduced to clarify the operation of the State's retail trading laws. Section 26 of the Commonwealth's Fair Work Act 2009 states that that Act applies to the exclusion of all State and Territory law. However, section 27 of that Act states that section 26 does not apply to a State or Territory law, if that law deals with a non-excluded matter. Section 27 specifically states that non-excluded matters include laws dealing with the declaration, prescription or substitution of public holidays. Section 27 also defines a non-excluded matter to be a State law in dealing with business trading hours.

The combined effects of the structure of the Fair Work Act 2009 permit New South Wales and other States to enact laws dealing with the restriction of retail trading hours on public holidays. In 2008, the New South Wales Parliament decided to restrict the trading hours on just five days of particular religious, community and civic significance—Christmas Day, Boxing Day, Good Friday, Easter Sunday and the morning of Anzac Day. The bill refines the operation of the 2008 Act in several important respects. First, it makes it clear that there is intended to be a general presumption against retailing on those five prescribed days. Second, there is a transparent, public process by which retailers can obtain an exemption to trade in exceptional circumstances. Third, and most important, all retail employees working on a restricted day must have freely elected to do so. It is very important to understand those features. I commend the bill to the House.

**Mr MATT BROWN** (Kiama) [6.17 p.m.]: I support the Shop Trading Amendment Bill 2009. During my speech I will address how the bill protects small- and medium-size businesses and employees in the retail industry. When the Shop Trading Act 2008 commenced a little over one year ago, it completely deregulated retail trading on Sundays and reformed the restrictions on public holiday trading. That Act was the first major reform of the State's retail trading laws in nearly three decades. In October 2008 the Better Regulation Office estimated the value of the reforms to be approximately \$1.2 million a year. That value has accrued to small businesses across the State.

During the past decade there has been a great expansion in the number of small businesses in the retail industry. According to the Australian Bureau of Statistics, there are now 92,400 retailers in New South Wales. Of those, 43,000 employ staff and 49,000 do not. Of those who employ staff, 38,000 employ fewer than 20 workers. When self-employed retailers are added to the number of small employers, it shows that 88,000 of the State's 92,000 retailers fit the definition of a small business. The Shop Trading Act 2008 and this bill are as much about protecting the rights of small business as they are about protecting the rights of workers. The bill simply gives small business owners and operators the scope to decide whether to open for trading on days of significance.

The bill creates that scope in a number of ways. First, the bill carries forward the existing exemption for all small retailers. In other words, small retailers do not need to apply for an exemption to trade on the five restricted days. Second, requests for an exemption from larger retailers will be required to pass a clearly defined approval test. Applicants will need to fully substantiate any and all claims they make in their application. The decision maker is obliged to approve an application only if satisfied that, in the exceptional circumstances of the case, it is in the public interest to grant the exemption.

The bill retains the existing statutory criteria established under the 2008 Act for consideration in the approval process. However, the bill also adds a new criterion for consideration by the decision maker. It is being introduced because the rights of small businesses should be considered in the approval process. Accordingly, the bill also obliges the decision maker to explicitly recognise the impact of approving the application on small businesses in the local vicinity. The third way in which this bill supports small business arises from the new appeal mechanism. The bill establishes wider rights of appeal for people and organisations affected by decisions of the director general to permit or refuse retail trading applications.

Until now, the legislation has only permitted an aggrieved shopkeeper to appeal a decision to refuse the granting of an application for an exemption to trade. The bill now expands the right to appeal to recognise the

legitimate concerns that other organisations may hold about the granting of an exemption. The bill provides that any person or organisation that considers that they have a sufficient interest in a decision may appeal that decision to the Administrative Decisions Tribunal. Importantly, the Administrative Decisions Tribunal has the role of deciding the legitimacy of that sufficient interest before hearing any substantive objection to an exemption. The wording of the bill is sufficiently broad so as to allow a small business organisation to act on behalf of members affected by the approval to permit a large retailer to trade in a particular locality.

The fourth and final way in which the bill addresses the particular needs of small business is the introduction of a new section that will void the provision of any retail lease that forces a retailer to open on a restricted trading day. Currently, the owners of shopping centres can use retail leases to require small stores, including many small family businesses, to open on restricted trading days. The status of restricted trading days is as important to such small business owners as it is to retail workers who are protected by the Shop Trading Act. Accordingly, the bill contains a provision that no retail lease may be used to force a shop to open on a restricted trading day. Promoting a positive work-life balance across the New South Wales working community is an important issue for the New South Wales Government. The passage of the bill will create a balanced, workable safety net in the retail industry in this State.

In addressing how the bill protects employees in the retail industry, we need balanced and effective laws governing public holiday retail trading. Last year when the Act commenced it was a major reform of those laws. The 2008 Act restricted retail trading on just five days annually, that is, Christmas Day, Boxing Day, Good Friday, Easter Sunday and the morning of Anzac Day. These days are recognised as being of such civic, religious and community significance that restrictions on retail trading are warranted. The Parliament recognised through that Act that these five restricted trading days are very important to many Australians and provide a timely opportunity for families to be together. It recognised that the majority of retail employees and small businesses in the retail sector desired the opportunity to participate in the family, community and civic events on these days.

Anzac Day is an especially important day in my community: Most people come out to watch the parade down Terralong Street. The support of many shop owners ensures that the street is not a business thoroughfare on that day, a day when we recognise the sacrifices made by the men and women who served their nation. Therefore a key feature of this bill is the extension of the 2008 Act's voluntary work provision to any shop opening on these restricted trading days. That is, even when a shop is permitted to open, all staffing must be voluntary; absolutely no-one can be forced to work on these days. The Government will take action against any abuse of this requirement. Retailers will jeopardise their ongoing right to trade if they insist on forcing employees to work on these days.

The bill strikes an appropriate balance between the rights of retailers, consumers and workers while recognising the importance of days that have special community significance. I can advise that many retailers, both large and small, have already demonstrated a willingness to use only workers who have willingly agreed to work on the restricted trading day. It is a simple process to seek volunteers, rather than to impose a roster on staff. Such arrangements enable retail workers to balance their work, family, religious and civic commitments. In some cases it is understood that retailers go to the extent of providing additional support and rest breaks to workers on these days, as well as financial compensation. This is a clear demonstration that good retailers can offer conditions of employment that attract sufficient staff on these days, should they be permitted to trade.

It is now time that all retailers adopt this sensible approach. Finally, there is one further protection established by this bill. Until now the legislation has only permitted an aggrieved shopkeeper to appeal the decision to refuse the granting of an application for an exemption to trade. The bill expands the right to appeal to recognise the legitimate concerns that other organisations may hold about the granting of an exemption. It provides that any person or organisation that considers they have a sufficient interest in the decision may appeal that decision to the Administrative Decisions Tribunal. Importantly, the tribunal has the role of deciding the legitimacy of that sufficient interest before hearing any substantive objection to that exemption. In conclusion, most retail workers will be provided with scope to participate in family and community occasions, which are defined in our society. This bill creates the necessary balance between the shopkeeper and the worker while also addressing a number of the concerns of some small shopkeepers about being part of a major shopping centre. I commend the bill to the House.

**Mr BARRY COLLIER** (Miranda—Parliamentary Secretary) [6.26 p.m.], in reply: I thank the members representing the electorates of Lane Cove, Coogee, Orange, Maitland, Castle Hill, Drummoyne, Albury, Penrith and Kiama for their contributions to the debate. I note that the Opposition does not oppose the

bill, which reforms the existing legislation so as to ensure the continuation of balanced and effective laws governing public holiday retail trading. It restricts retail trading on just five days: Christmas Day, Boxing Day, Good Friday, Easter Sunday and the morning of Anzac Day. These days are recognised as being of such civic, religious and community significance that restrictions on retail trading are warranted.

Since the commencement of the operation of the Shop Trading Act 2008 the Commonwealth Fair Work Act 2009 has come into force. The Fair Work Act 2009 will regulate the industrial relations aspects of public holiday trading for many retailers and retail industry workers from 2010 onwards. As all major retailers are corporations, the public holiday trading regime set out in the Fair Work Act 2009 overrides any New South Wales law where inconsistent. This arises under the Australian Constitution, and I draw that to the attention of the member for Castle Hill. Nevertheless, the Fair Work Act 2009 recognises the authority of State governments to continue to regulate shop trading generally and the appointment of public holidays. Now that the Commonwealth legislation is in place, this bill is being brought forward to clarify the operation of this State's retail trading laws.

This bill creates a clear statutory presumption against widespread retail trading on the five nominated public holidays. Therefore, it amends the Shop Trading Act 2008 to provide that exemptions under the Act are only granted in exceptional circumstances. It creates a more rigorous test that must be met before an exemption is granted. The bill also removes the discretion given to the Director General of the Department of Services, Technology and Administration in determining applications for exemption. Applicants for an exemption must be able to substantiate any claims they make in their application. The bill also creates an appeal mechanism to permit the involvement of interested parties where an exemption is granted. Importantly, all exemptions carried forward from previous legislation are now subject to the condition that all employees work voluntarily.

The Government recognises that these five restricted trading days are important to many Australians and provide a timely opportunity for families to be together. The threshold test set in this bill strikes an appropriate balance between the rights of retailers, consumers and workers while recognising the importance of days with community significance. As was noted in relation to the 2008 Act, given that trading restrictions now apply only on our most significant public holidays, the need for such exemptions would be significantly reduced.

Put simply, this bill confirms that exemptions should only be granted in exceptional circumstances. There should be a general presumption against trading on these restricted days. Where trading occurs, it is important that retail workers are given a real opportunity to decide whether to work. Accordingly, any employee who works on these days must be given the choice not to work, without penalty or threat to their ongoing employment. A provision of this type stands in lock step with the new public holiday protections introduced in the Commonwealth Government's Fair Work Act 2009. Any retailer who ignores this requirement stands to lose the exemption to trade on a restricted trading day, or have additional conditions imposed on the exemption.

Many New South Wales traders, large and small, have demonstrated a willingness to only use workers who have willingly agreed to work on the restricted trading day. It is a simple process to seek volunteers, rather than to impose a roster on staff. Such arrangements enable retail workers to balance their work, family, religious and civic commitments. It is now time that all retailers adopt this sensible approach. The member for Lane Cove said that Anzac Day is an important day of commemoration for all Australians, something that can be demonstrated by the growing numbers of children who attend Anzac Day ceremonies. This year at Miranda some 4,000 people attended the dawn service. It is a day when men and women who have served, whether at home or abroad during the conflicts of world wars and other conflicts, like to be re-united for a whole day with their comrades in arms. Anzac Day is extremely important, as all members of this House recognise. Even in this Chamber there is a memorial to two members of this House who fell at Gallipoli.

The member for Orange raised an important question: What is meant by the morning of Anzac Day? When does it begin and end? I am advised that under this legislation there will be no trading until 1.00 p.m. on Anzac Day. Trading at 11.00 a.m. is in breach of the Act and allegations of such breaches should be referred to the Director General of the Department of Services, Technology and Administration. If the member for Orange is aware of people trading in breach of the Act, I encourage him to refer the matter on. The member for Lane Cove raised the issue about there being a presumption against trading on those particular days. However, the alternative is a presumption in favour of trading on those days, and that is unacceptable to the community. I am sure all members of the House would agree.

Members representing the electorates of Lane Cove, Orange and Albury referred to the problem of somebody not renewing a lease when it expires. I point out that terminating a lease prematurely—before the

expiration of the lease—is a breach of this legislation and does raise a cause of action. Refusal to renew a lease because somebody did not trade on a particular day would be unconscionable, and surely a requirement to trade on a particular day cannot be made a condition of any new lease in any event. The member for Albury gave a history lesson and complained about \$1.2 million savings in compliance costs. He spoke of lamingtons and the sharing of lamingtons. However, the important saving that he did not mention was the one on which a monetary value cannot be placed, that is, time spent with one's family and loved ones. I am sure that the member for Albury, who talked about savings and opportunity cost, should take that into account. He supported the bill, but one would not have thought so for some of his contribution.

The member for Albury complained about 2½ lines in the application, but anybody applying for an exemption or anybody taking a stance against an exemption can always add more information. I am advised that the application form was circulated and retailers were given an opportunity to comment on it. As I pointed out to the member for Albury, there is a presumption against trading on those restricted days. The purpose of this bill is to deliver on the Government's commitment to promote a positive work-life balance across the New South Wales working community. In practical terms, legislation of this type is necessary to protect employees who will gain a chance to participate in family and community events on public holidays, if they choose so to do. Retailers, large and small, are given certainty about trading hours on days of real community significance. Importantly, small business owners and operators will be relieved of the pressure to open for trading on these public holidays in the face of competition from larger retailers.

Finally, the community also benefits from the greater participation in community, civic and religious events by retail industry workers and employers. Requiring retailers to meet the exemption requirements set by these new reforms will ensure they fully consider the needs of their workers and the community in which they operate. The passage of this bill will create a balanced, workable safety net in the retail industry in this State in an otherwise completely deregulated market. 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.**

## **REAL PROPERTY AMENDMENT (LAND TRANSACTIONS) BILL 2009**

### **Agreement in Principle**

**Debate resumed from 10 September 2009.**

**Mr MIKE BAIRD** (Manly) [6.37 p.m.]: I acknowledge that the Opposition supports the Real Property Amendment (Land Transactions) Bill 2009, which is sensible so I do not intend to take up too much time of the House. I believe that when sensible announcements and proposals are put forward by this Government, the less said the better. The overview of the bill states:

The object of this Bill is to amend the *Real Property Act 1900*:

- (a) to enable the electronic lodgement of a notice of sale, and
- (b) so that the Registrar-General may require a certificate of correctness in relation to a notice of sale (whether or not the notice is lodged electronically), and
- (c) to clarify the circumstances in which compensation may be payable from the Torrens Assurance Fund in relation to the details supplied in a notice of sale, and
- (d) to make other minor amendments.

I note that notice of sale forms are required by law to accompany all transfers and other dealings that change the ownership of land. The notice of sale contains details of the transaction, such as the settlement date and sale

price, and provides an updated address for service of notices on the new owner. This information is used by rating agencies—for example, councils, water authorities, the Valuer General and the Office of State Revenue—as a basis for assessment and collection of rates, with associated potential for error and delay. The current notice of sale system is still a manual system involving significant manual data entry—and the bill does not make clear how much it costs. I assume that cost savings will be made with this proposal, something which the Opposition welcomes. It would be helpful if in reply the Minister articulates how much the State will save through this process.

The Opposition wonders why this legislation has taken such a long time to be introduced, but it is a positive step that we are debating it. The Opposition also notes that Land and Property Information has developed a new product and that the electronic preparation and lodgement of the notice of sale has enhancements to assist with the accuracy of data and eliminate the need for ongoing manual data entry. I note that in eliminating the need for manual data entry of notices of sale the amendments should reduce errors. Apart from allowing electronic lodgement of these forms in place of written forms, thus facilitating the rollout of a new lodgement system for land dealings, the amendments make no changes to the land transfer system.

Compensation from the Torrens Assurance Fund will not be payable in relation to any loss or damage arising from the provision by the Registrar General of information supplied in the notice of sale except in relation to an error—it is not clear how that is defined in the legislation, but I assume it would be a wholehearted error—of the Registrar General in recording the details supplied in such notice. That is a sensible proposition and I understand the clarification. The Opposition supports this bill, which is a step forward, but is interested in what the Minister says in reply about the savings that this legislation may well engender in the bottom line in the State budget.

**Mr MATT BROWN** (Kiama) [6.39 p.m.]: The Real Property Amendment (Land Transactions) Bill 2009 will amend the Real Property Act to improve the efficiency and effectiveness of the notification of land-related transactions in this State. The notice of sale system currently co-ordinated by the Land and Property Information division within the Land and Property Management Authority provides a centralised process for notifying all relevant rating and taxing authorities of changes of land ownership. Wherever there is a change in the name of a registered owner of land the document lodged to change the name must be accompanied by a notice of sale form. The notice of sale form provides details such as the date of the transfer or change of name of the owner, an address for service of notices on the new owner, the amount of any purchase price paid, and the nature of the transfer if it was not by sale—for example, transfers by wills or survivorship.

The information contained in the notice of sale form, combined with registration details, is collated by Land and Property Information and forwarded on to places such as the relevant local council, the relevant water board, the Office of State Revenue, the Valuer General and, if the property is in a rural area, the Livestock Health Protection Authority. It is vitally important that this property-related information is notified and distributed as quickly as possible. Most new owners receiving council or water rates notices probably do not stop to wonder how government agencies know their mailing address. It is only when lodgement with Land and Property Information is delayed that property owners can experience problems. In the past there have been instances where delays in lodgement have led to councils taking action for unpaid rates against non-resident property owners simply because the rates notices were never received by the owners. Entitlement to pensioner rebates and the right to comment on proposed development of neighbouring properties can also be affected if current ownership and mailing addresses of owners is not provided promptly to Land and Property Information.

Land and Property Information is working to develop new processes that will simplify the lodgement process and encourage lodgement of land dealings without delay. The introduction of the electronic notice of sale system is one such initiative. The introduction of the electronic notice of sale form will streamline data flow and provide more timely notification of address for service of notice and other pertinent information to rating authorities and other agencies, which will improve the delivery of information and services in the State. For conveyancing and industry practitioners, the introduction of the electronic notice of sale system will simplify and streamline the outmoded and cumbersome methods of notifying various authorities whenever land ownership changes. The new reforms will continue the Government's commitment to ensuring the integrity and accuracy of land records held by the State, its agencies and authorities. Furthermore, this is a small but integral part of the State's commitment to a national electronic conveyancing system and I am pleased to support the bill.

**Mr CRAIG BAUMANN** (Port Stephens) [6.42 p.m.]: As the member for Manly said, the Opposition does not oppose the Real Property Amendment (Land Transactions) Bill 2009 because we welcome any amendments that promise to reduce the potential for error or problems in such systems, particularly a system as

important as the transaction of land, of property, of someone's new home. I note that the amendment will introduce the electronic lodgement of notices of sale eliminating the need for manual data entry, which is expected to speed up the processes of notices of sale. Notice of sale forms are required by law to accompany all transfers and other dealings that change the ownership of land. Notices of sale contain details of transactions, such as settlement date and sale price, and provide an updated address for service of notices on the new owner. This information is used by rating agencies, councils, water authorities, the Valuer General and the Office of State Revenue as the basis for assessment and collection of rates.

In my business life I have executed hundreds of land contracts and transfers, both to purchase and luckily to sell. I subscribe to the Land and Property Information database, which lets me do property searches on any block of land in New South Wales. I draw all members' attention to the Land and Property Information website at [www.maps.nsw.gov.au](http://www.maps.nsw.gov.au). It is an excellent site that allows anyone to identify any property in New South Wales by lot number and deposited plan or by unit number and strata plan and I congratulate the Director General of the Department of Lands, Surveyor General and Registrar General of New South Wales, Warwick Watkins, on this great innovation. Having said that, however, the amendment once again raises an issue I have raised many times in this House and that is the system by which title deeds are created.

In New South Wales, the Real Property Act requires name only to identify the owner on title deeds—no driver's licence number, no tax file number, no passport number, no Medicare number, not even a simple birth date. Allow me to give members some real life examples of how the system is flawed and the problems it can create. There is the ongoing case of a Newcastle man who almost lost his home in a case of mistaken identity when a writ of sale was placed on his property by mistake, the result of a Supreme Court battle involving a man of the same name. My private members' statements and those of the member for Charlestown contain more details. How did it happen? All that was required on the title deed of the property was a name.

Another example is a constituent of mine who went to buy her first home. On the day of settlement her application for the first homeowner's grant and stamp duty relief was refused. Why? Because a woman of the same name—completely unrelated—had bought a house in the 1980s. These are two cases that I know about. How many are happening all over the State that we do not know about, and how long will it go on before the New South Wales Government does something about it? As I have said in this House before, this is a problem, a flaw, that would be relatively easy to address and again I call on the Government to do that.

There appears to be a degree of looseness when it comes to proof of identification in such situations. Let me again elaborate on how simple it would be for a person to rort the system. Frighteningly, it would be relatively simple for a criminal to identify a neglected block of land, search for owner details, fill out a statutory declaration in the owner's name and have the Land Titles Office reissue his "lost" title deed to him, and then sell the block of land and reap the rewards. When a person gets their driver's licence, opens a bank account or joins the local video store they must produce 100 points of identification. When a person buys a property, the certificate of title only requires a name for the new owner.

If I have a title deed, I will be issued with a rate notice—I would not be too far off passing a 100-point test—and suddenly the alias I have given has become a real identity. What a great way to hide assets and what a great way to launder funds. When I buy a block of land I ask the agent to issue a contract. His sales notes and the purchaser's name that appears on those notes form the basis of the information that the vendor's solicitor needs to issue the contract. The vendor's solicitor has no idea of a purchaser's true identity and the real estate agent is only interested in his next commission. I do not doubt that I can find a solicitor or conveyancer who will act for me without being suspicious and without really knowing who I am. I use a bank cheque for the deposit. The transfer and certificate of title would have the name appearing on the contract as purchaser and owner. I settle the purchase with a bank cheque and walk away with a valid certificate of title, and no-one knows who I really am. Again, my Coalition colleagues and I do not oppose the amendment, but I strongly urge the New South Wales Government to expand such amendments to address this very concerning title deeds issue.

**Mr NINOS KHOSHABA** (Smithfield) [6.48 p.m.]: The Real Property Amendment (Land Transactions) Bill 2009 makes the legislative changes necessary to enable the introduction of an innovative new electronic system for the preparation and lodgement of a notice of sale of land. I commend the simplicity of the electronic notice of sale system and wish to highlight some of its many benefits. The new form will be available free on-line through the existing information broker network and through the website of Land and Property Information. This should encourage early acceptance of the system by the industry as its benefits can be obtained without any additional cost to industry.

Some of the information to be provided on the form will be prepopulated from information held by Land and Property Information. For instance, the street address of the relevant land will appear on the form once the title reference has been inserted. The person completing the form can choose to accept the street address if it is correct, or amend it should an error be identified. If a discrepancy is identified an alert will be flagged prompting Land and Property Information to update the property address details following investigation. This feature will enable property information to be validated, improving the quality of data provided and reducing the possibility of errors occurring.

The form will have a number of other intelligent features to prompt the person completing it to provide all appropriate data. If the form is being completed to accompany a transfer of land, panels requiring details of the purchase price and settlement date will be displayed. If the form will accompany notification of the death of a registered proprietor, details of the purchase price will not be requested. This should ensure the form is completed correctly and will reduce the need for requisitions to be raised after lodgement. The security of information provided on the electronic notice of sale [eNOS] form will be assured by the use of a unique identifier and password for each eNOS form. The eNOS system has been designed to encourage completion of the form at an early stage in the conveyancing process along with the preparation of the transfer. Following settlement the eNOS data will be updated with the appropriate settlement date and then locked. Electronic notice of sale is an initiative that benefits the community, the conveyancing industry and the Government. I am pleased to support this bill.

**Mr WAYNE MERTON** (Baulkham Hills) [6.50 p.m.]: I am pleased to speak to the Real Property Amendment (Land Transactions) Bill 2009, which relates to functions carried out in property transactions. As indicated by previous speakers, the Opposition does not oppose this bill. The Real Property Act deals with land that is commonly referred to as being subject to the Torrens system and goes back to the turn of the last century when the legislation was introduced. The bill seeks to do a number of things. It will amend the Real Property Act 1900 to enable electronic lodgement of a notice of sale. It also allows the Registrar General to require a certificate of correctness in relation to a notice of sale whether or not the notice is lodged electronically. The bill also clarifies the circumstances in which compensation may be payable from the Torrens Assurance Fund in relation to details supplied in a notice of sale. It also makes other minor amendments.

Members who have had anything to do with conveyancing and things of that nature will know that for many years the practice was that transfers and notices of sale—which are the documents that the Valuer General, councils, the Water Board and other statutory authorities rely on for sending out the appropriate rate notices and for information about who the owner of the property is—were dealt with completely independently. Solicitors sent the documents out after the transaction had been completed. Subsequent to that, amendments were made some years ago so that at the time the transfer was lodged for registration, a notice of sale had to be attached to the transfer document and the Registrar General's Office, as it was then, would send out the appropriate notification to the statutory authorities of the change of ownership.

This bill is an attempt to bring the issue of notices of sale into the present era by providing that notice of sale can be lodged electronically prior to or in conjunction with the sale document. It also gives power to the Registrar General to request that a notice of sale be certified for correctness. The current notice of sale system still essentially involves significant manual data entry, with the associated potential for error and delay. Land and Property Information [LPI] has developed a new product that will enable preparation and lodgement of the notice of sale. The new electronic system has enhancement to assist with accuracy of data and will eliminate the need for manual data entry.

I seek the Parliamentary Secretary's advice on one matter. The note I have indicates that a notice of sale may be lodged electronically—there is no objection to that—prior to or in conjunction with the lodgement of land dealings, such as transfers. I have some reservations about it being lodged prior to a transfer being lodged. As the Parliamentary Secretary knows, some property settlements do not take place, for a number of reasons. If a notice of sale can be lodged prior to the lodgement of land dealings, the situation may arise where there is no land dealing to lodge because the matter has not been settled or completed and the ownership of the property has not changed. I take the view that any notice of sale document is irretrievably bound up with and forms part of the process of the transfer of title. It is not a part of the transfer; I acknowledge that point. However, no notice of sale should take effect until a transfer document has been lodged.

This may not be the situation under this legislation but I pose the question to the Parliamentary Secretary because I would be concerned if notices of sale could precede the lodgement of a transfer. The transfer may not go through and the transaction may fail. There is also the temptation for someone of dubious or little

principle to lodge a notice of transfer for a property when the sale may not have gone ahead and a transfer may never be lodged in respect of that property. I am talking about cases of fraud and unscrupulous people lodging notices of transfer when they had no claim or contractual right and had never entered into negotiations with the registered proprietor or owner of the land. I ask the Parliamentary Secretary, who is a man of some integrity and who has knowledge in these types of matters, to look into that aspect. The last thing we want is to make it easier for people to participate in fraud. That is the major point I wish to make.

**Mr JONATHAN O'DEA** (Davidson) [6.58 p.m.]: I will make a brief contribution on the Real Property Amendment (Land Transactions) Bill 2009. Obviously the overview of the bill has been outlined already. I will focus particularly on its function of enabling the electronic lodgement of notice of sale. I note that Land and Property Information has already developed the new product, which will enable electronic preparation and lodgement of the notice of sale. It seems on the face of it sensible reform and one that would save money. I make the point that there are other supposed electronic developments, initiatives or improvements that this Government has introduced, including Tcard, which was almost \$100 million down the drain, the JusticeLink system, which had a major cost blow-out—

**Mr Barry Collier:** Point of order: We are talking about electronic transfers under the Real Property Act. We are not talking about Tcard or anything else. I ask that the member be brought back to the leave of the bill.

**ASSISTANT-SPEAKER (Mr Grant McBride):** Order! I uphold the point of order. The member for Davidson will confine his remarks to the leave of the bill.

**Mr JONATHAN O'DEA:** I make the point that this initiative enables electronic communication. Where electronic communications are undertaken by government, there should be a clear, articulated business case and a clear evaluation and auditing by the Auditor-General. In other cases, the Auditor-General has shown that this Government cannot deliver these sorts of projects. I am glad that in this case it seems eminently sensible, but it would be appropriate for the Government to think better about how it introduces electronic record systems.

**Pursuant to standing orders business interrupted and set down as an order of the day for a future day.**

## **CRIMES (APPEAL AND REVIEW) AMENDMENT (DOUBLE JEOPARDY) BILL 2009**

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

### **WATER MANAGEMENT**

#### **Matter of Public Importance**

**Mr KEVIN HUMPHRIES** (Barwon) [7.00 p.m.]: I wish to raise as a matter of public importance the issue of water in western New South Wales. The Murray-Darling Basin covers more than a million square kilometres, or approximately one-seventh of the total area of Australia. It contains over 40 per cent of all Australian farms, which produce wool, cotton, wheat, sheep, cattle, dairy produce, rice, oil seed, wine, fruit and vegetables, for both domestic and overseas markets. It is Australia's most important agricultural region. The basin contains one-third of Australia's food supply and supports more than one-third of Australia's gross value of agricultural production. Three-quarters of Australia's irrigated crops and pastures are grown in the basin.

Our most valuable resource is water: 97 per cent of the world's water is contained in the oceans; only 3 per cent of it is fresh water, and less than 0.15 per cent is contained in streams and lakes. Australia is the driest continent on earth. We have continual issues with water in western New South Wales and even in other parts of the State and country. One of the issues that this country has not faced and dealt with effectively, certainly in the past two decades, is water storage and modernisation of schemes and water infrastructure.

A number of media outlets have questioned the value of the water buybacks and where the priorities are being maintained. Recently it was highlighted again that many of our smaller towns, in particular in western New South Wales, are perishing at the expense of local communities due to water being bought back with a view to being transferred downstream. The Liberals and The Nationals have never underestimated the value of



the water buyback scheme. Previous Federal governments, after good management, set aside \$10 billion not only to implement a water buyback scheme in this State and across the Murray-Darling Basin but also to instigate modernisation of schemes and efficiencies that could be made on farms.

Whilst the \$3 billion water buyback has started to take place, we acknowledge that most of the water would come out of this State. Our concern is with the scattergun approach. There is no evidence from either the Federal Government or the State Government that communities will not suffer. In fact, we know communities will suffer, a fact that is beginning to be highlighted more and more each day as the dry sets back in. There has been no commitment to structural adjustment in any of these communities. Small towns such as Warren, Wee Waa, Bourke, Moree, Walgett, Griffith, Hillston, Wentworth, Deniliquin, places such as Mungindi and Collarenebri, and even larger regional centres such as Orange, Wagga Wagga, Gunnedah, Tamworth and Dubbo will continue to feel the effects of not only the drought but also the shortfall in the water buyback scheme and in the programs that should have followed.

Little recognition is given to the value of agriculture not only in New South Wales but right across the Murray-Darling Basin—to the point where the level of support for agriculture from within this State and federally is starting to raise questions about food security. The buyback will impact not only on our towns but also on our productivity. It is well evidenced that on any irrigation farm across the basin productivity gains of about 25 per cent are to be made by introducing efficiency programs, which include water transfer infrastructure and the modernisation of many of the water schemes in place across the State, particularly in its central and southern parts.

Three billion dollars has been set aside for water buyback, accompanied by a very aggressive program to date. In fact, the Federal Government would say that is far ahead of its targets. But there has been no real commitment to the \$5.8 billion that was set aside to achieve efficiency savings. If we want to maintain the prosperity of our communities, we know we can make the savings, but if we are not committed to modernising our water delivery and infrastructure programs in conjunction with the water buyback, our communities, including many of the communities that I have mentioned, will continue to suffer. We are asking the State Government to lift its game with the Federal Government and make sure that many of these smaller communities are not left to perish.

**Mr GERARD MARTIN** (Bathurst) [7.07 p.m.]: I want to speak on this matter of public importance. I thank the member for Barwon for bringing the matter forward and for giving members on the Government side of the House the opportunity to point out how seriously the State Government takes this issue. Some of the State's inland valleys are in their seventh to eighth successive year of serious drought, particularly those in the southern part of the Murray-Darling Basin. It is clear that, in the past, uncoordinated management activities across State borders have contributed to a decline in the basin's river and groundwater systems. But I refute the assertion that New South Wales has sat on its hands. The evidence is a far cry from that.

New South Wales has led the way in water reform and was the first State to sign up to the Commonwealth's Murray-Darling Basin reforms. Even prior to that, we had largely met all of our commitments under the National Water Initiative, and had led every State in that regard. For the record, we were the first State to separate water from land rights, through the Water Management Act 2000—certainly a challenge, but it was achieved. We secured the water rights of licence holders by making their licences perpetual and marketable assets. We have created the most flexible and transparent water trading market, facilitating record levels of water trading in New South Wales, despite the drought. We have implemented water sharing plans in all the major regulated river and groundwater systems, bringing down water extractions significantly below that required under the Murray-Darling Basin cap, and specifically allocating water for the environment. The water sharing plans account for over 90 per cent of total water extractions in New South Wales.

The Government is balancing the needs of all water users, including the environment, in determining the water sharing and management arrangements that are in the best interests of all parties. The Opposition can harp on all it likes but the fact remains that the Government has gone to extraordinary measures to help farmers manage, and rural communities survive, through this unprecedented drought. The Government has provided more than half a billion dollars in drought support measures since the onset of the drought in 2002 and will continue to support our farmers and rural communities.

Since 2002 more than \$55.3 million has been approved for emergency drought works for country towns across the State. Examples are \$87,000 for construction of bores at Balranald and Euston, \$97,000 for algae treatment at Boggabilla, \$37,000 for groundwater investigations at Lake Cargelligo, and \$100,000 for

rehabilitation of bores at Wellington and Geurie. The State Government is constantly assessing all of its drought support programs to assist struggling farmers and rural communities. Some of those measures are the 50 per cent drought transport subsidy scheme; waiving 75 per cent of rural Western Land Lease annual rents for 2009-10; continuing the employment of the important drought support workers until 31 December 2009, when it will be reviewed; continuing the heavily supported Farm Family Gathering and Drought Workshop programs; and continuing the Business Drought Assistance Payroll Tax Relief Scheme in 2010, with the provision that costs be paid in 2010-11.

In addition, the Government is rolling out \$85 million in funding over five years across rural and regional New South Wales through the Building the Country package. Seven targeted programs will help create jobs and improve valuable community facilities. An important element in the Building the Country package is the \$9 million Water Adjustment Innovation Fund that is helping businesses and communities affected by water reforms to invest in innovative water saving technologies. A Griffith-based company, Custom Built Stainless, is one of the first companies to be assisted by this fund. It is looking to the design and manufacture of stainless steel fittings for use in transferring water for irrigation and commercial use. Its products will assist in the conversion of open channels to pressurised systems. In its early stages the company expects to create 10 new green jobs.

As part of the Water for the Future program the Commonwealth Government has invested just over \$3 billion for the purchase of water licences in the Murray-Darling Basin. That builds on the reforms led by New South Wales in 2000 with the enactment of the Water Management Act 2000. That Act recognises that the environment must receive its share of the water resource and the consequent dedication and recovery of water for the environment. In 2006 the New South Wales Government established the New South Wales River Bank, which is administered by the Department of Environment, Climate Change and Water, to buy water licences from willing sellers. The controversial issue has been the embargo. The New South Wales Government certainly understands the difficult challenges with water when protecting our environment and supporting our regional communities.

The Commonwealth's purchase of the Twineham group licences amounting to 240,000 megalitres of water meant that 97 per cent of water purchased from the Commonwealth was from New South Wales. This left the New South Wales Government with little option other than to impose an embargo on purchasing water licences. This State has done the heavy lifting on this matter; it is time other States took up the challenge of water reform. The Premier has made that point clearly to the Federal Government on a number of occasions. Currently we are negotiating with the Commonwealth to ensure a fairer distribution of water purchases in the interests of the environment and rural communities. A more equitable market is appearing across the Murray-Darling Basin with Victoria recently passing legislation to overturn one of its trade restrictions.

On 15 September the 10 per cent limit on the volume of Victorian water entitlements that can be owned without being associated with land was lifted. It is understood that Goulburn-Murray Water already has begun processing more than 400 water trades that were put on hold until the Victorian Water Amendment Bill 2009 came into effect. As of 15 September the Commonwealth had purchased over 27,000 megalitres of entitlement, or 11.5 per cent, from Victoria. This is a step in the right direction, but would not have happened without the New South Wales embargo. As I have said, New South Wales has led the reform and this Government will continue to work to make sure that the water we have is shared equitably around the community.

**Mr JOHN WILLIAMS** (Murray-Darling) [7.14 p.m.]: I thank the member for Barwon for providing me with an opportunity to contribute to debate on water issues. I represent an electorate with more riverfronts than any other member of Parliament in New South Wales and possibly any other State. My constituents have made me aware of the consequences of the drought and some of the actions of this Government. Most recently the announcement of the closure of the Lachlan River from Condobolin presented another set of circumstances for my electorate. My office is being asked about water supply for stock and domestic use particularly because most farmers were used to accessing water from the Lachlan River. The Government certainly will be looking at supporting stock and domestic supply for those farmers as it has done in the past to meet their needs.

The announcement of the water embargo was considered to be a good move and was accepted by most community leaders. No doubt all the water purchased by the Federal Government came from New South Wales, and the southern Riverina particularly will experience a reduction in the amount of its future available water. Unfortunately, many people have been caught in the net and the embargo has become a huge impost for them. Through the sale of water to the Federal Government they had made commitments to banks and other agencies to meet debts and settle payments on properties in many instances. Certainly, their intentions were good but, unfortunately, far too many farmers now are suffering from the consequences of the embargo.

A couple of my constituents had well over \$1 million worth of water tied up in that sale. The bank now believes that the loan will not get paid and is placing pressure on these people to find other means to reduce their debt. Many farmers had agreed to sell water to the Federal Government and the tender was approved but now they have not been able to exchange contracts because they have been caught in the embargo. Of course, the banks now believe that the sale of water can no longer be considered as security against debts. If the Government can place an embargo and stop the sale of water, banks and property owners no longer have that security against debt.

The embargo certainly has provided benefits, but more people directly affected are making complaints at my office. To date about 65 constituents have registered a complaint with me and probably more farmers will be caught out. Many farmers with small properties had accepted the proposal of Murray Irrigation for a bulk sale so they could reduce their debts, but many of them now face hardship. They are under much stress suffering the consequences of the drought and now not being able to sell water as the embargo continues.

**Mr KEVIN HUMPHRIES** (Barwon) [7.19 p.m.], in reply: I thank the member for Bathurst and the member for Murray-Darling for their contributions to the debate. The member for Bathurst highlighted the Water Management Act 2000, in which the State Government worked in conjunction with the Federal Government to separate land and water. I remind the member for Bathurst that the Water Act 1912 of the then Labor Government in this State wanted to not honour the principle that water was a property right. It was only through the heavy lobbying of people such as Craig Knowles, who was the responsible Minister in the Labor Government in 2000, and his relationship with John Anderson, the Federal Deputy Prime Minister, that a result was achieved.

The past 10 years has been a difficult period in water resource restructuring in that it has been the largest adjustment of any agricultural industry in this country. The main point in highlighting this issue is that we know we have been through a serious drought, we know we had to go through a water buyback and we know the river systems were over allocated. Everybody to whom I have spoken has been committed to that adjustment. The main issue is that an outcome should provide for communities to remain intact, for industries to be sustained, and for employment to be created for working families in rural constituencies, and not just in New South Wales but in areas right across the Murray-Darling Basin. That issue is integral to the way in which Australia maintains its integrity as one of the major food-producing nations of the world. We are a major exporter of food and fibre, and most of that comes from the Murray-Darling Basin. We are not only focusing on sustaining communities but also on providing income-earning potential that will enable Australians to maintain the lifestyle to which we have all become accustomed.

As a result of the prolonged drought, enormous resources are being extracted from quite marginal communities, yet we do not have a plan for recovery or sustained growth. That is a fundamental problem. The reason for raising the issue of water management and water resources generally in New South Wales is purely to focus attention on that very problem. No impact assessment study has been undertaken by a State or Federal Labor government at this point, despite thousands of people literally moving out of small communities. The plight of small communities was highlighted in an article in yesterday's *Daily Telegraph* that focused on the plight of the township of Warren, which has lost 20 per cent of its population. The drought has brought many small communities to their knees.

The struggle is made more difficult because we have no structural adjustment in place that will assist small communities, nor has any commitment been given by any government, State or Federal, to resolving issues such as decentralisation or relocation of industries that will enable rural communities to diversify. There is no commitment by either State or Federal governments to the provision, maintenance and retention of infrastructure in rural areas to the point that rural districts rail lines are being decommissioned. The problem in relation to water management for irrigators and even dryland farmers is that transportation of products to market, particularly in western New South Wales, costs as much as 30 per cent of the value of the product. If transportation infrastructure is reduced, fails or falls into disrepair, farming communities become more marginal and ultimately become no longer viable.

If farming communities become no longer viable, Australia will have a major problem not only in being able to feed ourselves but also in being able to feed the rest of the world. I remind the Government that the centre of gravity in the food security debate has shifted markedly. Many rural agricultural communities have reached tipping point over issues concerning water security, water infrastructure, water resources modernisation and, dare I say, water storage, which has been the key area of enormous underspend by the Government throughout the entire period of Labor's administration—some 14 years. All those issues should be addressed sooner rather than later.

The people of New South Wales cannot all live in the city. Rural areas need a modernisation program because that is how employment opportunities will be created in rural districts. I acknowledge that we must target buyback and that smaller communities in western New South Wales should be considered carefully—certainly in more detail than has been exhibited by the present Government—in relation to how they can be sustained and remain viable.

**Discussion concluded.**

**The House adjourned, pursuant to standing and sessional orders, at 7.24 p.m. until  
Wednesday 23 September 2009 at 10.00 a.m.**

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