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# LEGISLATIVE COUNCIL

Thursday 4 June 2015

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**The President (The Hon. Donald Thomas Harwin)** took the chair at 9.30 a.m.

**The President** read the Prayers.

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

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business item No. 58 outside the Order of Precedence objected to as being taken as formal business.**

## PUBLIC EDUCATION FOUNDATION

### Motion by the Hon. COURTNEY HOUSSOS agreed to:

- (1) That this House notes that:
  - (a) the Public Education Foundation held its Celebration of Public Education at Sydney Town Hall on Tuesday 19 May 2015;
  - (b) the Public Education Foundation is a not-for-profit organisation that provides scholarships for students, teachers and principals in public education and, working in collaboration with schools and their communities, the scholarships for students are designed to support young people to reach their potential and to provide professional development for teachers and principals; and
  - (c) the Celebration of Public Education showcased students and teachers from across the public education sector, awarding more than 100 scholarships to students and eight to teachers and featured a number of musical performances.
- (2) That this House congratulates:
  - (a) the Public Education Foundation on its valuable contribution to supporting students, teachers and principals in the New South Wales public education system; and
  - (b) the recipients of the scholarships awarded by the Public Education Foundation.

## MINDFULNESS

### Motion by Ms JAN BARHAM agreed to:

- (1) That this House notes that around the world the practice of mindfulness is growing especially with Mindful in May, an annual online campaign that creates an opportunity to raise community awareness of wellness and mental illness in general and to highlight practices that can assist in wellbeing.
- (2) That this House notes that mindfulness:
  - (a) is about practices designed to reduce stress that include meditation, breathing techniques and exercise;
  - (b) can act as a complement to traditional treatments for depression and mental illness; and
  - (c) has been shown to be effective in helping to treat a wide range of psychological problems, which in turn affect physical wellbeing such as headaches, high blood pressure and sleep problems.
- (3) That this House notes that:
  - (a) mindfulness as a therapy is a positive action people can take to improve their health and wellbeing at minimal cost to themselves and society, which may allow them to stay well longer than they might otherwise;
  - (b) modern research techniques are being used to demonstrate how mental illness can alter the brain;

- (c) practising mindfulness techniques can bring about improvements to physical and mental wellbeing and can alter the brain functioning in a positive way;
  - (d) mindfulness-based cognitive therapy has been documented in the *Journal of Consulting and Clinical Psychology* as enabling many people to effectively reduce recurrent depression and effectively reduce or eliminate the need for antidepressant medication;
  - (e) *The Lancet* medical journal has reported that in a clinical trial the outcomes for participants undergoing mindfulness were the same as that achieved by using antidepressants;
  - (f) some research has noted that some people taking antidepressants cease taking them because of unpleasant side effects;
  - (g) mindfulness can enable some people to stay well for longer than if they took antidepressants because they are able to continue on the program for longer;
  - (h) mindfulness practices are able to be taught and utilised at a community level and can include the teaching of techniques via electronic methods;
  - (i) the teaching and practice may be a cost-effective means of improving the health and wellbeing of the community; and
  - (j) once a person is trained in mindfulness techniques they can continue using them with no ongoing costs.
- (4) That this House encourages actions to improve health and wellbeing, including through awareness of techniques and programs that may provide benefits to people, such as mindfulness practices.

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business item No. 161 outside the Order of Precedence objected to as being taken as formal business.**

## CHILD PROTECTION

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

- (1) That this House notes that the Australian Institute of Health and Welfare's "Child Protection Australia 2013-14" report indicates that:
  - (a) the number of child protection notifications in New South Wales has risen from 98,845 in 2010-11 to 99,283 in 2011-12, 104,817 in 2012-13, and to 125,994 in 2013-14;
  - (b) the rate of children and young people on care and protection orders per 1,000 of the population in New South Wales has risen from 9.0 in 2010 to 9.3 in 2011, 9.7 in 2012, 9.8 in 2013, and 10.2 in 2014; and
  - (c) the rate of children and young people in out-of-home care per 1,000 of the population in New South Wales has risen from 9.9 in 2010 to 10.2 in 2011, 10.4 in 2012 and 2013, and 10.8 in 2014.
- (2) That this House notes that the Department of Family and Community Services' quarterly Caseworker Dashboards show that although the caseworker vacancy rate has fallen from 13 per cent in September 2013 to 5 per cent in the most recent December 2014 report:
  - (a) the number of children and young people at risk of significant harm [ROSH] reports has risen from 64,470 in 2012-13 to 74,031 from 1 October 2013 to 30 September 2014; and
  - (b) the proportion of children reported at ROSH who received a completed face-to-face child protection assessment was 28 per cent in 2012-13 and 27 per cent from 1 October 2013 to 30 September 2014.
- (3) That this House calls on the Government to:
  - (a) take urgent action to significantly increase the proportion of children and young people reported at ROSH who receive a face-to-face child protection assessment; and
  - (b) significantly increase the commitment to early intervention services in the 2015-16 Budget to support vulnerable families, address risk factors, prevent abuse and neglect, and reduce the number of children and young people who need to be helped by the State's child protection and out-of-home care services.

## SIRIUS APARTMENT BUILDING

### Motion by Ms JAN BARHAM agreed to:

- (1) That this House notes that:
  - (a) the Sirius apartment building was designed by the architect Tao Gofers in 1978-79 as a complex of 79 apartments ranging from one to four bedrooms and designed to house some 200 people;
  - (b) the green bans of the 1970s to prevent destruction of heritage buildings in The Rocks were specifically lifted at this site to allow construction of this project so that displaced local residents could be rehoused;
  - (c) the Sirius building was designed and built by the Housing Commission of New South Wales for the Sydney Cove Redevelopment Authority, now known as the Sydney Harbour Foreshore Authority, under a leasing arrangement between these two bodies;
  - (d) this lease runs to 2030 and there is provision for an extension of this lease;
  - (e) this building featured in the *Architecture Bulletin* of the New South Wales Chapter of the Australian Institute of Architects in March-April 2012 as a fine example of the Sydney School of Australian Brutalism, a form of modernist architecture;
  - (f) this style of architecture represents a "shift in architectural thinking towards re-evaluating social concerns with urban social responsibility" and "combine[s] new ethical concerns with aesthetic formalism";
  - (g) the industry body, Cement, Concrete and Aggregates Australia, describes the building as a bold and exceptional experiment in low-income public housing which was built to relocate public housing tenants and to serve as a better housing model;
  - (h) the building's construction was simple, using many prefabricated elements and was combined with roof gardens, courtyards and balconies, and was specifically designed to be low maintenance; and
  - (i) Sirius is currently under consideration for listing on the Australian Institute of Architects' Register of Significant Architecture in New South Wales and once assessment has been completed the Heritage Committee will then determine if the building should be nominated to the State Heritage Register as a significant work of twentieth century architecture.
  - (j) the building is less than 35 years old with an estimated life span of at least 100 years;
  - (k) the extensive use of concrete, steel and other materials in the building means that it has substantial embodied energy, which would be wasted if the building were to be demolished, making yet another contribution to climate change if a replacement is created; and
  - (l) the building has a significant visual impact in the iconic capital city harbour location and was designed purposefully to preserve views of the Sydney Opera House from the Sydney Harbour Bridge and, therefore, the current scale, density and height should not be exceeded on that site due to these significant iconic design principles.
- (2) That this House calls on:
  - (a) the Minister for Social Housing to ensure that the Sirius apartment building is protected and preserved due to its architectural significance and sustainable design principles, including social wellbeing and the intentional commitment to provide low-maintenance, low-cost, high-density housing within an established community; and
  - (b) the New South Wales Government to provide further social housing based on the Sirius model.

## CENTENARY OF BHP NEWCASTLE STEELWORKS

### Motion by Mr SCOT MACDONALD agreed to:

- (1) That this House commends Mr Bob Cook, Mr Aubrey Brooks and the Newcastle Industrial Heritage Association for the centenary anniversary of the BHP Newcastle Steelworks, held on 2 June 2015.
- (2) That this House acknowledges those steelworkers who lost their lives in the course of their duties at the BHP site and who are recognised at the new memorial.
- (3) That this House notes that the BHP Steelworks site is a symbol of the revitalisation and the exciting future of the City of Newcastle and the Hunter region.

## ENGINEERS AUSTRALIA

### Motion by Dr MEHREEN FARUQI agreed to:

- (1) That this House notes that:
  - (a) on Friday 22 May 2015 the first of two annual Engineers Australia luncheons to mark the admission of new fellows to the institution was held at the Parliament of New South Wales;
  - (b) Engineers Australia is a professional body and not-for-profit organisation formed to advance the science and practice of engineering for the benefit of the Australian community;
  - (c) Engineers Australia has more than 100,000 members from all disciplines of engineering practice including biomedical, chemical, civil, electrical, environmental, information technologies and electronics, mechanical, and structural engineering;
  - (d) Engineers Australia has adopted strong climate change and sustainability policy statements that recognise that a healthy economy is underpinned by a healthy environment and respect for all life on earth, and acknowledge the leading role engineers have to play in devising solutions that address the causes and impacts of climate change;
  - (e) in a recent Australian survey the engineering profession was amongst the top five most ethical and honest professions, highlighting the community's ongoing high regard for the engineering profession; and
  - (f) engineers and engineering play a crucial role in moving New South Wales towards an innovative and sustainable future.
- (2) That this House:
  - (a) acknowledges the critical and innovative role engineers play in improving the quality of life and wellbeing; and
  - (b) congratulates Engineers Australia on its role as a national forum dedicated to the advancement of the engineering field within Australia.

## DOMESTIC VIOLENCE

**Dr MEHREEN FARUQI:** I seek leave for the suspension of standing orders to allow the presentation of papers comprising a printed online petition, an irregular petition and a newspaper petition containing the names of 362 respondents to campaigns to end domestic and family violence and introduce respectful relationship programs in all schools.

**The Hon. DUNCAN GAY:** I am sure that the Government will grant permission, but I oppose the member's request to suspend standing orders at this stage because we have not been shown the petition. The standing orders that are often discussed in this House provide that a member should distribute a petition prior to tabling any documents. If we see the petition we will probably grant leave for it to be tabled later today. I do not find anything offensive in what the member has just said but we have not seen the petition.

**Leave not granted.**

## TABLING OF PAPERS

**Dr Mehreen Faruqi,** by leave, tabled papers comprising a printed online petition, an irregular petition and a newspaper petition containing the names of 362 respondents to campaigns to end domestic and family violence and introduce respectful relationships programs in all schools.

## BUSINESS OF THE HOUSE

### Postponement of Business

**Private Members' Business item No. 1 in the Order of Precedence postponed on motion by Dr Mehreen Faruqi and set down as an order of the day for a future day.**

**Private Members' Business item No. 5 in the Order of Precedence postponed on motion by Ms Jan Barham and set down as an order of the day for a future day.**

## SPECIAL ADJOURNMENT

### Motion by the Hon. Duncan Gay agreed to:

That this House at its rising today do adjourn until Tuesday 23 June 2015 at 2.30 p.m.

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Order of Business****Motion by the Hon. Dr PETER PHELPS agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith relating to the conduct of the business of the House.

**Order of Business****The Hon. Dr PETER PHELPS [9.54 a.m.]: I move:**

That the order of private members' business for today be as follows:

- (1) Private Members' Business item No. 8 in the Order of Precedence standing in the name of Mr Shoebridge relating to the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2015.
- (2) Private Members' Business item No. 2 in the Order of Precedence standing in the name of Ms Sharpe relating to an order for papers concerning electorate briefings.
- (3) Private Members' Business item No. 4 in the Order of Precedence standing in the name of Ms Cotsis for the resumption of debate on a motion concerning age discrimination.
- (4) Private Members' Business item No. 6 in the Order of Precedence standing in the name of Mr Farlow relating to Lemnos 15.

This is a new motion which I hope will become a regular feature of this Chamber. Private members' business day is a day for private members' business, as the name implies. Members may or may not be aware that we instituted a new system this year involving me, the Opposition Whip the Hon. Shaoquett Moselmane, Ms Jan Barham and the Hon. Paul Green. The Hon. Mark Pearson has also been invited to contribute. Basically, I have moved this motion to try to create some order in the order of business on private members' day.

I congratulate those members and staff who have participated so far. I believe it is working effectively and in future I plan to move a comparable motion so we do not have to go through the procedure of trying to reorder business and postpone various matters at the start of private members' day. I think it will add a bit of clarity and consistency to the way in which we deal with private members' business so that hopefully we can get through more private members' business. It might seem bizarre for a Government Whip to say that sort of thing but it is something that I believe is a necessary part of the proper legislative process. I welcome the support of all members.

**Question—That the motion be agreed to—put and resolved in affirmative.**

**Motion agreed to.**

**CRIMES (APPEAL AND REVIEW) AMENDMENT (DOUBLE JEOPARDY) BILL 2015**

**Bill introduced, and read a first time and ordered to be printed on motion by Mr David Shoebridge.**

**Second Reading****Mr DAVID SHOEBRIDGE [9.58 a.m.]: I move:**

That this bill be now read a second time.

I begin by acknowledging that the House is meeting on Gadigal land and I pay my respects to the elders past and present of this land. I also pay my respects to the families of the three murdered children from Bowraville, their friends and supporters, who are in the President's gallery today—I will not name each and every one of them—and in the public gallery.

Almost a quarter of a century ago, three Aboriginal children—Colleen Walker-Craig, Clinton Speedy-Duroux and Evelyn Greenup—were murdered in Bowraville and, as I said, representatives of those children's families are in Parliament with us today. I acknowledge, thank and commend them for their continuing courage and, indeed, their persistence with a system of government, a system of law and justice and a Parliament that makes laws that have not always been sympathetic to their plight. In acknowledging that the families are in the gallery today, I also pay particular tribute to a member of the NSW Police Force, Detective Gary Jubelin, who for 19 years has stood with the families and done everything in his power to ensure that their path to justice will lead to a result, and justice for their three murdered children.

On 26 November 2013 this House unanimously adopted a motion calling on the Standing Committee on Law and Justice to inquire into and report on the family response to the murders in Bowraville of Colleen Walker, Evelyn Greenup and Clinton Speedy-Duroux, and in particular to give the families the opportunity to appear before the committee and detail the impact that the murders of those children have had on them and their community. At the time there was genuine debate in the House as to whether it was a good or a bad motion. People both within the House and in the Aboriginal community thought a broadly worded motion and a committee inquiry could achieve no result. I formed the view that when members of Parliament—whom I know personally and with whom I often disagree during political debates—stood before the families and heard firsthand their unquenchable demand for justice, their personal tribulations and their personal sorrow, that the good people would do the right thing.

It was a privilege to be a member of that committee, chaired by the Hon. David Clarke with the Hon. Peter Primrose as deputy-chair, and to sit with the Hon. Catherine Cusack, Mr Scot MacDonald, the Hon. Sarah Mitchell and the Hon. Shaoquett Moselmane—members from across the political spectrum—and do just that. We listened, we heard and we responded, regardless of our political colours. It was politics working. The families who, before November 2013, stood on the street outside the Parliament feeling ignored, marginalised and forgotten, are now in the President's gallery and in the public gallery. At 12.15 p.m. today after this second reading speech they will meet again with the Attorney General and the Minister for Aboriginal Affairs. We have done good work, and I commend all my political colleagues. I make special mention of the Chair of that committee for crossing the political divide—for ignoring the political divide—and responding to a common humanity to do justice. I also commend the staff of this House for their assistance, diligence, competence and empathy in the course of preparing the report.

The committee delivered its recommendations in November 2014. Many members will remember that it was an emotional day in the House. We made a collective commitment not only to deliver the report and speak to it but also to ensure that we implemented its recommendations to achieve justice for the families. When we tabled the report entitled "Family responses to the murders at Bowraville" the committee recommended that Parliament look at changing the law so that artificial barriers preventing a fresh murder trial could be removed. That, of course, requires a change to the way the principle of double jeopardy operates where the rules of evidence have changed over time. Since delivering that report with its 15 recommendations, I am pleased to say that, also ignoring the political divide between us, my local member—whom I did not vote for—the Attorney General Gabrielle Upton, has adopted each and every one of those recommendations and is working to implement them.

I commend the Attorney General not only for her actions in adopting the recommendations but also because one of the first things she did was what previous attorneys general had failed to do: She met with the families and listened to them. When I spoke to the families after that meeting they said what a wonderful change and a fine moment it was to have the Attorney General not only invite them into her office but also listen to them. She listened, she responded and she adopted the recommendations. I commend the Attorney General and the Government for doing that. I know that other Government members have been working away from the public gaze to achieve this result. Today I publicly commend them for their efforts.

I welcome and commend the Government's decision to implement all the recommendations of the Law and Justice Committee's unanimous report. The recommendations included a review of NSW Police Force policies and procedures, lawyer training on Aboriginal cultural awareness, a review of the adequacy of Aboriginal medical and mental services in Bowraville, and memorials to the victims of the murders. The Government's announcement on Tuesday is the culmination of the hard work and dedication—the ceaseless dedication—of the Bowraville families, which ultimately galvanised and united this Parliament in sympathy with their story to support the inquiry. And now we see support for the implementation of its recommendations.

I believe the Government should have gone further in relation to Recommendation 8—and I say that without partisan criticism. The Government could have implemented an immediate reform to the law of double jeopardy, removing one substantial hurdle to a retrial of the Bowraville murders. Time is of the essence. The committee recommended a review. The Government has supported the review and has appointed Justice James Wood, one of the most eminent jurists in the State, to conduct it. His review and the report must be tabled and made public by November. Of course, that is a further delay. It is 25 years after the murders and the families of the victims continue to suffer. The recollection of witnesses is fading and, sadly, some key witnesses have died. We must remember that we are dealing with witnesses from an Aboriginal community and, to our eternal shame, the average life expectancy of Indigenous Australians is substantially less than that of non-Indigenous Australians. Time is of the essence. Recommendation 8 of the committee's report states:

That the NSW Government review section 102 of the *Crimes (Appeal and Review) Act 2001* to clarify the definition of 'adduced', and in doing so consider:

- the legal or other ramifications of defining adduced as 'admitted', particularly on the finality of prosecutions
- the matters considered by the English courts under the equivalent UK legislation



- the merit of replacing section 102 of the *Crimes (Appeal and Review) Act 2001* with the provisions in section 461 of the *Criminal Appeals Act 2004* (WA), and
- the merit of expressly broadening the scope of the provision to enable a retrial where a change in the law renders evidence admissible at a later date.

The background to that recommendation is as follows. In 1996 there was an attempt to prosecute two of the Bowraville murder trials together under the previous, more restrictive common law evidence rules regarding propensity and similar fact evidence. That was denied, and instead each of the murders was tried separately and the same accused person was acquitted in each separate trial. Since that time the New South Wales Parliament has made substantial changes to the laws of evidence. Running the three trials together would be facilitated by the laws of today, with what the Evidence Act 1995 now terms tendency and coincidence reasoning, and this would considerably strengthen the prosecution case. This is the type of evidence that was used to convict serial murderer Ivan Milat of seven joined murder charges. The similarity in the serial killer evidence is what ultimately builds a cumulative case for the prosecution.

Legislation was passed in 2006 to create a limited exception to the principle of double jeopardy. Part 8, division 2 of the Crimes (Appeals and Review) Act 2001 allows the Court of Criminal Appeal to order a retrial following a murder acquittal if there is "fresh and compelling evidence" and it is considered to be in the interests of justice. "Fresh evidence" is defined as evidence that was not and could not have been adduced in the trial, in section 102. It is not a barrier to retrial that the evidence was inadmissible at the time of the first trial. The provisions allow the prosecution to seek a retrial in very limited circumstances after a defendant is acquitted of a crime that carries a penalty of life imprisonment. This is a very small category of crimes, including murder and the most serious aggravated sexual assaults. Further, any such application is subject to a series of checks and balances, including that the Court of Appeal must decide that allowing a retrial is in the interests of justice. If implemented, this bill would remove a significant impediment to a retrial in the Bowraville case.

The need for finality in litigation was comprehensively ventilated in the context of the parliamentary debate, with the decision ultimately being taken to proceed with the double jeopardy reforms. Since then, the significant concerns raised about the impact of the reforms have not been made out in practice, with not one application being made to the Court of Criminal Appeal under the 2006 amendments. After an extensive homicide reinvestigation by a police strike force, further evidence has come to light in the Bowraville murder cases. Based on that and the change to tendency and coincidence law, the families of the Bowraville victims asked the Office of the Director of Public Prosecutions to apply to the New South Wales Court of Criminal Appeal for a retrial. That request was denied by the previous Director of Public Prosecutions and two former Attorneys General on the basis that the evidence did not meet the test for retrial under the exception to double jeopardy.

Despite the 2006 legislation being passed with Bowraville in mind—I note that members in this Chamber raised the Bowraville case in passing that legislation—there was a difficulty with the term "adduced" in section 102. It was considered that the Bowraville case could not be retried because the prosecution tendered some evidence of one murder in the trial of another of the murders, but it was not admitted under the common law of evidence. However, the meaning of "adduced" is yet untested in New South Wales courts. The reasons given for the Director of Public Prosecutions and former Attorneys General declining to make the application to the Court of Appeal for a retrial in the Bowraville case was at least in part due to the problem of the definition of "adduced" in the Act.

One legal interpretation of "adduced" is that if the evidence is presented to the judge, but rejected as inadmissible under the laws of evidence, then it has been "adduced". Another, alternative interpretation is that evidence is "adduced" only once it is both presented to the court and admitted into the evidence before a jury. This is important in the Bowraville case because if "adduced" has the former meaning then the tendency and coincidence evidence linking all three murders cannot be fresh under the New South Wales double jeopardy laws. If it has the latter meaning, then the evidence could be the basis for a double jeopardy application. In order to address this uncertainty, the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2015 proposes a straightforward statement to the effect that the definition of "fresh" evidence is satisfied if the laws of evidence are changed so evidence that was previously inadmissible is now admissible.

The bill clearly and squarely addresses this problem and removes it as a significant barrier to a future application under the double jeopardy provisions. If fresh evidence included evidence that was not and could not have been admitted into evidence, as opposed to being tendered in court but rejected by the judge as

inadmissible, it would remove a significant barrier to a retrial for the Bowraville murders. The tendency and coincidence evidence was not admissible under the old evidence law, and now could be under the new Evidence Act. I turn now to the bill. The long title of the bill describes its purpose and function as:

An Act to amend the Crimes (Appeal and Review) Act 2001 to extend an exception to the rule against double jeopardy in relation to an acquitted person where previously inadmissible evidence becomes admissible.

The relevant application provision in section 100 of the Crimes (Appeal and Review) Act 2001 reads:

- (1) The Court of Criminal Appeal may, on the application of the Director of Public Prosecutions, order an acquitted person to be retried for a life sentence offence if satisfied that:
  - (a) there is fresh and compelling evidence against the acquitted person in relation to the offence, and
  - (b) in all the circumstances it is in the interests of justice for the order to be made.
- (2) If the Court of Criminal Appeal orders an acquitted person to be retried, the Court is to quash the person's acquittal or remove the acquittal as a bar to the person being retried for the offence (as the case requires).

Section 102 of the Act defines the term "fresh and compelling" as follows:

- (2) Evidence is fresh if:
  - (a) it was not adduced in the proceedings in which the person was acquitted, and
  - (b) it could not have been adduced in those proceedings with the exercise of reasonable diligence.
- (3) Evidence is compelling if:
  - (a) it is reliable, and
  - (b) it is substantial, and
  - (c) in the context of the issues in dispute in the proceedings in which the person was acquitted, it is highly probative of the case against the acquitted person.
- (4) Evidence that would be admissible on a retrial under this Division is not precluded from being fresh and compelling evidence merely because it would have been inadmissible in the earlier proceedings against the acquitted person.

This bill inserts into section 102 of the Crimes (Appeal and Review) Act 2001 the following clarification:

- (2A) Evidence is also fresh if:
  - (a) it was inadmissible in the proceedings in which the person was acquitted, and
  - (b) as a result of a substantive legislative change in the law of evidence since the acquittal, it would now be admissible if the acquitted person was to be retried.

This proposed amendment is designed to give effect to what many thought were the intentions of the 2006 double jeopardy reforms, which through a drafting technicality have continued to fail the families of the Bowraville victims in their search for justice. These reforms balance against the principle of finality and acknowledge that the criminal justice system is an imperfect one that can be, and has been, demonstrated to produce serious miscarriages of justice. Where a miscarriage of justice is patently obvious, a highly rarefied and conservative legal response, that fails to address that injustice risks bringing the justice system into disrepute. If the justice system cannot be perfected, there must be avenues for redress that provide some mechanism of attaining substantive justice following a grossly unjust acquittal in the most serious of cases. Of course, that mechanism must be carefully circumscribed.

The likely rate of uptake of applications under the bill must be considered in light of the existing scheme under part 8, division 2 of the Crimes (Appeals and Review) Act. That division contains a rigorous system of checks and balances for retrials by prosecution application. For such an application to be successful, the following steps must be taken. First, an accused must be acquitted for a crime that attracts a life sentence. That is a very small class of offences at the most serious end of the spectrum and it includes murder, aggravated sexual assault in company, or aggravated sexual intercourse with a person under the age of 10 years. Secondly, fresh evidence must come to the prosecution's attention.

Thirdly, the Office of the Director of Public Prosecutions must decide through its internal processes—themselves subject to levels of internal oversight—that an application for retrial would both have reasonable prospects of success and be in the public interest, according to the Prosecutorial Guidelines. Fourthly, the Director of Public Prosecutions must apply to the NSW Court of Criminal Appeal for a retrial under section 100 of the Act. Fifthly, the Court of Criminal Appeal must be satisfied both that there is fresh and compelling evidence against the acquitted person in relation to the offence, and, importantly, that in all the circumstances it is in the interests of justice for the order to be made.

Not only is the class of crimes restricted to the most serious crimes in the criminal law, and the new evidence must be compelling, but the Court of Criminal Appeal must, crucially, consider whether a retrial would be in the interests of justice. This test allows for a wide discretion to reject any application that amounted to an abuse of process or which could otherwise yield unjust outcomes. The bill contains a narrow, additional opening for retrial that is highly unlikely to produce a flood of retrials. It continues to be subject to all the checks and balances I have set out, including the essential interests of justice test in the Court of Criminal Appeal.

Care has been taken in the drafting, with the further qualifications following a period of consultation. Those further qualifications include: first, that it must be a legislative change to the laws of evidence, not a shift in the interpretation of the Court of Criminal Appeal to trigger the definition of "fresh"; and, secondly, it must be a substantive change in the laws of evidence. I turn now to the United Kingdom equivalent law. Section 77 of the United Kingdom's Criminal Justice Act 2003 provides that the Court of Appeal can order a retrial following an acquittal if certain tests in sections 78 and 79 are met. Section 78 provides:

New and compelling evidence

- (1) The requirements of this section are met if there is new and compelling evidence against the acquitted person in relation to the qualifying offence.
- (2) Evidence is new if it was not adduced in the proceedings in which the person was acquitted (nor, if those were appeal proceedings, in earlier proceedings to which the appeal related).
- (3) Evidence is compelling if—
  - (a) it is reliable,
  - (b) it is substantial, and
  - (c) in the context of the outstanding issues, it appears highly probative of the case against the acquitted person.
- (4) The outstanding issues are the issues in dispute in the proceedings in which the person was acquitted and, if those were appeal proceedings, any other issues remaining in dispute from earlier proceedings to which the appeal related.

Section 79, relevantly, states:

79 Interests of justice

- (1) The requirements of this section are met if in all the circumstances it is in the interests of justice for the court to make the order under section 77.
- (2) That question is to be determined having regard in particular to—
  - (a) whether existing circumstances make a fair trial unlikely;
  - (b) for the purposes of that question and otherwise, the length of time since the qualifying offence was allegedly committed;
  - (c) whether it is likely that the new evidence would have been adduced in the earlier proceedings against the acquitted person but for a failure by an officer or by a prosecutor to act with due diligence or expedition;
  - (d) whether, since those proceedings or, if later, since the commencement of this Part, any officer or prosecutor has failed to act with due diligence or expedition.

The law in the United Kingdom is almost identical to the law in Australia, but the English Court of Appeal appears to have implicitly interpreted "new" evidence, which is its equivalent of "fresh", to include evidence that was available but could not be adduced due to the evidence laws at the time—that is, it proceeds on the same interpretation that would be clarified by this bill and may allow, or at least remove a substantial barrier to, a retrial in the Bowraville murders.

What has happened in the United Kingdom with the state of the law that this bill is proposing for New South Wales? I think it is illustrative. Indeed, it is implicit in several judgements, including *R v C* (2009) EWCA Crim 633. In that case a man was tried for the brutal bashing murder of his ex-girlfriend and acquitted. He was then charged with the near-fatal bashing of another ex-girlfriend. That victim gave evidence that the man had made admissions to her about physically assaulting the first victim on the night that she died and said there were other occasions when he had been violent towards her. A retrial was granted and the court remarked:

That was a matter which could not be adduced before the jury because of the then state of the law, but which was in fact supported by independent evidence.

It acknowledged that a change in the laws of admissibility triggered the United Kingdom fresh evidence test. Thirteen applications have been made since the exception to double jeopardy was introduced in the United Kingdom in 2003. Of those, four were refused by the United Kingdom Court of Appeal and nine resulted in an acquittal being quashed. In several cases the mere fact of the order allowing a retrial was enough to precipitate a plea to the charges. Given the United Kingdom's population is substantially larger than that of New South Wales, the numbers of retrials of acquitted persons on the basis of previous inadmissible evidence would be expected to be extremely limited in this State.

Given our common legal traditions, we believe this is a reasonable indicator of how New South Wales would respond to such a legislative change. These were not trivial offences in the United Kingdom; they are the most serious we know of. Of the United Kingdom cases, at least seven out of the nine successful double jeopardy applications resulted in extremely lengthy sentences of imprisonment for crimes of rape and murder. They were cases crying out for justice, and when the outline of the facts in each judgement is read no sympathetic person could say that the murderer or the rapist should have walked free through the sheer good luck of an acquittal before all the evidence came to light or was presented before a jury. Indeed, the Court of Appeal in *R v D* (2006) EWCA Crim 1354, the first application under the United Kingdom 2003 reforms to find its way to the court, quoted the United Kingdom Law Commission as follows:

There is, further, the spectre of public disquiet, even revulsion, when someone is acquitted of the most serious of crimes and new material (such as that person's own admission) points strongly or conclusively to guilt. Such cases may undermine public confidence in the criminal justice system as much as manifestly wrongful convictions. The erosion of that confidence, caused by the demonstrable failure of the system to deliver accurate outcomes in very serious cases, is at least as important as the failure itself.

The Court of Appeal went on to say:

We are dealing here with the crime of murder. The Law Commission identified the unique features of this crime as providing a unique justification for an exception to the double jeopardy rule ... the strongest justification for the exception is likely to be the case of murder.

In Bowraville it was the murder of three innocent children. The justice system does not always get it right and, for cases as serious as this one, justice for victims and their families needs to take priority. I acknowledge frankly and openly that this proposed amendment will not guarantee a conviction for the murders of Colleen Walker, Clinton Speedy-Duroux and Evelyn Greenup, and nor should any action of a Parliament. I acknowledge also that it will not even guarantee a retrial. I make that acknowledgement to the families in the public gallery and in the President's gallery. But I sincerely hope that with this bill, if it becomes law, we can clear one substantial impediment so that the families of these children have at least a fair chance at justice. When families have been waiting 25 years for justice according to law for the deaths of their three children, The Greens believe—and I know many members in this Chamber believe, regardless of their politics—that the Parliament has an obligation to act.

The unanimous report of the Standing Committee on Law and Justice recommended the path to justice for Bowraville. The time has now come to walk down it. We hope that every political party can get behind this reform and put concrete action behind our collective promises following last year's parliamentary inquiry. It has been a quarter of a century of heartache, campaigning, frustration and persistence by the families of the victims of the Bowraville murders. Their spirits are indomitable. They stand strong and proud for their families and their community. I introduce this bill knowing that the Government has instituted its review and knowing that the Hon. James Wood, AO, QC, is looking at this very issue.

I introduce it so that the bill and the second reading speech can be on the parliamentary record and before the Hon. James Wood, AO, QC, as he undertakes that review. The review will report in November, precisely 12 months after the standing committee's report was delivered on the Bowraville murders. That will be

the time, the very moment, when we must immediately convert our collective promises to legislative action. I am pleased to introduce the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2015, and I commend it to the House.

**Debate adjourned on motion by the Hon. Dr Peter Phelps and set down as an order of the day for a future day.**

## LEGISLATIVE ASSEMBLY ELECTORATES

### Production of Documents: Order

**The Hon. PENNY SHARPE** [10.27 a.m.]: I move:

That, under Standing Order 52, there be laid upon the table of the House within 28 days of the date of passing of this resolution the following documents created for or in the possession, custody or control of any Minister since 1 October 2014 for each Legislative Assembly electorate:

- (a) all electorate briefings and electorate information sheets, and any document prepared with the intention of informing or giving an overview of the relevant portfolio in such particular electorate; and
- (b) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

I do not intend to take up much of the time of the House with this motion. I will seek leave to amend the motion to delete the following words in paragraph (a), "and any document prepared". I seek that amendment because this is a very targeted and specific call for papers. It is not intended to be a fishing expedition. It is not intended to overburden—a common Government complaint—the public servants of this State in providing these documents. I apologise to the House for not having this in order. I will ask someone to move this amendment.

**The Hon. Paul Green:** Never apologise.

**The Hon. PENNY SHARPE:** I do apologise to people. I do not intend to take the time of the House. This is a specific request under Standing Order 52. We all know that for each election each Minister provides a breakdown of what is being spent in their portfolio and information on the programs that are operating in their electorates. Government members get the benefit of access to that information and the rest of us are left in the dark. That is public information. All members need to understand exactly what is happening in each electorate. This material is prepared in every portfolio in the lead-up to an election. I am not seeking today to cause people to have to go through a lot of boxes in order to provide a lot of information. It is a targeted request, through Standing Order 52, for the information sheets and the electorate briefings that were prepared in the lead-up to the election.

The amendment that I will have to ask someone to move for me is an attempt to make the request as specific as possible. If the material does not exist, that is fine. But with the inclusion of the words "and any other document", the request was too wide. There is a lot of material that refers to electorates but I am seeking only the specific electorate briefings prepared in each portfolio. We want to examine that, get a handle on it and hold the Government accountable for the spending that is happening across the State. I commend the motion to the House.

**The Hon. DUNCAN GAY** (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [10.31 a.m.]: The Government opposes the motion. Listening to the proposed amendment, I am now even more confused. The honourable member indicated that the words "any document prepared" were to be removed from paragraph (a). If one just removes those words, one ends up with "all electorate briefings and electorate information sheets and with the intention of informing—

**Dr John Kaye:** No, that is not what she is meaning.

**The Hon. DUNCAN GAY:** That is what the honourable member said.

**Dr John Kaye:** No, she corrected that.

**The Hon. DUNCAN GAY:** She did not correct that—that is what she said. I can only rely on what the honourable member said. And frankly, apart from the detail—

**Dr John Kaye:** You are playing a game.

**The Hon. DUNCAN GAY:** The member opposite will get his chance to speak. Apart from the detail, even though there is a belated attempt to limit it, it is gamut of information that—

**The Hon. Penny Sharpe:** Just say you oppose it and sit down.

**The PRESIDENT:** Order! The Minister has the call.

**The Hon. DUNCAN GAY:** The motion covers all Ministers, all portfolios and all electorates. The cost and resources involved—

**Reverend the Hon. Fred Nile:** Ninety-three.

**The Hon. DUNCAN GAY:** —would be crippling—as the honourable member said, 93. The category of the documents is extremely broad. The budget that will be released also does this breakdown and the Government provides that to members of Parliament, so the information is out there. For example, in 2013 the Hon. Penny Sharpe asked for bus contracts. On 17 October 2013, Transport for NSW returned 394 boxes on that request—\$398,713, 98,000 documents, 70,000 documents—

**The PRESIDENT:** Order! There is too much interjection during the Minister's contribution. Members will have an opportunity to contribute to the debate. I call Dr John Kaye to order for the first time.

**The Hon. DUNCAN GAY:** —460 internal hours; 521 external hours. The Hon. Catherine Cusack highlighted this in the Parliament on 4 March 2014 and said, "When the member moved that motion, it triggered a collection, review and coding of over 98,000 documents, another 70,000 documents had to be printed and assembled—"

**Dr John Kaye:** Point of order: This is interesting information but I fail to see its relevance specifically to the motion before the House.

**The Hon. Paul Green:** To the point of order: I am interested in this information. It will help me make a decision on this Standing Order 52.

**The PRESIDENT:** Order! The material is clearly in order. The Minister has the call. In relation to the time, I have made a ruling that the clock be stopped during question time, but not at other times.

**The Hon. DUNCAN GAY:** Another 70,000 documents had to be printed and assembled. A 1,500-page index had to be put together. A legal team spent 276 hours complying with the member's trawling motion for documents, at a cost of \$41,000. When speaking on this call for papers—the 400-odd boxes—what did the Hon. Penny Sharpe say to the Parliament? I quote from the member's own words, recorded in *Hansard*:

I have previously sought information in relation to bus contracts and I thank the Minister for her 400 boxes of information, most of it rubbish.

"Most of it rubbish." Those opposite have a track record in this area of going on fishing expeditions. It is like high tide when they want to spend taxpayers' money in a wasteful manner.

**The Hon. Catherine Cusack:** Other people's money.

**The Hon. DUNCAN GAY:** Other people's money—they are not at all discreet when it comes to the spending of taxpayers' money. I have four of these in front of me: a resolution relating to Mr Matthew Daniel—\$255,372 with 149 boxes; and documents from the office of the former Minister for Finance and Services and the Minister for the Illawarra, eight boxes at a cost of \$380,000. The absolute worst of all: relating to Family and Community Services, Going Home Staying Home reforms—217 boxes at \$1.462 million, including 12,000 staff hours.

I am sure every member, except the Hon. Penny Sharpe, could see how better these resources could be used for the State of New South Wales, particularly in Family and Community Services. If one adds those four requests together, they total \$2.4 million, an average of \$600,000—say, \$500,000, because there may have been more. When one looks at the standing orders that were agreed to by this House last year there were 29—that is getting close to a \$15 million in time and money—for a witch hunt. In 2011 the Parliament passed 12; in 2012, we passed seven, which is within a sensible range for seeking public information but in 2013—

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

**The Hon. DUNCAN GAY:** —that seven had blown out to 20; and in 2014, that seven had blown out to 29. That is an indication of a trend on the part of members such as the Hon. Penny Sharpe that there is no restraint and they are lazy in the requests that they are putting forward. They do not care, they make requests with gay abandon and they are costing vital resources from departments that cannot afford it. I do not like to say this, but, frankly, we have a responsibility to be careful with taxpayers' money. We cannot allow follies like this to continue to happen day after day after day. Suddenly, when the honourable member is confronted with it, she wants to change a couple of words that do not make any sense. It is clear that she has not thought about what she is doing and she is just indulging in another one of her follies to get another 400 boxes of rubbish.

**The Hon. Penny Sharpe:** Rubbish.

**The Hon. DUNCAN GAY:** Using the word "rubbish" again. Those were her words about the 400 boxes. She is reported in *Hansard* on 4 March 2014 as saying:

I have previously sought information in relation to bus contracts and I thank the Minister for her 400 boxes of information, most of it rubbish.

She must learn some restraint. She must understand that members opposite have a responsibility to be careful with the valuable departmental resources that have other potential uses. The Government opposes this motion.

**The Hon. ADAM SEARLE** (Leader of the Opposition) [10.40 a.m.]: I move:

That paragraph (a) be amended by omitting all words after "all electorate briefing and electorate information sheets" and inserting instead "informing or giving an overview of each relevant portfolio in each particular electorate, and".

In speaking to this amendment, which makes good on the foreshadowed amendment indicated by the Hon. Penny Sharpe and answers the tirade from the Leader of the Government, it is important for honourable members to understand that the quotes attributed to the Hon. Penny Sharpe related only to that particular Standing Order 52 dealing with the bus contracts. It was a reflection on the nature and the quality of the material returned in accordance with that order by the government agency. It was not a reflection on the lack of focus of the order sought and obtained from this House; it was a reflection only on the nature and quality of the material provided by the Government.

When one goes through the various examples of standing orders or returns to order enumerated by the Leader of the Government, the records of this House show that members of the Opposition who sought and obtained documents under the standing order accessed that material diligently and it was useful in informing us in our parliamentary duties. I will use two examples, one in relation to Mr Matthew Daniel and one in relation to the ministerial office records of the former Minister for Finance, the Hon. Greg Pearce. Both were accessed by me in some detail and both resulted in constructive conversations with the Government—including, I believe, with the Leader of the Government—about that material.

This is an important facility of the House. It has been used more frequently in the past decade, but not gratuitously or without restraint. It has been used to seek and obtain information that has proved vital to the Opposition and other members of this House in discharging their wider duties as members of the House. That information was necessary on each of those occasions and it was used responsibly by members. The order we are debating does not have a wide focus. Even in its original form it sought a limited cohort of documents. Should this amendment be carried, the scope of the order will narrow that focus still further.

As the Hon. Penny Sharpe indicated, the Opposition is not seeking access to an unlimited cohort of documents, but documents that have already been created, which have a particular description and are prepared regularly by agencies of this State. They are a very clearly enumerated and well-understood set of documents. They already exist. They can be easily located, collated and provided to this House should it seek that

information through the responsible exercise of the powers reposed by the Constitution of this House. It would not require, as the Leader of the Government has suggested, tens or dozens of public servants trawling through boxes and archives. These documents exist; they were prepared; they are identifiable. They are easy to locate and to provide in a cost-effective and timely way to this House, and we earnestly ask members to grant this important and restrained request for information.

**Dr JOHN KAYE** [10.45 a.m.]: I speak on behalf of The Greens in support of the motion as amended. I am having a hard time understanding what the heck the Leader of the Government was talking about. Let us be clear that this motion asks for all documents that went to Government members of Parliament in the lead-up to the last election. If the Leader of the Government is correct that it is an expensive exercise, then surely his Government is guilty of an expensive exercise to provide propaganda to his members of Parliament during the election campaign.

The fulfilment of this Standing Order 52 cannot logically cost any more than it cost the Government to provide that information to lower House members of Parliament like my own local member. If the Leader of the Government says this is a very expensive, irresponsible exercise, then the irresponsibility lies with the Baird Government in the lead-up to the last election. The Leader of the Government says "oh" in response to my comment but it is logically true. All that is being asked for here are documents that were given to lower House Government members of Parliament—so a subset of members of Parliament.

**The Hon. Duncan Gay:** If that is all you want, they are public documents. That is not what you want.

**Dr JOHN KAYE:** The Leader of the Government says they are public documents. They are not public documents. Some of them were published by members of Parliament. My local member of Parliament did not publish those documents; I never saw them. I might ask him for them now. But even in the event that some of them are public documents, the expense of this can be no more than the expense that the Government incurred effectively providing propaganda to its own members of Parliament during the election campaign. If there is a scintilla of irresponsibility in this matter, it lies entirely with the Government and not with the Opposition or the Hon. Penny Sharpe. It is purely about finding out what the Government told its own members of Parliament during the election campaign. This is a cover-up by the Government. Members opposite do not want us to see those documents. That can be the only explanation, and the Leader of the Government, who certainly misunderstood the intent of and the reality of the amendment to the motion, is covering up for what he does not want us to see—those documents.

On the cost of documents being produced, the Leader of the Government launched a fairly wide-spectrum attack on the whole Standing Order 52 process. It is always true, as you know, Mr President, having been in this Chamber for a while, that oppositions love Standing Order 52 and governments hate it. It does not matter which party is in government—when they swap, they hate it. I remember very distinctly—I had my hands in this and I am not necessarily proud of what happened here—a particular Standing Order 52 request that the Leader of the Government, the Deputy Leader of the Government and I voted for, but which the Hon. Penny Sharpe voted against and which produced many boxes of information on the Building the Education Revolution. I cannot recall how many boxes it produced.

However, I think it broke the record. I tried to go through some of the boxes and Opposition staffers tried to go through some of them, but we could not get through all of them. If ever a finger were to be pointed at a misfire on Standing Order 52 requests, it should be pointed at the Leader of the Government, the Leader of the Opposition, me and every other member of the crossbenches or the Liberal Party or The Nationals who voted for that motion.

Let us be clear: Mistakes are made, but complying with this motion before the House cannot cost any less than it cost the Government to produce materials given to its candidates during the election campaign. It will cost less because rather than having to produce however many copies were required to mail every candidate, this material will go to only one location. I cannot understand why we are debating this motion and the Government has not said to the Hon. Penny Sharpe, "Of course we will provide this material, this is a reasonable—

**The Hon. Walt Secord:** She's a reasonable person.

**Dr JOHN KAYE:** I am not saying that.



**The Hon. Walt Secord:** I am.

**Dr JOHN KAYE:** You might be, but I certainly did not say that. The Government should say, "Let's call the whole thing off because we made a mistake and misunderstood this motion. We were wrong in our opposition to the motion, so let's pass it and move onto something more important." This motion does not call for expensive action, so I am shocked we are debating it. These materials should have been on a website during the election campaign and it is shameful they were not publicly available.

**Ms Jan Barham:** Ours were.

**Dr JOHN KAYE:** I take the interjection of Ms Jan Barham. I prepared documents in my own time on my computer and posted them on our website for our lower House candidates. Perhaps all parties should agree to do that and learn from this silliness.

**The Hon. Catherine Cusack:** We had all our policies on our website, too.

**Dr JOHN KAYE:** The Hon. Catherine Cusack misunderstands what we are talking about. It is not about policies; it is about government briefing documents. Let us be clear, we are talking about information provided to each lower House electorate with specific electorate briefings and information, and giving an overview of the relevant portfolios. Presumably policies were on the Liberal Party's and The Nationals' websites, such as they were. This motion calls for specific documents that were prepared, presumably using government resources, and used in the election campaign. If there is any hint in this motion about wrongdoing, it may be that the motion will uncover an abuse of government resources to support candidates.

This debate has made me much more interested in going through boxes of produced documents to make sure that we uncover the real reason for the Government opposing this motion. This may be the real reason the Government is fighting so hard to stop this motion and why it is clutching at absurd straws and going to the extent of launching a full-on attack on Standing Order 52. Government members know from their time in opposition how critical this is to the accountability functions of this Parliament. Yes, it is important that Standing Order 52 motions are targeted and that they do not impose unreasonable costs. However, there will always be a cost associated with accountability and holding governments to account by producing documents to show their actions and decisions are in accordance with the best interests of the people of New South Wales.

The motion as amended is exceptionally targeted. It calls for the production of certain documents that have already been produced and specifically went to lower House candidates over a short period, October 2014 to the present. The documents called for focus purely on relevant portfolio issues in those electorates. I thought the Leader of the Government was a capable bloke, so I was surprised when he resorted to raising a litany of costs associated with other requests under Standing Order 52 without specifically addressing this motion. This makes me more interested in voting for this amended motion and going through any documents produced to find out what the Government is so keen to keep hidden from the people of New South Wales. I commend the motion as amended to the House.

**The Hon. PAUL GREEN** [10.55 a.m.]: It goes without saying that the Christian Democratic Party is cautious when it comes to motions calling for papers under Standing Order 52. One of the main reasons for this is that it takes resources to comply with such orders, as has already been raised by the Government. I agree that the House has a responsibility on occasion to call for certain information. There is no doubt that there is a budget for the resources required to comply with such orders, and as a member of this Chamber I have learnt that there is often a great cost and effort involved in exposing such information. Is there a record of who, if anyone, goes through the documents produced?

**The Hon. Adam Searle:** There is a register for that.

**The Hon. PAUL GREEN:** For every box, because there might be 400 boxes of documents?

**Dr John Kaye:** This is not going to produce 400 boxes.

**The Hon. PAUL GREEN:** No, but the process has produced that number in the past. We believe that members or parties requesting orders that result in using so many resources might be asked to carry the burden of at least part of the cost.

**Dr John Kaye:** We would have had to pay for Martins Creek.

**The Hon. PAUL GREEN:** That is right. Members should be able to call for papers under Standing Order 52. Some such motions have been agreed to in this House, but many have not because most of the time the resource burden outweighs the value of the request. There is no doubt that complying with these requests costs money—a \$100,000 for some and up to \$500,000 for others. Recently I begged for \$90,000 to help stakeholders keep open services for the homeless. In other places people have begged for funds for a bridge upgrade, a road to be sealed, hospital services or police services.

If the Government has to spend \$500,000 to produce boxes of information, it is a no-brainer that the funds would be better spent on required services in electorates in New South Wales. There are 93 lower House electorates in New South Wales and even if each electorate received only \$5,000 many requests for services could be met. The Christian Democratic Party is always cautious about requests for information under Standing Order 52 and believes members making such requests should be held to account. In some cases in good conscience we cannot agree to such requests as there are other ways to secure such documents. The Christian Democratic Party encourages the Opposition to explore that and will not support this motion.

**The Hon. WALT SECORD** (Deputy Leader of the Opposition) [10.58 a.m.]: My contribution on the motion by the Hon. Penny Sharpe will be brief and will be on the principle of Standing Order 52. I decided to speak only when I heard the Leader of the Government's sustained attack on the principle of calling for papers under Standing Order 52 and claims about cost. The Leader of the Government spoke about restraint and costs associated with calling for papers under Standing Order 52. Last week The Nationals wasted \$47,000 of taxpayers' funds debating in this Chamber the North Coast election result and the election of the Hon. Rick Colless and the Hon. Ben Franklin.

It was a three-hour debate, and that involved parliamentary salaries. Three hours were wasted on that debate and it cost \$47,000. If the Government wants to talk about waste, that is it. Standing Order 52 is an important principle in this House. This is a House of review: we scrutinise and examine Executive Government decisions and decision-making. It would be dreadful if motions brought under Standing Order 52 were defeated. We must pass them; it is an important principle for a House of review. I will be voting for the amended motion.

**The Hon. CATHERINE CUSACK** (Parliamentary Secretary) [10.59 a.m.]: What a fabulous confection of anger and outrage on the part of the Opposition and, in particular, The Greens. I thank the Minister for his illuminating speech in which he described the correct use of Standing Order 52. The Minister did not launch an attack on the use of Standing Order 52. He said in his speech on several occasions that Standing Order 52 had its place and that it is invoked about seven or nine times a year, which is reasonable. The Government has complied with the use of that standing order, so to say that the Minister is attacking its use is a misrepresentation of what he said.

It was particularly nasty for the Hon. Walt Secord to compare the figures used by the Minister with what he described as waste on the part of another member of this House who exercised his right to move a motion and to debate it in this place last week. It was that member's right to move a motion of his choosing. If Labor members want to vote against any motion we have no problem with that—it is their democratic right. It is not democratic for any member in this place to be criticised and accused of wasting taxpayer resources simply because he or she put a motion on the *Notice Paper* and exercised his or her right—

**The Hon. Penny Sharpe:** That is exactly what this is.

**The Hon. CATHERINE CUSACK:** No it is not. The Hon. Walt Secord attacked a member who exercised his democratic right to debate a motion in this place and he compared it with the motion moved by the Hon. Penny Sharpe under Standing Order 52. As usual, the Hon. Walt Secord's contribution was disgraceful and nasty. For the benefit of The Greens, who do not appear to have read the original motion, it states:

... the following documents created for or in the possession, custody or control of any Minister since 1 October 2014—

Today is 4 June 2015. Dr John Kaye would have us believe that October 2014 to June 2015 is a short time, when the exact opposite is true. The motion also states:

... all electorate briefings and electorate information sheets, and any document prepared with the intention of informing or giving an overview of the relevant portfolio in such particular electorate ...

What a broad-ranging call for papers. Earlier the Minister said that this was a fishing expedition. Labor has hastily moved to try to confine its call for papers but the amended motion has achieved very little. This motion does not appear to be the motion to which Dr John Kaye referred earlier. He must have a different *Notice Paper* as nothing he said related to the wording of this motion. Even in the amended motion, which is confusing, there is a broad-ranging call for papers. Throughout debate on this motion Labor members have not explained why they have called for these documents. I know that this is a fishing exercise—as were all the Standing Order 52 motions to which the Minister referred—because Opposition members do not know what they want; they just ask for everything.

**The Hon. Penny Sharpe:** Point of order: I have been listening carefully to the contribution of the Hon. Catherine Cusack. Previous discussion about costs and the material that was provided, which I believe was what the Minister was talking about in his contribution, came within the standing orders because he referred specifically to the outcomes of those calls for papers. The Hon. Catherine Cusack is canvassing previous decisions of this House. Those calls for papers were defeated as we did not have the support of the majority in this House.

**The PRESIDENT:** Order! It is not within the standing orders to reflect on previous votes of the House, but I do not believe that the member has yet crossed the line.

**The Hon. CATHERINE CUSACK:** To clarify my point for the benefit of the member who does not seem to understand, the Opposition has not given reasons for this motion, nor has it referred to specific documents, which is why the Minister described this motion as a fishing exercise. Opposition members cannot nominate particular documents or pieces of information that it believes are missing. It cannot even explain what it is trying to accomplish by moving this motion. The Opposition is saying, "Give us truckloads of documents."

Dr John Kaye claimed that as these documents had already been created no additional cost would be incurred in providing them to the Parliament, which is an extraordinary thing for him to say. He fully understands the processes that are triggered by a call for papers. As a call for papers is a legal instruction from this House every department's lawyers are involved and every outcome has to be independently scrutinised, which is why it involves huge costs. Every document has to be reviewed to see whether or not it is subject to privilege. When we are talking about 400 boxes of documents—in this case it would not surprise me if it were a lot more—it is extraordinarily expensive for taxpayers.

We are asking Opposition members to tell us what they are looking for and to negotiate with the Government as the information might be able to be provided to them. All Opposition members have done is to ask for every document without explaining its reasons for doing so. I believe that Opposition members are not prepared to tell us because they do not know what they are looking for. They want all these documents so that they can say to departmental staff, "Go and see whether you can find something odd or embarrassing for the Government."

**The PRESIDENT:** Order! One of the wise rulings that President Primrose made was that members will not be prevented from interjecting when it is part of the flow of debate, only when it is with debate. He should reflect upon his wise ruling and desist from constantly interjecting during the Hon. Catherine Cusack's remarks.

**The Hon. Peter Primrose:** I was abiding by the ruling.

**The PRESIDENT:** Order! The Hon. Catherine Cusack has the call.

**The Hon. CATHERINE CUSACK:** This call for papers will waste a great deal of taxpayers' money and result in departmental officers having to spend a great deal of time and energy complying with the Opposition's request. It will be monumentally distracting and expensive even though no-one in this Chamber has a clue what Labor wants or why it is asking for these documents. Opposition members have asked for these documents but we do not know how many documents are required. They do not appear to care how much it will cost and they do not know what they are looking for. As the Minister stated earlier, this is an outrageous abuse of Standing Order 52. The Liberal-Nationals Coalition invoked the use of Standing Order 52 for the provision of specific documents and other broad-ranging issues, so Opposition members should not accuse us of attacking the standing order when they were opposed to its use. We support the use of Standing Order 52 and ask only that it be invoked responsibly.

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

**The Hon. CATHERINE CUSACK:** Opposition members are so lazy they have not given us any reason as to why we should agree to this vast expense, which is an insult to the standing order, an insult to taxpayers and an insult to the House.

**The Hon. LYNDIA VOLTZ** [11.09 a.m.]: The most interesting thing about the contribution of the Hon. Catherine Cusack is that the cat is now out of the bag. According to the Hon. Catherine Cusack, Standing Order 52 motions are expensive because the Government contracts lawyers to oversee every call for papers. It is no wonder that the Minister for Roads, Maritime and Freight was able to cite the costs as he has lawyers overseeing every call for papers. When I worked in a ministerial office and I received a request for information or for a document I used to send it because that is what I had been asked to do. There is no need for legal argument when this House is seeking information. When a request is made to provide information it is the job of departmental officers to provide that information and not for lawyers to hide it.

This Government's 2011 election policy was to be open and transparent but what do we have today? When there are calls for papers under Standing Order 52 lawyers are hiding information from members of Parliament—those people who are elected to scrutinise Executive Government. Opposition members might not need to revert to calls for papers if the Government provided answers to our questions. Some of the questions that I have asked the Government include: What are the full-time equivalents [FTE] for staff at the Olympic venues and corporate areas for the Department of Sport and Recreation? What are the full-time equivalents in the Department of Sport and Recreation and how many were looking after the Combat Sports Authority—

**The Hon. Sophie Cotsis:** Check the website.

**The Hon. LYNDIA VOLTZ:** On this occasion I was not referred to the website. I was told, "Information on FTE numbers is provided in the NSW Budget Papers." Guess what? It is not in the budget papers. The Government specifically took FTEs out of the budget papers. If I want to find out how many FTEs look after the Combat Sports Authority I will not find that information in the budget papers. The Government will not answer those questions. At budget estimates hearings Opposition members are given 10 minutes to ask any questions they like about sport and recreation but the Minister takes about five minutes to answer one question. The sporting industry injects billions of dollars into the New South Wales economy but Opposition members are not provided with any answers relating to it. The Hon. Sophie Cotsis was right; the Government often directs Opposition members to government websites when they are seeking information. One of the questions that I asked was as follows:

What is the current number of full-time equivalent employees for Screen NSW?

The answer was:

All relevant details regarding the operations of Screen NSW can be found in their annual reports, which are published online ...

I looked at the annual report online but could not find how many people were employed by Screen NSW. I asked the Minister for Sport and Recreation:

Has the Minister ... received any tickets for sporting events over the past 48 months from any business or corporate entities?

I received the following answer:

As the Minister for Sport and Recreation I attend many sporting events and I comply with the Ministerial Code of Conduct.

That was not an answer to the question that I had asked. The Minister will not tell us which businesses are giving him tickets and this Government will not provide us with that information. It hides behind lawyers when there are calls for papers under Standing Order 52 and it refuses to answer any questions on notice. The Minister for Roads, Maritime and Freight had the hide to whinge about Opposition members requesting information under Standing Order 52. He is not transparent or open and he will not provide the people of New South Wales with the information that they require. If the Minister wants to provide information he should release the business plan for WestConnex. Opposition members will not object to the provision of such information.

**The Hon. Dr PETER PHELPS** [11.14 a.m.]: I am confident that we will win the vote on this motion because I suspect that at least one Labor member will cross the floor to vote with Government members. I have not been told so directly but it is the only implication I can draw from certain statements that a member has

made in the past. That member indicated that he would prefer it if this Chamber did not exist. I remind all members that if this Chamber did not exist there would be no Standing Order 52. To live up to his ideal he should today be crossing the floor to support the Government in rejecting the motion moved by the Hon. Penny Sharpe. Think about a world without Standing Order 52 motions. Think about a system where we have a unicameral Chamber with the tyranny of 50 per cent plus one—

**The PRESIDENT:** Order! I warn the Hon. Penny Sharpe that she is on two calls to order.

**The Hon. Dr PETER PHELPS:** —a Chamber where the will of the Executive dominates. We should all from time to time speak with our colleagues in the Legislative Assembly. They have a comparable provision to Standing Order 52. How many times in the previous 20 years has that provision been successfully used? The answer is zero. Every motion for a request for documents in the Legislative Assembly has failed since the end of minority government under John Fahey. Think about a Parliament where there are no committees, no inquiries, no Standing Order 52s, no amendments, and no opposition to bills except the things that are approved by Executive Government. The simple fact is that the defining feature of the Legislative Assembly, and indeed every lower House Chamber in the Westminster system of government, is obsequiousness to the Executive and obeisance to its will.

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

**The Hon. Dr PETER PHELPS:** This Chamber represents all that is good and great about representative democracy in the Westminster system. This is the Chamber which, through the High Court decision in *Egan v Willis* and also through the New South Wales Court of Appeal decision in *Egan v Chadwick*, gave unequivocal assurances about the primacy of the Parliament to demand information from the Executive Government. Imagine a New South Wales without a Legislative Council where unicameralism was the order of the day. What would happen if the Premier decided, for example, to appoint 42 Ministers in a unicameral Parliament? Members opposite might say that is unrealistic and impossible and it will never happen.

**The Hon. Shaoquett Moselmane:** Point of order: My point of order is relevance. Where is the relevance of the argument of the Hon. Dr Peter Phelps to the subject matter?

**The Hon. Dr PETER PHELPS:** To the point of order: The exercise of a Standing Order 52 request is a fundamental part of the Legislative Council—a Legislative Council that would not exist under a unicameral system of government.

**The PRESIDENT:** Order! I call the Hon. Walt Secord to order for the first time. I call the Hon. Sophie Cotsis to order for the first time. Members should not interject during a point of order.

**The Hon. Dr PETER PHELPS:** I am putting forward the case on the primacy and the importance of calls for papers under Standing Order 52 and their likely abolition as we have seen through historical circumstances in the Legislative Assembly were this Chamber not to exist.

**The PRESIDENT:** Order! I thank the member who is drawing a long bow. I will give him a bit more latitude.

**The Hon. Dr PETER PHELPS:** A Standing Order 52 request is about power; it is an assertion of the right of this Chamber to achieve information. It is a similar sort of right that the President claimed on behalf of this place when we saw the Governor in the immediate aftermath of the election—the assertion of our ancient privileges in defiance of the will of the Executive, if that were necessary. It is an exercise of power. The Hon. Daniel Mookhey also spoke about power in his inaugural speech. It is easy for him to talk because he is the golden boy of the Young Labor right-wing faction and the Transport Workers Union. He is also a powerbroker, so nothing is impossible for him.

**The Hon. Penny Sharpe:** Point of order: My point of order relates to relevance. The Government Whip is going well above and beyond the leave of the motion.

**The Hon. Duncan Gay:** To the point of order: The Government Whip's contribution is entirely relevant. He is making the case for calls for papers under Standing Order 52. He is pointing out that if they are misused we could lose them and this House. That is an important point, given the extravagance that Government members have highlighted with regard to the Opposition's misuse of these motions.

**The PRESIDENT:** Order! It was not immediately clear where the Hon. Dr Peter Phelps was going. There is a generally relevant theme to his remarks. However, he should try to make as few detours as possible.

**The Hon. Dr PETER PHELPS:** The point I was trying to make is that if we have a majority in a strict majoritarian system of government we are subject to the tyranny of that majority. The voices of the powerless and the dispossessed—which in a unicameral system of government means everyone who does not hold 50 per cent plus one—go by the wayside. It is all very well to talk about power, but we should empathise with the powerless and dispossessed about the glory and justice of tyrannical majoritarianism. Indeed, while he was in this Chamber, the Leader of the Opposition in the lower House spoke on many occasions about the utility and importance of this place. If members were to read the valedictory speeches of every member of the Labor Party who has retired over the past 20 years, they would see that whatever ideas they might have had about this place upon entering, upon leaving they understood the vitality of its role in maintaining a check on the Executive.

The easy insouciance of dismissing this place is not a stepping stone on the path to wisdom. I speak to the crossbenchers—members of the Shooters and Fishers Party, the Christian Democratic Party and The Greens, and Mr Pearson, who may be watching this on their televisions in their offices. I know that they have a preference for open government and that their proclivity is to support Standing Order 52 motions. They have demonstrated that in the past, and I respect their right to do so. However, I ask them not to do so in this instance so that we can send a message and demonstrate in practical terms what the world would be like if this Chamber did not exist, if there were no Standing Order 52 motions, and if we had to rely on the majoritarianism of a unicameral lower House. As members know, not one request for papers has been successful in the other place for 20 years. I ask the crossbench members to send a message about what the future would be like for the people of this State and government accountability.

The Hon. Penny Sharpe may lose this motion, but she has a plan B. She always has a plan B, even though she might not realise it. If this motion were to be rejected today, she could always refine it, put it on the *Notice Paper* and have it debated at a later date. There are some who think that this Chamber is frivolous and a petty imperial bauble that can be dismissed with the wave of a hand. I ask the crossbench members to show everyone what life would be like without the ability to obtain information from governments using Standing Order 52 motions. I ask them to reject this motion, even though I know their proclivity is to support them. I ask them to send a clear message to those who think this place is an imperial relic. Finally, I look forward to the Hon. Daniel Mookhey introducing a "Constitutional Amendment (Legislative Council Abolition) Bill" if he so desires. I would enjoy participating in the debate. Should the Hon. Daniel Mookhey require a copy of the bill introduced by Mr Heffron in 1960 for inspiration, he can get a copy from me any time he wishes.

**The Hon. PETER PRIMROSE** [11.19 a.m.]: My contribution to this debate will be relatively short. I am very pleased to follow the Government Whip in this debate. I must admit that I can find no fault with the bulk of his contribution. However, I doubt his assertion that all Labor members, including the former Leader of the Government in this place, the Hon. Michael Egan, changed their lifelong position about its abolition when they left this Chamber. I suggest that he reread the Hon. Michael Egan's valedictory speech. The honourable member indulged in convoluted logic at the end of his otherwise excellent address, which I enjoyed, by saying that the crossbench members should demonstrate what type of governance system we would have if the Executive had absolute power.

I urge them not to use this motion to make that point; there may be more substantial motions in which to do so. I look forward to having a copy of the Government Whip's contribution to this debate with me when we debate any such motion at the appropriate time. This important house of review is embedded in section 7A of our Constitution. I often remind members that the lower House could be abolished by a simple Act, but the abolition of this House would require a referendum. We may well debate that proposition at some point in the future. Those of us who have studied social science—and I am sure the Government Whip has—know about Maslow's hierarchy of needs. It is an important principle dealing with the needs of all organisms, and particularly human beings. We in this place have developed what I refer to as "Duncan's hierarchy of excuses".

**The Hon. Dr Peter Phelps:** Point of order: The Hon. Peter Primrose is well aware that honourable members should be referred to by their correct titles.

**The Hon. PETER PRIMROSE:** I withdraw; I should refer to the "Hon. Duncan Gay's hierarchy of excuses". We have recently debated the electricity privatisation legislation, but I will not impugn that debate; that is for another occasion. Of course, I am speaking about the implementation of the policy behind that legislation. So far the Executive Government—so disliked by the Government Whip—

**The Hon. Dr Peter Phelps:** Hear, hear!

**The Hon. PETER PRIMROSE:** I acknowledge that interjection. When we seek information from the Government we are told first that it is classified as "Cabinet-in-confidence". More recently—and I expect this to be true well into the future—the response has climbed to the second level of the Hon. Duncan Gay's hierarchy of excuses; that is, the information is classified as "commercial-in-confidence". Therefore, members of this House, the public and taxpayers are not entitled to access it. Another common response to questions, which the Hon. Lynda Voltz mentioned—it is my personal favourite—is, "Go to the website; it is all there on the website."

But we all know that when we go to the website and flip through 300,000 pages the information is not there. But as the Government Whip outlined, that is how Executive Government in this State works now. Now we get to what may be the base—in more ways than one—excuse, and that is it is too expensive. It will require photocopying. It may require administrative units to buy cardboard boxes to transport the material. What a base suggestion. It undermines the very concept that this is a house of review. For a house of review to work effectively, members need access to information from the Executive.

**The Hon. Dr Peter Phelps:** A reasonable amount of information.

**The Hon. PETER PRIMROSE:** The Government Whip interjects again. So it is unreasonable for the house of review—which he highlights and indicates is so important—to say we would like information that led to decisions being taken and advocacy in relation to the last election, and to hold the Executive Government to account. Apparently that is something we do not need; it is not required in New South Wales. Give us a break. That is why we are here. We do not exist only to deal with legislation driven up from the Executive.

**The Hon. Shaoquett Moselmane:** Point of order: When Opposition members interjected on Government members they were called to order. Yet the Government Whip continues to interject.

**The PRESIDENT:** Order! I ruled that interjections are inappropriate when they affect the flow of the debate. I do not believe the interjections by the Government Whip have been affecting the flow of the debate, but I am monitoring it closely. The Hon. Peter Primrose has the call.

**The Hon. PETER PRIMROSE:** With due deference to the Opposition Whip, I was going to reject the point of order. I always enjoy the contributions of the Government Whip; they usually assist our side of the debate, which is valuable. This will become a very important issue, following the decision of this House last night as we move towards implementing the Government's policy in relation to the sale of electricity assets. I believe this House will have a very important role to play through not only Standing Order 52 but also its estimates process and through questions. We have a direct responsibility to the people of New South Wales to hold the Government to account. This is a test. If members who are beholden to the Executive choose to implement and crunch down on the Hon. Duncan Gay's hierarchy of excuses, then we will not be doing our job properly. Sooner or later someone will use that argument and ask: Why do we need a house of review if it is simply an extension of the Legislative Assembly?

**Ms JAN BARHAM** [11.33 a.m.]: I support the motion moved by the Hon. Penny Sharpe. I do so on the basis that during the election campaign I attended a number of candidate briefings and meetings and was interested to hear the responses of the Government candidate in my electorate.

**The Hon. Dr Peter Phelps:** Your electorate is all of Australia.

**Ms JAN BARHAM:** The electorate in which I live, the electorate of Ballina. The candidate responded to questions from the community, and when I and others made inquiries we were told that he had been provided with the information. Unfortunately, some of his answers involved misinformation. That was troubling to the community. People had to check the accuracy of information provided during candidate briefings before voting in the election. Many people will be interested in the documents called for in this motion as it will enable them to ascertain the accuracy of information provided by candidates.

The process should be transparent; the information should be made available. As other members have said, if there is a problem providing the documents it calls into question the relevance and integrity of the information provided. Members on this side of the House referred to problems with providing answers to

questions. As my colleague Mr Jeremy Buckingham—whom some regard as a bit of a comic—remarked recently during question time, "When is it going to be answer time?" That is a question we often ask. When will we get real answers to real questions? Paragraph (a) of the motion is important. It refers to:

- (a) all electorate briefings and electorate information sheets, and any document prepared with the intention of informing or giving an overview of the relevant portfolio in such particular electorate ...

That information is extremely important to everyone. I wonder in how many electorates community members attended briefings and relied on the information given by a candidate—information that had been prepared somewhere, whether it was in a Minister's office or by ministerial staff—that involved misinformation. In my case, the information was inaccurate and unreliable. I do not know whether that was the fault of the candidate; perhaps he misinterpreted the information. But it was presented at a forum as being the Government's position.

**The PRESIDENT:** Order! Members will converse more quietly. When the Chamber is empty, soft and otherwise inaudible conversations can become quite loud.

**Ms JAN BARHAM:** The point is important, and I think it has been overlooked in this debate. The Greens are concerned about the quality of the information provided and whether people were misled during the election campaign. There was misinformation at the forums I attended. The candidate informed me personally that he had been supplied with the information. I showed him other information that proved he was incorrect. I find it disturbing that the excuse given for documents not being made available is that they should have been requested under Standing Order 53. Perhaps the Hon. Peter Primrose should have added that to his list of excuses. This is an important debate. It is vital for the sake of democracy that we get some clarity in this area. I will certainly look closely at any documents produced under this standing order that relate to the electorate where I live or to the adjoining electorate of Lismore.

**The Hon. PENNY SHARPE** [11.38 a.m.], in reply: I thought this was a straightforward request for papers under Standing Order 52 but it has turned into a tirade from the Government, with members opposite expressing much mock outrage. Calls for papers under Standing Order 52 are never taken lightly; motions are not moved without thought and care. In response to the tirade from the Leader of the Government about the cost of Standing Order 52 requests, I make this point: Some of the examples he cited were genuine attempts by the Opposition to seek some common ground with the Government in relation to narrowing the requests—

**The Hon. Duncan Gay:** No, we tried to do that and you would not do it.

**The Hon. PENNY SHARPE:** There were attempts to negotiate with Ministers' offices.

**The Hon. Duncan Gay:** That is wrong.

**The Hon. PENNY SHARPE:** The Leader of the Government was not in the office of the Hon. Gladys Berejiklian at the time and should not talk about things of which he has no knowledge.

**The PRESIDENT:** Order! The level of interjection is now interrupting the flow of debate.

**The Hon. PENNY SHARPE:** Standing Order 52 calls for papers are an important process in this House. They relate to accountability, transparency and the role that we have as members of Parliament to oversight the Executive Government. The Hon. Dr Peter Phelps said, "If it is a majority government, you are just going to have to suck it up". That is probably what we will have to do today, but it is disappointing. In relation to the previous Standing Order 52 requests that the Government complained about, I remind the House that the motions were passed by a majority of members in this place. The Government fought them tooth and nail every time yet the House saw fit to pass those motions. I do not think it is good to waste time by requesting too much information. I have tried many times to get good information and to negotiate—no matter what the Leader of the Government says. But it was not forthcoming.

The motion before us today is not a huge fishing expedition; it is a clear and important motion. In the lead-up to an election each department provides a breakdown of its spending in each electorate. Those documents exist. This Standing Order 52 motion is seeking a copy of those documents so that we can see what is being spent across the State, by electorate. It is not an outrageous request; it is fundamental to transparency and accountability. We want to know how taxpayers' money is being spent and on what, according to electorate. That is hardly an outrageous indulgence. It is fundamental to our work on standing committees and on general purpose standing committees. It is what estimates committees do. This information is already available.



Ministers have copies of it, and some members and election candidates had access to it. This Standing Order 52 call for papers seeks to ensure that everyone has access to that information so we can do our jobs for the next four years.

Yes, Labor did not win the election; yes, the Government has the numbers in the lower House—that is why Standing Order 52 motions have never worked there. Yes, I understand that today it is unlikely that the motion will succeed, but I ask the crossbenchers to understand why it has been moved and to think seriously about supporting it. It is about expenditure on every program in this State and where that money is headed—be it on infrastructure or human services. It is about accountability and about the Opposition being able to hold the Government and the Executive Government to account for the next four years. I am not asking for every single piece of material that has ever been provided—that is why I actively sought to narrow the terms of the motion. It is unfair of the Government to suggest that we are trying to make it broad or unreasonable.

**The Hon. Dr Peter Phelps:** "Any document".

**The Hon. PENNY SHARPE:** Those words will be removed. That is the concession I make. I am big enough to be able to make concessions and understand that a compromise can be reached. But I know the Government is not interested in that. Government members will fight the motion tooth and nail because they do not want us to examine what they are spending in what electorate. They do not want us to see that there may be pork-barrelling in some seats. They do not want us to be able to make that information publicly available, so that people might know how their tax dollars are being spent in their local area. I thank members for their contributions to the debate. I understand that this motion will not be passed but I assure the House that I will move similar motions again—there is always a plan B. This request is reasonable and fair. [*Time expired.*]

**Question—That the amendment of the Hon. Adam Searle be agreed to—put and resolved in the affirmative.**

**Amendment of the Hon. Adam Searle agreed to.**

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

**The House divided.**

**Ayes, 17**

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

**Noes, 22**

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

**Pair**

Mr Wong

Mr Mason-Cox

**Question resolved in the negative.**

**Motion as amended negatived.**

**ELECTRICITY NETWORK ASSETS (AUTHORISED TRANSACTIONS) BILL 2015**

**Message received from the Legislative Assembly agreeing to the Legislative Council's amendments.**

**AGE DISCRIMINATION**

**Debate resumed from 28 May 2015.**

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [11.53 a.m.]: When I last spoke to this motion I indicated that the NSW Ageing Strategy, a key element in the Government's response to ageing, has recently been reviewed and will soon be updated. I am advised that the issue of discrimination and workforce participation will be a key focus as the strategy continues to move forward. The NSW Ministerial Advisory Committee on Ageing, which provides expert advice to the Minister for Ageing and the Government on matters that impact on the wellbeing and interests of older people in New South Wales, is closely involved in this work. The committee is, as a priority, currently looking at shifting perceptions and challenging stereotypes associated with older people, and older workers in particular. This work will shape the narrative of a refreshed ageing strategy, and provide significant support and momentum around raising awareness of discrimination.

The Government continues to fund and provide assistance to a number of peak organisations such as the Council on the Ageing NSW, Combined Pensioners and Superannuants Association and The Aged Rights Service to represent and advocate on behalf of older people in New South Wales. During the election campaign we committed to extending funding for an additional 12 months to those four ageing advocacy peak organisations until 30 June 2017 so they can continue their good work. The NSW Ageing Alliance, an informal coalition of key stakeholders representing older people, is now also advocating to the New South Wales Government on the needs of vulnerable seniors. Existing services such as the Ombudsman, the NSW Industrial Relations Commission and the Public Service Commission will also continue to provide services to support the interests of older workers in New South Wales.

The financial impact of people aged 45 to 64 who are not in the labour force is estimated to be \$18 billion annually. It is estimated that if workforce participation by people aged 55 to 70 increased by just 10 per cent per capita, annual incomes would increase by around 4 per cent. Increasing workforce participation and tapping into the experience and wisdom of older people will not only address labour shortages but also assist the State as it transitions to a knowledge-based economy. The NSW Ageing Strategy commits the Government to promoting age-friendly workplaces and providing opportunities that will harness the wisdom and experience of older workers. Helping people during their working life to improve their skills, raising awareness and changing attitudes towards older people in the workforce and removing barriers to workforce participation are all priorities of the Ageing Strategy aimed at reducing discrimination towards older workers in New South Wales.

Between 2009 and 2011 there was a small but steady increase in workforce participation in New South Wales by people aged 55 to 64. There are a number of actions in the strategy that will further contribute to strengthening the skills base of mature age workers. These include providing improved access to subsidised training, including traineeships, vocational and pre-vocational training; responding to business restructuring by helping train employees who have been retrenched; encouraging women to return to work through a range of strategies, including recognition of prior learning; and helping workers remain in the workforce and access training that updates their skills and opens up new opportunities.

Other actions that will remove barriers to workforce participation include utilising opportunities for mature workers to remain in the workforce as a result of the national skills reform; reviewing the impact of current laws and insurance regimes on workforce participation; working with employers to promote age-friendly employment practices such as flexible work practices, employer awards, corporate champions and best practice guidelines; and developing the New South Wales public service as an employer of choice for mature age workers.

The New South Wales Government continues to work closely and collaboratively with the Commonwealth, the private sector and a range of expert stakeholders to raise awareness and improve outcomes for mature age people returning or transitioning from the workforce. The Government recently established an open forum to develop further options to increase workforce participation in New South Wales, which will

minimise the economic and social effects of health-related workforce disconnection; develop an effective and responsive insurance system; establish early identification and interventions to keep people in work and build evidence of the long-term economic benefits of prevention and early intervention; address workplace redesign and management and changing attitudes at work as part of an holistic approach; and develop workplace interventions to keep at-risk workers in the workforce.

At a time of relative economic prosperity in New South Wales, older people who are not working should not be discriminated against in favour of younger workers. The Government has recently begun the task of updating and refreshing the NSW Ageing Strategy, as I indicated earlier. The Australian Human Rights Commission report will provide a valuable contribution to this task. The New South Wales Government looks forward to working with the commission and the commissioner to raise awareness and increase the priority accorded to workforce participation and training requirements of older workers. This will ensure the community, employers and older workers know that this economic, social and human rights issue is being addressed.

**The Hon. NATASHA MACLAREN-JONES** [12.01 p.m.]: I applaud the Australian Human Rights Commission for its report and for raising awareness of the important issue of age discrimination. A larger workforce participation rate is vital to both an individual's long-term security and the economic future of New South Wales. In its report, the Australian Human Rights Commission highlighted age discrimination as a significant issue facing many older workers not just in New South Wales but across Australia. The report also draws attention to the impacts of discrimination and barriers to continued participation for older workers. This is an issue of great importance to the New South Wales Government.

The NSW Ageing Strategy commits the Government to promoting age-friendly workplaces and providing opportunities to harness the wisdom and the experience of older workers. It is vitally important that we acknowledge the significant contribution made by older workers not only financially but also through mentoring and their experience. The financial impact of people aged 45 to 64 who are not in the labour force is estimated to be around \$18 billion annually. It is estimated that if workforce participation by people aged 55 to 70 increased by just 10 per cent per capita, annual incomes would increase by around 4 per cent. Increasing workforce participation and tapping into the experience and wisdom of older people will not only address labour shortages but also assist the State as it transitions to a knowledge-based economy.

I commend the work of not only the Minister for Ageing, the Hon. John Ajaka, but also the New South Wales Government who continue to work closely and collaboratively with the Commonwealth, the private sector and a range of expert stakeholders to raise awareness and improve outcomes for mature-age people returning to or transitioning from the workforce. The Government recently established an open forum to develop further options to increase workforce participation in New South Wales. The forum topics included minimising the economic and social effects of health-related workforce disconnection; developing an effective and responsive insurance system; establishing early identification and interventions to keep people in work and build evidence of the long-term economic benefits of prevention and early intervention; addressing workplace redesign and management and changing attitudes at work as part of a holistic approach; and developing workplace interventions to keep at-risk workers in the workforce.

There has been a small but steady increase in workforce participation in New South Wales by people aged 55 to 64 from 2009 to 2011. The New South Wales Government looks forward to working with the commission to raise awareness of and to increase the priority accorded to workforce participation and training requirements of older workers. This will ensure that the community, employers and older workers know that this economic, social and human rights issue is being addressed.

**DEPUTY-PRESIDENT (Ms Jan Barham)**: I welcome to the gallery student leaders from high schools in New South Wales who are attending the Secondary Schools Leadership Program conducted by the Parliamentary Education unit. The current debate, moved by Hon. Sophie Cotsis, relates to discrimination against older people. I hope this is not the experience you have when you become older people.

**The Hon. LYNDA VOLTZ** [12.04 p.m.]: I note a lot of young women in the program, so my contribution in relation to age discrimination may be relevant to 51 per cent of the population. The Hon. John Ajaka stated in his contribution that the NSW Ageing Strategy has been reviewed and will be updated. The Opposition is anxious to know when it will be updated. This is the second time the Minister for Ageing has put that information forward and the electorate is keen to know exactly when it will happen. Perhaps the Minister could give us a date.

In my contribution to this debate I will focus on women and ageing. Ageing women face specific problems in the workforce. Many women leave the workforce for a significant period as childrearing takes on average 15 years. By the time they hit 50, these women are disadvantaged in many ways. First, their superannuation funds are significantly lower than those of men of the same age. In 2011-12, the average superannuation balances at the time of retirement were in the order of \$197,000 for men and only \$105,000 for women. The reality is only one in 12 women will be cared for by a partner or someone else throughout their lives, so what they have in savings and superannuation funds when they retire is important. During their working life, people must take into consideration the endgame and while women continue to retire with superannuation funds of almost \$100,000 less than men they will be significantly disadvantaged.

This is particularly evident in the Sydney market, where single women over 50 face huge problems with homelessness as they are being priced out of areas they have lived in their entire lives. They often have to move to regional communities where they feel isolated and have to make do on low incomes due to the failure of their marriage, the death of their partner or a range of factors that place them at a financial disadvantage. There is also statistical evidence of gendered ageism in Australia. Discrimination against workers is often not simply age discrimination but often gender discrimination. Many older women say they feel invisible or are treated as if they were invisible. Perhaps older women in the Chamber have experienced this, although not necessarily because of their age.

**The Hon. Dr Peter Phelps:** Not necessarily you.

**The Hon. LYNDIA VOLTZ:** No, although I am 51.

**The Hon. Dr Peter Phelps:** I don't think anyone could accuse you of being invisible, least of all the former Premier of New South Wales.

**The Hon. LYNDIA VOLTZ:** I am not sure which former Premier; there are so many. Barry O'Farrell loves me! Older women complain about being invisible and there is a report from the United Kingdom to support that. It shows that women are stereotyped as suffering an age-related decline in performance from a younger age than their same-aged male colleagues. Another study found that managers saw women's careers peaking at the age of 35. This is significant because, on average, women have their first child at the age of 30. I think when I left school the average age was 22 or 23. There has been a significant shift from what happened in the 1970s, when I left high school, to today.

**The Hon. Niall Blair:** The 70s?

**The Hon. LYNDIA VOLTZ:** Yes, I left in 1979; I know I look fantastic. In the 1970s women were having children at 23 but now women get an education and have their first child when they have left university, on average at about 30. But if a woman's peak employment period when she is going to progress through the managerial ranks is when she is 35, that is often the time when women are leaving the workforce. That is why women's superannuation accounts are significantly lower than men's. A big reason the glass ceiling is not getting broken is that when women need to progress through their career, that is the time when women are choosing to have their first child. I apologise for looking at the Hon. Courtney Houssos, who has just had her first child, and I suspect she is around 30. That choice has held women back a lot, but it is a reality of life and it is a reality that we need to educate young women about and acknowledge.

If the peak employment age for women is 35—and that is a full 10 years earlier than what is regarded as a man's peak employment age—women are being overlooked. In his report, Calasanti suggested that this relates to the importance that bodily appearance carries for women's social capital. I know we do not like to say it, but people make decisions on how women look. Again, this comes back to educating the market that a person's ability is not based on how they look. There needs to be a significant shift in how the Government deals with ageing. There has been a lot of debate around superannuation, and the Federal Government has just changed the legislation in regard to superannuation levies—the Labor Government also made changes to the legislation—where we went from a limit of \$50,000 for salary sacrificing for people over the age of 50 to \$25,000. There are good reasons for that. Wealthy men, in particular, were putting a lot of money into superannuation through salary sacrificing.

The workforce is not homogenous; the workforce is not made up of one group of people, so we have created a law that deals with very wealthy people getting a tax advantage. But what we are not looking at is the fact that, for women, quite often the only opportunity they get to put additional money into their superannuation

is when they are over 55 years old. When we look at superannuation levies and how we increase this huge gap between men and women in retirement savings and when we know the pension is unsustainable in its current form and that we will have to reform this, we will have to look at how we allow those people who have low superannuation savings but have an ability to grow those later in life when the children have left home, they have paid off their mortgage and they have an ability to add to their superannuation, to have an ability to catch up. The Federal Government should look at that issue in its tax review.

Other ideas have been suggested, and I am not saying these ideas are solutions; the Minister may have looked at them before. There has obviously been a suggestion about stamp duties for people over 55 years of age and whether payroll tax could be a way of encouraging the employment of people that age. A whole range of issues could be looked at and what their economic impacts would be, but the reality is that unless we deal with the issue of women's superannuation and the issue of age discrimination of women in the workforce, when restrictions come into the pension system—which will not necessarily affect me but will start affecting those who are 20 or 30 years younger than me in 2055, when the average age for a woman will be 96, and I will be 91 so I will still have another five years—it will not be in my generation but it will be the generation that is 60 and 70, and that is the generation that is 20 or 30 years younger than me, that is going to have to deal with those impacts. There is an urgent need for reform and I am pleased that the Hon. Sophie Cotsis has brought this motion to the House. I hope the Government looks into these issues and the possible reforms we can make.

**The Hon. COURTNEY HOUSSOS** [12.14 p.m.]: I too welcome the students to the House. Perhaps it is not the most interesting topic matter for you today but it will be valuable for you.

**The Hon. Dr Peter Phelps**: Point of order: The honourable member is a new member but she should be reminded that it is quite disorderly for members to address their remarks to people in the gallery.

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones)**: Order! I remind the member to make all remarks through the Chair.

**The Hon. COURTNEY HOUSSOS**: I sincerely apologise. I make a brief contribution to the debate today and commend my friend the shadow Minister for Ageing, for her motion and for all her work across this portfolio. The Australian Human Rights Commission released its "National prevalence survey of age discrimination in the workplace" in April 2015. This report showed that more than one in four Australians aged 50 years and over reported experiencing age discrimination in the two years prior to the survey. For me, this is an eye-opening fact that demonstrates we have much more to do when it comes to keeping our older workers—with their experience and corporate knowledge—in the jobs market.

This survey, unsurprisingly, illustrates that it is the older workers who can least afford to leave the jobs market and who are often subjected to this kind of discrimination. In an age when people are expected to live well into their mid-nineties, we must make sure that our society is providing the dignity of work to all Australians. Let me be clear: I am not in the business of forcing older Australians to work longer than they would want to, but I am a passionate advocate for providing dignity and purpose in work and ensuring that those who want to work can. I also strongly believe that older workers should be free from discrimination in their workplace and should be respected for the vast experience they possess.

We know that there is also a significant economic benefit to be gained in this State by increasing the workforce participation of older Australians. A study by Deloitte Access Economics in 2012 found that if the number of people aged over 55 in paid employment was to increase by just 5 per cent, this would generate an economic benefit worth \$48 billion every year. Given this, older Australians should be encouraged to be in the workforce and should be encouraged to stay in the workforce for as long as they wish. Obviously, age discrimination, as found by this report, does nothing to support older workers in this regard.

With more than a quarter of all respondents saying they have been discriminated against because of their age, I am fearful that this kind of culture, if continued, will drive older workers away from the workforce—denying them the opportunity to work and denying the economic benefits to the State as a result. We should work hard in this place to remove age discrimination from the workplace. I therefore support this motion and call on the Minister for Ageing to act on the recommendations made by the Human Rights Commission.

**Ms JAN BARHAM** [12.17 p.m.]: On behalf of The Greens I speak in support of the motion moved by the Hon. Sophie Cotsis. I commend her for bringing a motion to the House that allows us to discuss the

important issue of age discrimination and, particularly, the challenges and biases facing older people in employment. I also commend the Age Discrimination Commissioner, the Hon. Susan Ryan, for the work she has done with the Australian Human Rights Commission, which forms the basis of this motion.

I take this opportunity to note that during the election campaign I was very pleased to be on a panel at an event with the Hon. Susan Ryan, together with the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, the Hon. John Ajaka. The Opposition spokesperson, Ms Linda Burney, also attended the event, which was organised by seniors in Rockdale to talk about the issues they are facing, and age discrimination in the workforce certainly arose. We know that this is an issue facing many people and the information that has been revealed through the commission's work and report is quite shocking.

The Willing to Work inquiry—a national inquiry into the practices, attitudes and Commonwealth laws that affect the equal participation of older Australians and Australians with disability in employment—demonstrates that it cannot be understated how important it is that we examine these issues. Other members have raised some relevant points in this debate, but at a State level we need to have an understanding of what is going on so we can address some of these concerns. Our challenge is to address disability discrimination in employment and we need to do more in relation to it in the future.

This motion notes the recent report of the Australian Human Rights Commission in relation to the national survey of age discrimination in the workforce. Like a number of other speakers I was quite shocked to read the figures revealed in the report. The fact that one in five Australians aged 65 years and older experience discrimination as opposed to one-third of those aged 55 and 59 is a shocking way to treat the people of our society who have worked all their lives in either paid employment, in the community or in their home. That is a very sad situation which needs to be addressed legislatively, through policy or by a cultural change. As the Hon. Lynda Voltz said we need to look for change from the media, which has a great responsibility, in the way it sends out messages about the way society thinks about these issues. Unfortunately the culture is to idolise youth and sometimes denigrate or dismiss older people in society.

Interestingly the survey discloses that men and women are equally likely to be subjected to age discrimination. As the Hon. Lynda Voltz said, some issues indicate that for women it can be a lot tougher. A number of years ago in my community I saw many women my age who lived on the North Coast and worked in the hospitality industry. It was quite sad to note that once they reached the age of about 40 there were no jobs for them. Formerly there were waiting and front-of-house jobs in cafés and restaurants but they were no longer deemed to be the face of those organisations or the face of a community that is very youth-orientated. Sadly a lot of those women were single parents working in the hospitality industry, and those cafés and restaurants often enabled them to be at home for their children at the critical times before and after school.

It is troubling to find that now the transition for many of those older women—being over 40 then, they are now more my age and falling into the over-55 bracket—is to be a carer. The community services area is a very difficult work environment and these women find the physical challenges of that occupation hard. We know that women with osteoporosis who are physically lifting and supporting people who may be unwell run the risk of injury. Very often that work is coupled with a casualisation of the workforce. They are not in permanent employment so they do not receive all the benefits, and if they injure themselves they are then unable to work without having the support structures and benefits that come with full-time employment.

We should all be ashamed of the flow-on effect of a rise in women's homelessness. Many women doing it tough are someone's mother, grandmother or sister. A number of homelessness surveys have highlighted that this is an alarming trend. In those circumstances some of the women have been subjected to age discrimination in the workforce and in society and are feeling shame. They do not even present to some of the services that might be able to help them. They are living in cars; they feel invisible. They ensure they stay that way because of their shame at having been abandoned. It is unbelievable that our society is treating older women this way when many have given so much. I am sure we will speak more and more about this situation but I do not see any evidence of money or work being done to address that problem as a priority issue.

We know there is a marked drop in workplace participation as people get older. Sadly, it is not recognised that very often an older person in the workforce is secure, stable, experienced and has great loyalty to a business. It is only with experience that employers realise the benefits of employing an older person who is a great asset to their business. One in two—that is, 53 per cent of people aged 50 years or older—were actively participating in the workforce at some time during 2013 and 2014 and 47 per cent did not participate in the workforce at any time during those years. The growing trend is that many of these older

people in our community are volunteers who give their time selflessly without payment, which is something that is not recognised as a very real contribution—very often of equal benefit to the community as employment.

The National Seniors Australia Productivity Ageing Centre website recognised the economic and social contributions—that is, the value—of older Australians. We see many older Australians as carers for their grandchildren as their children have to go to work to meet the high cost of living and mortgages, particularly in the city or in coastal areas where there are high property prices but low job opportunities. Some of these parents have two or three jobs to try to make ends meet and they rely on their parents to look after their children as carers. Grandparent care provided 937,000 children aged between 0 and 12 years with care for an average of eight hours per week, which is valued at \$1.5 billion per annum. It is an incredible contribution and one that should also be recognised.

I often say to volunteers "Imagine what would happen if we had a volunteer strike day". If every volunteer went on strike other people might start to value them. I have often seen their work being undervalued. We have to value the work of all people, which goes back to the wellbeing indicators bill that says we need to start looking at the things that really matter. Pure economic measures are no longer good enough because they do not reflect reality. Some might think this is an alternative or hippie vision.

**The Hon. Dr Peter Phelps:** It is a hippy vision.

**Ms JAN BARHAM:** The Government Whip obviously has not done his homework, nor is he keeping up with his counterparts in the United Kingdom. Prime Minister David Cameron has taken on this issue; he gets it. If we want to talk about trying to devolve public sector responsibility and big society, we must look at what is happening and we should at least consider these measures. Prime Minister Cameron is doing some interesting things. As I have said before, accountants are also looking at these issues. A quiet revolution is taking over the accounting world. The global corporate sector—other than the Australian corporates—is introducing proper accountancy measures that consider the six capitals.

**The Hon. Dr Peter Phelps:** So there are now six.

**Ms JAN BARHAM:** Yes, there are six capitals. They include social, human and natural capital. However, human capital and social capital are vital. The lack of value we place on them is the reason we are getting these reports from the Age Discrimination Commissioner, National Seniors Australia and various other bodies. These issues concern The Greens and the Opposition, and particularly the Hon. Sophie Cotsis. I look forward to the publication of an updated ageing strategy for New South Wales which takes these issues on board and which addresses them. The lack of support for people who suffer discrimination is most concerning and the stereotypes detailed by the Age Discrimination Commissioner are frightening. The commissioner revealed that 23 business decision-makers admitted to making employment decisions based not on the applicants' merit or the value of their experience but on their age.

That must change; we must do more. Debate on a motion of which I gave notice was not supported by the Government. It called for recognition of these issues in New South Wales and for the appointment of an advocate or commissioner responsible for older people. We are not dealing with these issues in this State and, as such, we are failing the people of New South Wales. It is wonderful that this information is being provided at the national level, but this State needs someone who will advocate for older people, and my motion calls on the Government to appoint such a person.

**The Hon. SHAOQUETT MOSELMANE** [12.32 p.m.]: I support the excellent motion moved by my colleague the Hon. Sophie Cotsis. We are now in the twenty-first century and discrimination should be a thing of the past. I congratulate the honourable member on moving this motion. I also acknowledge that the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism is in the Chamber listening to this debate. That is important because he will hear members' comments and hopefully take them on board. I trust that he will convey them to the Government and support the motion. It is a shame that 27 per cent of 2,000 people surveyed report having been the victim of discrimination. We in Australia take pride in the fact that we have introduced many pieces of legislation at both the State and Commonwealth level designed to protect people from discrimination. Despite that, discrimination happens, and it is sometimes blatant.

The New South Wales Anti-Discrimination Act 1977 and the Commonwealth Age Discrimination Act 2004 protect people from age discrimination. However, 27 per cent of our aged citizens who were surveyed

report being subjected to discrimination. These figures do not tell the full story. People from different cultures and non-English speaking backgrounds, particularly the aged in those groups, suffer double discrimination, and that increases their angst and hurt. They have the same skills and abilities that other people have, but they are discriminated against because of their age. They may also suffer racial or religious discrimination. I congratulate the members who have spoken in support of this motion. While I was at university I worked at the Streets Ice Cream factory at Turella. Many migrant workers from Italian, Greek and Arabic backgrounds worked at the factory for 30 or 40 years. In fact, I worked on the Gaytime ice cream production line.

**The Hon. Dr Peter Phelps:** The mind boggles.

**The Hon. SHAOQUETT MOSELMANE:** I will ignore the interjections from Government members. When the parent company Unilever moved the business from Turella to Minto, a majority of the workers lost their jobs. They had difficulty finding new employment because they were in their fifties, sixties and seventies. They asked who would employ them at that age; they knew that their age would mean they would encounter many barriers. The fact that 27 per cent of the 2,000 people surveyed said they had been discriminated against demonstrates that their fears were well-founded.

Discrimination is abhorrent and shameful in this day and age, whether it is related to someone's age, education or access to accommodation and services. The definition of age discrimination is clear. One reference on the internet states that it is "when a person is treated less favourably than another person in a similar situation because of their age". Such discrimination can be both blatant and subtle, and our legislation may not be able to capture it. Unfortunately, many people who suffer discrimination do not use the legislation to ensure they are protected. I once again congratulate the Hon. Sophie Cotsis on moving this motion. I ask the Minister to heed her call. The Government should act on the Human Rights and Equal Opportunity Commission recommendations and respond to this motion.

**The Hon. Dr PETER PHELPS** [12.38 p.m.]: The Government supports the thrust of this interesting motion; however, it cannot support paragraph (2), which essentially calls on the Hon. John Ajaka to do many things, which is strange because he is already doing far more than this motion requests him to do. As he indicated in his speech, he applauded the great work of the Age Discrimination Commissioner, Susan Ryan, and her continued leadership and contribution to the Age Discrimination Commission. The Minister has had an opportunity to meet with the commissioner on a number of occasions but one would have to wonder whether the Hon. Sophie Cotsis has met with the Age Discrimination Commissioner to discuss these issues. Has she engaged in the detailed consultations, recommendations and discussions about future approaches in which the Minister has engaged? I suspect that the Hon. Sophie Cotsis has probably not had the level of in-depth conversations that the Minister clearly has had with the Age Discrimination Commissioner, Susan Ryan.

The Minister made it clear that the NSW Ageing Strategy is a key plank to the Government's response to ageing. It has been reviewed recently and soon will be updated because we believe in keeping such strategies up to date. The Minister further indicated that the NSW Ministerial Advisory Committee on Ageing, which provides expert advice to him on the subject of ageing and on matters that impact the wellbeing and interests of older people in Australia, is closely involved in the work that he does. He indicated that the Government continues to fund and provide assistance to a number of peak organisations, such as the Council on the Ageing NSW, Combined Pensioners and Superannuants Association and The Aged Rights Service to represent and advocate on behalf of older people in New South Wales. He has indicated that existing services, such as the NSW Ombudsman, the NSW Industrial Relations Commission and the Public Service Commission will continue to provide services to support the interests of older workers in New South Wales—something to which the Opposition Whip, the Hon. Shaoquett Moselmane, alluded in his recent contribution.

The Minister also indicated that the NSW Ageing Strategy commits the Government to promoting age friendly workplaces and providing opportunities that will harness the wisdom and experience of older workers. He said a number of actions in the strategy will contribute to strengthening the skills base of mature age workers, including improved access, subsidised training, traineeships, vocational and pre-vocational training, responding to business restructuring by helping train employees who have been retrenched, encouraging women to return to work through a range of strategies, including recognition of prior learning, and helping workers to remain in the workforce and access training that updates their skills, which open up new opportunities. In this policy portfolio area the New South Wales Government is ably led by the Minister—a person who has a deep and sincere commitment to older workers in New South Wales. This Government continues to work closely and collaboratively with the Commonwealth, the private sector and a range of expert stakeholders to raise awareness and to improve outcomes for mature age people returning to or transitioning from the workforce.



The Government recently established an open forum to further develop options for increased workforce participation. The New South Wales Government, ably led by the excellent Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, looks forward to working with the commission to raise awareness and increase the priority accorded to workforce participation and training requirements of all older workers. Given the comprehensive list of achievements that the Minister has spoken of and the activities in which he is currently engaged now and into the future, I cannot see the relevance of the second half of the Hon. Sophie Cotsis' motion. To that end, while we support the general thrust of the first paragraph of the motion, in order to add a degree of veracity to the motion to make it a little more complementary to the strategy for age workers in New South Wales, I move the following amendment:

That the question be amended by omitting paragraph (2) and inserting instead:

- (2) That this House congratulates the Baird Government and the Hon. John Ajaka, MLC, Minister for Ageing, Minister for Disability Services and Minister for Multiculturalism on:
  - (a) working with HREOC; and
  - (b) taking steps to reduce discrimination facing older workers in New South Wales.

That will flesh out this motion very nicely but, more importantly, it will give effect and meaning to the efforts of this Government, and particularly this Minister, to help older workers in New South Wales. I commend the amendment and, when it is amended, hopefully the amended motion.

**The Hon. PAUL GREEN** [12.44 p.m.]: On behalf of the Christian Democratic Party I speak in this debate and commend the Hon. Sophie Cotsis for moving this important motion. I note in the gallery today Claire Madden and Mark McCrindle from McCrindle Research, two people who I am sure could speak far more eloquently than most members in this place because of their research capacity. Prior to the 2015 election Reverend the Hon. Fred Nile and I crisscrossed this State and received a clear message from the people of New South Wales about bias towards our ageing population and their place in the workforce. I hope that Reverend the Hon. Fred Nile will participate in debate on this motion and refute some of the things that I was asked during the election campaign. Some people said, "Is he not too old? Is he not past it? Should he move on? Should he retire? Should he hang up his hat?" I am sure that all members in this Chamber would not want Reverend the Hon. Fred Nile to hang up his hat as he has a great deal of wisdom—an attribute that is not possessed by the younger generation—and he has a vast knowledge base that assists us in all matters relating to New South Wales.

Last night when this Parliament was debating the electricity privatisation legislation we relied on Reverend the Hon. Fred Nile's 20 years of experience and at that stage we were asked whether or not it was a good idea. Reverend the Hon. Fred Nile has been a member of Parliament for 20 years and as such he has been privy to many discussions in this Chamber. His experience has enabled this House to make wise and measured decisions for the people of New South Wales. The people of New South Wales will not have that maturity, wisdom or knowledge base if people such as Reverend the Hon. Fred Nile left the workforce. We cannot afford to lose people like him. The Hon. Sophie Cotsis is concerned about our aged population in regional New South Wales.

When I was the Mayor of Shoalhaven City Council I met many people who reached that wonderful age of retirement and who wanted to remain in the workforce but for one reason or another they had to call it a day. The Shoalhaven lost an irreplaceable knowledge base that is acquired only after decades of learning and experience—it cannot be acquired after only four years of an apprenticeship, traineeship, or cadetship. We cannot afford to lose these valuable people and mentors from our workforce. Many smart young people would not be able to acquire the knowledge base that has been acquired by these people.

The experience of older workers is invaluable and the loss of such experience impacts heavily on our communities. At Shoalhaven City Council many wonderful leaders hung up their hats and, when that occurred, the young people who were left behind did not have the wisdom or the knowledge required to deal with complicated things such as development applications or engineering issues. The loss of that knowledge base resulted in lengthy delays when council was processing those matters. With their knowledge and understanding of council matters older employees are able to short-circuit issues that would otherwise take longer to sort out. We must find a way to ensure that older people can participate in the workforce even if it is only in a part-time capacity. The transfer of knowledge by older employees to younger workers is important to our State and we will suffer economic repercussions if that knowledge is lost.

Workplaces should ensure that the wisdom and knowledge of older workers is recorded and available for future generations. The depth of knowledge of older workers can assist in reducing the cost of public works and other infrastructure. Those costs can escalate if people do not have a clear knowledge of what is required. The Christian Democratic Party commends the motion moved by the Hon. Sophie Cotsis, which reads as follows:

- (1) That this House notes that:
  - (a) a national survey by the Human Rights and Equal Opportunity Commission [HREOC] found that 27 per cent of more than 2,000 surveyed workers have been discriminated against because of their age;
  - (b) Age and Disability Discrimination Commissioner, the Hon. Susan Ryan, AO, has stated that older workers are being told their skills are outdated and that they will not be retrained because "it is not worth training someone who is 53"; and
  - (c) losing older Australian workers costs approximately \$10 billion annually.

If we do not have these people in the workforce there will be adverse economic impacts and a cost to our nation. The motion continues:

- (2) That this House calls on:
  - (a) the Baird Government and the Hon. John Ajaka, MLC, Minister for Ageing, to act on the HREOC report and recommendations; and
  - (b) the Hon. John Ajaka, MLC, Minister for Ageing, to report to the House on steps being taken to reduce discrimination facing older workers in New South Wales.

The Minister could get some tips on the benefits of having older people in the workplace by speaking to Reverend the Hon. Fred Nile. I note the Hon. Dr Peter Phelps moved an amendment to the motion acknowledging the steps that are being taken by the Government to address the issue of age discrimination. The Christian Democratic Party recognises that age discrimination is a problem in our society. The number of Australians aged 65 and over is projected to more than double by 2055, when Australia will have approximately 40,000 people aged 100 years and over.

**The Hon. Walt Secord:** Super centenarians.

**The Hon. PAUL GREEN:** I acknowledge the Hon. Walt Secord's interjection—super centenarians. I hope that many members of this place will make up those statistics. If we take our example from Reverend the Hon. Fred Nile we could find ourselves still working usefully in this Chamber at an older age. In 2055 men can expect to live on average to just over 95 years of age and women to just over 96.

The report referred to by the Hon. Sophie Cotsis also showed that one-quarter of Australians aged 50 years or more report that they have experienced some form of age discrimination in the past two years. The report also found that 80 per cent of those who experienced age discrimination report negative impacts. When managers were asked whether they had factored age into their decision-making one-third responded that they had. When looking at the actions people took in response to discrimination, the report found that many took no action at all. The majority of people who did not take action reported that it was because they did not expect a positive outcome, doubting that they would be believed or that anything could be done.

The research confirmed, anecdotally, that age discrimination is most commonly experienced when older people are out of a job and looking for paid work. Nearly three in five of those who looked for paid work were a target of discrimination because of their age. Of those who did not participate in the workforce in the past two years but would have liked to, one in five reported that it was because their skills were not current. The research found that negative perceptions of skills and ability to learn were a common type of age discrimination behaviour. The Age Discrimination Commissioner, the Hon. Susan Ryan, AO, said:

Average life expectancies are approaching 100 years in the foreseeable future. If people leave the workforce at age 50 due to discrimination, negative attitudes and the absence of pathways to retrain, they may have an additional 50 years of life without paid work.

While older workers have always been an important part of the Australian workforce, in recent years the importance of their contribution has become increasingly apparent. The 2010 Intergenerational Report highlighted the fiscal pressures associated with the ageing population. The Australian Bureau of Statistics has

recognised that the demand for health and aged-care services, as well as pensions, is projected to increase over coming decades while at the same time the proportion of people participating in the labour workforce is projected to fall. Increasing the labour workforce participation rates of older people is seen as one of the ways to soften the economic impacts of an ageing population. Over the past decade successive Australian governments have recognised this and have developed policies aimed at lifting participation among older workers by encouraging them to stay in the workforce longer or to re-enter the workforce.

Statistics provided by the Australian Public Service Commission Fund reveal that the 1947 census of the Commonwealth of Australia showed that 8 per cent of Australians were 65 years of age or more, a doubling of the 4 per cent recorded in the 1901 census. This proportion increased to 12 per cent by 1996 and in 2011 those 65 years of age and over represented 14 per cent of the national population. The Australian public service recognised for the first time in our history that four generations are working side by side in the workplace. This includes employees born immediately before or during World War II who are coming to the end of their extended working life, the majority of this multigenerational workforce having been born in the 1950s, 1960s, 1970s, 1980s and 1990s. Obviously there is a fundamental difference and distinction between intellectual knowledge and the wisdom that is gained through life experiences—differences between an older person's academic abilities and point of view and his or her wisdom and life experiences.

**Reverend the Hon. FRED NILE** [12.59 p.m.]: I support the motion moved by the Hon. Sophie Cotsis on age discrimination and I am thankful that the Christian Democratic Party does not discriminate against older people. Our party leads not by words but by example. I was pleased when at the age of 80—I turned 80 on 15 September last year—the Christian Democratic Party voted to re-endorse me for the election that was held a few weeks ago. I am now in my eighty-first year.

**The Hon. John Ajaka:** And they will do it again in eight years time.

**Reverend the Hon. FRED NILE:** We will wait and see.

*[Deputy-President (Ms Jan Barham) left the chair at 1.01 p.m. The House resumed at 2.30 p.m.]*

**Item of business set down as an order of the day for a later hour.**

## **ELECTRICITY NETWORK ASSETS (AUTHORISED TRANSACTIONS) BILL 2015**

### **ELECTRICITY RETAINED INTEREST CORPORATIONS BILL 2015**

#### **Protest**

**The PRESIDENT:** I inform the House that the following protest was signed and lodged with the Clerk this day:

Protest against the passing of the bill titled "An Act to provide for the transfer of certain electricity network assets of the State" and the bill titled "An Act to provide for the effective stewardship and oversight of the retained interest of the State in electricity network assets under the *Electricity Network Assets (Authorised Transactions) Act 2015*."

Dissentient:

1. Because if enacted, the transactions authorised and facilitated by these bills would deny the people of NSW control over their own energy future, with adverse consequences for the development of clean energy technologies, employment opportunities, household power bills and state revenue collection;
2. Because the transactions authorised by these bills are unnecessary in that capital for necessary infrastructure investment can be raised by other sustainable and less damaging means; and
3. Because the case made for the transactions authorised by these bills and the analysis of their impacts on the economy, state revenue and energy costs rest on certain propositions and documents that are not well founded.

JOHN KAYE  
MEHREEN FARUQI  
JEREMY BUCKINGHAM  
DAVID SHOEBRIDGE  
JAN BARHAM

Legislative Council Chamber  
4 June 2015

According to standing order, a copy of the protest will be forwarded to His Excellency the Governor.

## VISITORS

**The PRESIDENT:** I welcome to the public gallery guests of the Leader of the Government, the Hon. Duncan Gay, MLC, who are here today to observe question time. They include Mr Tony Shepherd, Chairman of WestConnex, together with the winning bidders of WestConnex Stage 1: Adolfo Valderas, Don Johnson, Roman Garrido, Steve Wille, Hans Whang, Simon Leeper and Brendan Petersen.

**Pursuant to sessional orders business interrupted for questions.**

## QUESTIONS WITHOUT NOTICE

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### RELIGIOUS EDUCATION AND SCHOOL ETHICS CLASSES

**The Hon. ADAM SEARLE:** My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given the Minister is responsible for programs to help integrate people with disabilities, what is his response to the NSW Ethics Course Trial Final Report, which reported:

Special needs children with Asperger's syndrome or autism were benefiting from the ethics course by interacting socially within the ethics group at levels not seen before.

**The Hon. JOHN AJAKA:** Clearly, this Government is taking action in relation to all aspects of education for people with disability, and particularly all aspects relating to early intervention. I am proud of the record of this Government and I am proud of my record as Minister for Disability Services in this area. We will continue to work with all children with disabilities and we will continue to undertake all necessary work in regard to early intervention.

### WESTCONNEX

**The Hon. SCOTT FARLOW:** My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the construction of a world-class motorway network for Sydney?

**The Hon. DUNCAN GAY:** I thank the Opposition for its support, and The Greens—who have got their starting orders from North Korea. Today, with the Federal Assistant Minister for Infrastructure, Jamie Briggs, I am delighted to announce the preferred design for the new M4 East—the first underground section of WestConnex. The consortium chosen to build this critical piece of infrastructure includes Leighton Contractors, Samsung C&T and John Holland, with major work to commence in mid-2016. These companies have decades of expertise in road and tunnel construction. Samsung built the longest road tunnel in Korea—

**Mr Jeremy Buckingham:** In North Korea?

**The Hon. DUNCAN GAY:** South Korea—not where your political masters come from; there is a world of difference. John Holland is helping to build the North West Rail Link tunnels and Leighton is part of a team currently widening the M4 on stage 1A of WestConnex. I also acknowledge the presence of senior members of the consortium in the public gallery. I am sure all members welcome them here today. With an extra 1.6 million people predicted to live in Sydney by 2031, our great city desperately needs a world-class motorway network. We will widen and extend the M4 and M5, joining them to form a continuous free-flowing motorway. Motorists driving from Western Sydney will have the option to enter a tunnel east of Homebush Bay Drive, emerging near the Bunnings Warehouse on Parramatta Road, or on Wattle Street at Haberfield.

**Mr Jeremy Buckingham:** Or?

**The Hon. DUNCAN GAY:** Or. Listen, you might learn something—that would be different. Removing thousands of cars and 3,000 trucks off Parramatta Road each day from Homebush to Wattle Street

will allow the opportunity to breathe new life into this decaying road corridor. The design also includes entry and exit points for the twin tunnels at Concord Road, North Strathfield, allowing local traffic to access the motorway. Combined with widening the M4 between Parramatta and Homebush, this constitutes the two parts of the first stage of WestConnex. Once the whole of WestConnex is completed, motorists will have the option of continuing underground all the way through to Rozelle. At Rozelle motorists can emerge, allowing them to head into the central business district, or they can stay in the same tunnel that curves south to an interchange at St Peters. This interchange will connect the M4 and M5 motorways.

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

**The Hon. DUNCAN GAY:** As part of Rebuilding NSW we are also designing a tunnel under Sydney Harbour, which will extend WestConnex to the north. We are also advancing planning on a future southern link to the Sutherland shire. Instead of rat-runs through local suburban streets, motorists will be able to jump on and off this motorway. Where possible, we are going underground or building in reserved road corridors to reduce property acquisitions. Today we are one step closer to delivering the world-class motorway that Sydneysiders need and deserve.

### WESTCONNEX

**The Hon. WALT SECORD:** My question without notice is directed to the Minister for Roads, Maritime and Freight. Given residents and businesses along the WestConnex route are now receiving proposed acquisition notices, will the Minister confirm the total number of properties that will be compulsorily acquired by the New South Wales Government?

**The Hon. Catherine Cusack:** They hate the WestConnex.

**The Hon. Walt Secord:** Be quiet, Catherine.

**The Hon. Catherine Cusack:** They hate it.

**The Hon. Walt Secord:** Have food with lunch.

**The Hon. DUNCAN GAY:** I ask the honourable member to withdraw the comment he made about the Hon. Catherine Cusack having food with her lunch, implying that she had been drinking.

**The PRESIDENT:** Order! I have had quite enough of these sorts of remarks. There have been a number of them made by a number of members, not just one. There will be zero tolerance from now on. I call the Hon. Walt Secord to order for the second time.

**The Hon. DUNCAN GAY:** As I indicated earlier, the Government will build WestConnex on the existing roadway and underground wherever possible to minimise property acquisition as much as we can. Wherever we can the Government builds underground and in reserve road corridors. In fact, more than 50 per cent of WestConnex will be in underground tunnels. We contact owners of properties that are impacted as soon as we are in a position to do so. We work closely with the owners to provide support and ensure they receive compensation for the property's market value and any other reasonable expenses. I do not think the irony is lost on many people in this House that Walt Secord, a foot soldier for the Labor Party—

**The Hon. Walt Secord:** Point of order—

**The Hon. DUNCAN GAY:** The Hon. Walt Secord.

**The Hon. Walt Secord:** The Minister has been in this place for close to 30 years and knows that under the standing orders members he must refer to members by their proper name and title.

**The PRESIDENT:** Order! The Minister corrected himself.

**The Hon. DUNCAN GAY:** It is a pity he has such bad hearing. The Hon. Walt Secord has been a foot soldier at the highest levels for the Labor Party for decades.

**The Hon. Walt Secord:** Hear, hear! Read my CV.

**The Hon. DUNCAN GAY:** We have seen your CV—there are dogs carting it all over the city.

**The PRESIDENT:** Order! The Minister and the Hon. Walt Secord will stop arguing across the Chamber. I remind the Hon. Walt Secord that he is on two calls to order.

**The Hon. Walt Secord:** Point of order: I accept and understand your ruling, but the Minister is repeatedly engaging in provocation, especially as he knows that I am on two calls to order.

**The PRESIDENT:** Order! I think, in the words of Tony Jones, I will take that as a comment.

**The Hon. DUNCAN GAY:** As I indicated, the CV of the honourable member reveals that he has been a foot soldier for the Australian Labor Party for decades, operating at the highest level. No-one would know better than the Hon. Walt Secord that the Labor Party sold off the routes that were put aside for roads into the city. Neville Wran's hollow logs that were sitting in this city to accommodate the roads of the future were sold off by the Labor Party. Yet members opposite have the hide to cry crocodile tears and complain about the houses that, sadly, the Government must resume to build this motorway.

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

**The Hon. DUNCAN GAY:** The Hon. Walt Secord knows that we will resume every building carefully. We talk to the people. In fact, local residents have already been doorknocked and spoken to. Before I made comments in the House today our people had spoken to every affected resident—and so we should. We understand that it is horrible for those affected by this project. Those people are caught because the Labor Party sold the roads and the reserves for the roads of the future. It was short-sighted and it was not done properly. It is not enough for me simply to spray the Labor Party; we need to make sure that we deal compassionately with the people who are affected by this project. Many of them have indicated the sale of their properties—

**The Hon. Greg Donnelly:** How many?

**The Hon. DUNCAN GAY:** I understand that 184, including industrial properties, are affected. I wish it was fewer. [*Time expired.*]

**The Hon. WALT SECORD:** I ask a supplementary question. Will the Minister elucidate his answer in regard to his comment that the department is meeting local residents? When will he honour his commitment and meet local residents personally?

**The Hon. DUNCAN GAY:** We indicated that we would contact each person. Every one of the households was doorknocked before we made the public announcement. I do not pretend for one moment that every homeowner was at home at the time, but certainly a very proper attempt was made to contact them. I will not meet with every one personally, but I do meet with communities and talk to people across the State and the city.

**Mr Jeremy Buckingham:** Go to Newtown.

**The Hon. DUNCAN GAY:** Even Newtown. We are doing the best thing ever for Newtown. I said earlier that 184 properties had been acquired, but it is 182.

#### ARNCLIFFE PEDESTRIAN TUNNEL

**Dr MEHREEN FARUQI:** My question is directed to the Minister for Roads, Maritime and Freight. Why will it cost an outrageous \$17 million to build a 35 metre pedestrian tunnel at Arncliffe? Will the Minister guarantee that there will be no surprise multimillion-dollar blowouts, as occurred with the Tibby Cotter bridge?

**The Hon. DUNCAN GAY:** We know the blowout on the Tibby Cotter bridge was not caused at our end. We are spending \$17 million on a pedestrian bridge at Arncliffe because we value the people and the children who cross the road to go to the nearby school every day. There is no community for which we will not do our best to deliver improved road safety. Apparently The Greens object to the fact that the Government is improving road safety for children in the area. It is a bit rich that The Greens, who day after day want to blow the budget, question why this Government is spending \$17.5 million to improve pedestrian safety at Arncliffe.

### WINDGAP FOUNDATION DISABILITY SERVICES

**The Hon. SHAYNE MALLARD:** My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. What is the Government doing to increase the availability of accommodation for people with disability in south-eastern Sydney?

**The Hon. JOHN AJAKA:** As New South Wales transitions to the National Disability Insurance Scheme [NDIS], it is important that people with disability have access to services that will support their needs over the course of their lives. That is why the National Disability Insurance Scheme is so important, and a key reason we were the first State to sign an agreement with the Commonwealth. In the lead-up to the NDIS the Government has continued to invest in capacity building to assist people develop their skills and confidence to plan for the future and exercise choice and control over how their supports are delivered. I am pleased to inform the House that on Monday 1 June 2015 I was joined by the member for Coogee, Mr Bruce Notley-Smith; the member for Maroubra, Mr Michael Daley; and the member for Heffron, Mr Ron Hoenig at the official opening of a new purpose-built group home in Little Bay.

The five residents moved into their new five-bedroom home in April 2015. Following last week's opening, I am delighted to report that they are enjoying their new environment and increased opportunities for inclusion in their local community. This new home is the result of this Government's Ready Together initiative, which provided the Windgap Foundation with a capital grant of \$2 million to purchase land and to build a new group home. Windgap is a not-for-profit organisation that was established many years ago by parents of people with disability to provide services to people with intellectual disability. The state-of-the-art group home includes wheelchair access, private bedrooms for each resident, a shared accessible kitchen, a laundry, bathrooms, a living room, and a beautifully landscaped backyard for recreational activities and gardening.

The property has been specifically designed to ensure that residents can participate actively in the running of their home. It will provide the new residents with increased opportunities to develop more independent living skills, such as engaging in grocery shopping, cooking and gardening. It also provides a more open environment, and promises greater choices and opportunities for its residents. A unique feature of the accommodation at Little Bay is that it is purpose-built to cater for residents as they age and their needs change. That will minimise the need for residents to move as they get older. This is an excellent example of Windgap thinking clearly about the different types of services and supports that people with disability may need and want in the future once they receive their individual funding arrangements. The Windgap Foundation has a strong track record of providing great services to people with disability, including residential services, day programs and transition-to-work programs.

As New South Wales continues to transition towards the National Disability Insurance Scheme, people with disability will have more flexibility, choice and control. Innovative accommodation services like this home at Little Bay will enable people with disability to make meaningful choices. I am always glad to see the Government's investment at work in the local community, creating new opportunities for people with disability to live life their way. The Government is working with great non-government organisations like Windgap. I wish the five residents a happy, comfortable and enjoyable time in their new home, and I congratulate Windgap on its efforts in securing the completion of this project.

### HALAL CERTIFICATION FEES

**Reverend the Hon. FRED NILE:** I direct my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Is it a fact that the Supreme Islamic Council of Halal Meat in Australia and the Australian Federation of Islamic Councils, which both have offices in New South Wales, each collect close to \$1 million a year in halal certification fees in addition to what they collect through various other income streams? Is it a fact that halal fees funded anti-radicalisation schemes directed at disaffected youth would have the obvious benefit of reassuring Australians of the Islamic community's opposition to Islamic extremism? Will the Government urge the Australian Federation of Islamic Councils to use halal certification fees to fund deradicalisation programs for Muslim youth?

**The Hon. JOHN AJAKA:** As the new Minister for Multiculturalism I place on the record that I have absolutely no objection to the certification of halal food. Nor do I have any objection to the certification of kosher food or any other food if it helps members of one of our great multicultural communities to live according to their beliefs. One of the fabulous things about New South Wales is that its residents have the right to live according to their beliefs, whether they be religious or cultural beliefs. We also have the right to live in accordance with the laws of New South Wales while following our personal beliefs. I have eaten halal food many times. In fact, I go to particular butchers to buy lamb.

**The Hon. Greg Donnelly:** Name them!

**The Hon. JOHN AJAKA:** I buy meat from Mourad Butchery at Arncliffe. The proprietors will be grateful for that endorsement. I believe the Hon. Shaoquett Moselmane also shops there. I also have a wonderful butcher in Laneways Markets in King Street, Rockdale. Two lovely young people have just bought the business and they sell the best beef steak I have ever tasted. My point is that we all have a choice.

An opinion piece in today's *Daily Telegraph* suggests that organisations certifying halal products should provide funding for counter-radicalisation programs. Food certification schemes and certifiers are being considered by the Senate Standing Committees on Economics, which is due to table a report by 30 November 2015. The fees paid as part of these schemes will be examined by the committee. The uses to which those fees may be put can be discussed once that information is available. Muslim community organisations play a key role in countering violent extremism, and we thank them for that. Many are already making contributions to this difficult and sensitive work. However, violent extremism cannot be addressed by Muslim communities alone; this issue requires a whole-of-society approach. That approach should involve governments of all persuasions, communities, the non-government sector, the education sector, religious leaders, businesses and academics working together to protect young people from violent extremist influences and to keep our community safe. I intend to work with each and every one of the groups I have mentioned to address this issue.

## KOALA PROTECTION

**The Hon. PENNY SHARPE:** I direct my question to the Minister for Primary Industries, and Minister for Lands and Water. In light of the Minister's answers yesterday about the integrated forestry operations trial, will he give an undertaking that the six compartments on the Mid North Coast where the trial will be conducted will not include areas where koalas have been detected?

**The Hon. NIALL BLAIR:** The aim of the integrated forestry operations trial is to ensure that proposed new conditions provide the same or a higher level of environmental protection during forestry operations as that provided by the existing conditions, while maintaining timber supplies. It is the Government's priority to protect threatened species, including koalas, during forestry operations. Therefore, it makes sense that it would include proposed new koala protection conditions in the trial to ensure they are clearly understood, applied and enforced before they become the official rules for all forestry operations.

The trial will implement a prescription for feed tree retention that will meet or exceed the current prescription. The tree retention prescription will be based on an assessment of koala habitat rather than evidence of pellets, or scats, because that is difficult to implement and to enforce. The conditions that will be trialled were developed by experts and will ensure that koala populations continue to thrive in native State forests, as they have done during more than a century of timber harvesting in New South Wales.

**The Hon. PENNY SHARPE:** I ask a supplementary question. I understand that the trial the Minister has just announced will involve looking at trees rather than evidence of koala habitat when deciding whether logging can occur in the area.

**The Hon. Dr Peter Phelps:** I am sure trees are koala habitat.

**The Hon. PENNY SHARPE:** I meant, will the trial involve looking at trees rather than evidence of the animals—that is, the scats?

**The Hon. NIALL BLAIR:** The trial will be as I outlined in my answer.



## OYSTER INDUSTRY

**The Hon. BEN FRANKLIN:** I address my question to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister update the House on the how the Liberal-Nationals Government is continuing to support the State's most valuable aquaculture industry—oysters?

**The Hon. NIALL BLAIR:** New South Wales oysters are the best in the world. In April I visited Port Stephens, one of our State's top-producing estuaries, to see first-hand the hard work and science backing this important aquaculture industry underway at the Port Stephens Fisheries Institute. We are investing in world-leading science and research that is producing some of the biggest and most flavoursome Sydney rock oysters that I have ever tasted. I was proud to share this visit and a tour of the department's oyster hatchery with the Governor of New South Wales and learn more about the industry and the science behind it. Our most valuable aquaculture industry, the Sydney rock oyster, has shown impressive growth and is now valued at well over \$31 million a year, producing more than 57 million oysters annually. Recently awarded the Champion Oyster, when pitted against the country's finest at the Royal Agricultural Society's Fine Food Show, the Sydney rock oyster was recognised as a true gem of the ocean.

Unfortunately, last month oyster farmers in the Hunter Valley were hit by a one-in-100-year storm. Almost all oyster growers in the Port Stephens and Brisbane Water areas were affected by the storm and have reported extensive stock losses and infrastructure damage, as well as damage to commercial fishing boats and equipment. Total direct losses to oyster growers in the region have been estimated at around \$6 million in stock losses and infrastructure damage. It will take some time for the oyster industry to realise the true impact on stock as prolonged exposure to fresh water will kill oysters. The NSW Department of Primary Industries is working with farmers and industry associations to provide information about assistance options available. The NSW Food Authority has been sampling oyster and water quality to reopen estuaries after mandatory shutdowns to ensure estuaries are opened as quickly as possible for the sale of oysters to the marketplace.

As part of the Natural Disaster Relief Scheme, loans to a maximum amount of \$130,000 are available for eligible producers, depending on need. In addition, Port Stephens, Brisbane Water, Hawkesbury River—for the information of the Hon. Greg Pearce—and Georges River oyster farmers can make an application for an aquaculture debt waiver through the Department of Primary Industries. The New South Wales Food Authority and Crown Lands also provide a waiver of some fees upon application. A rebate is available also to affected oyster farmers, capped at \$800 per farmer currently, to subsidise the purchase of faster growing, disease-resistant spat.

This has been a testing time for the communities and businesses right across the Hunter Valley, and the New South Wales Government is doing everything it can to make sure these communities get back on their feet. But New South Wales oysters will again be in the spotlight as they feature heavily in the Australian Wine Month program across Sydney. Tonight I am pleased to be hosting NSW Farmers and key members of the New South Wales oyster industry here at Parliament, where we will celebrate our terrific oysters at the annual "Oysters in the House" event. The industry's continued growth and recognition in the marketplace is a great achievement and is a direct result of not only the exceptional quality but also the resilience and hard work of the producers. This Government is supporting New South Wales oyster farmers by focusing research on the development of more disease-resistant oysters to ensure the future of this highly valuable industry. New South Wales is at the forefront of the industry, engaging in groundbreaking initiatives backed by science to develop a sustainable and profitable industry into the future.

## LIVE CATTLE EXPORTS

**The Hon. MARK PEARSON:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Is the Minister aware that the *Northern Star* newspaper reported yesterday, 3 June 2015, that a proposal is in place to commence live export of cattle to Indonesia through the Port of Yamba? If so, will the Government legislate to prevent the live export of New South Wales cattle because in doing so it would reflect the extreme concern most citizens of New South Wales have for the welfare of these animals while at sea for 12-plus days and during handling and slaughter in Indonesia, over which Australia has no jurisdiction in animal protection?

**The Hon. NIALL BLAIR:** I thank the Hon. Mark Pearson for his question. I am aware of the article that appeared in the *Northern Star*. I am also aware that there is an unusual alliance that has expressed a concern about the information in that article: the meat workers' union and animal activists in the area. The issue of live

trade is a matter for the Commonwealth Government. Currently there are no live export port-handling facilities in New South Wales. Any such proposal would need to be approved by the Commonwealth Government. The only live export trade from New South Wales is genetic export such as sheep and goats, which leave New South Wales by plane. New South Wales supports the Commonwealth's tough standards and protocols for live export and works to see these as an important measure in protecting the reputation of our livestock industries.

Two weeks ago I met with other agriculture Ministers from across Australia and the issue of live export was raised, particularly by the Queensland Minister for Agriculture and the Northern Territory Minister for Primary Industry and Fisheries. We cannot underestimate the impact that the kneejerk reaction from the previous Federal Labor Government had not only on the live export trade but also on the cattle industry across Australia. It devastated some of the largest employers of Indigenous Australians in northern Australia and put some of those communities into a serious economic downturn. The cattle market has rebounded.

The Federal Government has worked tirelessly to not only open up other potential markets for live export but also to make sure that we are at the forefront of animal welfare standards when it comes to live export. If Australia was to step out of that market it would more than likely be filled by another country that does not have as stringent animal welfare standards. Australia has a commitment to assist abattoirs throughout Asia to treat cattle that come from other countries as well as cattle coming from Australia. I thank the Hon. Mark Pearson for his question. There is no such proposal that the New South Wales Government is aware of. It is something that is a matter for the Commonwealth Government.

**The Hon. MARK PEARSON:** I ask a supplementary question. Will the Minister please elucidate on his answer as to how the New South Wales Government can legislate to prevent live export through New South Wales to overseas countries?

**The Hon. Duncan Gay:** The best barrier is the Port of Yamba. You would not get a boat of that size in there.

**The Hon. NIALL BLAIR:** I acknowledge the response from the Minister for Roads, Maritime and Freight. He is right, the biggest limiting factor for the Port of Yamba is its physical construction. As to what the New South Wales Government can do to legislate to enable the Commonwealth Government to do something that they are responsible for, if I knew the answer to that I probably would not be standing here.

## DISABILITY SERVICES

**The Hon. SHAOQUETT MOSELMANE:** My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given the National Ethnic Disability Alliance and its New South Wales counterpart have expressed their concern that people of non-English speaking backgrounds are unable to access disability services because they are unaware of such programs, what steps has the Minister taken to ensure people from culturally and linguistically diverse backgrounds are accessing these programs?

**The Hon. JOHN AJAKA:** I thank the Hon. Shaoquett Moselmane for his question. Much work is being undertaken in culturally and linguistically diverse [CALD] communities for people with disabilities. One of the main reasons that we commenced the launch of the National Disability Insurance Scheme within the Nepean-Blue Mountains region was the feedback we were getting that the trial size in the Hunter Valley was not sufficient in regards to the CALD communities.

In fact, what was occurring with the almost 4,000 plans that had been signed up by individuals obtaining their own funding in the Hunter trial site was that less than one per cent were from CALD communities. Because of this, the Government signed a memorandum of understanding with the Federal Government to commence the launch of the National Disability Insurance Scheme [NDIS] within the Nepean-Blue Mountains region—a region with more than 50 per cent of its population coming from the CALD communities. The Government is undertaking the necessary work. The funding being paid to the advocate groups who represent all disability organisations—not just the CALD communities—has been extended for a further 12 months to 30 June 2016.

The Government is committed to actively and effectively championing cultural diversity and promoting and maintaining social cohesion and community harmony throughout our State. This, of course, includes people with disability from the CALD communities. We will continue to work with them to provide them the necessary

advocacy and we will ensure that they meet with the ability linkers who have been appointed from the CALD communities, just as we appointed linkers from the Aboriginal communities. Those linkers are expert in ensuring that people with disability—

**The Hon. Shaoquett Moselmane:** Point of order: The question related specifically to the National Ethnic Disability Alliance and the concerns of its members. My interest is in what steps the Minister has taken to address those concerns.

**The PRESIDENT:** Order! The Minister was being generally relevant.

**The Hon. JOHN AJAKA:** Any concerned person or organisation can contact me or one of the ability linkers. The ability linkers—especially those from CALD communities—are available to assist anyone with a disability, any of their family members and any of the various organisations that assist people with disability.

### REBUILDING NSW

**Mr SCOT MacDONALD:** My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister please update the House on the Government's Rebuilding NSW plan?

**The Hon. DUNCAN GAY:** I have been sitting here among the folders and the files, waiting for those opposite to ask me a question, but no question has been asked.

**The Hon. Dr Peter Phelps:** They don't care.

**The Hon. DUNCAN GAY:** That is right, they just do not care. Those opposite should be acknowledging that last night was an historic moment in the future development and growth of this great State. For nearly two decades internal Labor politics stymied the delivery of world-class transport and freight infrastructure for the people and businesses of New South Wales. While other states such as Victoria—in the past—surged ahead with the construction of new roads, motorways, bridges and railways, New South Wales infrastructure was left to rot. With the passing of legislation to partially lease poles and wires, the revenue generated will turbocharge our plans to rebuild New South Wales. These were plans that we successfully took to the March election. As I said last night, you do not need a plan B when you have an absolutely fantastic, cracking plan A.

**The Hon. John Ajaka:** They don't like this.

**The Hon. DUNCAN GAY:** They do not like this at all. Those opposite have no ideas, no plans and no future. Actually, they do have plans, and I have been reading their plans.

**The Hon. Dr Peter Phelps:** Do they? What does it say?

**The Hon. DUNCAN GAY:** "Complete the central business district [CBD] and south-east"—oh no, sorry, they have scrapped that one. That one has gone; cross that one off. "Complete the M4 to the City"—it is short on detail, whether it is above ground, below ground, how many houses they are going to take, where it is going to go, how they are going to finance it, but they have a plan to do it. Since 2011 the New South Wales Liberal-Nationals Government has been investing historic levels of funding to build, upgrade and repair critical infrastructure across the length and breadth of the State. In my portfolio alone, the Government has delivered more than \$20 billion to build, upgrade and repair—

**The Hon. Greg Donnelly:** Is that all?

**The Hon. DUNCAN GAY:** The member opposite says: "Is that all?" Well, I like the honourable member, so—

**The Hon. Lynda Voltz:** Point of order: Mr President, as you have pointed out a number of times, the Minister should not respond to interjections but he should also not encourage interjections from the other side of the Chamber.

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

**The Hon. DUNCAN GAY:** I apologise for saying that I like the honourable member. In my portfolio alone we have delivered more than \$20 billion to build, upgrade and repair road and freight infrastructure across the State, but even more needs to be done to reverse Labor's 16 years of neglect. I will now read a list of infrastructure projects our Rebuilding NSW plan will help deliver.

**Mr Jeremy Buckingham:** Point of order: The reading of lists is disorderly under the standing orders. I ask you to rule the Minister out of order.

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

**The Hon. DUNCAN GAY:** As we know, Labor—and their coalition partners, The Greens—have no idea. This plan could have sunk from the opposition of Labor and The Greens to our legislation. Two billion dollars will be invested in a regional road freight corridor program, including half a billion dollars to upgrade the Newell Highway; \$205 million to upgrade the New England Highway, including the start of the bypasses at Singleton and Muswellbrook— [*Time expired.*]

### RENEWABLE ENERGY

**Mr DAVID SHOEBRIDGE:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given that the Federal lower House has passed laws that include biomass fuel in the definition of "renewable energy" and that provide incentives for the burning of New South Wales forests and so-called green energy, what steps is the Minister taking to protect New South Wales forests from being cleared and burned for this environmentally damaging energy?

**The Hon. NIALL BLAIR:** I thank the honourable member for his question. There seemed to be an element of argument, particularly in the last part of his question. It will depend upon which side of this House or the House of Representatives you sit as to whether you consider that question argument or fact. I would say that the debate—

**Dr John Kaye:** You must have read E. H. Carr's, *What is History?*

**The Hon. NIALL BLAIR:** I am a well-educated man, and I read a lot of comics and picture books. I thank the honourable member for his question and I will take it on notice and get back to him.

### EAST HILLS TAFE

**The Hon. LYNDIA VOLTZ:** My question is directed to the Minister for Primary Industries, and Minister for Lands and Water, representing the Minister for Education. In light of Padstow TAFE courses, including hospitality and automotive being cancelled, will the Government give an undertaking to examine restoring these important courses to students in East Hills?

**The Hon. NIALL BLAIR:** Was that question in relation to TAFE?

**The Hon. LYNDIA VOLTZ:** As Minister representing the Minister for Education—the TAFE courses that were cut in Padstow automotive and hospitality.

**The Hon. NIALL BLAIR:** Just to clarify, it is my understanding that TAFE and tertiary education is now under the portfolio of Minister Barilaro and I am happy to take it on notice and refer it to the correct Minister for a response.

### TOURISM AND MAJOR EVENTS

**The Hon. GREG PEARCE:** My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. What is the Government doing to ensure that Sydney remains the major events capital in Australia?

**The Hon. JOHN AJAKA:** I thank the honourable member for his question. Sydney is in fact number one when it comes to major events; very similar to the St George Illawarra Dragons currently being number one and great for tourism in Sydney. Again, I rise to inform the House of the excellent work being undertaken by my colleague in the other place the Hon. Stuart Ayres.

**The Hon. Walt Secord:** Where is his white hood?

**The Hon. JOHN AJAKA:** The New South Wales Government recognises the importance of securing the right mix of major events for Sydney to attract visitors from across Australia and the world.

**The Hon. Duncan Gay:** Point of order: When the Minister referred to the Premier in the other place—

**The Hon. Walt Secord:** Not the Premier, Stuart Ayres.

**The Hon. Duncan Gay:** All right, it was Stuart Ayres. The Deputy Leader of the Opposition asked, "Where is his white hood?" That is totally unnecessary.

**The Hon. Lynda Voltz:** To the point of order: There was a lot of noise in the Chamber at the time. The Minister often makes comments about what he believes has been said on this side of the Chamber in order to put it on the *Hansard* record.

**The Hon. Catherine Cusack:** To the point of order: Several Government members have had to put up with incredibly personal and nasty attacks. It has not been provoked, as was suggested. I thank you for your earlier comments in question time, but it is very much taxing the patience and the goodwill of this side of the House. I do not know what is driving this behaviour, but the Hon. Walt Secord and the Hon. Lynda Voltz are overstepping the mark.

**The Hon. Adam Searle:** To the point of order: There has been repeated, continual baiting of members on this side of the Chamber by those opposite. That happens in every House in every Parliament but its intensity has increased over the past few weeks and sometimes people respond. Members on this side of the House should not be punished because members opposite have baited them. Mr President, you should call all members to order for interjecting.

**The Hon. Duncan Gay:** To the point of order: It is a valiant attempt by the Leader of the Opposition to spread the blame over the whole House. There was a specific complaint about a specific member and that member mentioned a white hood. I believe he indicated the Premier; he said it was another Minister. Regardless of who it was, it was totally inappropriate to indicate that a member of Government was wearing a white hood.

**The PRESIDENT:** Order! While not in any way derogating from the seriousness of the remark, the level of agitation in the Chamber at the end of what has been a long and tense week of sitting is unacceptable. I remind the Hon. Walt Secord that he is on two calls to order. Although he does not deserve an early mark, if he so much as opens his mouth again he will certainly get one.

**The Hon. JOHN AJAKA:** The New South Wales Government recognises the importance of securing the right mix of major events for Sydney to attract visitors from across Australia and the world. Yesterday I informed the House what the Government is doing over the winter months. However, that is not all this Government is doing in this portfolio. We experienced a bumper year in 2014 in supporting 136 sporting, cultural and lifestyle events that delivered more than \$510 million in visitor spending in New South Wales. This is a 9 per cent increase on the previous year's visitor spend. The year culminated with New South Wales being named Best Event State in Australia at the 2014 Australian Event Awards for the second year in a row. By attracting more major events we will attract more tourists to New South Wales who will provide a boost to the State's economy when they stay at local hotels, visit our tourist attractions, eat out at local restaurants and so on.

This is why the Government has committed an additional \$123 million over four years to lure more big-ticket events to New South Wales. The \$123 million represents a 25 per cent budget boost for Destination NSW and brings the total tourism and major events budget to more than \$643 million. Through this additional money the Government has committed an extra \$73.25 million to make Sydney the number one destination for major events in Australia. Out of this \$73.25 million, \$22 million will be set aside to secure events for Western Sydney to ensure the growing region has the opportunity to host events that provide a big boost to local businesses. Another \$5.9 million has been committed to target overseas visitors from our priority international markets and an additional \$40.6 million has been committed to grow regional tourism and events.

It is not just sporting, cultural and lifestyle events that bring visitors to Sydney and New South Wales. Business events are catalysts that help to generate trade, investment and collaboration opportunities. Events

secured by Business Events Sydney have delivered \$1 billion to the New South Wales economy over the past five years. The Government, along with the private sector, is making a huge investment in new infrastructure to support business events through the new International Convention Centre Sydney. This investment will help drive even more economic growth from business events in the future. The new facilities are already delivering value for New South Wales, with Business Events Sydney already securing more than 20 events for the new facilities, equating to an estimated economic impact of \$165.7 million.

The Government is committed to supporting business events to ensure that New South Wales can compete with our Australian and international competitors, and the Government will continue to support both the industry and Business Events Sydney to deliver on this commitment. We will also continue to use innovative strategies to attract visitors to New South Wales, such as securing the top-rating breakfast show in the United States, *Today*, to televise live from Sydney to 5.6 million viewers at home. This showcased our city to the third largest source market of visitors to New South Wales, helping us to drive further visitation to the State. We will also continue to grow the regional visitor economy by providing funding options through the regional visitor economy fund.

### **BELONGIL BEACH ROCK WALL**

**Ms JAN BARHAM:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. In light of the coastal panel meeting of 25 November 2013 to consider the Belongil Beach rock wall proposal, the panel noted that there had been insufficient detail provided by Byron Shire Council about the long-term maintenance and management of impacts, including those on Crown land, and raised concerns regarding the threat to public safety and compromised beach amenity. Has the Minister given approval for the proposed works? What steps is he taking to avoid damage caused to Crown land and the risk to public access and safety on the beach caused by the construction of this rock wall and its impacts?

**The Hon. NIALL BLAIR:** I thank the honourable member for her very detailed question. I will take the question on notice and come back with, hopefully, an equally detailed answer.

### **PORT MACQUARIE CROWN LAND**

**The Hon. COURTNEY HOUSSOS:** My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given that in 2014 New South Wales Crown Lands entered into exclusive negotiations with Woolworths to sell off and redevelop the plaza car park adjoining the Woolworths-owned Food for Less site at Port Macquarie under a belated expression of interest process, will the Minister give an undertaking that the decision will result in the best possible outcome for the community and use of the foreshore?

**The Hon. NIALL BLAIR:** I am advised that Woolworths first approached the Government in 2013 with a proposal to purchase the land known locally as the Plaza Car Park. Negotiations were discontinued in 2014 when Port Macquarie-Hastings Council expressed an interest in purchasing the land. The land was subsequently advertised for sale by expression of interest [EOI] through a commercial real estate agent and advertised in the *Sydney Morning Herald* and the *Australian Financial Review*. The EOI campaign closed on 6 February 2015 and was supervised by an independent probity adviser. A total of 21 inquiries were received by the agent, with a number of submissions received. These are currently being assessed by Crown Lands within the Department of Primary Industries.

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

**Questions without notice concluded.**

**Pursuant to sessional orders business interrupted to permit a motion to adjoin the House if desired.**

### **ADJOURNMENT**

**The Hon. DUNCAN GAY** (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [3.31 p.m.]: I move:

That this House do now adjourn.

## PARRAMATTA FEMALE FACTORY WORLD HERITAGE LISTING

**The Hon. PENNY SHARPE** [3.31 p.m.]: These fine words came from our now Minister for Planning, the Hon. Rob Stokes:

Our heritage consists of the things we choose to keep; the things we want others to inherit. Protecting our State's heritage is all about remembering what is important in our surroundings and preserving these things for future generations to enjoy.

These words were ringing in my ears as I recently met and took a tour with local residents from the North Parramatta Residents Action Group around the Cumberland Precinct in Parramatta. On a site just 34 kilometres from here and in the geographic centre of Sydney lies a collection of buildings that help to tell the story of Australia. These buildings, gardens and land must be preserved for future generations to enjoy. These 31 hectares tell the stories of colonisation, of migration, of crime and punishment, of treatment of mental illness and of how the early years of the new colony shaped the people we as Australians are today. Located along Fleet Street is the Parramatta Female Factory. The Parramatta Female Factory's foundation stone was laid on 4 May 1818 by Governor Macquarie. It was designed by emancipated convict-cum-architect Francis Greenway. The female factory opened as the destination of all unassigned women sent to the colony from 1821 to 1847.

Of the 9,000 women who were transported to Australia, it is estimated that 5,000 passed through the female factory. By some counts people believe that one in five Australian women are descendants of the women who passed through the female factory. It is the oldest convict women's site in Australia. As the Parra Girls, women who went through the former Parramatta Girls Home, tell us about convict women:

What conflict women had in common was their poverty. Most arrived in the colony lonely and confused, thousands of kilometres from home. Some were fortunate enough to bring their children with them but many were left behind to fend for themselves. Disembarking from the crowded convict ships at Sydney Cove most of the women were transported to Parramatta by boat from where they walked a short distance further along the river to the Female Factory. The women would remain here until assigned, or on receiving their Ticket of Leave-Pardon, completion of their sentence, or in some cases by accepting a marriage arrangement.

As Parramatta Female Factory Friends have stated:

This site holds stories of the women, men and children—stories of hardship, migration, survival, winning against the odds and going on to become mothers, teachers, farm workers and business women of the nation.

Through their lives they have become the silent revolution as the mothers, sisters, aunts, grandmothers and friends that contributed to the change in colonial thinking to what Australians value including fairness, mateship, sense of humour, survival and making the most of life and opportunity.

This is a very special site. In our retelling and documenting of history, too often women are under-represented, invisible or relegated to a mere footnote. This site tells a story of Australian women, and it is one that needs to be protected for the future. This site is significant not just for the people of Parramatta and not just for those of us in New South Wales. It should be World Heritage listed, yet amazingly it is not. I commend those working to have this unique site listed and call on the Federal Government to do everything in its power to make this listing a reality. I tell this one story of the buildings because I want to draw the attention of the House to the current work being undertaken by UrbanGrowth in the Parramatta North urban renewal precinct. There have been a lot of conversations about this and it was a hot topic during the recent election.

These 31 hectares are precious. Local residents are not against development, but they want to see this area properly preserved. We are considering World Heritage listing for the site and anyone who has looked at the history of these buildings could not fail to see the merits of that listing. When we consider planning of this precinct we should put heritage first, but UrbanGrowth has rushed this process. I call on the Minister to press pause when considering the planning controls as 30-storey buildings should not be right up against convict-built buildings with immense history. There is an opportunity to make something very special for Parramatta and for the rest of Australia. The heritage consideration should be at the centre of this precinct, not as an add-on as we plan to build more and more housing around the site. I ask the Minister to reflect upon his fine words in relation to heritage and to think about this very special place. The development of Parramatta has to be done right to ensure that all of this history is preserved for our sons and daughters.

## PUBLIC TRANSPORT

**The Hon. LOU AMATO** [3.36 p.m.]: I bring to the attention of the House the great achievements relating to public transport in south-west Sydney since the Coalition Government came to power in 2011. I attest

to the fact that since my election to this House I have used our wonderful public transport rail system to travel to the city and I can say that the network is reliable. As a commuter I am thoroughly impressed with the comfort and overall experience of the service. The list of achievements in relation to public transport in the south-west Sydney region by this Government is impressive—namely, an extra 2,452 weekly public transport services have been implemented and of these services there are 1,526 new bus services and 926 new train services.

The South West Rail Link was opened to customers in February, providing vital rail services in south-west Sydney. The South West Rail Link is another example of the Government's forward-thinking policies, where the building of infrastructure is initiated in anticipation of the future population growth and the needs of the people of New South Wales. All too often we have seen past governments engage in long-overdue catch-up policies in regard to infrastructure planning. The South West Rail link—which, by the way, was completed 12 months ahead of schedule and more than \$300 million under its \$2.1 billion budget—addressed many issues, such as a much-needed major upgrade of Glenfield station and the rail-bus interchange. The South West Rail Link package also includes two new railway stations, at Leppington and Edmondson Park. A new 11-kilometre passenger rail line has been built between Glenfield and the new railway station at Leppington, which now boasts an extra 1,200 car parking spaces.

Another great initiative of the Government is the Transport Access Program, which aims to provide stations that are accessible to the disabled, the aged and parents with prams; modern buildings and facilities for all modes of transport that meet the needs of a growing population; modern interchanges that support an integrated network and allow seamless transfers between all modes of transport for all customers; safety improvements, including extra lighting, help points, fences and security measures for car parks and interchanges at stations, bus stops and wharves; signage improvements so customers can more easily use public transport and transfer between modes of transport at interchanges; and other improvements and maintenance, such as painting, new fencing and roof replacements.

In relation to south-west Sydney, the Transport Access Program has more than 50 different projects underway, of which 38 upgrades are now open to the public, including conversion of staff car parking at Campbelltown station to provide an additional 153 commuter car spaces; conversion of staff car parking at Macarthur, Leumeah, Glenfield, Minto and Picton stations; additional safety and security features at Ingleburn and Minto commuter car parks; and an interchange upgrade at Picton station, including a new pedestrian refuge island, new footpaths and improvements to the road surface on Station Street for accessibility and safety to the station.

Currently nine Transport Access projects are under construction, with further upgrade plans underway, such as an easy access upgrade at Ingleburn station, which includes the installation of new lifts, covered walkways, bicycle storage and parking for customers with disabilities; and an upgrade of Tahmoor station, which includes the existing pedestrian crossing over the railway line, construction of new ramps to both platforms and upgrades to lighting and closed-circuit television. Plans are underway to build a new 450 car space commuter car park at Campbelltown station. I congratulate the Government, professional workers and contractors who made these great improvements to the public transport network of south-west Sydney possible. I am sure we can all agree that this project is a great benefit not only for south-west Sydney but also for the community as a whole.

### TRIBUTE TO JOAN KIRNER

**The Hon. LYNDIA VOLTZ** [3.41 p.m.]: Today I pay my respects to Joan Kirner, one of the leading lights of the Australian Labor Party. I call Joan Kirner a friend, and I am not alone there. I stand alongside thousands of women in the Australian Labor Party who also call her their friend. That was the beauty of Joan—the sweeping ability to take all along with her for the battle, regardless of age or faction. I have never heard a bad word spoken about Joan in the Australian Labor Party, and in a political party with a strong reputation for drag-them-out, bitter fights that is a pedestal on which Joan could stand high.

Many in this Chamber would know that I have long been an advocate of the legalisation of women's boxing in this State. But what people do not know is that it was Joan who spurred me on for the fight. To be honest, I became aware that women's boxing was illegal only when driving through north Queensland cane fields with Joan Kirner in 1995. I was in Far North Queensland working, but Joan—as was always the case—was in town to support a local woman candidate in the Queensland elections.

Noting that I was perhaps not as fired up about the place of women's boxing as I should be, Joan treated me to a good hour or two lecture on why it was so important that women were treated equally everywhere, and



that as a sportswoman myself it was my political and moral duty to fight to change this legislation. It was a message received and understood. It was no coincidence that one of my first speeches in this House was the need for women's boxing to be legalised, and within six months, after a couple of attempts, the legislation was changed. Every time a New South Wales woman walks into the boxing ring or stands on the Olympic stage, a little bit of Joan's fight for equality stands with her.

This north Queensland conversation predated the establishment of EMILY's List in 1996, but I think Joan had already adopted the course we were going to take. In 1994 the Australian Labor Party National Conference passed an Affirmative Action Rule requiring women to be preselected in 35 per cent of winnable seats at all elections by 2002. Among the progressive women who drove this change were Julia Gillard, Carmen Lawrence, Helen Creed, Candy Broad, Kay Setches, Leonie Morgan, Judy Spence, Meredith Burgmann, Jan Burnswoods, Carolyn Pickles, Sue Mackay and Fran Bladel. But EMILY'S List was always about Joan Kirner and she was its driving force. EMILY is of course an acronym, and mirrors the very successful sister organisation in the United States of America. It stands for "early money is like yeast"—it makes the dough rise. It is a financial and support network for progressive Labor women candidates.

The very talented Rebecca Huntley and I were honoured to be the inaugural New South Wales representatives to the EMILY's List National Committee—a role I undertook for 12 years, and to this day I remain a contributor as an EMILY angel. We did this willingly and with great joy but, again, I am not sure there was much choice. As an example, when Joan decided we were going to launch on Remembrance Day 1996, nothing would change her view that I was going to be in Canberra on that date. My first daughter, Katerina, was born on the evening of 31 October 1996 after a 24-hour labour and an emergency caesarean. Joan was having none of it. Ten days later I was expected to be in Canberra for the launch—and turn up I did.

EMILY's List is Joan's gift to the women of the Labor Party. I doubt there have been few women candidates over the past 18 years who have not either been called by Joan or had a phone call from a senior female politician at the behest of Joan. Joan ensured there was support for women, who often would not get any help or resources. In the recent State election eight new Labor women were elected in the lower House, and Courtney Houssos joined me and Sophie Cotsis on the upper House ticket. These women stand as testimony to Joan's work for better representation of women across all Australian parliaments.

In passing, there is one memory of Joan that always makes me smile. My daughter, Katerina, born almost alongside the birth of EMILY's List, would often be kidnapped by Joan if I did not keep a close eye on her in coffee shops. She would return hours later dressed in new red-leather shoes or with a new book. Joan always insisted I bring Katerina everywhere, until at one event Katerina marched up to the lectern, put her hands over her ears and started yelling at Joan, "No, no, no. You must sing." Joan tried her best teacher voice but it was to no avail; the speech would have to wait for a version of *Twinkle, Twinkle, Little Star*. It was the only time I can recall Joan being bettered.

## HOMELESSNESS

**The Hon. MARK PEARSON** [3.46 p.m.]: Today I raise the issue of homelessness in New South Wales. Even though this issue has been addressed by both governments over time, it is becoming quite clear that the measure of any intervention or policy change would be a reduction in the number of homeless people across New South Wales. But, unfortunately, that is not the case. Even 2½ blocks from this Parliament several people are living in a terrible situation one block behind the courthouses where their walls are blankets and their protection is old doonas and filthy clothes. They are living in impoverished conditions right under our watch.

The two major causes of homelessness are mental illness and domestic violence. Crisis teams and mental health intervention teams were established in the early 1980s under the Richmond Implementation program so that where mentally ill people were living in the community, very assertive and robust services were available to them and their families 24 hours a day. A fundamental principle of the program was to use a case management system and to form a therapeutic relationship with mentally ill people. What has been occurring, and is still occurring, is that a person will have a psychotic episode or another type of severe mental illness episode, he or she will be treated and then returned home or found housing somewhere. But the nature of a chronic mental illness is that episodes recur. If there is not proper intervention and support for these people, they will end up becoming homeless. Because of their mental illness and psychosis, they are unable to care for themselves and they wander the streets, frightened and paranoid and become lost within our community.

In a robust and assertive mental health service these people form a relationship with a particular caseworker and they stay in contact with them. The key to proper mental health intervention is to watch out for

early symptoms. That is very much the case in the work that has been done by Professor Patrick McGorry, OBE. He says we need to intervene early and form a relationship with mentally ill people to prevent further psychotic episodes or mental health issues which render them incapable of caring for themselves and becoming homeless.

Another issue is the complex circumstance in Australia where one woman dies from domestic violence every week and one is hospitalised every three hours, which can lead to some becoming homeless. More than 25,000 domestic violence assaults occur in New South Wales each year, the vast majority of which are on women. Approximately 31 per cent of homelessness is caused by domestic violence. The Government must prioritise funding for accommodation services proven to help vulnerable women at risk of serious injury and death as a consequence of domestic violence. It is crucial that women and children have access to supported accommodation immediately upon presentation to the police or to other services where there is no safe alternative other than to leave their home. Being forced to leave home due to violence should not result in homelessness.

Some reforms undertaken in 2014 under the Going Home Staying Home program have manifestly failed to protect women who have become homeless due to domestic violence. Instead, the New South Wales Government reduced 336 existing services to just 149 services. The tendering process awarded contracts to big non-government organisations, almost all of which were Christian organisations. These reductions in services have had a deleterious effect on women and children who are seeking help and it is the second main contributor to homelessness.

### STATE INFRASTRUCTURE FUNDING

**The Hon. SCOTT FARLOW** [3.51 p.m.]: Last night was a momentous night for this House, for Premier Mike Baird and for the people of New South Wales. It was momentous because a \$20 billion Rebuilding NSW plan for the people of New South Wales will reserve \$7 billion for the City Rapid Transit Network; reserve \$1.1 billion for investment in WestConnex, which I am sure all members of this House are happy to hear of on a regular basis from the Hon. Duncan Gay; increase the commitment of a Sports and Cultural Fund; reserve \$4.1 billion for investment in regional roads and rail, which I am sure many members of this House will be happy about; reserve \$1 billion for regional and metropolitan schools; reserve \$1 billion for regional and metropolitan hospitals; reserve \$1 billion for water security for our regional communities, which I am sure the Hon. Niall Blair is happy about; and reserve \$300 million for regional tourism and the environment.

**The Hon. Greg Donnelly:** This is the list read out by Reverend the Hon. Fred Nile.

**The Hon. Shaoquett Moselmane:** It is a copy of his speech.

**The Hon. SCOTT FARLOW:** I thank Reverend the Hon. Fred Nile and the Hon. Paul Green for being reasonable members of this House.

**The Hon. Greg Donnelly:** He is reading *Hansard* from last night.

**The Hon. SCOTT FARLOW:** The Hon. Greg Donnelly will enjoy this. Not only is this a great day for the people of New South Wales with the passage of legislation in the Legislative Assembly but also it is a great day for many people in the Australian Labor Party, those truth tellers who knew this was the right proposal and, despite all the slam and smear, spoke their minds and cleared their consciences. I refer to a former member of this Parliament, the Hon. Michael Egan, who likes to speak his mind and who is not afraid to back down. When speaking in a privatisation debate in November 1997 when the Labor Party was in government and rolled him, he said:

I am pressing on with electricity privatisation because as I have pointed out on numerous occasions, I think it is the best course for NSW, for the people of NSW, job creation in NSW and every community throughout every nook and cranny of NSW.

The Hon. Michael Egan repeated that statement to the electricity infrastructure inquiry, of which the Hon. Trevor Khan was a member, and he said:

My own side, the Australian Labor Party, said that the sale of the poles and wires would result in increased prices. That is simply wrong.

... the rationale for public ownership of these assets no longer exists. Public ownership was never any more than a means to an end. For some people—regrettably too many in my own party—it has become an end in itself. It has become an ideological article of faith and I have never heard anyone who can explain why.

The Hon. Michael Egan is not alone; he is joined by David Borger, a former member for Granville, who said:

Using the proceeds from the lease of the metropolitan "poles and wires" is the preferred method for funding essential transport, health and other infrastructure projects.

He went on to say:

Network charges have reduced substantially in States where there has been privatisation ... secondly, the price is determined by government, not by the market anyway.

Not only former members of this Parliament spoke the truth about these matters but also current members of Parliament. I refer to the comments of the member for Maroubra in 2008.

**The Hon. Greg Donnelly:** What a good member.

**The Hon. SCOTT FARLOW:** He is a good member. He was a better member then than when he was speaking his mind. He said to the Parliament "conclusively electricity reforms in Victoria led to a significant price decrease in that State". Funnily enough, during the election campaign he was a little quiet on that point but the truth has still been told and it should be told again and again. I am sure that Opposition members will see the light at some point in the future.

**The Hon. Greg Donnelly:** It will set you free.

**The Hon. SCOTT FARLOW:** It will set them free. I hope that the Hon. Greg Donnelly is set free soon. Who can forget another honourable member in this place, Michael Costa, who always had a good word or two to say about privatisation?

**The Hon. Shaoquett Moselmane:** They are good people.

**The Hon. SCOTT FARLOW:** The Hon. Shaoquett Moselmane should listen to them more often. The Hon. Michael Costa said:

Pandering to special-interest concerns has eroded Labor's core values. Special-interest politics has pushed Labor further and further away from the political centre. The Labor Left now firmly controls Labor's policy agenda.

[Labor's] prime political concern is to maintain the inner-city representation of key left leaders.

Unfortunately that did not happen for the Labor Party in Newtown. It is a shame that the Hon. Lynda Voltz is not in the Chamber to hear what Martin Ferguson said in relation to this matter:

As a former Federal Minister for Energy, as a former union official—and a long serving member of the Australian Labor Party—I am proud to stand here before you today to lend my strong support to the restructure and sale of the NSW and Queensland electricity grids.

... and this misinformation we've got, led by my own party, the Labor Party, in NSW ... that is just a bald lie.

## BYRON BAY COASTAL MANAGEMENT

**Ms JAN BARHAM** [3.56 p.m.]: This weekend a protest meeting will be held on the beach of Byron Bay as community members gather before walking along the beach to Belongil, to the side of the proposed rock wall that has been approved for construction by Byron Shire Council. The decision by the council turns its back on 30 years of sustainable coastal management that recognises the dynamic nature of the coast and the erosion risks associated with the storm history of the region. There is background to the precautionary planning approach, known as planned retreat that comes from the history of storms along the coast to the Byron and Hastings coastline for more than a century. In 1986 Belongil Spit was subdivided by the State Government into 200 lots, each with 33 foot frontages. In 1998 a 320 foot long jetty was opened at Byron Bay.

In 1906 the council was enacted. In 1928 a new jetty 2,002 feet long was built due to the decay of the old jetty. In 1930 the first jetty was declared unsafe. In 1933 to 1936 severe and extensive beach erosion was caused to the coastline. In 1948 six boats tied at the first jetty were wrecked in a storm. In 1949 the public works department removed the first jetty. In 1952, 15 of 17 boats tied at the second jetty were destroyed. In 1954 the second jetty was severely damaged and 26 fishing boats were wrecked. Cyclones affected the coast from Byron

Bay to the Hastings Point embankment in March 1956, in January 1959, in February 1963, twice in May 1963, in January 1965, in January, February and March 1967, in February 1971, in February 1972, in February 1973, in February and March 1974, and in January, February and March 1976.

The second jetty was removed in 1972. The Public Works Department report on Byron Bay to Hastings Point erosion was completed in 1978, and the Coastal Protection Act and the Environmental Planning and Assessment Act were gazetted in 1979. Esplanade Road on Belongil Beach was lost in 1984 because of severe erosion. I am providing this information to the House because misinformation is often circulated and, amazingly, believed by gullible members of Parliament. A rock wall was built by the State Government, but it has been proved that it has had no impact on the area suffering erosion at Belongil Beach. Consultations on the draft Byron Shire Council local environmental plan and the development control plan were undertaken in 1986. In 1988 the State Government approved a local environmental plan that included zones that were referred to as "coastal lands" and "urban coastal lands", and it restricted the development of structures in those areas. It was stated that new buildings or works in the immediate impact zone must be temporary and must be removed in the event of coastal erosion.

A report on precinct No. 2—the 50-year and 100-year line—stated that if the erosion escarpment came within 50 metres, any building development approval would lapse. In 1990 the New South Wales Government adopted the Coastal Management Manual and identified planned retreat as an option. Extensive coastal erosion occurred in 1996 as a result of an east coast low and the Government adopted a coastal policy in 1997. There was extensive erosion caused by storms and a large swell event in 1999 and as a result of an east coast low in 2001. Extensive erosion occurred again as a result of an east coast low, swells and a king tide in 2009.

The history of this area prior to any building of rock walls at Main Beach indicates that it is an area of dynamic coastal activity and that extreme erosion has occurred. It is shameful that limited evidence is provided by some people who have an interest in protecting private property. It is not the State's role to protect private property. The principle of caveat emptor applies to those people. Crown land is the key issue. A rolling easement or a retreat process that ensures we retain a beach on that part of the coastline should be our greatest priority, and that is what the community wants.

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

**Motion agreed to.**

**The House adjourned at 4.01 p.m. until Tuesday 23 June 2015 at 2.30 p.m.**

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