

# LEGISLATIVE COUNCIL

Wednesday 24 February 2010

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**The President (The Hon. Amanda Ruth Fazio)** took the chair at 11.00 a.m.

**The President** read the Prayers.

## **SYDNEY OLYMPIC PARK AUTHORITY AMENDMENT BILL 2010**

### **HOUSING AMENDMENT (COMMUNITY HOUSING PROVIDERS) BILL 2010**

**Bills received from the Legislative Assembly.**

**Leave granted for procedural matters to be dealt with on one motion without formality.**

**Motion by the Hon. John Robertson agreed to:**

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour of the sitting.

**Bills read a first time and ordered to be printed.**

**Second readings set down as orders of the day for a later hour.**

## **DEPUTY GOVERNMENT WHIP**

**The Hon. TONY KELLY:** I inform the House that on 23 February 2010 the Hon. Lynda Voltz was elected Deputy Government Whip in the Legislative Council.

## **DEATH OF AARON HARBER**

**Motion by the Hon. Catherine Cusack agreed to:**

That this House:

- (a) notes the tragic death on 9 December 2009 of Mr Aaron Harber, a National Parks and Wildlife Service ranger, in a helicopter accident at Dorrigo whilst assisting with a fire in Cathedral Rock National Park,
- (b) notes with gratitude Mr Harber's service to his community, and
- (c) extends its deepest sympathies to Mr Harber's family, colleagues and friends in the Dorrigo community.

## **UNPROCLAIMED LEGISLATION**

**The Hon. PETER PRIMROSE** tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 23 February 2010.

## **AUDITOR-GENERAL'S REPORT**

**The Clerk** announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Working With Children Check—NSW Commission for Children and Young People", dated February 2010, received and authorised to be printed this day.

## **PETITIONS**

### **Adoption Laws**

Petitions requesting that the Parliament reject any proposed legislation or amendments to adoption laws that would take away the fundamental human right of adopted children to be raised by both a mother and a father, received from the **Hon. Greg Donnelly** and **Reverend the Hon. Dr Gordon Moyes**.

**IRREGULAR PETITION PRESENTATION**

**Leave granted for the suspension of standing orders to allow Reverend the Hon. Dr Gordon Moyes to present an irregular petition.**

**Adoption Laws**

Petition requesting that the Parliament reject any proposed legislation or amendments to adoption laws that would take away the fundamental human right of adopted children to be raised by both a mother and a father, received from the **Reverend the Hon. Dr Gordon Moyes**.

**BUSINESS OF THE HOUSE****Postponement of Business**

**Business of the House Notice of Motion No. 1 postponed on motion by the Hon. Catherine Cusack.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Precedence of Business****Motion by the Hon. Tony Kelly 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.

**Precedence of Business****Motion by the Hon. Tony Kelly agreed to:**

That, notwithstanding anything contained in the standing and sessional orders, for today only:

- (a) debate on the motion to take note of the budget estimates 2009-2010 take precedence after questions until concluded or adjourned,
- (b) debate on committee reports take precedence after debate on the budget estimates until 5.00 p.m., and
- (c) the interrupted debate is to stand adjourned and be set down on the business paper for the next day on which it has precedence.

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

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 219 outside the Order of Precedence, relating to Teal Ribbon Day, be called on forthwith.

**Order of Business****Motion by the Hon. Kayee Griffin agreed to:**

That Private Members' Business item No. 219 outside the Order of Precedence be called on forthwith.

**OVARIAN CANCER**

**The Hon. KAYEE GRIFFIN [11.15 a.m.]:** I move:

1. That this House notes that:
  - (a) Wednesday 24 February 2010, is Teal Ribbon Day,
  - (b) February is Ovarian Cancer Awareness Month, which helps raise awareness of the disease and encourage women to be aware of symptoms and act early in seeking help, and

- (c) approximately 1,500 women are diagnosed with ovarian cancer in Australia annually and, tragically, around 850 women die from the disease each year.
2. That this House acknowledges the contributions of individuals and organisations in fundraising and raising awareness of ovarian cancer.

In New South Wales this year, around 450 women will be diagnosed with ovarian cancer and more than 260 women will lose their life to the disease. While ovarian cancer does not discriminate, a woman's risk increases with age, with more than 80 per cent of cases in New South Wales diagnosed in women aged over 50 years. Risk increases in women who have a family history of ovarian, breast or colon cancer, or a personal history of breast cancer. Other risk factors include oral contraceptive use, treatment with fertility drugs or oestrogen-only hormone replacement therapy, and reproductive factors, such as not having children or having them after the age of 30 years.

We all know that cancer is extremely common. Many of us in the House will have been touched by ovarian cancer in some way, be it directly or through the experiences of a parent, a spouse, a close relative or a friend. The reality is that one in 76 women in New South Wales will develop ovarian cancer by the age of 85 years. A report released today by the Australian Institute of Health and Welfare entitled "Ovarian cancer in Australia: An overview, 2010" shows that in 2006, 1,226 cases of ovarian cancer were diagnosed in Australia. This equates to an average of three women being diagnosed with the disease every day.

To put all of this into perspective, analysis by the Cancer Institute New South Wales has found that there are close to 2,500 women in New South Wales either currently living with ovarian cancer or who are cured of the disease. While incidence and mortality rates have not significantly changed over the past 10 years, the average age at death has increased by 9 years in the past 35 years. It is this trend that reveals a glimmer of light about ovarian cancer. Increases in the average age at death indicate great improvements in length of survival and effectiveness of treatment. Improvements in the early detection and survival of women with ovarian cancer will ultimately lead to fewer deaths and reduced pain and suffering for the women who are diagnosed and their families and carers.

Like many cancers, ovarian cancer has a higher survival rate if detected and treated early. The chances of surviving ovarian cancer are 42 per cent for all ovarian cancer patients and 86 per cent when the disease is localised and has not spread before treatment. These figures are daunting, so it is vital that more research and clinical trials focussing on ovarian cancer be conducted. The Keneally Government is investing in cancer research through the Cancer Institute New South Wales. More than \$2.5 million has been invested in ovarian cancer research in the past five years. This funding goes directly to front-line cancer researchers in New South Wales, including psychologist and associate professor Bettina Meiser, at the Prince of Wales Clinical School, University of New South Wales, who will use a \$599,255 grant to examine the attitudes of women with ovarian cancer towards genetic testing shortly after their diagnosis, and Dr Viola Heinzelmann-Schwarz from the University of New South Wales, who is researching anti-glycan antibodies for diagnosis and therapy of ovarian cancer with a \$695,500 New South Wales Government grant. Gaining a fundamental understanding of the causes of ovarian cancer brings the development and implementation of an early detection program that much closer. Although significant progress is being made in understanding the biological and overall management of ovarian cancer, this can be continued only with more focus on the disease.

Today is Teal Ribbon Day and I have a simple message for all women. The best thing that women can do is to be aware of the symptoms that may indicate ovarian cancer and to see their general practitioner if they experience any unusual or persistent changes. The most common symptoms that may indicate ovarian cancer are: abdominal bloating—feeling full; appetite loss; unexpected weight gain; constipation; heartburn; back pain; frequent urination; abdominal pelvic pain; or fatigue. Of course, these symptoms may be vague and can mimic those of other disorders. However, if a woman thinks that something is wrong she should talk to her general practitioner. Early detection of ovarian cancer offers the best chance of survival.

The talent we have in cancer research in New South Wales is outstanding and worthy of being honoured. Improving and saving lives is the most fundamental element of the work that cancer researchers do. As I said, cancer touches us all at some point in our lives, be it directly or through the experiences of our families and friends. Many members have spoken in this House about their experiences in this regard with family and friends. In November 2006 the New South Wales Government released the second statewide cancer plan implemented in Australia's history. It cemented the Government's achievements under the first cancer plan that was released in 2004. Our direction for cancer control in New South Wales will build healthier communities, which is a key pillar of the State Plan. It will invest more than \$100 million over four years to

expand cancer research, including the clinical testing of new cancer drugs—drugs that can prolong or even save lives—and create new ways of providing smarter treatment. If these treatments work, we want them in our hospitals giving patients new hope and a fresh chance for a healthy life and thereby achieving the goals outlined in the State Plan.

Ongoing commitment to cancer research is needed to continue to reduce cancer death rates over the next 20 years. Some of this investment will provide immediate discoveries that benefit patients this year or next year. However, some of the investment will support research with longer-term return that will improve cancer results. The outcomes from investment in cancer research are becoming increasingly obvious. New South Wales has documented more leverage of cancer research contributions from other funders than any other medical research disciplines in New South Wales. The number of cancer publications generated in New South Wales is greater than in other States. New South Wales clinical trials participation has increased to nearly 6 per cent of incident cancer cases and the number of talented researchers in cancer in New South Wales has increased by more than 50 per cent since 2004.

The Premier's award for outstanding cancer research celebrates the work and achievements of cancer researchers made possible by the Government's support. The encouragement we give our scientists to pursue a career-long specialisation in cancer research is already putting New South Wales at the leading edge of new cancer discoveries and treatments. For example, National Health and Medical Research Council funding coming to New South Wales for cancer research has doubled since we implemented our first cancer plan. Last year's outstanding cancer researcher of the year, Professor Philip Hogg, is internationally recognised in cancer research for developing the dye that fastens onto dead or dying cancer cells and reveals whether cancer treatments are working just days into the course. The lead cancer drug is currently being trialled in cancer patients in the United Kingdom. Fourteen patients, including women with ovarian cancer, have been treated so far and the initial results are promising. The imaging agent non-invasively detects dying and dead tumour cells. The agent could be used, for instance, to assess the efficacy of cancer therapy.

With the support of funding from the New South Wales Government, prostate cancer researchers at Sydney's Garvan Institute have found a new marker for identifying aggressive prostate cancers. Many men with prostate cancer have their prostate glands removed, but only a proportion of these men will later develop life-threatening metastatic disease, where the cancer spreads to other parts of the body, such as the bones. This new approach will identify which men are at greater risk of suffering metastatic disease at the time of their initial surgery, which will lead to tailored treatment for individual prostate cancer sufferers. That is not currently possible.

I truly share this Government's passion for nurturing our best and brightest cancer researchers and to give them the real opportunities they need to become world-leading cancer researchers. Our aim is to give our best and brightest the opportunity to learn from the best in the world and to bring that expertise back to New South Wales, where cancer patients at home will benefit directly from their learning. Past winners of the research awards are some of the most highly regarded cancer researchers, not only in New South Wales but also beyond our borders. Previous winners of the outstanding cancer researcher of the year include, as I said, Professor Philip Hogg in 2009, Professor Simon Chapman in 2008, Professor Robyn Ward in 2007, and Professor Bruce Armstrong in 2006. The winner is selected by an independent grant review committee chaired by Professor Richard Fox. Even to be nominated for this award is a major achievement. A nominee must have made an outstanding, sustained contribution to the field of cancer research here in New South Wales, be an active cancer researcher, and have a record of substantive and noteworthy publications. He or she must be a true leader who supports, develops and mentors other cancer researchers and his or her research must be consistent with the Government's aim of supporting research that makes a difference to the lives of patients.

This year we will celebrate the outstanding achievements of our cancer researchers at the Premier's Awards for Outstanding Research on 21 May at the Australian Technology Park. That day is my mother's birthday and she passed away with breast cancer and associated bone cancer, so that is a special day for me. Improving survival rates and quality for life with potentially fatal and chronic illnesses through improvements in health care is a key New South Wales Government commitment and that is reinforced by targets set out in the State Plan. The New South Wales Government is also committed to improving the health of our community through reduced obesity, smoking, illicit drug use and risk drinking. The maintenance of a continued downward trend in cancer death rates in New South Wales and the reduction in smoking rates by 1 per cent per annum in 2010 and then by 0.5 per cent per annum to 2016 are this Government's key targets.

In 2003 the New South Wales Parliament unanimously passed the Cancer Institute (New South Wales) Act, which established the Cancer Institute (New South Wales) with the objectives to increase the survival rate

for cancer patients, to reduce the incidence of cancer in the community, to improve the quality of life of cancer patients and their carers, and to operate as a source of expertise on cancer control for the Government, health service providers, medical researchers and the general community. The Cancer Institute develops a cancer plan that supports the State Plan. It is a blueprint that will detail how the Government will address the enormous community challenge of cancer over the next five years. Last week we called on the public of New South Wales to help set the priorities for cancer control in this State. Whether it be a loved one, a friend or even ourselves, we have all been affected by cancer. I have mentioned my mother, and many other members have spoken about loved ones and friends who have similarly suffered. This means that we are all qualified to speak about the new cancer plan. Like the two cancer plans before it, this plan will reduce the number of cancers, improve the lives of people with cancer, and ultimately save lives.

The New South Wales Labor Government delivered Australia's first statewide cancer plan in 2004 and the second in 2007. These cancer plans have led to major improvements in reduced smoking rates, improved screening services and breast screening technology, new staff and innovative programs in hospitals, and increased cancer research in our hospitals and research institutes. New South Wales has shown leadership in delivering a comprehensive approach to combat tobacco use. Our strategies have contributed to an approximate 4 per cent decline in adult smoking since 2003, estimated to be 18.4 per cent in 2008. Youth smoking has also shown a consistent downward trend with new figures estimating current smoking prevalence at a record 8.6 per cent—but we obviously still need to work on that.

Our screening services have been boosted with major improvements to the free BreastScreen New South Wales service, including extending opening hours and locating mobile clinics in more convenient places, such as near shopping centres. In a \$26 million government initiative, the latest digital mammography equipment was rolled out across the State to over 40 fixed and mobile BreastScreen clinics, which means women, no matter whether they live, in the city or the bush, have access to the latest technology.

The New South Wales Government, through the Cancer Institute, has funded 423 cancer research projects in the past five years—a \$144 million commitment. Today's research is tomorrow's medicine: every cent we put towards research is one step closer to a cure. These improvements are so important to the people of New South Wales because, as our population ages and grows, cancer is increasing in both men and women. The lifetime risk of cancer is now one in two for men and one in three for women. In 2009 there were 38,116 new cases of cancer in New South Wales, with new cases set to increase by 5,000 every five years and be greater than 50,000 new cases in 2021. New South Wales is among the most successful places in the world in managing cancer, with 63 per cent of people now alive more than five years after their diagnosis, but there are still over 250 deaths from cancer each week.

This five-year cancer plan will help us identify how we can further improve survival and the quality of life for patients, and their families and carers. The NSW Cancer Plan 2011-2015 will set priorities for cancer control across the five pillars of: cancer prevention, detecting cancer early, improved cancer services and professional development, cancer research, and relevant cancer data and information. Together we can set a blueprint for cancer that will ultimately save lives and reduce the impact of cancer on our community.

Ovarian cancer is one of the most serious forms of cancers affecting women. Fortunately, there is some hope: there has been a downward trend in mortality rates for ovarian cancer due to the research that has been conducted over the past 30 years and better treatment. We need this trend to continue. The New South Wales Government invested \$783,000 in research in the last year alone to improve survival rates. The number of clinical trials has doubled since 2004, with 22 currently underway in New South Wales. The New South Wales Government has invested in the New South Wales cancer trials network, which has been successful. These funds and trials are designed to help doctors better understand the causes of ovarian cancer, leading to better early detection programs.

Ovarian Cancer Australia is a self-funded, non-profit organisation—donations are tax-deductible—dedicated to raising the profile of ovarian cancer. This organisation conducts a range of awareness campaigns and information services designed to educate women and medical practitioners about the early warning signs and risk factors for ovarian cancer. Ovarian Cancer Australia is to be congratulated on its efforts in the community, and everyone who participates in fundraising activities should also be congratulated on this, Teal Ribbon Day.

**The Hon. MARIE FICARRA** [11.32 a.m.]: It is with pleasure that on behalf of the Coalition I support this motion to commemorate Ovarian Cancer Month, acknowledged annually in the month of February. Indeed,

today we celebrate Teal Ribbon Day. I am most proud to be hosting a parliamentary breakfast that will be held in the strangers dining room tomorrow morning, 25 February, to raise funds for the GO Research Fund—GO standing for gynaecological oncology. I thank Madam President for her donation towards this fund, and acknowledge it. The fund is a subentity of the Royal Hospital for Women Foundation Ltd, a registered charity. It raises money for improving the awareness, treatment, education and research in relation to gynaecological cancers. An invitation has already been sent to all members of this House and of the other place. Tickets are still available for \$45 a head from the GO Research Fund website, [www.goresearchfund.org.au](http://www.goresearchfund.org.au), or my office.

I pay tribute to the main founder of the GO Research Fund, Professor Neville Hacker, renowned nationally and internationally as a leading clinician in the field of gynaecological oncology. Professor Neville Hacker is a tremendous man, not only for his clinical skills but also for his mentoring of other doctors, registrars, students, nurses, paramedics and researchers. He has great belief in the mission he has to make women's lives and families' lives better. He is a dedicated family man and devotes a lot of his time to external charity work. I came across Professor Neville Hacker when I worked with him for several years in the field of cervical cancer and know him as a top-notch clinician, a fearless medical expert and fearless particularly in his honesty when dealing with politicians and healthcare bureaucrats.

We often shared frustration as we worked together traipsing the halls of Parliament House in Canberra—frustration sometimes with the lack of knowledge of the clinical realities from bureaucrats and from members of Parliament, often frustration with conflicts of interest of the bureaucrats and members of committees making decisions. Nevertheless, our progress in the field of cervical cancer has been overwhelming and for many years now Professor Neville Hacker has turned his attention to ovarian cancer, which is such a silent killer. I also acknowledge what he has done in leading the charge for better diagnostic tests, in particular with human papilloma virus DNA testing as the future for cervical cancer screening. I acknowledge also another great man who works in the Royal Hospital for Women, the head of the cervical dysplasia and colposcopy clinic, Dr Mick Campion. They are two very fine men.

Most of the money raised by the GO Research Fund is spent on ovarian cancer research because this cancer carries the worst prognosis of all the gynaecological cancers. It is estimated that in Australia in 2010 about 1,500 women will be diagnosed with ovarian cancer and there will be about 900 deaths. Those statistics are frightening. The five-year survival rate for ovarian cancer is only 40 per cent compared with a five-year survival of 86 per cent for breast cancer, which receives most of the gynaecological oncology publicity and research funding. We have done so much in the field of breast cancer but all clinicians agree we have so much more to do in the field of ovarian cancer.

Why does ovarian cancer have such poor prognosis? There are two major reasons. The first and most important reason is that no screening test is available to allow detection of the disease in women without symptoms. Women can be screened for breast cancer with a mammogram, cervical cancer with a Pap smear and bowel cancer with a faecal occult blood test. So these cancers can be diagnosed at an early stage when they are eminently curable. No such population screening test exists for ovarian cancer. The GO Research Fund has been addressing this problem for the past eight years by supporting a collaborative research program between a major treatment centre—the Gynaecological Cancer Centre of the Royal Hospital for Women, headed by Professor Neville Hacker—and a leading basic research centre, the Garvan Institute of Medical Research, where the cancer program is headed by Professor Robert Sutherland.

This project has taken a genomic approach to research: working on the identification of genes which are mutated or otherwise abnormal in women with ovarian cancer. The GO Research Fund is about to enter into an agreement with the new Lowy Institute for Cancer Research, which is on the campus of the University of New South Wales. Again, this will involve collaboration between the Gynaecological Cancer Centre at the Royal Hospital for Women and the recently established ovarian cancer project at the Lowy Institute, which will be headed by Dr Viola Heinselman-Schwartz.

This research will also be directed at finding a screening test for ovarian cancer but will be based on a glycomic approach: it will be working on the identification of abnormal sugar molecules on the surface of cells and the development of antibodies to these abnormal molecules. A satisfactory screening test would enable most women to be diagnosed while the disease is still confined to their ovaries, which would result in the overall five-year survival rate being about 85 per cent to 90 per cent.

The second reason for the poor prognosis of women presently diagnosed is that the symptoms are vague and therefore the diagnosis is difficult to make. Symptoms include vague abdominal or pelvic pain,

bloating, nausea, indigestion, change in bowel or bladder habits, and menstrual irregularity in premenopausal women. Unfortunately, the majority of women have no symptoms until the cancer has spread beyond the ovaries, at which stage the five-year survival rate is only 15 per cent to 20 per cent. For too long ovarian cancer has been a Cinderella cancer, completely overshadowed by the more common breast cancer. It is hoped that Ovarian Cancer Month will raise more awareness of the disease not only amongst the lay public but also amongst politicians and health administrators, who have the responsibility to ensure that adequate research money is spent on such an important killer of middle-aged women.

I look forward to hosting the GO breakfast tomorrow morning. I acknowledge also the efforts of Maroubra Rotary Club, great supporters of ovarian cancer research. The club has made the research project one of its special initiatives for this year. In particular, I acknowledge the club's president, Dr Rosa Spencer. Indeed, I acknowledge the members of all service clubs, Rotary clubs, Lions clubs and RSL clubs for their support of gynaecological oncology research in Australia. Together we can make a difference to the lives of many Australian women and their families.

**Reverend the Hon. Dr GORDON MOYES** [11.42 a.m.]: On behalf of Family First I speak in support of the motion. I thank the Hon. Kayee Griffin and the Hon. Marie Ficarra for their passion and concern with respect to ovarian cancer. One of the good things about the current Government, which does not receive proper acknowledgment, has been its support over the past 10 years of a range of medical research and cancer research initiatives. I praise the Government for its continued work. I support Teal Ribbon Day. I am a donor to the Gynaecological Oncology Research Foundation and will be at the breakfast for parliamentarians tomorrow.

Ovarian cancer is not widely screened for and Family First is concerned for the welfare and health of women everywhere. As a layman, one of the problems I see with this cancer is that the symptoms are very common. Many women over the age of 30 have common symptoms such as being overweight, feeling bloated and having pelvic cramps. I notice that the literature gives severe warnings to women against the use of talcum powder. Being the husband of a lady who enjoys very fine talcum powder and who is always delighted when I give her some, I do note the warning about powder placed near a woman's genital area. There is significant evidence that powder grounds move and can coagulate around the ovaries, which could be a major cause of ovarian cancer. There is a simple remedy: not to use talcum powder. I encourage members to support the motion and again thank the previous speakers.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.44 a.m.]: I am pleased to join members in supporting this motion on Teal Ribbon Day, a day to bring attention to what has been described as a silent cancer in women, ovarian cancer. Ovarian cancer is a relatively uncommon but deadly form of cancer. As we have heard already in this debate, around 450 women in New South Wales will be diagnosed with ovarian cancer this year and 260 will lose their life to the disease. Ovarian cancer is a disease that mainly affects post-menopausal women. Sixty per cent of cases diagnosed are in women aged over 60 years. It is the second most commonly diagnosed form of gynaecological cancer, cancer of the uterus being the most common. As other speakers have mentioned today, the prognosis for women with ovarian cancer is generally poor. Only 42 per cent of women in New South Wales will be alive five years after their diagnosis.

This compares with the 88 per cent five-year survival rate for women diagnosed with breast cancer and the 73 per cent five-year survival rate for women diagnosed with cervical cancer. But when ovarian cancer is diagnosed at its earliest stage—that is, before the cancer has spread to other parts of the body—the survival rate improves dramatically to 86 per cent. With cervical cancer, 85 per cent of women with an early diagnosis will be alive after five years and with breast cancer the five-year survival rate after early diagnosis is 97 per cent. As with most cancer, early diagnosis offers the best chance of survival. Unfortunately, as all speakers have noted, very few cases of ovarian cancer are diagnosed early.

In fact, just 20 per cent of cases of ovarian cancer are diagnosed at the early stage. In breast cancer 51 per cent of cases are diagnosed at the early stage and the rate for cervical cancer is 47 per cent. The prognosis for women diagnosed with ovarian cancer is indeed poor. It is devastating not just for the victims but for their families and the community. This raises the question of why, especially when one considers the much better early diagnosis and prognosis in breast and cervical cancers. Unlike with cancers of the breast and cervix, there is no screening test for ovarian cancer. Hidden in the pelvis, ovarian cancer is very difficult to detect. In some 80 per cent of cases ovarian cancer will not be diagnosed until it has spread and therefore is more difficult to treat and to cure. There are symptoms of ovarian cancer and most women experience one or more of these symptoms in the year before their diagnosis. However—and this is the cruellest part of this disease—the symptoms themselves make detecting ovarian cancer even more difficult. This is because the symptoms are

varied and more often are associated with other common complaints that are not cancer. The symptoms include abdominal discomfort, back pain or bowel complaints that may be similar to those found with irritable bowel syndrome and urinary problems more often associated with infection.

In 2008 the Cancer Institute NSW held an expert forum to discuss ovarian cancer, from diagnosis through to treatment and end-of-life care. The forum brought together general practitioners, medical oncologists, gynaecological oncologists, palliative care nurses and psychologists. The general practitioners at the forum revealed some telling facts about the difficulty in detecting symptoms of ovarian cancer in their patients. Aside from the complexity of ovarian cancer symptoms, the low numbers of ovarian cancer in our community mean that doctors rarely see a patient with the disease. In fact, one expert at the Cancer Institute forum estimated that on average a full-time female doctor working in general practice might see a patient with ovarian cancer only once in every five to 10 years. The doctors at the forum told of the difficulty in recommending a patient undergo a test that may detect ovarian cancer when in all likelihood the patient did not need it or when symptoms were more suggestive of a common ailment such as irritable bowel. As ovarian cancer is relatively uncommon and presents with symptoms more commonly associated with far less sinister conditions, the objective of early diagnosis and, therefore, improved survival seems very difficult to achieve or, some would suggest, hopeless. But this is not the case.

Medical research is making ground in the development of a screening test for ovarian cancer. In the United States the National Cancer Institute sponsored prostate, lung, colorectal and ovarian screening trial—the PLCO trial—researchers are studying whether using a blood test for the tumour marker, known as CA-125, combined with transvaginal ultrasound will decrease the number of deaths from the disease. CA-125 is a protein produced by some ovarian cancer cells. CA-125 levels may go up in women with ovarian cancer. However, high levels of CA-125 also occur during pregnancy and menstruation, and in the presence of endometriosis, benign ovarian tumours and other cancers.

For transvaginal ultrasound, a small probe is inserted into the vagina to give off high-frequency sound waves. The pattern of echoes produced by the sound waves creates a picture, known as a sonogram, which is shown on a monitor like a television screen. Because healthy tissues, fluid-filled cysts and cancer produce different echoes, the test is useful in diagnosing ovarian diseases. The world is looking upon the PLCO trial with hope that effective and accurate screening for ovarian cancer will one day be proved possible.

In addition to medical research, greater awareness of ovarian cancer will equip women and doctors with more knowledge of the symptoms and when further testing may be needed to lead to earlier diagnosis. Initiatives such as Teal Ribbon Day play a major role in raising this awareness. The National Breast and Ovarian Cancer Centre recommends five things women should know about ovarian cancer. First, ovarian cancer is not a silent killer. Most women with ovarian cancer experience at least one symptom of the disease in the year prior to their diagnosis. Abdominal bloating, abdominal or back pain, appetite loss or feeling full quickly, changes in toilet habits, unexplained weight loss or gain, indigestion or heartburn, and fatigue can all be signs of ovarian cancer. While these symptoms can be part of everyday life, it is important to see your doctor if they are unusual for you and they persist. Second, there is currently no screening test for ovarian cancer. A Pap test does not detect ovarian cancer; it is only used to screen for cervical cancer.

Third, even if you do not have a family history of ovarian cancer you are still at risk. While having a family history of ovarian cancer increases your risk, 90 to 95 per cent of all ovarian cancers occur in women who do not have a family history of the disease. Ovarian cancer can occur in any woman but the risk increases in women over 50 years of age. Fourth, it is important to be referred to a gynaecological oncologist. If you are suspected of having ovarian cancer, you should be referred to a gynaecological oncologist. Research shows that survival for women with ovarian cancer is improved when their surgical care is directed by a gynaecological oncologist. Fifth, no-one knows your body like you do. Since there is no screening test for ovarian cancer, the best thing you can do is get to know your body and what is normal for you so you can recognise any unusual changes.

The advice from the National Breast and Ovarian Cancer Centre is that if you experience any of the symptoms of ovarian cancer and they are unusual for you and persistent it is important to see your doctor. If you are still concerned about a persistent symptom it is okay to get a second opinion. It is important that you trust your instincts. This year 450 women across New South Wales will be diagnosed with this terrible disease. As other speakers have said, it is incredibly difficult to detect the disease early. I urge members that if any woman they know complains of symptoms persistently, if any of those symptoms come to their attention, whether you



are her husband, son, sister, or friend, you should encourage her to go to the doctor. It is often too hard for women to get to see a doctor because they are too busy. Many women in New South Wales are far too busy. They simply cannot wait; they have to go to the doctor, and we should encourage them to do so.

**Reverend the Hon. FRED NILE** [11.53 a.m.]: On behalf of the Christian Democratic Party I support the motion moved by the Hon. Kayee Griffin, which reads:

1. That this House notes that:
  - (a) Wednesday 24 February 2010 is Teal Ribbon Day;
  - (b) February is Ovarian Cancer Awareness Month, which helps raise awareness of the disease and encourage women to be aware of symptoms and act early in seeking help; and
  - (c) approximately 1,500 women are diagnosed with ovarian cancer in Australia annually and, tragically, around 850 women die from the disease each year.
2. That this House acknowledges the contributions of individuals and organisations in fundraising and raising awareness of ovarian cancer.

I am pleased, together with other members, that there is now far more focus on the various cancers that affect women. Obviously there is a great deal of publicity about breast cancer. I believe it is important that ovarian cancer gets the same amount of attention, particularly as it is far more difficult to diagnose or identify than other forms of cancer. As members know, my wife was diagnosed with cancer of the liver, ribs and spine last year. This certainly caused me to be better informed about cancer and its effect on women. As I spent time with my wife at St Vincent's Hospital cancer wards when she went through the 12 weeks of chemotherapy treatment I was able to observe the excellent work of the doctors and nurses in those cancer wards and the skill they have in treating cancer. I also came to appreciate the support that is needed by the doctors and nurses who work in these various cancer disease areas.

I was very impressed with the nuclear medicine test that can be conducted, referred to as PET by the specialist. My wife had two of those tests three months apart. We were very pleased that those tests indicated that her cancer had completely disappeared. We are very appreciative of that, and we also thank God that our prayers were answered. All cancers need to be treated equally with the funds made available for the research so that all women, if they do come into this category, can be diagnosed, treated, healed, and allowed to continue their normal daily activities, as they should. I am very pleased to support the motion.

**The Hon. JENNIFER GARDINER** [11.56 a.m.]: I acknowledge that today is Teal Ribbon Day and I commend the motion. February being Ovarian Cancer Awareness Month, it is part of the health calendar, so to speak: various parts of the year are dedicated to helping to raise awareness in the community about various illnesses. It is very important that people have a greater awareness of ovarian cancer, particularly the multiplicity of symptoms—which might be symptoms for all sorts of things. However, people need to be very careful about paying attention to what is happening to them, and to get a doctor's check-up if the symptoms persist. Of course, it is very important to do so early on.

As previous speakers have noted, ovarian cancer is quite difficult to detect in its early stages. The motion notes that approximately 1,500 women are diagnosed with ovarian cancer in Australia each year and that around 850 of those women die as a result of the disease. So it is important to have a debate such as this and to hold functions such as the breakfast my colleague the Hon. Marie Ficarra will host tomorrow to help raise awareness in the community of the symptoms of the disease and to make sure that people go to their doctor and have the symptoms checked out.

I acknowledge the organisations that engage in these fundraising activities, and people who help with them and who participate in them. Obviously, the funds raised can be used towards helping develop diagnostic tools. Hopefully, ovarian cancer will in time become one of those diseases that are much more easily detected by using new diagnostic tools so that it becomes a less deadly disease as the research is brought into common use. I thank the Hon. Kayee Griffin for moving the motion and indicate my support for it. I also support the good work of those who are helping to raise awareness of the disease.

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

**Motion agreed to.**

## FILMING OF LEGISLATIVE COUNCIL

**The PRESIDENT:** I advise honourable members that during question time today filming of the Chamber will take place from the public galleries. The footage is for use in the Parliament's educational DVD.

## BUSINESS OF THE HOUSE

### Suspension of Standing and Sessional Orders: Order of Business

#### Motion by the Hon. Michael Gallacher agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 222 outside the Order of Precedence, relating to the retirement of Inspector Irene Juergens, APM, be called on forthwith.

### Order of Business

#### Motion by the Hon. Michael Gallacher agreed to:

That Private Members' Business item No. 222 outside the Order of Precedence be called on forthwith.

## RETIREMENT OF POLICE INSPECTOR IRENE JUERGENS, APM

#### Motion by the Hon. Michael Gallacher agreed to:

1. That this House notes:
  - (a) that on 31 December 2009 Inspector Irene Juergens, APM, retired from the New South Wales Police Force after 44 years of dedicated service,
  - (b) that "IJ", as she is known by all, joined the Police Force in 1966 and started work in the School Lecturing Section at the Metropolitan Traffic Branch,
  - (c) that, after a distinguished career in the Criminal Investigation Branch, the Community Relations Branch and as a Crime Prevention Officer, including the Brisbane Water Local Area Command, in 2004 IJ was made the coordinator for the Volunteers in Policing program,
  - (d) that she was the driving force for the Volunteers in Policing Program, which now boasts more than 800 volunteers working in over 120 locations, who have clocked up more than 1.6 million hours of volunteer service, and
  - (e) that IJ received a number of awards for her contribution to keeping our streets and homes safer, including the Australian Police Medal, the Commissioner's Police Perpetual Award and the National Medal and first and second clasps, as well as the New South Wales Police Medal and four clasps for diligent and ethical service.
2. That this House wishes IJ a well-deserved long and happy retirement with her husband, retired Chief Superintendent John Toms.

**Pursuant to sessional orders business interrupted at 12 noon for questions.**

## QUESTIONS WITHOUT NOTICE

### TRANSPORT PLAN

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Treasurer. When will the Treasurer travel to the Hunter to explain to angry residents why longstanding transport infrastructure commitments such as the Glendale Interchange continue to go unfunded? When the Treasurer decided to scrap the Roseville metro, at a cost of some \$300 million to New South Wales taxpayers, did the future of such much-needed projects enter into his decision-making? What other Hunter projects funding could be in doubt because of the \$300 million hole in the budget?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for his question. As part of my duties from time to time I travel to various parts of the State, and I will continue to do so. It might interest the House to have a bit of a chat about the Hunter because there has been a lot of investment in that area. In October 2009 we saw the \$262 million Karuah to Bulahdelah sections 2 and 3 projects along the Pacific Highway, which has provided more than 23 kilometres of new dual carriageway north of Newcastle. Other sections of the Pacific

Highway north of Newcastle are also currently being undertaken, including the Bulahdelah bypass and Coopernook to Herons Creek. The \$51.8 million Federal Government funded Weakleys Drive interchange on the New England Highway was opened to traffic in October 2008. That project lifts the New England Highway up over Weakleys Drive and bypasses three intersections on the highway. The Toule Street bridge replacement on Nelson Bay Road was opened to traffic in May 2009. I could continue to bore the House about many more Government projects in the Hunter but I will not. I will say, however, that the Government will remain committed to—

**The Hon. Michael Gallacher:** Do you find the Hunter boring, do you?

**The Hon. ERIC ROOZENDAAL:** No. To be very clear, I find some members on the other side of the House boring. Two-thirds of the record Roads budget of \$4.4 billion is being invested into rural and regional New South Wales and that will continue.

### STATE ECONOMY

**The Hon. CHRISTINE ROBERTSON:** My question without notice is addressed to the Treasurer. Will the Treasurer update the House on the latest economic indicators for New South Wales?

**The Hon. ERIC ROOZENDAAL:** I am pleased to report to members more good news for the New South Wales economy. In fact, throughout the summer the news has been good for our State's economic outlook. New South Wales is leading the Australian economy in the recovery phase. Dare I say, those green shoots of recovery are well and truly beginning to sprout. The Opposition squirms whenever I talk about the green shoots of recovery. Let us talk about how the State and Federal governments together have charted a path through the global financial crisis. The Opposition opposed the stimulus strategy, and criticised it, but today we see further evidence of recovery in both the State and national economies.

I am pleased to advise members that the latest employment data reveals that around 51,500 additional jobs have been created in the New South Wales economy since March last year. I will repeat that because of the interjections: 51,500 additional jobs have been created in the New South Wales economy since March last year; 51,500 people have been employed and 51,500 families are enjoying the benefits of the recovery. Growth in full-time jobs is now fuelling total jobs growth in New South Wales. January 2010 saw a fourth straight month of growth in full-time employment in New South Wales.

Since its peak in March 2009 the unemployment rate in New South Wales has fallen much faster than the national rate: a 1.2 per cent decline in New South Wales compared with a 0.4 per cent fall nationally. The unemployment rate is currently 5.6 per cent—down 0.3 per cent in January. This is well below the revised forecast in the mid-year review of 6.5 per cent for the year. Unemployment is dropping even below what had originally been forecast in either the mid-year review or the budget. On a trend basis, employment in New South Wales has grown every month since April 2009. Good news.

Let us now have a look at retail sales. New South Wales leads the nation in the retail sector's recovery. New South Wales was the only state to record an increase in retail sales during the busy Christmas month. Retail sales in New South Wales have grown more than 12 per cent since the worst days of the global financial crisis. For the same period national retail sales grew by 7.2 per cent, Victoria was up 7.8 per cent, Queensland was up 4.2 per cent and Western Australia was up 3.4 per cent. More good news, and it keeps coming. Business investment in New South Wales grew by 2.2 per cent in the first quarter of this financial year. That is stronger than Victoria, which contracted by 5 per cent —

**The Hon. Duncan Gay:** There has been a fork in the road.

**The Hon. ERIC ROOZENDAAL:** The Opposition hates good news about the State economy.

**The Hon. Duncan Gay:** That is because there isn't any.

**The Hon. ERIC ROOZENDAAL:** The Opposition has made a career of talking down the State and talking down the economy—disgraceful! Consumer and business confidence continues to increase in New South Wales and we are leading all the states in our building activity. In fact, in breaking news, the latest data released just half an hour ago by the Australian Bureau of Statistics brings good news for our construction sector. Construction work done in New South Wales grew by 2.4 per cent in the December quarter. This is an early indication of trends in building and engineering construction activity.

**The Hon. Greg Pearce:** Point of order: I have listened intently to the Treasurer who seems to have missed the main point of the question, which is that unemployment in Australia is 5.3 per cent—

**The PRESIDENT:** Order! The Hon. Greg Pearce will resume his seat. It is inappropriate for members to try to make debating points under the guise of taking points of order. Any member who seeks to do so will be called to order.

**The Hon. CHRISTINE ROBERTSON:** I ask a supplementary question. Will the Minister further elucidate his answer?

**The Hon. ERIC ROOZENDAAL:** I am quite happy to. This is an early indication of trends in building and engineering construction activity. A total of \$8.9 billion in construction activity was performed in New South Wales in the last three months of last year. That is a major injection into our State economy. On a trend basis, construction work done in New South Wales has now risen for nine consecutive quarters. In contrast to the strong construction growth in New South Wales in the December quarter, construction activity in Queensland fell by 0.7 per cent, while in Western Australia growth was 0.4 per cent. I will continue to update the House with more good news about the strength of the New South Wales economy.

### ELECTRICITY INDUSTRY PRIVATISATION

**The Hon. DUNCAN GAY:** My question without notice is directed to the Treasurer. Following the announcement by the Treasurer on energy reform last week, can the Treasurer inform the House when he was first advised that the process to finalise the contractual information and legal documentation for the Gentrader contracts was behind schedule? Was it before Christmas and the Treasurer did not tell anyone, or was the Treasurer unaware of what was going on until he released his press release last week? Given that New South Wales electricity distributors and generators had to prepare for the planned sale, can the Treasurer detail what Macquarie Generation, Delta Electricity, Eraring Energy, Energy Australia, Integral Energy and Country Energy have spent to date and what they will spend up until September?

**The Hon. ERIC ROOZENDAAL:** The Government has made it very clear that we are committed to reform in the energy sector. Energy security is essential to our economic prosperity and our everyday lives. New South Wales needs new electricity generating capacity in the next 10 years. Every credible piece of analysis of the Australian electricity market makes that abundantly clear. Our energy reform strategy will create the right conditions to encourage the private sector to build the additional generating capacity we need and decide on the technologies that will best respond to the challenges of climate change.

**The Hon. Duncan Gay:** Point of order: My question was clear and discrete as to when the Minister was advised—

**The PRESIDENT:** What is the basis of your point of order?

**The Hon. Duncan Gay:** That the Minister is not answering the question before the House.

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

**The Hon. ERIC ROOZENDAAL:** The Government is committed to ensuring that with our energy reforms we get the best value for the people of New South Wales. We are committed to ensuring that the transactions are completed by the end of this year and we will continue to move forward with our reforms.

### BULLI COAL SEAM PROJECT

**Ms LEE RHIANNON:** I direct my question without notice to the Minister for Planning. Is the Minister aware that five government departments and agencies—the Department of Environment, Climate Change and Water, the Office of Water, the Department of Industry and Investment, the Sydney Catchment Authority and the Dam Safety Committee—which made submissions to the Planning Assessment Commission inquiry into the Bulli seam operations underground coalmining project in the southern Sydney water catchment areas, did not appear at the public hearings of that inquiry held last week on 17 and 18 February 2010? Can the Minister detail any discussion he, his office or his department had with representatives of those departments and agencies about the public hearings into the Bulli seam operations by the Planning Assessment Commission? Is it correct that one or more of these agencies were given a government directive not to present their submissions to the public hearings?

**The Hon. TONY KELLY:** In relation to the initial part of the question as to whether I was aware that the departments and agencies did not attend, no, I was not aware.

### NATIVE TITLE CLAIMS SETTLEMENT

**The Hon. LYNDA VOLTZ:** My question without notice is addressed to the Minister for Lands. Can the Minister update the House on native title settlements in New South Wales?

**The Hon. TONY KELLY:** On Friday of last week I visited Kempsey to attend a commemoration ceremony held by the Dunghutti people of the Macleay Valley to celebrate the conclusion of the historic 1996 agreement between the Dunghutti and the New South Wales Government. The commemoration was held following the Keneally Government's payment of \$6.1 million to the Dunghutti people in early January this year in exchange for their agreement to relinquish their native title rights over land at Crescent Head. This historic settlement concluded a 14-year process that acknowledges the Dunghutti people as the traditional owners of Goolwah estate before native title was surrendered. It is also historically significant as the Dunghutti peoples' case was the first native title consent determination on mainland Australia following the Mabo decision. It demonstrates the cooperative nature of all parties to resolve native title claims without extensive litigation. The first native title claim was No. 1 of 1994 in Wellington. I believe this claim was No. 5 or No. 11 of 1994—there may have been two—but this was the first consent determination. The Dunghutti Elders leader, Mary Lou Buck, said on Friday:

We hope and pray that the history of the next 200 years of reconciliation and healing and joint contribution of the descendants of both peoples together ... make a more just community for everyone, here and throughout Australia.

This settlement was not just a symbolic win for the Dunghutti people. It will bring concrete benefits to the local community. A residential development can proceed on the subject land at Crescent Head, with an expected 80 new homes to be built in the town. That is of great benefit to the whole community with jobs, economic stimulus and housing being available to all members of the area. New South Wales is currently implementing the second Bundjalung People of Byron Bay (Arakwal) Indigenous Land Use Agreement, or ILUA, which was executed in December 2006. In this agreement the Government pledges to transfer the Broken Head caravan park to the Bundjalung people, including an area that encroached into the adjoining Broken Head Nature Reserve. This transfer was carried out in July 2009. Mr Ian Cohen has asked me questions on this issue in the past.

On survey it was found that the encroachment on the nature reserve extended further than was first thought. It is now proposed to revoke the affected reservation so that this additional area can be transferred to the Bundjalung. Following subsequent discussions with the Bundjalung people, the Department of Environment, Climate Change and Water has now agreed to transfer the entrance area to the Bundjalung as well. As the New South Wales Minister for the purposes of the Native Title Act, I propose to lodge a non-claimant application with the Federal Court to facilitate the transfer of these additional lands to the Bundjalung people. The Bundjalung people of Byron Bay have agreed to this as the best course of action. I expect these additional transfers to be completed by the end of October 2010. The message is clear: native title does work. The Keneally Government is committed to working with the Aboriginal land councils and their communities to pay fair compensation for native title where it has proven to be extinguished. If the Dunghutti settlement is an example, native title is not a threat to the rest of the community. It is a building block for better, stronger communities in New South Wales.

### RIVER RED GUM LOGGING

**Mr IAN COHEN:** My question without notice is directed to the Minister for Mineral and Forest Resources. In 2007 in this House the Minister described Forests NSW management of Riverina river red gums as achieving the "highest international environmental order". In December 2009 the Natural Resources Commission found that Forests NSW had logged river red gums in the Riverina region 70 per cent beyond sustainable levels. In light of the Natural Resources Commission's findings, does the Minister stand by his assertion that Forests NSW has engaged in environmental management of the "highest international environmental order", as he said in 2007? On what basis does the Minister argue that logging forests 70 per cent beyond sustainable levels equates with world's best practice?

**The Hon. IAN MACDONALD:** I thank Mr Ian Cohen for his question and interest in this topic. I make it very clear that I disagree with the 70 per cent assessment. On another occasion I can deal with this matter in great detail. At the time of my statement in 2007 there was a court case involving the National Parks

Association and Forests NSW in relation to logging in the river red gum areas. As a result, a court-sanctioned arrangement was entered into between Forests NSW and the National Parks Association that set in motion a process to deal with this issue. That process included a part 5 assessment to be conducted of the red gum areas. A \$2 million environmental impact statement was undertaken. The report, which was a very large document containing considerable detail and analysis, made it very clear that Forests NSW harvesting activities within the red gum State forests was being done with minimal harm to the environment. In other words, the work being done with sustainable timber was causing minimal harm to the forests.

The Natural Resources Commission report clearly states that the Australian Group Selection system for the harvesting of timber in those forests was a sustainable practice. In fact, in many ways it assists the forests in their growth rates, particularly during an extensive drought period such as we have experienced. All of these issues are currently being discussed in a proper and appropriate way. The Government is doing it without being pressured in either direction about how we should conclude this matter and we will come to a balanced resolution. But I make it very clear, I stand by the statements I made in 2007. I have seen nothing whatsoever to suggest that Forests NSW activity was not conducted in accordance with very high environmental standards.

### WORKFORCE PARTICIPATION RATE

**The Hon. GREG PEARCE:** My question without notice is directed to the Treasurer. Is it the case that the Australian Bureau of Statistics labour force participation statistics for January 2010, which the Treasurer just quoted, shows that nationally, in seasonally adjusted terms, the labour participation rate was 65.3 per cent—about the same as January 2009—and employment growth was up 1.7 per cent over that time but that for New South Wales labour participation rate was only 63.1 per cent in January 2010, down from 63.6 per cent in January 2009, with employment growth at less than 1 per cent in that period, and further, that New South Wales had the lowest workforce participation rate of any mainland State? Can the Treasurer please explain how these numbers could possibly demonstrate that New South Wales is leading Australia in economic recovery?

**The Hon. ERIC ROOZENDAAL:** I love these underarm balls being bowled across to me so that I can hit them back nice and hard. We know how gloom and depression has settled over the Opposition except, of course, for David Clarke—and Robyn Parker and Catherine Cusack are smiling because they sold their souls to back David—we understand that. While we are on the subject of depression, I see Marie Ficarra has recently returned to Sydney University. I have been reading about her undergraduate antics on the Sydney University campus, and I draw attention to *Vex News* if members want to get the latest update.

**The Hon. Greg Pearce:** Point of order: My point of order is relevance. The Treasurer is a minute into the four minutes allowed for an answer to this question and he has not even gone near the ABS statistics that I quoted.

**The PRESIDENT:** Order! The Minister will be generally relevant in his answer.

**The Hon. ERIC ROOZENDAAL:** Let us start with the New South Wales State final demand—a very important measure. It grew by 1 per cent in the September 2009 quarter—10 times stronger than Victoria. State final demand measures expenditure by households, businesses and government.

[Interruption]

You wanted to know about statistics and about the New South Wales economy, Greg. You can sit there and listen to the lecture. New South Wales performed better than the national average: up 0.6 per cent for the September 2009 quarter. Western Australia contracted, Queensland had no growth and Victoria grew by 0.1 per cent. State final demand is a very good measure. Let us talk about unemployment. The unemployment rate was down 0.3 per cent. That means fewer people are unemployed in New South Wales and unemployment is trending down. That is good news for people in this State, good news for people finding a job, good news for families and good news for the New South Wales economy, but bad news for the Opposition.

Let us talk about the number of people employed in New South Wales. Since March 2009 around 51,000 additional jobs have been created in the New South Wales economy. And this is a critical point, full-time jobs, not part-time jobs, are fuelling jobs growth in New South Wales. January 2010 saw the fourth straight month of growth in full-time employment in New South Wales. Since its peak in March 2009 the New South Wales unemployment rate has fallen much faster than the national rate, with about a 1.2 per cent decline in New South Wales compared with around 0.4 per cent nationally. On a trend basis, employment in New South Wales has grown every month since April 2009.

I have spoken previously about the improvement in retail sales and how during the Christmas period New South Wales was the only State to have an increase in retail sales. Just contemplate what that means: a third of the national economy and a big improvement in retail sales compared with the rest of the country—further evidence of the strength of the New South Wales economy and further evidence that we are leading the recovery. We can talk about building activity as leading the other States. Building activity in the September 2009 quarter jumped by 5.7 percent. Let us talk about that in dollar terms: That is up \$230 million to \$4.28 billion. Of course, the national increase is only 1.6 per cent. [*Time expired.*]

### PARRAMATTA TERRORISM TRIAL

**The Hon. MICHAEL VEITCH:** My question is addressed to the Attorney General. Would the Attorney General please update the House on the recent terrorism trial held in Parramatta?

**The Hon. JOHN HATZISTERGOS:** I thank the honourable member for this important question, which addresses a very significant issue. Last year saw the trial in New South Wales of a number of men charged with terrorism offences following the joint New South Wales, Victorian and Federal police investigation Operation Pendennis. Five of the co-accused were found guilty of preparation for a terrorist act on 16 October 2009. On 15 February this year, Justice Whealy of the New South Wales Supreme Court handed down the longest sentences ever imposed for terrorism offences in Australia, with maximum terms ranging from 23 to 28 years imprisonment. I am aware that on 21 February some people in the Islamic community raised concerns about the length of the sentences. In a statement released to *The Australian* newspaper senior Muslim clerics sought to attack the integrity of the justice system and the appropriateness of the sentences. The statement included the following comments:

Until we see the real evidence, we believe that the reason for the arrests and convictions is that these young men expressed or hold opinions that contradict Australia's foreign policy towards majority Muslim countries.

No civilised society can pretend to know the intention of people. It is a travesty of justice to penalise people on suspected intention.

Obviously, the sentences may be subject to appeal and so it is not appropriate for me to make specific comment on the details. What I can say, however, is that the sentences respond to the specific actions of five individuals, not the whole community. The sentences address the particular charges on which the jury found the men guilty and take into account the fact that in this case an attack was in the planning stages but had not been fully executed.

The individuals were found guilty after the longest trial of its kind in Australia's history, which considered more than 3,000 exhibits, 300 witnesses and 18 hours of telephone intercepts. So I reject any claim that this trial was conducted with anything but appropriate professionalism, rigour and commitment to justice. The statements referred to in *The Australian* are offensive and ridiculous. The conduct of this trial related to very serious criminal charges and has been a great example of how well-equipped the New South Wales justice system is to deal with serious prosecutions regarding significant charges in a way that is fair to all and safe for the community.

It was obviously a long and complex trial requiring significant funding. This included the legal aid provided under a funding agreement with the Commonwealth and an estimated cost of \$2.95 million to New South Wales over the course of the trial to pay for the jury, the sheriff, the court and judicial officers, including almost \$600,000 in extra modifications to the courtroom to ensure utmost security. But the need to ensure that this trial delivered safety and justice of the highest standard demanded it.

I wish to draw particular attention to the complex used for these prosecutions. The Sydney West Trial Courts complex houses nine courtrooms specifically designed for trials demanding the most stringent levels of security. At a significant investment of \$92.5 million the Sydney West Trial Courts complex was opened in early 2008, completing the Government's vision for the \$330 million Parramatta Justice Precinct. The complex is the most secure in Australian history, clearly the best location for serious trials requiring high-level security. It is monitored by 500 closed-circuit television cameras and a state-of-the-art security operations centre to coordinate the facility.

Members may recall that at the time the decision was announced to conduct the trial at this facility the member for Epping had some concerns. He thought it was too much to ask lawyers to go to the state-of-the-art facilities in Parramatta. The trial judge was more impressed. He confirmed the location in a pre-trial hearing and indicated in his remarks that the Parramatta complex was "extremely impressive".

### MURRAY-DARLING BASIN FISHING

**The Hon. ROY SMITH:** I direct my question to the Minister for Industrial Relations, representing the Minister for the Environment and Climate Change. Is the Minister aware of a call to have fishing banned in large areas of the Murray-Darling Basin under a proposed marine park-style scheme? What is the official status of the proposal submitted by Dr Humphries of Charles Sturt University? What discussions or negotiations has the Government had about the creation of freshwater protected areas similar to marine parks in the ocean? Will the Minister give an undertaking that before any such proposal is considered or implemented there will be extensive consultation with freshwater angler groups and other river users?

**The Hon. JOHN ROBERTSON:** I will refer that question to the relevant Minister and obtain an answer.

### PORT MACQUARIE PLANNING

**The Hon. MELINDA PAVEY:** My question without notice is directed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands.

**The Hon. Greg Donnelly:** Be nice.

**The Hon. Tony Kelly:** Not like she was last night, but I will have more to say about that.

**The Hon. MELINDA PAVEY:** Good; it will be nice to hear from the Government on that issue. Given that Ariadne Australia Limited has consistently indicated that it will seek planning approval for both the Port Macquarie foreshore and a marina under part 3A of the Planning Act, does the Minister believe there is a conflict of interest in his role as both Minister for Planning and Minister for Lands? Given widespread community concerns about this process and in the absence of a democratically elected council, why has he continued to deny a place on the Foreshore Lands Advisory Group to a representative of the Port Macquarie-Hastings Foreshore Protection Association Incorporated?

**The Hon. TONY KELLY:** The member has raised two issues and, as I indicated, I will deal later with the accusations she made last night about me and two other former Ministers for Emergency Services.

**The Hon. Melinda Pavey:** I simply asked what you knew.

**The Hon. TONY KELLY:** The member indicated that I knew something, and I did not.

**The Hon. Melinda Pavey:** I asked what you knew.

**The Hon. TONY KELLY:** The member indicated that I knew something, but I will get back to that later. Ariadne's proposed development at Port Macquarie has had to be put on hold. Plans recently adopted by Port Macquarie-Hastings Council removed any opportunity for expansion of the land-based component of the existing Ariadne marina unless justified through a plan of management. Ariadne had intended to invest \$100 million in Port Macquarie, and that would have generated 300 construction and 125 ongoing jobs. That amount includes \$6.3 million in proposed public benefit works. The council's plans not only place at risk \$6.3 million of public benefit works offered by Ariadne but also the financial return to the State from leasing the marina site.

In the meantime, the Government's architect is preparing an initial draft plan of management that will provide a wider and more holistic approach for the management of the Crown lands between Settlement Point and Town Beach. A draft plan is expected to be publicly exhibited within the next few months. The Foreshore Lands Advisory Group, which I established in 2008 to advise me on foreshore planning matters in Port Macquarie, has been consulted in the preparation of the draft plan. The local member, Peter Besseling, and the council's general manager are members of that advisory group and I had discussions with them about this matter last week when I was in the area. The Land and Property Management Authority is hopeful that this plan will resolve several of the foreshore issues at Port Macquarie.

I have already thought about the other question the member asked with regard to whether there is a conflict of interest between my being the Minister for Lands and the Minister for Planning. I thank the member for her kind words. In cases like this, the Department of Lands does not do the development; it is the authority



that allows a development application to be lodged. Someone in the department—I will ensure that it is not me—will authorise that a development application can be lodged; that is, to give landowners consent. In relation to whether I will approve such developments, I have already made the decision that a Minister other than myself will deal with any approval or conditions. And that will also apply to Killalea.

### GEOTHERMAL ENERGY

**The Hon. IAN WEST:** My question is directed to the Minister for Mineral and Forest Resources. Will the Minister advise the House what action the Government is taking to develop sources of geothermal energy in New South Wales?

**The Hon. IAN MACDONALD:** The New South Wales Government wants to pursue all avenues available to continue to develop new sources of renewable energy for the State. The development of geothermal energy in New South Wales presents an opportunity to explore for a potentially emissions-free energy source for power generation. Following an upsurge in interest in geothermal energy in New South Wales an open tender process was pursued to encourage the most efficient and equitable method for developing the industry. Tenders for licences to explore for geothermal energy in the Sydney-Gunnedah Basin closed on 25 September 2009. The tender evaluation panel consisted of an expert geoscientist and an independent probity adviser in addition to senior members of Industry and Investment New South Wales.

I am pleased to inform the House that four companies—Macquarie Energy Pty Limited, Centennial Coal Company Limited, Granite Power Limited and Gradient Energy Limited—have received licences to explore in nine areas ranging in size from 438 square kilometres to 1,926 square kilometres. The areas released extend from the south of greater Sydney as far as the Rylstone-Kandos areas and to the Hunter region. Accessing geothermal energy involves tapping into temperatures of more than 200 degrees only a few kilometres below the earth's surface. This has the potential to be a clean, safe and viable energy source. Harnessing this massive energy store in New South Wales will involve drilling boreholes between three and five kilometres deep and circulating water through the rocks to extract the heat.

The Keneally Government has initiated assessment of enhanced geothermal systems and potential in this State. Mapping based on data from petroleum wells and water bores indicates the existence of at least five major thermal centres. A particularly exciting recent result from departmental drilling at Munmorah Power Station has shown high temperature gradients that may indicate a potential geothermal energy source close to existing power stations and infrastructure. A collaborative study to identify the geothermal potential in New South Wales has commenced between the department and Geoscience Australia. This could include exploratory drilling to validate other geothermal resource sites in the State. A detailed gravity survey has been undertaken in the southern Gunnedah Basin to identify potential granite bodies with geothermal potential. The potential for power generation using the earth's heat is being explored as part of the Government's commitment to developing alternative forms of energy to aid in reducing greenhouse gas emissions.

The New South Wales Government and the Commonwealth Government have prioritised support for development of geothermal energy to enhance energy security through diversification of energy production. Geothermal resources come from the energy provided by the increased temperature of the earth's crust with increasing depth. Geothermal energy is a significant emerging technology and a new energy source for Australia offering virtually emissions-free renewable baseload energy. It can provide a secure source of power for the future.

The current industry exploration programs are a first step in evaluating this resource. It is expected that it will take several years before the results of any exploration will be known. The potential energy reserves available from the earth through exploiting geothermal energy have been estimated to be greater than the world's reserves of oil, coal and gas. The release of the geothermal exploration—and I emphasise "exploration"—areas is yet another commitment by this Government to ensure there will be sources of renewable energy for the State. If we find these sources and they prove viable, of course, my colleague the Minister for Energy will take over and regulate this industry.

### DEPARTMENT OF CORRECTIVE SERVICES OFFICER DISMISSAL

**Ms SYLVIA HALE:** I address my question to the Minister for Industrial Relations. Late last year the Public Service Association took action to overturn the dismissal of a member, Mr Tony Mallam, by the Department of Corrective Services. The Industrial Commissioner recommended that the parties conciliate a

resolution, but the department has refused to negotiate. With no income since December and no further hearings until May, Mr Mallam is about to lose his home and is under severe psychological stress. Will the Minister, in his capacity as Minister for Industrial Relations, remind his ministerial colleagues of the obligations of their departments to respect the role of the Industrial Relations Commission as an independent umpire, not to unreasonably delay resolution of matters, and to be aware of the need to reduce injury and psychological distress to employees appearing before the commission?

**The Hon. JOHN ROBERTSON:** I am not the Minister for Corrective Services and I suggest that the member address her question to that Minister.

**Ms SYLVIA HALE:** I ask a supplementary question. I directed my question to the Minister in his capacity as Minister for Industrial Relations and asked him whether he would remind his ministerial colleagues of their responsibilities. Will he answer that question?

**The Hon. JOHN ROBERTSON:** I refer to my previous answer.

### SHOALHAVEN HOSPITAL LINEAR ACCELERATOR

**The Hon. JOHN AJAKA:** My question without notice is directed to the Treasurer, and Special Minister of State. After spending some \$300 million on the failed Rozelle metro project, why will he not release \$8 million to Shoalhaven hospital so that the people of Shoalhaven will finally have access to life-saving linear accelerator technology at their hospital? Given his comment yesterday, "If Sydney is strong, the economy of the State is strong," did he anticipate there would have been some trickle-down effect from his Government's dismal Rozelle metro plan that would have delivered the linear accelerator to Shoalhaven hospital, as well as other much-needed regional infrastructure projects?

**The Hon. ERIC ROOZENDAAL:** Effectively that is a question that should be more appropriately dealt with by the Minister for Health. However, I will make some observations in relation to it that I think are relevant. The 2009-2010 budget allocation to Health was a record \$15.1 billion.

**The Hon. Michael Gallacher:** Only \$8 million. It is only a drop in the ocean.

**The Hon. ERIC ROOZENDAAL:** The irony is that that sum is more than the Opposition could ever conceive spending on Health—\$15.1 billion is being invested in health in New South Wales. That is the biggest amount—a record—ever invested in health in this State, improving and expanding health services across New South Wales, and represents an increase on the 2008-2009 health budget of \$1.3 billion. An additional \$603 million is also being invested in health infrastructure. The budget includes funding to deliver the Government's response to the Garling report, "Caring Together: The Health Action Plan for New South Wales". This response of \$485 million over four years contains health initiatives that will lead to improvements in patient care and safety. We remain committed to supporting health services in this State with a record investment of over \$15.1 billion.

### ENERGYAUSTRALIA SMART HOME TRIAL

**The Hon. EDDIE OBEID:** My question is addressed to the Minister for Energy. Will the Minister please update the House on the action the New South Wales Government is taking to make the energy smart house of tomorrow a reality at EnergyAustralia's Smart Home in Newington?

**The Hon. JOHN ROBERTSON:** I thank the honourable member for his ongoing interest in energy usage for the people of New South Wales. The New South Wales Government is rolling out a number of innovative programs, but arguably the most exciting project currently underway is Australia's first-ever Smart Home. EnergyAustralia's Smart Home trial is arguably the most innovative project in Australia's energy industry today. Earlier this month I announced the search was underway for a family to live in Australia's first Smart Home for 12 months rent free. This family will try out new technologies and energy-efficient appliances and share their experiences with the community via blogs, twitter and other media. This Smart Home trial is an important step in understanding how new and emerging technologies will affect household energy use in the future and, better still, how we can help families reduce their energy usage and energy costs.

The three-bedroom Smart Home will feature two types of rooftop solar panels, battery storage and a ceramic fuel cell that converts natural gas into electricity, one of only two of its kind installed in Australia.

These technologies should allow the family to produce all its electricity on site. A new type of heat exchange air conditioning, produced by an Australian company, will also be installed. The manufacturers say this product uses less than 50 per cent of the energy used by an ordinary air conditioner. For entertainment the family will watch an organic light-emitting diode [LED] television. I am told that uses about 30 per cent less energy than the most advanced LED televisions currently on the market.

*[Interruption]*

If members opposite are really interested, if they see me later I will give them a detailed explanation. I do not expect to see any of them. State-of-the-art energy-efficient lighting will also be installed, including new LED lights not yet available to residential customers. The kitchen, the hub of any family home, will feature all the mod cons—dishwasher, microwave, gas cook top and electric oven—all of which are the most energy-efficient models available, and a worm farm to process food scraps. The Smart Home family will also road test an electric car.

Importantly, the family will be given minute-by-minute information about its energy and water use so it has more control over its consumption and greenhouse gas emissions. It will be able to see which appliances are using the most energy and how much water it is using at any one time. Smart switches installed in the home will also allow the family to turn its appliances on and off remotely using a website or an iPhone. This trial is about taking technologies out of the laboratory and putting them to test in real life, using a real family. We will be able to test the claims of manufacturers about the energy efficiency of their products and see what works and what does not. This trial will also test whether giving households more detailed information about their energy and water consumption leads to changes in consumer behaviour in energy and water use.

Not only is the Smart Home a novel idea, it is also an extremely practical one. These technologies may sound a little pie in the sky, but they are not nearly as far away as everyone might think. Testing new energy innovations in the Smart Home is the first-ever towards rolling out these technologies to all homes across New South Wales. The Smart Home is an example of the huge transformation quietly taking place on EnergyAustralia's network as the company rolls out its smart grid program. The Smart Home is a real example of just how far the energy industry has come. It will show us what is possible in the future. The energy future is bright for families in New South Wales.

### **SOLAR BONUS SCHEME**

**Dr JOHN KAYE:** My question is directed to the Minister for Energy, and I refer to the solar bonus scheme. Is the Minister aware of evidence that the majority of electricity retailers operating in New South Wales are responding to inquiries from potential installers of qualified renewable energy systems that when their quarterly electricity bills are smaller than the feed-in tariff payments the surplus amount will be held by the retailer as a credit rather than paid as a cash payment? What steps has the Minister taken to ensure that households and businesses installing renewable energy systems are paid cash payments for the entire amount rather than credits?

**The Hon. JOHN ROBERTSON:** As members will remember, on 1 January this year the Solar Bonus Scheme commenced in New South Wales, making solar energy affordable and accessible for families for the first time. Australia is one of the sunniest continents on earth yet our solar take-up rates have been far too low. That is why we introduced incentives to encourage people to switch to solar energy. Early figures indicate that thousands of households and small businesses are installing rooftop solar as a result of this program. This is great news for families, great news for business and great news for the people of New South Wales.

Solar manufacturers and installers are reporting significant growth, and they are hiring to match demand. This scheme is driving the creation of clean energy jobs and driving new investment into the State's economy. New South Wales is now leading the switch to solar. Retailers have begun offering incentives for customers over and above the mandated 60¢ per kilowatt hour, increasing the rewards for families who sign up. I am advised that some retailers, to attract new customers, are paying up to 68¢ per kilowatt hour for the energy that is generated off these photovoltaic cells on the rooftops. So, the scheme is working quite successfully.

**The Hon. Catherine Cusack:** It has not started for most of the State. How can it be working well when it has not started?

**The Hon. JOHN ROBERTSON:** In relation to the issue of cash payments or credit—

**The Hon. Catherine Cusack:** Why don't we talk about the need?

**The Hon. JOHN ROBERTSON:** I invite the members to ask me a question any time she likes. Retailers can offer to pay customers as a credit on their electricity bill or as a cash payment, and both options are readily available in the market. This is a contestable market. New South Wales electricity customers are able to choose which electricity retailer offers arrangements that best suit their particular circumstances. I encourage customers to do exactly that; that is, to shop around. It is important to note that under no circumstances can a retailer sidestep its responsibilities under the scheme. All electricity retailers in New South Wales who supply small retail customers are required to comply with the scheme as a condition of their licence. I wish to make a correction to something I said earlier: up to 66¢ a kilowatt hour, not 68¢, is being offered by a number of retailers to attract new customers under this scheme.

### RURAL RESCUE HELICOPTER SERVICES

**The Hon. JENNIFER GARDINER:** My question without notice is directed to the Treasurer. Is he aware of the situation plaguing the Orange rescue helicopter? Is the Treasurer aware that the new helicopter, which was purchased last year, cannot take off in certain weather conditions, is not equipped with a winch, and must limit the amount of equipment it carries because it is small and underpowered? Further, is the Treasurer aware that many stakeholders have campaigned for over two years for the Orange-based helicopter to be available 24 hours a day? Notwithstanding the money wasted on the Rozelle metro, will funds be available in this year's budget to ensure that the Central West has a rescue helicopter with appropriately trained paramedics, winch facilities and the capacity to transfer patients to Sydney in all weather conditions?

**The Hon. ERIC ROOZENDAAL:** As Treasurer I am responsible for constructing the budget, which, of course, I will do. We are going through the appropriate budget processes at the moment, and the budget will be there for all to see when it is brought down in June. I give my commitment to the House that the budget process will be undertaken in the best interests of the people of New South Wales.

### SMALL BUSINESS INITIATIVES

**The Hon. TONY CATANZARITI:** My question is addressed to the Minister for Small Business. Will the Minister update the House on ways the Government is working with the private sector to help small businesses access capital?

**The Hon. PETER PRIMROSE:** Small businesses are the backbone of the New South Wales economy so it is vital that they get the support they need to survive, grow and thrive. Small business has faced some unprecedented challenges because of the global financial crisis but, as our economy improves, small and medium enterprises still face challenges ahead. Key indicators in recent surveys of New South Wales small businesses have shown a surge in confidence. When members consider we are coming out of the worst financial crisis since the Great Depression, this is welcome news. The health of the New South Wales small business community is an important measure of the state of the wider economy.

During economic downturns, small businesses often have to defer investment to remain sustainable. They cut costs and try to improve cash management, but improving cash management does not always resolve the problem on its own. External finance is sometimes also necessary to generate growth. Factors such as a drop in the number of customers, late payments and poor access to finance place a substantial strain on the cash position of many small businesses. While there has been a reported decrease in availability of finance, there has not been a corresponding decrease in the number of profitable investment opportunities for small businesses.

Small businesses are vulnerable because they depend almost entirely on banks for finance to fund growth. In contrast, big business has more options for obtaining finance, such as equity raising. It is important that we do all we can to support small businesses so they can take advantage of recovering economic conditions. Therefore, I am pleased to report to the House today—and I thank members for their interest and for listening intently—that the New South Wales Government has been working on several important initiatives to help individual small businesses manage the current economic climate. To support small businesses in gaining access to much-needed credit, in January 2010 I announced the expansion of our successful Micro Credit Enterprise Program. This program is conducted by the Government in partnership with the National Australia Bank [NAB] and will help us to support small business in the Hunter, Macarthur, Wagga Wagga, Orange, Central Coast and Parramatta regions.

The National Australia Bank has committed \$100 million in credit to expand the program, which currently has more than 140 participants and about \$2 million currently on loan. This is a great program for small businesses on low incomes with little or no security to get access to affordable credit up to \$20,000. Businesses eligible for loans received further in-kind support from the Government to the value of \$1,200, and that sum is matched by the National Australia Bank. This means that eligible small businesses can get assistance worth up to \$2,400 on top of their loan to help develop their business skills. Government business education and mentoring provided to loan recipients makes the enterprise a better loan applicant, and that can reduce risk for the bank and lead to lower interest rate costs being paid by the business.

I congratulate the National Australia Bank for having the foresight and wisdom to give small businesses a helping hand to succeed. The Government has also developed a series of workshops called "Managing through Turbulent Times" and "Opportunity Upturn in an Economic Downturn" to provide businesses with the tools and advice on how to get through tough economic times. I am pleased that the House has paid me the courtesy of listening to this very important answer. There are 650,000 small businesses in New South Wales and these are important programs. I look forward to bringing more news to the House in the future and to members listening intently to that additional news.

### **CBD METRO**

**Reverend the Hon. Dr GORDON MOYES:** I ask a question without notice of the Treasurer, and Special Minister of State. Is the Treasurer aware that the scrapping of the CBD metro will cost more than an estimated 350 jobs and will cost New South Wales taxpayers approximately \$330 million? Is the Treasurer aware that in addition to permanent and temporary staff employed by the now-defunct Sydney Metro Authority almost 300 engineers, designers and planners may also require compensation? In particular, is the Treasurer aware that, in addition, \$60 million will be paid to firms who tendered for work with the Sydney Metro Authority? Given that these figures are a staggering blow to New South Wales taxpayers, can the Treasurer explain how the costs contributed to the scrapping of the CBD metro are examples of "green shoots of economic recovery"?

**The Hon. ERIC ROOZENDAAL:** I do not know from where the member got a lot of the numbers he quoted. In terms of the CBD metro it is worth reflecting that the New South Wales Government has listened to the community and has made the tough decision to stop work on that project. That decision was taken by the New South Wales Government following extensive reviews of the State's future transport priorities. We acknowledge the resources and effort put into the process by tenderers for the major construction contracts, and that matter will be dealt with fairly, properly and promptly. The New South Wales Government is working swiftly to support the tenderers affected by the decision and they will be reimbursed for reasonable costs incurred. We have made it clear that we will deal with those challenges.

**The Hon. Catherine Cusack:** You have no idea how much this is going to cost.

**The Hon. ERIC ROOZENDAAL:** The member has no idea about costings on anything. The Opposition has numerous unfunded promises, and I would need a good 10 minutes to mention them all. We have announced a \$50.2 billion plan, fully funded over 10 years, to meet the challenges of transport in New South Wales, particularly in Sydney. The plan provides not only for a new Western Express line to benefit people all over western Sydney, a light rail, cycleways and commuter car parks, it contains also a cohesive strategy to deal with the public transport challenges in this State. We remain committed to delivering on outcomes for the people of New South Wales.

On the issue of green shoots, New South Wales has been leading the nation in terms of economic recovery. I have answered several questions today outlining that point. In particular, \$65.5 billion worth of infrastructure over four years will be delivered in this State, with 165,000 jobs being supported by the Government's investment infrastructure. Over the next four years the Government will invest more into infrastructure than any other State government. We are committed to supporting the growth of the New South Wales economy and to having more jobs in this State, with 51,500 additional jobs becoming available since March last year.

These statistics are real proof that the New South Wales economy is recovering. Members may well ask why that is, and the answer is that the New South Wales Labor Government and the Australian Labor

Government together have grappled with the challenge of the global financial crisis and taken swift action in terms of the stimulus measures at both State and national levels. What did the Opposition do? It opposed the stimulus measures. The Opposition was proved wrong. All Opposition members were proved wrong. The only one who can count over there is David Clarke. What a fine moment for David Clarke—Barry O'Farrell's candidate, part of the hardline Liberal Party, re-elected. What a victory for the Liberal Party! I see the Hon. Marie Ficarra over there—

**The Hon. Duncan Gay:** Point of order: My point of order relates to relevance. The question asked about the \$330 million blown on the Sydney metro—not about the success of our friend David Clarke in returning to this place.

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

**The Hon. JOHN HATZISTERGOS:** If members have further questions, I suggest that they place them on notice.

### **HMAS ADELAIDE ARTIFICIAL REEF PROJECT**

**The Hon. TONY KELLY:** During question time yesterday Mr Ian Cohen asked me a question concerning the sinking of the former HMAS *Adelaide* off the New South Wales Central Coast. In particular, he asked about the removal of toxic materials before the ship is scuttled. I have been advised that all PCBs, lead and other toxic materials have been removed. All unknown wastes, antifreeze, coolants, batteries, halocarbons, components containing mercury, zinc anodes, uncoated copper cabling, cadmium, black or grey water, asbestos, and radioactive materials have been removed. A comprehensive environmental assessment, which considers all aspects of the scuttling and the long-term management of the dive site, has been completed. The assessment concluded that the creation of the dive site will have no adverse impact on the surrounding environment, particularly in areas such as coastal processes, flora and fauna, and water quality.

The cleaning and preparation of the ship as a dive site is an expensive process and the Australian Government has funded a contract for \$5 million for this work to take place. The vast majority of these funds are spent on stripping and cleaning the ship to ensure that no substances that may be harmful to the environment remain. The environmental studies have confirmed that the potential for pollution from heavy metals would be well below international guidelines for sediment quality. Any heavy metals would not be soluble and are likely to be associated with paint flakes separating from the ship, as would occur with sailing vessels. The studies conclude that there will not be an impact on the food chain and there is no potential for toxicity to aquatic life.

The former HMAS *Adelaide* was one of the first ships to be painted by the Royal Australian Navy using an inert polymer-based paint that will have no impact on the environment. The environmental management plan for the site will include a requirement for ongoing monitoring of issues such as sediment quality, including heavy metals, sediment movement and accumulation of species. This will confirm that there are no ongoing impacts from the ship. The project website [www.hmasadelaide.com](http://www.hmasadelaide.com) contains extensive material on the environmental studies and related issues and will be regularly updated as more information comes to hand.

### **BARANGAROO REDEVELOPMENT**

**The Hon. TONY KELLY:** Yesterday the Hon. Christine Robertson asked me a question without notice regarding Barangaroo. I can advise the House that the Barangaroo development will be a future icon for Sydney, New South Wales and Australia. This magnificent landmark will attract locals, business and tourists to enjoy the beauty of Sydney's waterfront. I would like to invite the Leader of the Opposition, the Leader of the Opposition in the Upper House, and the Opposition spokesperson on Planning to a special briefing to be conducted—

**The Hon. Duncan Gay:** You would like to, but are you?

**The Hon. TONY KELLY:** I am now officially inviting them. The special briefing will be conducted by Mr John Tabart, Chairman of the Barangaroo Delivery Authority, and the Hon. Paul Keating, Chair of the Design Review Excellence Committee. My office will make any necessary logistical arrangements.

**Questions without notice concluded.**

## INDUSTRIAL RELATIONS COURT

### Ministerial Statement

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [1.04 p.m.]: On 16 February 2010 the *Australian* published an article under the headline "Industrial Court Likened to USSR". The article referred to data obtained from the Workplace Relations Ministers Council showing that 98.4 per cent of those facing workplace safety charges in New South Wales were convicted in 2007-08. The *Australian* quoted Australian Federation of Employers and Industries Chief Executive Garry Brack as saying, "This is more than in Soviet Russia." I would like to address the inferences about the Industrial Relations Court that may be drawn from the *Australian's* article and Mr Brack's comments. The article compares conviction rates across various jurisdictions. Such a comparison is somewhat misleading; it does not compare like with like. With the possible exception of Queensland no other occupational health and safety jurisdiction imposes an absolute duty of care.

As the High Court said in its decision in *Kirk v Industrial Relations Commission (2010)*, handed down on 3 February 2010, the duty under the New South Wales Occupational Health and Safety Act is not expressed in terms of the standard, recognised by the common law, to take reasonable care; it is higher. I will let the statistics tell the story about the enormous downward pressure this approach has had on workplace injury and death in New South Wales. I note that Mr Brack's organisation, the Australian Federation of Employers and Industry, noted in a 2007 publication that "NSW injury and fatality numbers have fallen significantly since at least the 1970s. Incidence rates have continuously declined since 1990-91, with a 59 per cent reduction in fatality rates."

I do not think it is difficult to understand the correlation between the declining workplace injury and death rates and the standards imposed by the law. However, to imply that the Industrial Relations Court is a Soviet-style kangaroo court is not fair to the highly respected and skilled members of the court. The Industrial Relations Court applies the law of New South Wales as it stands. It cannot and should not be denounced for applying a construction or failing to apply a new construction of a law about which there may be a variety of legitimate views. Moreover, the High Court's decision in the case of *Kirk* demonstrates that where individuals feel that tribunals have overstepped their legal authority, under our system of government they can have a higher court review of that decision. Whatever position one takes in relation to the current law, I think all members of this House would agree that throwing ill-conceived insults at the Industrial Relations Court should not pass for public debate.

**The Hon. GREG PEARCE** [1.07 p.m.]: As shadow Minister for Industrial Relations and the Opposition spokesperson for the Finance portfolio, which covers WorkCover and occupational health and safety issues, I wish to make a brief response. The High Court's decision in the case of *Kirk* is a true indictment of New South Wales's occupational health and safety laws and their administration under this Government. The Industrial Relations Court judges had their reputations for procedural fairness and judicial fairness trashed because of the New South Wales Government's approach to occupational health and safety, depriving the State of fairness and procedure. The New South Wales Government's administration, particularly through WorkCover, has been shown to be completely at odds with reasonable and proper practices and procedures.

The failure of the Attorney General last year when he was Minister for Industrial Relations to take any responsibility or leadership in relation to occupational health and safety, and the failure of the Minister to be accountable in this House, was something of great concern to the Opposition, particularly given that Mr Tripodi, the puppet master, sidelined the Attorney General and retained responsibility for occupational health and safety matters. The failure to deal with the excesses of New South Wales's occupational health and safety laws has been a great disgrace. However, the fact that the Council of Australian Governments group of Ministers finally, at the end of last year, agreed to harmonisation of the laws and agreed to remove the worst features of the New South Wales legislation—including the reverse onus of proof, the union prosecutions and the extraordinary conflict of interest of unions sharing in fines—is to be applauded.

The High Court's decision makes plain that it is time for this Government, in particular this Attorney General if he still has any influence in the Government, to get on with introducing the legislation that the Council of Australian Governments has foreshadowed, to move to harmonisation and to make sure that it does not delay any further. [*Time expired.*]

[*The President left the chair at 1.10 p.m. The House resumed at 2.40 p.m.*]

**BUILDING AND CONSTRUCTION INDUSTRY LONG SERVICE PAYMENTS AMENDMENT BILL  
2010**

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

**Motion by the Hon. Tony Kelly agreed to:**

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

**Second reading set down as an order of the day for a future day.**

**Pursuant to resolution debate on Budget Estimates proceeded with.**

**BUDGET ESTIMATES 2009-2010**

**Debate called on, and adjourned on motion by the Hon. Robyn Parker and set down as an order of the day for a future day.**

**Pursuant to resolution debate on Committee Reports proceeded with.**

**GENERAL STANDING COMMITTEE NO. 3**

**Report: The Privatisation of Prisons and Prison-related Services**

**Debate resumed from 11 November 2009.**

**The Hon. HELEN WESTWOOD** [2.43 p.m.]: It has been some time since this inquiry started. On 11 November last year, when I last spoke to this report, the time for debate expired and the Government response was not received. The Government response to this report has now been tabled. I do not intend to speak at length to the report but I wish to make some comments about the inquiry, its process, the report and its recommendations. The Government appears to be supportive of most of the recommendations, which I welcome. Clearly a number of the committee's recommendations have been overtaken by events so I will not spend a lot of time discussing them.

I am particularly pleased that the Government supports the recommendation on costing methodology, an area that created a lot of difficulty for us. We heard a lot of evidence about the rationale for privatisation. Cost saving was one of the reasons proffered for privatisation, yet when we attempted to make cost comparisons we found it really difficult because the various correctional centres around the State, and the units within those facilities, are quite different not only in design and age but in the category of prisoners held in them. I acknowledge that it is difficult to have perfection but we can certainly improve on what is currently available.

I found the area of transparency of contracts useful for our purposes, and the Government also supported this recommendation. The committee heard from a number of academics about tenders and the need for commercial-in-confidence provisions. It was pleasing to hear from a number of witnesses and to read in the written submissions about the need for a commercial-in-confidence requirement in government tenders and contracts, but clearly that is not the case in New South Wales, on the evidence we received. I hope the Government will look at this area. We heard that in other jurisdictions both in Australia and overseas there is no commercial-in-confidence requirement but that does not discourage private corporations or government-owned companies from tendering for government contracts because all tenders are made on the basis of transparency. In fact, in Western Australia all contract details are listed on the Government website and are available to the public, and most members would like to see that done in this State. This is probably an area for further inquiry—

**The Hon. Michael Gallacher:** Pushed by the Coalition.

**The Hon. HELEN WESTWOOD:** I acknowledge the interjection of the Leader of the Opposition. However, that move was not pushed simply by the Coalition, because it was Labor that acted to ensure contract openness and transparency. That is a very good move in Western Australia and I hope New South Wales follows it. Personally I would like to see that happen in most areas of government business and activity. Transparency



gives the public far greater confidence in government processes, especially when information is freely available to all. I also acknowledge that the committee's inquiry was narrow. It looked at the privatisation of prisons only. Therefore our recommendations and findings cannot be applied to all areas of government business and activity. Perhaps this issue can be the subject of further inquiry by another committee of this Parliament. As I said, that was a recommendation of the committee that the Government supported.

*[Interruption]*

Again I acknowledge the interjection by the Hon. Trevor Khan. I was not going to take up too much time but the member keeps interjecting. I cannot let his unfounded interjections pass without comment. When considering the reasons for privatisation, the committee spent a great deal of time reading submissions and taking evidence from witnesses. In the end I came to the conclusion that it was an industrial dispute that could not be resolved. It is regrettable that the decision to privatise was seen as an answer to an industrial dispute. I accept that all members of the committee did not share this view but it was the conclusion that I came to. It does not reflect well on any of the parties involved. Prisons are a very important area of public policy. Given the number of citizens in this State who are incarcerated, it is important that prisons are run effectively. We must ensure the upholding of human rights in prisons and a reduction in the rate of recidivism. Therefore, when there is a need for cultural change it is important that all parties are willing to embrace it. Greater cooperation between the parties would have minimised the issues. I thank every one who was involved in this excellent report. *[Time expired.]*

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

#### **JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL**

##### **Report: Report on the Fifth General Meeting with the Valuer General**

**Debate resumed from 28 October 2009.**

**The Hon. MATTHEW MASON-COX** [2.52 p.m.]: I continue my comments on this report that I began some time ago. I am sure the Government members would be interested in my thoughts on this important inquiry. In relation to the report on the fifth general meeting with the Valuer General, I had made comments on workforce issues. Government support in this area is an ongoing problem for the Valuer General. I note that recommendation 2 of the report states that the New South Wales Government actively support the work of the Valuer General in improving workforce capability and in gaining access to universities as required. The Valuer General said there is more work to be done in this regard. The valuation work of the Valuer General is critical to our property system. We must ensure the Valuer General is supported properly with workforce professionals who are trained to meet those needs.

The other issues of concern identified by the inquiry that I have not already mentioned were public accountability and performance reporting. Public accountability has very much been a problem for this Government. The Valuer General has done an excellent job discharging his duties on behalf of the Government. In relation to performance reporting, it was a recommendation of the report on the fourth general meeting with the Valuer General that the Valuer General produce an annual performance report separate from the annual report or information provided by the Department of Lands. That is a welcome initiative.

The work of the Valuer General involves the valuation of approximately 2.4 million properties every year. In 2009, 794,000 notices of valuation were issued in 42 local government areas. It is a massive undertaking for the Valuer General. Most of us notice the work of the Valuer General when we receive a notice of land valuation. That is a time when one is perplexed about increases in property values which translate into an increase in rates. No-one likes to receive such news in the mail. Having said that, the Valuer General conducts its valuations in a professional manner on a market-based system. As I said, it is the cornerstone of our property system and one from which consequences naturally flow.

The committee's work on this report and the report on the upcoming sixth general meeting with the Valuer General is worthwhile. Currently we are considering lines of inquiry, which will be confirmed shortly. I trust that the committee will focus on workforce capabilities, which have been identified for some time in relation to the work conducted by the Valuer General. This report identifies the ongoing issues that will be considered by the committee over the next 6 to 12 months. I commend the report to the House.

**The Hon. KAYEE GRIFFIN** [2.56 p.m.], in reply: I thank the Hon. Matthew Mason-Cox, who is a colleague on this important committee. New committee members can find it difficult to get ahead their heads around the issues that are dealt with by the Valuer General and oversighted by the committee. Workforce capacity, which the Hon. Matthew Mason-Cox referred to, has been an issue for some time. Having been chair of this committee during the last term of Parliament, I am pleased with the work the Valuer General has done to resolve concerns that were raised when the committee was first established. The issue of turnaround times is still outstanding. Although they have improved dramatically since the committee was first set up, there is still a need to improve turnaround times in relation to objections to valuations. A great deal of work has been done in streamlining this process. As the Hon. Matthew Mason-Cox said, the committee looks forward to the sixth general meeting with the Valuer General in March when we will revisit items referred to in the fifth general meeting and pursue any issues that have occurred since our last general meeting. We will revisit the issue of workforce capacity and make sure that the turnaround time for objections continues to improve. I commend the report to the House.

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

### **STANDING COMMITTEE ON LAW AND JUSTICE**

#### **Report: Adoption by same-sex couples**

**Debate resumed from 1 September 2009.**

**The Hon. CHRISTINE ROBERTSON** [3.00 p.m.]: I am pleased to commence debate on report No. 39 of the Standing Committee on Law and Justice, entitled "Adoption by same-sex couples". The report was tabled with the Clerk of the Parliaments on 8 July 2009. I would like to start by thanking my fellow committee members for the dedicated way in which they undertook this reference. This was an unusually challenging inquiry, matched with an unusually challenging deliberative process as we considered the draft report. The issue at the heart of the inquiry—whether same-sex couples should be eligible to adopt children—is, by nature, an issue on which views are not easily reconciled. Correspondingly, the views of inquiry participants were polarised and so were those of members, such that a unanimous report was not possible.

The primary reason why the inquiry was so polarised and so unusual for this committee was that a significant aspect of the debate was moral and belief-based. The evidence gathered by the committee encompassed not only the complex arguments about legal issues associated with the rights of children with respect to family and the rights of adults with respect to anti-discrimination, it was also very much about people's core beliefs concerning the best interests of children, the role of parents and the kind of society we aspire to live in. Both sides of the debate had their own firmly held and deeply felt views on these fundamental issues and the committee sought to document and consider the evidence put forward by all participants with balance and sensitivity.

As chair of the committee, while I am regretful that unanimity was not achieved in respect of this report, and note how uncommon that is for the Law and Justice committee, I nevertheless affirm the value of the process as well as the legitimacy of the report's findings and recommendations to the Government. First, to affirm the process, the challenges of which I have spoken point to the value of a parliamentary committee undertaking an inquiry on a matter such as this, on which there are diverse and strongly held views within the community. As it is not possible for the House to thoroughly investigate complex policy issues, it is the role of parliamentary committees to do this, and to make recommendations to the Government, having carefully considered the views of a range of stakeholders. Just as the composition of the House reflects the broader community, so does the composition of the committee, each of whom brought their own perspective to the process.

As I have said, despite the absence of consensus on this report, I also affirm the legitimacy of its conclusions. The majority of the committee voted in favour of its findings and recommendations. While three of the six members relied on the casting vote of the chair to form a majority, having gained it, they did indeed form the majority. Thus, the committee determined that the Adoption Act 2000 should be amended to allow same-sex couples to adopt, but that an exemption from the application of the Anti-Discrimination Act 1977 be created for faith-based adoption agencies. In so doing it affirmed the right of same-sex parents to be assessed on the same terms as everyone else as to whether they are suitable to adopt a child.

The committee concluded that reform to allow same-sex couples to adopt in New South Wales will protect children's rights and help to ensure children's best interests. It will do so by providing the security of legal recognition for existing parent-child relationships by broadening the pool of potential applicants from which the most appropriate parents for any individual child are selected and by enabling children currently fostered by same-sex couples to have that relationship permanently secured where appropriate. Such reform will also remedy inconsistencies in the treatment of same-sex parents and children under the law. Finally, it will address discrimination against same-sex couples and their children, removing one of the final areas of New South Wales law where discrimination against gay and lesbian people has been allowed to remain.

I now turn to explain the rationale for the committee's recommendations and will discuss the various sections of the report in greater detail. The Hon. Linda Burney, Minister for Community Services, referred the terms of reference for the inquiry to the committee on 27 November 2008. The reference arose out of a review of the Adoption Act by the Department of Community Services in 2006-2007, during which a proposal to allow adoption by same-sex couples emerged as a sensitive and contested issue. The inquiry received a total of 341 submissions and heard from 39 witnesses. Among the witnesses were representatives of adoption agencies, church organisations and legal organisations, as well as academics in the fields of law and psychology. In addition, three same-sex couples gave evidence, as did three heterosexual married couples who had adopted children. Five children and young people, each parented by one of the same-sex or heterosexual couples, also took part in the hearings. On behalf of the committee I thank each of the individuals and organisations who made submissions or gave evidence during the inquiry.

Adoption is the legal process that permanently transfers all the legal rights and responsibilities of parenthood from a child's birth parents to his or her adoptive parents. I will not go into the factual detail about the New South Wales adoption system, which is provided in the report itself, except to note that adoption is a relatively rare event. In 2007-08 a total of 125 adoptions were finalised in New South Wales. Of those, 73 were intercountry. Of the remaining 52 local adoptions, 15 were termed "unknown", where the child was relinquished by his or her birth parents and adopted by people assessed as suitable by an accredited adoption agency. The other 37 were "known" adoptions, where the child had an existing relationship with his or her adoptive parents in that they were relatives, step-parents or foster parents.

I also note at this point that according to the most recent Australian Bureau of Statistics data, 0.4 per cent of the Australian population—approximately 50,000 people—identified as being in a same-sex de facto relationship in 2006. In the same year, an estimated 4,376 children were living in same-sex couple families across Australia. It is also relevant to point out that homosexuality is not currently a barrier to adopting as a single person in New South Wales, nor is it a barrier to fostering children, either for a single person or a couple.

The committee's report documents the views of inquiry participants on adoption by same-sex couples in light of the objects of the Adoption Act, most notably the object that the best interests of the child be paramount in decision-making about adoption. Views on how the best interests of children are to be interpreted fell into two broad streams. The first stream emphasised the needs of the child and the structure of the family, arguing that adopted children's best interests are served by the presence of a mother and a father in a permanent, preferably married, relationship. The second stream also emphasised the needs of the child, arguing that adopted children's best interests are served by the presence of capable parents in a permanent relationship, regardless of their gender and sexuality.

Having carefully considered this evidence, the committee concluded that the gender of parents is not a significant determinant of children's wellbeing and that, as such, the sexual orientation of prospective parents is of no material relevance to the best interests of adoptive children. The sexuality of gay and lesbian people does not preclude them from being fit and proper parents; nor do children in same-sex families necessarily have insufficient access to both male and female role models. The committee thus considers that an adoptive child's best interests should be determined solely in the context of an assessment of the individual child's needs and the individual prospective parents' capacity to meet those needs, and that same-sex couples should be able to be assessed on exactly the same basis as other prospective parents.

If legally eligible to adopt, gay and lesbian couples will, like all prospective parents, be subject to a rigorous assessment process by accredited adoption agencies to determine their suitability to adopt; they will also be subject to the preferences of relinquishing parents; and they must ultimately satisfy a court that they can fulfil the best interests of the child concerned. The committee is confident in the rigour of the adoption system to continue to ensure that only those who would make fit and proper parents go on to adopt. The committee was also persuaded by a number of other arguments that the best interests of the child would be served by reform to

allow adoption by same-sex couples. It is highly desirable to broaden the pool of adoptive parents in order to increase the likelihood of the best match between an individual child and prospective parents. Also, enabling same-sex couples to adopt their foster children will facilitate the permanency that is so desirable for many children in out-of-home care.

The committee considered the research on parenting and outcomes for children, which was presented during the inquiry, with particular emphasis on research regarding the importance of family form and family functioning to the optimal development of children. The committee was persuaded that the research evidence is weighted in favour of family functioning as the primary determinant of outcomes for children, regardless of parents' gender and sexuality. The research demonstrates that the development of positive relationships and the provision of a supportive, nurturing and loving environment benefit children most in both the short and longer term. Moreover, the evidence suggests that sexual orientation is no indicator of parenting fitness or ability and that there is no substantial research evidence to suggest that children are disadvantaged or harmed by being raised by same-sex parents. A perceived lack of evidence to suggest that children are not harmed or disadvantaged is not a sufficient argument to maintain the status quo.

The social science research in this field has grown in sophistication and methodological rigour over time and the weight of the up-to-date social science research suggests that same-sex parenting is as likely to result in positive developmental outcomes for children as opposite-sex parenting is. An analysis of the available literature on the respective impact of family form and family function on children's developmental outcomes thus confirmed the committee's opinion that it is in the best interests of adoptive children for prospective parents to be evaluated individually on the basis of their ability to provide the best environment for a particular child.

The next chapter of the report examined the evidence gathered during the inquiry in relation to the human rights of children and prospective parents in the adoptive context and several other legal issues. The committee concluded that the best interests of children would be served by an end to discrimination against same-sex couples under adoption law. Numerous witnesses argued that sexual orientation is not a valid basis on which to determine whether a person should be a parent and all prospective parents should be entitled to have their capacity to parent assessed on an equal basis.

The committee was also concerned that the current exclusion of same-sex couples is discriminatory against the children and noted that human rights principles underpin the imperative to address discrimination in respect of both groups. The report observes the growing national and international trend in the legal recognition of same-sex relationships as well as the support for recognition in adoption law among several noteworthy law reform bodies lend further weight to this imperative. Removing discrimination from the Adoption Act would promote equality and send an important message to the broader society about the positive contributions and capacities of gay and lesbian parents.

The committee concurred with the numerous participants who argued that it is in the best interests of children already parented by gay and lesbian people to have their relationships legally recognised. This conclusion was reached in its own right notwithstanding the previous arguments about the imperative of antidiscrimination. Participants advised that it is in the area of known adoptions that reform to allow same-sex couples to adopt would have its greatest impact. The report notes that a number of same-sex parent and child relationships are already recognised in law while others remain excluded from recognition and thereby do not enjoy the significant legal, material, social and emotional benefits that accompany full legal recognition. It further notes the human rights arguments in respect of children that underscore the call for legal recognition of both their same-sex parents.

The committee was also persuaded that alternative forms of legal recognition are inferior to the recognition granted via adoption and that reform to adoption law is the best mechanism to overcome these deficits. To utilise the Adoption Act for this purpose will not undermine the objects of that Act. On the contrary, it will further enhance these objects, especially with regard to ensuring that the best interests of the child are the paramount consideration in adoption law and practice and that Australia complies with its obligations under international agreements. The committee considers that inconsistencies in the present law between adoption by same-sex couples and other closely related provisions are undesirable and not in the best interests of children. It is nonsensical that the law enables a child to be placed with foster parents whom it would later preclude from adopting the same child.

We note that the Department of Community Services gave evidence that same-sex couples are helping to meet a need for foster carers and are providing care very effectively. The present law is also inconsistent and

misguided in allowing gay and lesbian people to adopt as individuals but not as a couple. Similarly, it is undesirable that there is now a presumption of parentage in relation to same-sex couples only in the limited circumstances of the same-sex partner of a woman who has undergone a fertilisation procedure.

The committee also concluded that no negative effects arising from reform could be reasonably anticipated from the inter-country adoption program given that the criteria established by the country from where a child originates prevail and that all countries in the program currently exclude same-sex couples. The committee thus recommended that the New South Wales Government amend the definitions of "couple", "de facto relationship" and "spouse" in the dictionary of the Adoption Act to reflect the non-discriminatory definitions of the Property Relations Act 1984. This will enable same-sex couples to apply to be assessed for adoption as a couple and provide same-sex step-parents with equal access to existing step-parent adoption provisions.

In addition, the committee recommended that the Government ensure that all same-sex couples are able to have their parent-child relationship legally recognised by introducing a new second parent adoption provision similar in effect to the step-parent adoption provision in section 30 of the Adoption Act. This new provision should not include the current onus in section 30D of the Adoption Act, which weighs against making the order. I look forward in completion of this debate to dealing with the exemptions and making my personal comments on the Government's response to this report.

**The Hon. DAVID CLARKE** [3.15 p.m.]: As Deputy Chairman of the Standing Committee on Law and Justice I speak on its report "Adoption by Same-sex Couples". The terms of reference for the committee's inquiry into this issue were referred to it by the Minister for Community Services, the Hon. Linda Burney. In essence, the committee was asked to report on law reform issues pertaining to whether New South Wales adoption laws should be amended to allow same-sex couples to adopt children. The end result of the six-member committee's deliberations was that it split three all on the issue. Two of the committee's Labor members and its Greens member voted to recommend legalisation under the law to allow same-sex couples to adopt children and three members—the committee's two Liberals and the remaining Labor member—voted against the recommendation. It was only as a result of the committee chair, the Hon. Christine Robertson, exercising her casting or second vote to support the recommendation that it was carried. The committee's recommendation to legalise adoption by same-sex couples is therefore not an accurate reflection of the reality—that is, a 50-50 split on the issue.

The Opposition to the proposal was bipartisan, comprising both Government and Opposition members. The reality is that the committee did not produce a bipartisan mandate for a change in the current law. I understand that the Government has made a decision not to proceed with change but to leave the law as it currently stands. It does so on the basis that there is strong opposition to the move within the community, and as reflected in the split decision of the Standing Committee on Law and Justice. I commend the Government for making that decision. It has acted in the best interests of children and it is their interests that should be paramount. It has correctly understood the deep concern within the community about any change to the current law. In my view the Government has acted with integrity in rejecting a recommendation that has been achieved only by a technicality.

I support in its entirety the dissenting statement of the Hon. Greg Donnelly that forms part of the committee's report. I identify with him when he states that the New South Wales law should recognise the right and facilitate wherever possible that children be raised by a mother and a father. I am satisfied that the evidence presented to the committee established that the best interests of a child are served by being raised by a mother and a father wherever possible. I commend and support the words contained in the dissenting statement:

I find the arguments and the evidence supporting the heterosexual parenting model of a man and a woman in a permanent, preferably married relationship persuasive and worthy of ongoing legislative support.

I found that those witnesses who appeared before the committee in their capacity as same-sex couples with the care and responsibility for children to be good and decent people. I believe that they love and truly care for those children for whom they have responsibility. However, based on the evidence presented to the committee, I remain convinced that overall it is not in the interests of children to change the current law. I am gratified that the Government has come to the same conclusion.

**Ms SYLVIA HALE** [3.18 p.m.]: In conducting the inquiry into whether adoption by same-sex couples would further the objectives of the Adoption Act 2000 the Standing Committee on Law and Justice did give detailed consideration to the objectives of the Adoption Act, particularly the objective that the best interests of

the child should be the paramount consideration in decision-making and policy formulation in respect of adoption. However, the committee also considered other issues, such as human rights. It is hard to argue, just over one-quarter of a century after the decriminalisation of male homosexuality in this State that members of the gay and lesbian community are lesser human beings deserving of lesser human rights or that they are a danger to the State or to its values. Indeed, the membership of this House constitutes a refutation of such suggestions. In legislating, this Government should take seriously the Anti-Discrimination Act 1977 as amended and subscribe, not only in word but in deed, to the notion that equality for all the State's citizens means exactly that, and it should concede that the sexual orientation of the parent is of no material relevance when considering the best interests of adoptive children.

The committee has made a number of recommendations about amending the Adoption Act 2000 to remove discrimination against same-sex couples. That Act is the last piece of legislation in this State that expressly discriminates against same-sex couples. It is not as though taking these amendments on board will be leading the State into uncharted waters. Reforming adoption law in line with the standing committee's recommendations will bring New South Wales in line with Western Australian and the Australian Capital Territory. It will also bring it into line with more than 10 other countries where same-sex couple adoption is allowed. Among these countries are Canada, Sweden, Norway, Belgium, The Netherlands, South Africa and even Catholic Spain—as well as some States of the United States of America.

Several other issues need clarifying. One is the view, entertained by some ill-informed and prejudiced members of this House and the community, that only heterosexual couples are appropriate parents. Surely the work that is swamping the Department of Community Services is living testimony to the untruth of this assertion. If one took some Department of Community Services statistics at their face value one could argue that heterosexual families constituted a grave risk to children in this State. While we respect the right of people to practise their religion, it is hard to argue that providing adoption services to heterosexual couples while denying them to other couples based solely on their homosexuality is a matter of religious freedom.

The sensitivities and concerns of various religious groups were noted and taken into account by the committee. Therefore, several proposed amendments directly address those concerns. The majority of committee members recommended that the Adoption Act be amended to allow same-sex couples to adopt but that an exemption from the application of the Anti-Discrimination Act 1977 be created for faith-based adoption agencies, subject to those agencies meeting a statutory requirement that they refer any same-sex couples who seek their services to another accredited adoption agency that will assist them. Another recommendation was that if an exemption from the application of the Anti-Discrimination Act is created for faith-based accredited adoption agencies in the provision of services to same-sex couples the Department of Community Services ensure that in practice all applicants for adoption have equitable access to the full range of children subject to local adoption.

While numbers rather than principles should not be the determinant of policy decisions, let us put all these recommendations into perspective. In 2007-2008 a total of 125 adoption orders were finalised in New South Wales. Of those adoptions, 73 were intercountry. Of the remaining 52 local adoptions, 15 were unknown and 37 were known. Known adoptions for this period comprised 10 step-parent, 22 foster carer, three other relatives and two special case adoptions. During this period 19 children were placed for adoption in the local adoption program.

According to the most recent Australian Bureau of Statistics data, 0.4 per cent of the Australian population—that is, approximately 50,000 people—identified as being in a same-sex de facto relationship in 2006. In the same year an estimated 4,376 children were living in same-sex couple families across Australia. Once again I point out that there are members of this House in this situation, and one could not argue that they are lesser parents because of their sexuality. That is the implication from those who oppose the committee's report.

Other anomalies also need to be addressed. One that immediately springs to mind relates to the announcement by the Government yesterday that it is to give de facto couples greater legal certainty by establishing a so-called relationships register for committed unmarried couples so they can gain full access to legal entitlements. On the one hand, the Government has said that same-sex couples are not deserving of adoption rights but, on the other, it wants to improve the legal standing of such couples. Is this just a case that the Attorney General does not know what his left hand is doing when it seeks advice from his right hand or is it a case of sheer hypocrisy?

Another anomaly is the present inconsistency in the law. Currently it is not illegal in New South Wales for anyone to have a child or for that child to be brought up in a household where the parents are a same-sex couple. Therefore, it is illogical for it to be illegal for an adopted child to be brought up in a same-sex household. Surely it is also nonsensical that the law currently enables a child to be placed with foster parents whom the law would later preclude from adopting that child. If they are good enough to foster surely they are good enough to adopt. This is especially the case in the light of the desirability of permanency for many children in out-of-home care. The members who form the majority of the committee also note the advice of the Department of Community Services that same-sex couples are helping meet a need for foster carers and are providing care very effectively. It is yet to be demonstrated that the quality of care provided by same-sex fostering couples is any less than the quality of care being provided by heterosexual couples. So why is the Government opposed to these amendments?

The Government seems to be succumbing to the simplistic societal assumption that children are at risk in same-sex households, that paedophiles who sexually abuse same-sex children are members of the gay community. Yet the assumption that paedophiles have come from the gay community is not backed up by evidence. The website of the Australian Institute of Family Studies contains the report of the National Child Protection Clearinghouse, which quite clearly rejects the supposed link between homosexuality and paedophilia. The Government, in refusing to accommodate these amendments, seems to be pandering to the homophobes and the prejudiced in the community.

On all these grounds—that is, the best interests of the child, the need for equality of all citizens in this State and the removing of anomalies in existing legislation—these recommendations should be supported by the House. In closing, and as a reassurance to all those who have raised concerns about these recommendations, I stress that the real issue is the quality of care children receive, and that denying reform along the line recommended by the committee is not in the best interests of children; nor is it in the best interests of lawmaking in this State.

**The Hon. GREG DONNELLY** [3.28 p.m.]: I was a member of the Standing Committee on Law and Justice when it conducted this very good inquiry into adoption by same-sex couples. I concur with the words of the chair in her speech this afternoon that it was an inquiry that looked at a whole range of issues associated with the terms of reference. It is fair to say that they were looked at in significant detail. The inquiry got off to a rocky start—and I use this as an example to underline the point I am going to make shortly. There is this debate about values and who holds the right values or the potentially correct values on this issue. When we were looking at the matter of calling witnesses to this inquiry we spent a bit of time debating whether we should call to give evidence some heterosexual couples who had adopted children. In other words, the argument was put that it would not be proper to allow heterosexual couples who adopted to come along and present evidence to the committee.

I was rather dumbstruck by that. The committee was considering changing adoption legislation that gives heterosexuals, either married or in a de facto relationship, the right to adopt, and the argument by some members of the committee was that it would be unacceptable and inappropriate for heterosexual witnesses to give evidence. That got the inquiry off to an interesting start. However, members soon gained a degree of respect for competing views. They accepted that the inquiry had to have properly balanced submissions and oral evidence to ensure that all matters were placed on the table, properly ventilated and considered.

Nevertheless, I felt that some who made submissions and gave evidence advocating for homosexual adoption assumed that those with opposing views were values-based and were seeking to impose their values on others. Indeed, there was implicit criticism that those values were religion based. I reject the paradigm of that analysis. The reality is that there are different points of view on this issue. Indeed, people who support same-sex adoption have an underpinning value, that is, essentially the right of choice that they, as adult couples or individuals, should have the right in this State to adopt, and it is a choice they should be able to exercise. That is a value, and pretending otherwise or suggesting that is the default position we should consider, and that those who have a different point of view are somehow skewed or being unreasonable, was an undercurrent in the inquiry.

The Hon. David Clarke, the Hon. John Ajaka and I strongly articulated that this was not the way to consider the matter. This was not about a set of values being imposed by people, some of whom were accused of being homophobic. Those who did not accept the proposition that homosexuals should be able to adopt in New South Wales were deemed to be homophobic. The definition of homophobic covers people who hate

homosexuals or who are afraid of homosexuals. Individuals on the committee should not have been tarred as being homophobic because they did not accept the proposition that homosexuals should be able to adopt. I and other committee members rejected that consistently throughout the inquiry. Indeed, I still reject it.

Turning to the issue of values, and putting aside the issue of sexuality for a moment, in our societal history at present we are beyond gender: we are past gender. The issue of gender is not substantive in the consideration of raising children. Love, care, affection, support and so forth are the key to raising children, not the gender of parents. That argument was contrasted with the other perspective, that is, that the gender of a man and a woman is fundamental in the rearing of children. It is not as if that argument does not include love, affection, care, security, nurturing and so on. It is interesting that those supporting homosexual adoption were essentially arguing with respect to the heterosexual model of parenting, that those arguments were all simply about gender and nothing else. That is not the case. We did not accept for a moment that the issues of love, security et cetera were not integral. Indeed, the group believed that those matters were just as important—and this is where there was agreement. The difference being though that those who did not accept homosexual adoption believed that gender, manhood and womanhood, was fundamental to the upbringing of a child.

The positions are irreconcilable. The Chair adequately explained that members of the committee, witnesses and those who made submissions all held very strong views that were different and could not be reconciled. Therefore, we had an irreconcilable position. If ultimately they adopted the views of the other their positions would have been compromised. If one has a firmly held view—and both sides did, and still do—that view cannot be reconciled with a fundamentally different position.

An enormous effort was made by committee members to bring to the inquiry a significant amount of literature to support their position. I invite members to look at pages 147, 148, 149 and 150 of the report. Although the alternative view does not accept my view, there is overwhelming social science material to show that the welfare of children is maximised when they are raised by a mother and a father. Two mothers and two fathers cannot bring what a mother and a father can bring. I submit that the evidence brought forward through the various research, academic and peer review papers, overwhelmingly affirms that position.

Minister Burney has responded to the report. I agree with the comments of the Hon. David Clarke that there was a split decision and the matter was decided by the casting vote of the Chair. So it cannot be said that the report carries the day. I note that Minister Burney, in her correspondence back to the committee, has indicated that the adoption laws in New South Wales will not change, and I fully support that. I believe that many people watching this issue very closely feel that, if at any point in future we need to bring the arguments forward to reassert the rights of a child to have a mother and a father, that will be done. I conclude by thanking the Chair, the Hon. Christine Robertson, for her hard work during this inquiry. I also thank the committee staff. I commend the report to the House.

**Reverend the Hon. FRED NILE** [3.38 p.m.]: I am pleased to participate in the debate on the Standing Committee on Law and Justice report No. 39 entitled "Adoption by same-sex couples", dated July 2009. I place on the record my complete support for the remarks in this debate by the Hon. David Clarke and the Hon. Greg Donnelly. They have summarised the position that I hold on this issue. I am very pleased that in spite of the split committee recommendation in favour of the law being changed to permit same-sex child adoptions, which would mean same-sex homosexual or lesbian adoptions of children, the Government, in its response, has stated that it will maintain the status quo, the current situation. However, I notice that Minister Burney added a little postscript that the Government would continue to monitor the situation. I hope that does not mean the issue will be revived sooner rather than later and debated again. I think the matter should be laid to rest.

Although the committee was split on this issue, with the vote of the chairman it made these recommendations, which I believe ignore the rights of the child, which was the prime consideration. The Adoption Act clearly stipulates that adoption is to be regarded as a service for all children so concerned and that the children's best interests must be paramount in all considerations throughout the process. I believe that has not been fully taken into account by the committee in its recommendation, and therefore it has ignored the rights of the child. But also I believe it has ignored the rights of the natural parent.

Over the years I have been involved with a number of committee inquiries into our adoption laws and I have had many meetings with mothers who have given up children for adoption. In those off-the-record discussions quite often the mothers have made remarks indicating their deep concern as to who would adopt the child they were putting up for adoption. I believe that if one had said to those natural parents—in many cases, simply the natural mother—"Your child could be brought up by two homosexual men", they would have



thought long and hard about whether they would put their child up for adoption. The natural parents assume that the Parliament and the Government would take into consideration the children's best interests and regard them as paramount and that that situation would not occur. They have trusted the Parliament and the Government that that consideration will not change, and they have assumed that the children would be given the opportunity when adopted to be brought up in an environment with a mother and father, and that their child would have all the love and care that natural parents would give. I believe we have a responsibility to the natural parents who have given up children for adoption.

I note that in some of the arguments in favour of the recommendation there has been a major emphasis on this issue and that people are saying the Government has agreed that a homosexual person can adopt a child. If that is happening, I do not believe it should be legal. I do not believe we have ever debated the issue in the Parliament. I do not believe any legislation has been passed making the practice legal. It may be a practice of the Department of Community Services. If so, the department should be told it does not have authority to do that. It would be inconsistent for us to, on the one hand, not approve same-sex adoptions and, on the other hand, allow one homosexual person to adopt a child. Obviously, that would be absolutely inconsistent. Rather than using that as an argument that the Parliament must now legalise same-sex adoptions, the Government has a responsibility, with regard to the best interests of the child, to direct the Department of Community Services to stop the practice. I do not believe it has legal authority; it has never been passed by the Parliament.

It has been argued, even in this debate today, that we are being inconsistent because the Department of Community Services allows a homosexual man to foster a child. People say that is another inconsistency, and I agree with them. Either we approve same-sex adoptions or we stop these two activities occurring—that is, adoption by a single homosexual person and fostering by a single homosexual person. The law should be consistent. As I said, I do not believe that those two changes have the authority of the Parliament. They certainly have not been debated in the Parliament.

We note that Victoria, Queensland, South Australia, Tasmania and the Northern Territory currently do not allow same-sex couples to adopt children within their jurisdictions. Each has stringent requirements of heterosexual couples seeking adoption, including a demonstrated relationship history of at least two to five years. It is very important to have consistency with our State laws, and I believe that is another reason why New South Wales should not proceed in this direction. We note that as recently as 24 July 2008 Queensland reaffirmed its commitment to the prohibition on same-sex adoption when Queensland's Premier, Anna Bligh—who I believe people would acknowledge as a woman who is very much aware of all these issues and who is not an old-fashioned person—stated:

In an environment when you have such a small number of babies and such a large number of couples seeking to adopt, the onus is on the state to make a judgement about the best possible placement for a child and the prospect of it being anything other than couples (heterosexual) as I have described, we think is very low.

That is a thoughtful comment by a female Labor Premier that this Parliament should take into account. As I said, I agree with the statements made in this debate by the Hon. Greg Donnelly and the Hon. David Clarke. I also agree with the Hon. Greg Donnelly's dissenting statement published in the committee's report on pages 184 and 185. I commend all members to read the statement, which contains the following paragraph:

Adoption is a definitive legal process which permanently transfers all the legal rights and responsibilities of being a parent from a child's birth parent(s) to the adoptive parent(s). Adoption laws in this state have always operated to serve the best interests of children, not adults. This "paramountcy principle" remains at the heart of adoption legislation and practice in New South Wales today.

That statement sums it up. The Christian Democratic Party has made a submission to the inquiry, and I commend it to members. In the submission we have collated a great deal of evidence about problems that have occurred in the United States of America with adoptions and where same-sex couples have been bringing up children. Ms Sylvia Hale made a number of dogmatic statements saying there is no difference. I believe there are differences, and I commend her to read the detailed submission we made, particularly the section entitled "Implications for Children" on pages 5, 6 and 7, which quotes many authoritative reports into this issue by various medical experts and universities.

There are many disadvantages for a child being brought up in a same-sex domestic environment. In the submission we quote the reports. Obviously Ms Sylvia Hale will not agree with them, and I am sure other members of the House will not agree with them. However, I urge Ms Sylvia Hale to be open-minded and to read

the remarks. I invite her to go back to the quoted documents and read the reports to ensure that we have not misquoted them. It may open her mind to some other points involved in this very important moral and social issue. It is not just a religious issue; it is also a social, moral and cultural issue, and that should be taken into account.

**The Hon. TREVOR KHAN** [3.48 p.m.]: I cannot allow some of the things that have been said here to go unanswered. In this debate we are not talking about the right to adopt. On neither side of this debate is the issue about the right to adopt. The issue of adoption is governed by the Adoption Act. That Act sets out the relevant rights and obligations, and the obligations that arise relate to acting in the best interests of the child. That fundamental obligation falls upon all government bodies. Interestingly, that is precisely the same obligation that falls upon government instrumentalities, courts, and the like, if one looks at the child welfare legislation. Precisely the same obligation resides in the Family Law jurisdiction, under the Family Law Act. The difference between the Adoption Act, child welfare legislation and family law legislation, which is enacted by the Commonwealth Parliament, is that the Adoption Act creates an additional criterion. The child welfare legislation and family law legislation state that the interests of the child are paramount. The Adoption Act, however, adds the additional criterion that—to put it colloquially—gay couples cannot adopt. It provides that homosexuals as a couple cannot adopt. It does not state that a homosexual man or a homosexual woman cannot adopt; it states that a gay couple cannot adopt.

If we are talking about the fundamental right of a child to be raised by a man and a woman, the reality is that our Adoption Act does not make that a requirement. A single man, irrespective of his sexuality, can adopt a child, and a single woman, irrespective of her sexuality, can adopt a child, but there is no guarantee that a man and a woman will raise an adopted child. There is no guarantee that the man and woman will be in a loving relationship or a sexual relationship but the Act contains the additional requirement that the couple cannot be homosexual. So the Act provides a criterion additional to that of the best interests of the child.

The child welfare legislation provides for the best interests of the child. Under our child welfare legislation when children are brought before our courts of law reports are prepared in relation to them day in and day out. Time and again those reports state that the most appropriate place for a child to be put is with a gay couple. For those of us who practice in the law that statement has not been secret or hidden under a rock, and it should not come as a blinding flash to anyone in this Chamber that such recommendations are made day in and day out. If it proved to be the wrong thing under the legislation, the matter would be brought before the court and the child taken away from the couple. If such children are being abused in some sense, physically or psychologically, that mechanism is available. Indeed, adoptive heterosexual couples of a child are not immune from the child welfare legislation either. If a child is subject to abuse from a heterosexual couple, either physical or psychological, the child can be taken from them by the child welfare authorities and made the subject of a foster order with someone else.

The family law legislation deals with the paramount interests of the child. Once again, under this legislation day in and day out children are made the subject of orders for placement with one parent or another, and in some instances the parent with whom the child is ultimately placed is in a same-sex relationship. Inevitably when such a situation arises we see the case run on the basis that the best option for the child is not to be with the same-sex couple. In truth, stripped of all that is said, the suggestion is that the child should not be placed with a homosexual couple. That is how cases are run, and I have been involved in such cases.

When running such cases one is obliged to explain to a parent seeking to advance that argument that his or her case must be a little bit better than that. One actually has to show why the child is at risk. Indeed, one may be able to do so, but each case must be based upon fact and a proper demonstration of concerns, not on prejudice or homophobia. One must go to the law and to the question of what is in the best interests of the child and construct a case around that issue. If it is not appropriate for a child to be placed with a homosexual couple, one must demonstrate why. One cannot simply hang the label—and let us be frank—that "they are poofs and therefore cannot raise children". Regrettably at the end of the day that is how the argument runs.

In conclusion, I draw attention to a simple reality of life in Australia today. Why is our Family Court so busy? It is so busy because relationships break down all the time. What we are left with, when dealing with children in that jurisdiction, is the cruel reality that whilst some may be of the view that it is best for a child to be raised by a mother and father, countless numbers of children in our society are not raised by a mother and father but by only one parent. In many cases one parent is attempting to scratch the eyes out of the other parent, fighting day in and day out over their child and psychologically damaging their child. The child is torn physically by one parent from the arms of the other parent because "it is my child and not yours". So much for the requirement that children should be raised by a mother and father! It is such a fight between two estranged parents, irrespective of their sexuality, that consistently causes damage to so many children in our society.

The one thing that consistently produces a good and caring adult, that changes a child into a caring and thoughtful contributor to our society, is the fact that his or her parents are loving, caring and nurturing. In reality if you can find two people who are loving, caring and nurturing, irrespective of their sexuality, then their child has a hell of a better chance of survival in our modern society than any other. If we can find a loving, caring and nurturing parent, we are 99.99 per cent assured of success when placing a child. In truth, at the end of the day this debate is about people's moral perspective. If we tear away the shackles, tear away the blindness and look to the quality of a parent as an individual and the quality of parents as a couple and their capacity to care, nurture and love, we have a recipe for success. Such decisions should not be made on the basis of one's sexual orientation.

**The Hon. JOHN AJAKA** [3.57 p.m.]: I join with my colleagues from the Standing Committee on Law and Justice to contribute to debate on the committee's 39th report, which relates to adoption by same-sex couples. I thank the Chair, the Hon. Christine Robertson, and the committee staff for their hard work in ensuring that the hearings were conducted in an efficient and professional manner. The inquiry into same-sex adoption in New South Wales is of great significance, not only in terms of the legal ramifications of long-awaited amendments to the Adoption Act 2000 but also in terms of the impasse that it has exposed between advocates of the traditional nuclear family unit on the one hand and proponents of broader formal equality reforms on the other hand.

Because of the limited time I have available to speak today I will focus my contribution principally on two matters in relation to which my view differed from that of a number of my colleagues. The first matter relates to the appropriate scope of the extension of adoption eligibility criteria; and the second relates to the conditional exemption for faith-based adoption agencies. Not surprisingly, the intensely controversial nature of the terms of reference for the inquiry meant that there was little common ground to be found between the widely divergent positions taken in the debate. Even the acknowledgement of the best interests of the child as the overriding consideration did not serve as a unifying principle; in a sense it revealed a level of discord in relation to whether one particular family form was more aligned with the child's interests than another.

My views were informed by a balanced consideration of all submissions made during the hearing process. Whilst agreeing in principle with the extension of adoption eligibility criteria, I advocated a principled, incremental approach to reform. Furthermore, in respect to the exemption for faith-based agencies from anti-discrimination legislation, I differed from the majority view in that I am in favour of an unqualified exemption. It is my view that the extension of adoption eligibility criteria to permit same-sex couples to apply for adoption should apply in respect of "known children". Accordingly, I moved a dissenting recommendation by inserting a further qualifier to recommendation 1:

That the New South Wales Government does not amend the eligibility criteria of the Adoption Act 2000 to permit same-sex couples to adopt unknown children.

In other words, that the New South Wales Government amend the eligibility criteria to permit same-sex couples to adopt in the "known children" criteria. The rationale for this amendment is threefold. First, it was clear to me from the evidence before the committee that it is in the area of known children adoptions that reform to allow same-sex couples to adopt will have the greatest impact and where there is the greatest need. The weight of submissions made during the committee hearings focused on the benefits of extending adoption eligibility criteria to encompass same-sex couples that had an existing relationship with the children in question. Many examples were given of those circumstances. I will refer to just one.

For a number of years a loving lesbian couple had fostered two children who were siblings. During that time the children had advanced enormously in their welfare, education and health. It was clear from the evidence that this was a loving family unit. To give an example of the inconsistencies in this area, this couple is permitted to continue the foster arrangement. Under current law each of them is permitted to adopt one child but as a couple they are unable to adopt both children. The family was put in a position in which each of the parents had to choose a child to adopt. One can imagine the ramifications of a parent having to choose one child and the impact in years to come when asked, "Why did you choose me and not the other child?" For that reason, there is a need to permit same-sex couples to adopt known children. That is an excellent example of what is occurring in many situations.

Second, the importance of affording legal recognition to existing relationships between same-sex couples and children by way of amendment to the Adoption Act was cited as one of the "best mechanisms to overcome deficits" in the current law, such as, the inconsistencies that allow for foster care by same-sex couples and adoption by gay and lesbian individuals but not by same-sex couples. Third, the best interests of the child are the paramount consideration in adoption and related proceedings, both in legal and ethical frameworks. This

overriding consideration may be given clearer expression in cases of known children adoption where the child is familiar with the prospective adoptive parents and can express an opinion as to whether the adoption would be in his or her best interests.

I would like to clarify one issue. I have been misquoted many times in the media, in letters and on the web as saying that a family comprising a father, mother and children was not a normal family. That is completely wrong; I never said that. I said that it is not the only situation of a normal family. I do not accept the proposition that the only normal family in this State and country is a father, mother and children. I do not accept the proposition that when I was raising my two oldest children on my own following my divorce that my two children and I were not a normal family. I do not accept the proposition that children being raised by grandparents are not in a normal family. I do not accept the proposition that children being raised by a couple or individual, homosexual or otherwise, are not in a normal family situation. I ask the House to note the comments in this regard of my colleague the Hon. Trevor Khan, who said it far clearer than I can. I will not repeat his remarks. It is outrageous to say that I had made that statement.

I refer to the second matter I raised in my dissenting statement. Whilst I supported the position taken by the majority of committee members in favour of the exemption for faith-based adoption agencies from the application of the Anti-Discrimination Act 1977 in relation to providing same-sex couples with adoption services, I dissented in relation to the imposition of conditions of the type outlined in recommendation 4. It is my view that to require faith-based adoption agencies to refer same-sex couples that seek their services to another accredited adoption agency is essentially to force the agencies to indirectly assist in the achievement of an outcome contrary to their underlying principles. I opposed referral as a prerequisite for the operation of any exemption from the Anti-Discrimination Act on the basis that such a condition may itself have a deterrent effect.

I note that this now may be a moot point following the decision of the appeal panel of the Administrative Decisions Tribunal in the matter of *Members of the Board of the Wesley Mission Council v OV and OW (No 2)*. The central question in that matter was whether the Wesley Mission's refusal to entertain a foster care application from a homosexual couple fell within the exceptions relating to religious bodies under the Anti-Discrimination Act 1977 and was therefore lawful. The tribunal held that the exceptions had not been established and found the homosexual couple's complaint of discrimination substantiated. It was on this basis that the committee considered and moved recommendation 4, as the appeal had not yet been dealt with. The appeal panel set aside the decision of the tribunal and held that it had made four errors of law in reaching its conclusion that the Wesley Mission had breached the Anti-Discrimination Act. In any event, in my opinion, recommendation 3 without the qualified recommendation 4 would ensure that the problem does not arise. There is absolutely no basis or requirement for recommendation 4.

I found the inquiry particularly remarkable for the manner in which conclusions were drawn equally from the legal reasoning as regards the legislative inconsistencies on the status and rights of same-sex couples and from the religious and other personal beliefs held by the key stakeholders. It is my hope that the committee's deliberations and findings will inform further parliamentary debate on this important matter and that we will adopt a principled reform agenda that, notwithstanding differing interpretations, places the best interests of the child as the paramount consideration. I reiterate that I am of the view that to alleviate the many problems the Act should be amended to allow same-sex adoptions in known cases. There is no basis whatsoever not to allow that amendment. Any discrimination based solely on the criteria that a same-sex couple or a homosexual individual in some way is not appropriate to raise a child is completely wrong.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.07 p.m.]: In speaking to the Standing Committee on Law and Justice report on same-sex adoption I acknowledge the hard work of the committee in dealing with this contentious inquiry. I congratulate the Government on providing the opportunity for these issues to be aired and thoroughly examined. I congratulate the chair of the committee on her considered and balanced approach to what was at times a challenging job. While I acknowledge there are deeply held views about whether gay men and lesbians should be allowed to adopt children, we have missed the fundamental point of the adoption debate. The bottom line is that there is no right for anyone to adopt. There is simply the right in an unknown case to be considered to adopt. That very rigorous process is overseen by the Department of Community Services and ultimately the court.

No child in New South Wales is adopted without the court agreeing to the adoption. That is often lost in debate about the best interests of the children. The bottom line in this debate is that the only test as to whether or not a child should be adopted is that it is in the best interests of the individual child. Grouping them all

together makes wild generalisations about a whole range of things. The reality is that no family is perfect. All families try to do their best and when that fails we need to provide the safety net and the rights for children in New South Wales to be cared for in the best way possible. Adoption is simply one way we manage to do that.

I would like to spend some time going through the report and addressing some of the comments made in the inquiry by actual experts as opposed to people who have strongly held beliefs around this issue. The Department of Community Services provided quite a lot of evidence, which was very important, but the department did not offer an explicit position in relation to parenting by gay men and lesbians, although it emphasised that family functioning is, of course, most important. Mary Griffin from the Department of Community Services stated:

When I look at the best interests of children, it is really about the capacity of the person and not the family structure that they are in that should be important to a practitioner in making decisions around children. I think the objectives and principles of the Act are very clear in that it has to be the best interest of the child and not necessarily the structure.

The department also provided some information about the rigourousness of the process around adoption and it is worth reflecting on that. The department stated:

All prospective adoptive parents are assessed against selection criteria that focus on adoptive parenting capacity and are considered to be determinative of the long term success of an adoption. It is the experience of practitioners that it is the adoptive parenting capacity of the person and not the family structure in which they live which is important in making decisions about the adoption of children ... The Department's priority in making all adoption decisions is the best interests of the child. The capacity of the adoptive applicants to meet the needs of the child having regard to the overall skills, experience and supports will be key considerations.

I note that we currently have a whole pool of people—gay men and lesbians—who cannot adopt because we do not allow them as couples to do so. I believe that falls outside what the department is trying to achieve in having a full pool of people available to all children who need to be adopted.

I also want to address the evidence given by Gillian Calvert, the former Commissioner for Children and Young People. She emphasised that the key issues to be considered in any decision about adoption are the same, whatever the sexual orientation of the parents. She stated:

I think the same issues are weighed when considering any adoptive parents. I do not think issues change depending upon whether it is same-sex or heterosexual parents. The sorts of things that the young people [I consulted with]—

And I note that this is one of the few pieces of evidence in which young people got to have a voice in the discussion—

identified, and are already present in the legislation, are the important issues: the ability to provide a safe and loving environment for the child; the motivation for adoption; the match between the adoptive child and the adoptive parent; and, if able, the child's wishes. I think the best interests of children are the paramount consideration regardless of the sexuality issues.

Barnardos gave quite a lot of evidence to the committee. Barnardos supported the ability for same-sex couples to be considered in relation to the adoption of children. I point out that I was previously a foster carer with Barnardos so I am very familiar with that agency. Barnardos' view is very much that the best interests of the children have to be matched with the kids. Ms Voigt from Barnardos stated:

There has been quite a lot of community concern that children in foster care are available for adoption because those children often have a very in-between life in that they do not belong properly to anyone. Many of them move repeatedly. Adoption has been shown to be a much more secure option for children in the welfare system.

That reflects my own experience when I was a foster carer for young teenage women who basically had been abused by their families and they belonged to no-one. Whether they wanted to be adopted by me is a completely separate question and it never came up, of course, but the issue remains that it is very important for younger people to have the ability to be permanently placed with the people who are caring for them.

I also wish to quote from two gay men who gave evidence to the committee. Witness A and Witness B raised the issue of permanency. Witness A emphasised the psychological and material security that adoption affords children, whilst also pointing out that this was an important factor in the United Kingdom's reforms to allow gay and lesbian people to adopt. He stated:

I think undoubtedly it must be better for children to have a "forever parent"—a parent who they know will be their parent forever—than to be in long-term foster care and at the age of 18 be literally put out on the street, which was the situation for many thousands of children in the UK who were in long-term foster care. That was why the law was changed. It was nothing to do with parents who already had children.

It was about the number of children who were waiting for adoptive parents. There was a shortage of parents coming forward to adopt. Tony Blair in his infinite wisdom decided he would do something about that and he opened it up to single people and to people in same-gender relationships. That included us.

I note that some speakers today suggested that perhaps we should be banning gay people from having children of any form. Therefore, we should pretend that they do not exist; we should pretend that they do not have children; we should ban them from being foster parents; and we should ban them from ever being able to adopt because that would provide consistency. That is quite the reverse argument to what the committee put forward.

The reality is there are children being raised in same-sex families across New South Wales. These children have fewer legal protections because they are not able to have their parents recognised under the law. These children have fewer rights in relation to the legal right to care and support from their non-biological parent, which further impacts on issues in relation to inheritance, family law, consent for medical treatment, passports, et cetera. Last year the New South Wales Government passed a very pleasing piece of legislation which acknowledged that for the children of a lesbian couple, such as in my personal situation, both those parents are recognised.

We need to finish the job and make sure that all children, regardless of the sexuality of their parents have the same rights. I have spoken before about kids who are in out-of-home care and again I emphasise the need for permanency planning. There are hundreds of gay men and lesbians across New South Wales caring for the most vulnerable kids in our community, kids who have been removed from their families in the first place because they could not look after them. Those children deserve to have some permanency and stability in their lives and we should not be arbitrarily deciding who is able to do that and who is not. The issue should be if it is in the best interests of those children to remain with those parents they should be allowed to do so permanently.

There is also the issue of kids born by a donation to a single lesbian parent. Those children have only one parent. When a parent finds a partner and if that partner is willing to form a family and to adopt a child that is also something that needs to be considered. There are many aspects to this debate. Fundamentally I think it comes down to whether you believe that gay men and lesbians should be treated equally before the law. It is also an issue about whether you would rather adoption by them be illegal. Homosexuality is not illegal. There is no right to have a child, it is simply a right to be considered to adopt, and if it is in the best interests of the child then that should happen. I look forward to the time when that final piece of discrimination is removed and children in New South Wales, regardless of the sexuality of their parents, can be treated equally before the law.

**The Hon. HELEN WESTWOOD** [4.17 p.m.]: I will not speak for too long but given that I am one of the few members of this House who have raised children in a same-sex relationship I feel compelled to speak, particularly after hearing the contributions of other members—and also because we are on the eve of Mardi Gras. This weekend many of us who are members of the gay and lesbian community and our family and friends will be celebrating the many advances that have been made over a few decades. We have to acknowledge that many reforms have been made by way of legislation that have removed discrimination against gays and lesbians and their families. However, there is still a way to go and this issue is one example.

Much has been said in this debate about the need for the interests of the child to be paramount, and that is absolutely right. But, as so many other contributors to this debate have pointed out, children of same-sex couples will be disadvantaged if they do not have legal rights because they are not legally adopted by that couple or by both parents. It is important that we keep that fact very much to the fore in the debate. Those of us who know gay and lesbian couples who have children know that, like most other couples, they are usually very well organised and aware and make good arrangements to ensure that their children will not be disadvantaged just because they are not legally recognised as their parents. However, there will be times when the children of gays and lesbians are disadvantaged, and that fact seems to have been lost on some people in this debate.

Reverend the Hon. Fred Nile said that he believes we should cease allowing gays and lesbians to foster children and single gays and lesbians to adopt children. That would be a very regressive step. Those of us who are members of that community know how many fellow couples are fostering children. They are often the children most in need, they have usually come from heterosexual relationships or families and they have been removed for their own wellbeing. They are also often very damaged. Fortunately there are wonderful foster carers and some of them are gay and lesbian couples who are willing to provide those children with the love, care and compassion that will allow them to grow up to be healthy, loving and contributing adults. It would be a great tragedy if we took a step backward and prevented those people from being foster carers.

I know a couple in Western Sydney—not in gay- and lesbian-friendly inner Sydney but in the Bankstown local government area—who are a wonderful pillar of the local community. The couple have

fostered many children. One parent is a corrective services officer and the other parent stays at home to care for their foster children. They are much admired by the people around them and I do not think anyone would suggest that the children who have been in their care are not better off for having been fostered by that wonderful couple. It is absurd to suggest that couples like that are good enough to provide a loving, caring environment and to parent these children but that they should not be legally recognised as parents. That is illogical.

As has happened with many other social reforms, as a society we will eventually move on and come to grips with the fact that gays and lesbians exist, we do have children, we raise them and, just like most heterosexual parents, most of us are great parents. I suggest that the same proportion of gays and lesbians and heterosexuals are good parents. Eventually the law will catch up with reality, and I look forward to that time.

I commend everyone involved in this inquiry. I know how difficult it was reading the reports and the submissions. I commend all members for the contributions that they have made. I am very disappointed that the Government has chosen not to be courageous and to take the necessary step to remove this discrimination against gay and lesbian couples and their children. I look forward to the day when as a Labor Government we can demonstrate a bit more courage.

**The Hon. CHRISTINE ROBERTSON** [4.23 p.m.], in reply: I thank all members for their contributions to the debate and for their diverse positive and negative comments. Those comments are a reflection of the process and the report. I also thank the secretariat. This was an incredibly difficult inquiry for the staff. Sometimes we had very heated debate amongst ourselves or with witnesses. However, the secretariat remained very calm, brought forward more witnesses and worked in an open and honest fashion to ensure that we heard a diverse range of views. I thank them very much for an outstanding performance. Rachel Callinan, Merrin Thompson, Natalie Udovicic and Christine Nguyen did an excellent job.

I also thank the committee members. We lived through this process—and that is what it was like. It carved a huge swathe through our lives. There was not one member who did not see the inquiry as incredibly important for one reason or another and some of us suffered in many ways to deliver this report. I give credit to all members for their commitment.

The Hon. John Ajaka referred to faith-based adoption agencies. The committee carefully examined whether faith-based adoption agencies should be exempt from antidiscrimination legislation if the law is changed to allow same-sex couples to adopt. While the Anti-Discrimination Act 1977 includes an exemption for religious bodies in some circumstances, there is uncertainty about whether that exemption would apply in the case of adoption services provided by faith-based agencies and we debated that issue. However, the situation has changed since the report was tabled. As the report notes, the Administrative Decisions Tribunal's decision was appealed to the Appeals Panel, which handed down its decision in early October finding in the appellant's favour on a number of questions of law. The panel set the decision aside with several matters remitted to be heard and decided again by the tribunal.

This development illustrates that the matter is still not resolved and may not be for some time. That reinforces the committee's conclusion that for all those involved in the adoption field to be certain about the application of the law to them an exemption should be unequivocally spelt out. Law reform to allow adoption by same-sex couples that includes an exemption for faith-based agencies should proceed as soon as possible. I advise anyone wanting any further information on that issue to read the report. The witnesses from the faith-based agencies, who do a superb job in the fostering and adoption fields, said that they would have to withdraw from the service if they were required to be involved in adoption by same-sex couples. The committee strongly believes and recommended that the State Government would therefore be required to find organisations that would suit those people.

Incredible commitment was displayed by both witnesses who work in the adoption field and those personally affected by the issue. I and all other committee members thank them very much for their commitment. I had a very interesting radio experience just after the report was released. A radio announcer from one of the Sydney stations wanted to know my sexual orientation because of the way in which I discussed the report in the press release. Unfortunately, those opposing the recommendations in this report sometimes display a fair degree of bigotry and the perpetual stream of campaigning and petitions to this place confirms my belief that people are making discriminatory statements that relate to "normalcy".

I am sad that the Government's response does not endorse the committee's recommendations. As my Aboriginal friends would say, "I have shame." That shame stems from the fact that I am a member of a

Parliament that cannot address the inequity for some children that this issue presents. I agree with Reverend the Hon. Fred Nile that law should be consistent, and the recommendations in this report should be implemented to ensure consistency and that we act in the best interests of all children.

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

## **STANDING COMMITTEE ON LAW AND JUSTICE**

### **Report: Second Review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council**

**Debate resumed from 1 September 2009.**

**The Hon. CHRISTINE ROBERTSON** [4.29 p.m.]: I am pleased to commence debate on the fortieth report of the Standing Committee on Law and Justice, titled "Second Review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council". The report was tabled in the House on 1 September 2009. I start by thanking my fellow committee members for their considered and collaborative work in conducting this review and producing this bipartisan report. The report and its nine recommendations were adopted unanimously.

The Lifetime Care and Support Scheme is a New South Wales Government scheme administered by the Lifetime Care and Support Authority that provides treatment, rehabilitation and care for people who have been severely injured in a motor vehicle accident in New South Wales, regardless of who was at fault. The scheme commenced operation on 1 October 2006 for children under the age of 16 and on 1 October 2007 for people aged 16 and over. It is funded by a levy collected through compulsory third party insurance. Section 68 of the Motor Accidents (Lifetime Care and Support) Act 2006 requires a Legislative Council committee to supervise the exercise of the functions of the Lifetime Care and Support Authority and Lifetime Care and Support Advisory Council. The Standing Committee on Law and Justice undertakes this role and, accordingly, this is the committee's second review of the Lifetime Care and Support Authority and Lifetime Care and Support Advisory Council.

This second review has been a positive experience for the committee. We identified several years ago the desirability of a system of structured damages to meet the long-term care needs of people who are catastrophically injured in motor accidents and it is with satisfaction that we now see such a system running into its third year of operation. The committee received submissions from a number of stakeholders and heard evidence from representatives of the authority, the advisory council, the Greater Metropolitan Clinical Taskforce, including the Brain Injury Directorate and New South Wales State Spinal Cord Injury Service, the New South Wales Bar Association, the Children's Hospital at Westmead and the Australian Association of Social Workers' Brain Injury Professional Interest Group.

The committee also sought the input of scheme participants and their carers to provide direct feedback to the review about the treatment and care provided by the scheme and their interaction with the authority. Two participants and their family carers, as well as a carer of a third participant, provided their experiences to the committee at the public hearing. This was a profoundly enlightening experience for the committee. It gave us a better understanding of how beneficial the scheme is for them and also provided the opportunity for them to give feedback about the scheme and the work of the authority. Mind you, they all told us how great it was. The participants and the family carers gave heartening views on the benefits of the very existence of the scheme and the ongoing support from service providers and the authority. The committee valued this input immensely and thanks the participants and their family carers for their time and effort.

To give some context for this report, as at June 2009, there were 233 participants in the scheme, of which 30 were children under 16 years old, and the remaining 203 were adults. At the time of the committee's first review completed in October 2008 there were only 76 participants. The majority of participants have a traumatic brain injury and/or a spinal cord injury. The committee commends the authority and the advisory council on the success of the scheme to date and also the service providers, including medical practitioners and other clinical staff, for their role in aiding the smooth implementation of the scheme. The valuable provisions the scheme makes for lifelong treatment, rehabilitation and care services to people who are catastrophically injured in motor accidents in New South Wales, regardless of who was at fault in the accident, are



acknowledged by the committee. The early success of the scheme is pleasing and the committee considers it a potential model for other jurisdictions. The second review has primarily focused on issues relating to the service provision for participants during the acute care and rehabilitation stages and has recognised the start of a shift of participants moving from rehabilitation back to the community. The report makes a total of nine recommendations relating to various areas of the scheme but overall the committee has found that the scheme is functioning effectively.

In the first review report the committee made two recommendations. The first related to extending the interim participation of children in the scheme. This is to make sure that a child who is less than three years old at the time he or she was severely injured will not have a final assessment for lifetime participation in the scheme until he or she has reached five years of age. This legislative amendment was made in June 2009. The second recommendation related to independent advice and advocacy for participants. The committee recommended that the authority and the advisory council consider options for independent review of decisions and the provision of independent advice and advocacy for participants in the scheme. In response, the New South Wales Government stated that there are mechanisms in place to allow for the independent review of decisions. In addition, the authority advised that, as part of a discussion paper process on advocacy for participants, there already is a well-established advocacy network that participants could access.

Stakeholders raised this issue again with the committee during the current review. The main issue of concern related to how brain-injured participants could exercise their right for an independent review of decisions made about their care and how these participants could access advocacy services. In response to stakeholder concerns the authority advised that it will include information in training sessions for service providers about how participants can access advocacy services and that the advocacy service will assist the brain-injured participant as appropriate. The committee is still concerned about the ability of brain-injured participants to initiate contact with advocacy groups and has encouraged the authority to further consider this issue.

A number of issues raised in the first review have been updated by the committee in this report, including medical eligibility, entry into the scheme via the orthopaedics area, opting-out of the scheme, estimated financial liabilities for the scheme, interface with the Motor Accidents Compensation Scheme, attendant care services and financial support for family carers. The majority of these issues will continue to be monitored. The committee heard that stakeholders are concerned about accidents not covered by the scheme and the creation of a tiered system in the provision of treatment and care for people with catastrophic injuries depending on where or how they received their injuries—for example, injuries caused by motor vehicle accidents or otherwise. Concerns were also raised regarding whether people involved in pushbike accidents or those injured from projectiles thrown at motor vehicles should be covered by the Lifetime Care and Support Scheme. The committee has noted these concerns and the possibility of a national insurance scheme that may incorporate those not covered by the Lifetime Care and Support Scheme. We had quite a bit of debate on that issue. It was very difficult, because if you keep adding things you end up without a scheme.

The committee has recommended that research be conducted into the issue of people hit by a projectile whilst in a registered motor vehicle, including the number of incidents in New South Wales, the nature and severity of injuries resulting from these incidents and the potential impact on the schemes themselves, if these incidents were to be covered. This research can then be used in a future review by the committee. Health practitioners brought the committee's attention to the length of time taken to organise supported accommodation for participants and the impact this can have on hospital and rehabilitation wards accommodating the participants in the interim. The authority is continuing to work on this issue and the committee supports the Greater Metropolitan Clinical Taskforce [GMCT] recommendation for the relevant parties to continue to liaise and work together to find solutions for participants requiring supported accommodation. The committee believes that the supported accommodation expert advisory group that has been established by the authority could work more effectively to address this issue and has recommended that the authority examine the role and membership of the advisory group to improve its effectiveness.

Again, as in the first review, clinical staff reported that the advent of the scheme has seen a significant increase in administration for them in terms of completing paperwork for scheme participants. This can distract from direct clinical time with patients. The committee has acknowledged that there is an increase in administrative work due to the scheme but that the authority reasonably requires detailed justification for expenditure of funds. In response to these concerns, the Minister for Health advised the committee that, as part of a wider review, NSW Health will review the impact the scheme has on health services' resources and that included in this review will be an assessment and analysis of the administrative demands of the scheme. The

committee advised stakeholders of this review and asked if they had feedback to include in this review. The committee forwarded the comments of the Greater Metropolitan Clinical Taskforce, the Department of Rehabilitation at the Children's Hospital at Westmead and the authority to the Minister for Health for inclusion in the review. In relation to this issue, the committee has recommended that NSW Health consider these comments as part of its review and that the results of the review be forwarded to the committee for consideration.

Similar to the first review, stakeholders raised issues relating to some confusion about the role of the lifetime care and support coordinator. The time at which the coordinator is introduced to potential participants and their families and inconsistencies relating to the application of the guidelines between different coordinators were also raised. The committee acknowledges the integral role of the lifetime care and support coordinator in providing a link between participants and their families and the authority, and heard positive feedback about the lifetime care and support coordinators from the participants and their family carers. However, there is still some confusion related to the role of the coordinator and the committee has encouraged the authority to continue to work with service providers to address this and to ensure scheme participants and their families receive clear messages about the scheme and its services. The committee noted in its report that the issue of consistency in decisions made by coordinators may be addressed through lifetime care and support coordinator training.

The committee has recognised that, especially in the case of potential child participants, the introduction of the scheme and the coordinator does need to be timed sensitively and recommends that the authority consults with the treating rehabilitation team regarding the appropriate timing for the introduction of the lifetime care and support coordinator in these cases. The committee's report highlights a number of new issues for the scheme and authority to address. The first related to the administrative burden of the scheme that was canvassed earlier and the issue of how revenue is returned to a particular public health unit for the provision of the service it provides to lifetime care and support participants and how the additional time spent on administration for the scheme impacts on revenue for the unit.

The committee heard that in the case of some public health services reimbursement may go to the area health service instead of the actual health unit. The suggestion by the Greater Metropolitan Clinical Taskforce of a memorandum of understanding has merit and the authority itself has raised the possibility of a contract agreement to address this issue. The committee noted that NSW Health will be considering the impact of the scheme on health services resources and will await the outcome and results of that review. This issue will continue to be monitored and will be revisited in a future review.

The benefits of participant and family carer input to this review has been brought through in a recommendation that consideration be given to participants being directly represented on the Lifetime Care and Support Advisory Council. It seems appropriate for participants to be directly represented on the advisory council in order to ensure that participants are given a voice on the body that makes recommendations to the Minister regarding the scheme. The committee noted that the authority itself considered this to be a desirable outcome for the future. Therefore, we recommended that the membership of the advisory council be reviewed and consideration given to including at least one participant representative.

In order to support the participant representative the committee has also recommended that the authority create and facilitate a small working group of representative participants and their family carers to examine participant and family carer issues, from which the representative could then report to the advisory council. The significant contribution and role that allied health workers and professionals have within the scheme were brought to the committee's attention during the review. Based on this and the views of stakeholders in this regard the committee has recommended that the Minister also consider including representatives of allied health workers and professionals on the advisory council.

The committee's report highlights that some stakeholders have raised concerns regarding the definition of recreation and leisure activities used by the authority when considering requests for funding for, or access to, these activities for scheme participants. The committee has acknowledged that it is important for participants to have access to recreation and leisure activities in order to enhance their living circumstances. The committee was advised that, unless it is part of a rehabilitation program, the authority will only fund a participant's access to that activity. If it is part of the rehabilitation program the authority will fund the full cost of the actual activity. The report recognised that covering the actual cost of recreation and leisure activities may have a financial impact on the scheme, especially in the long term as lifetime participation increases.

However, the committee understands the contribution these activities can make to the rehabilitation of participants, including learning socialisation skills, and recognises that it could be argued that most recreation

and leisure activities form part of the psychosocial rehabilitation for participants in the scheme. The report noted that there is concern that some participants may not partake in recreation and leisure activities if the cost were to fall onto the participant and/or their family, and may therefore miss out on opportunities to improve their life circumstances. This is of particular concern in relation to those participants who are not able to return to vocational employment or education as a result of the severity of injuries.

For these reasons the committee has recommended that the authority carefully examine the role that recreation and leisure have in the psychosocial rehabilitation of participants and the desirability of the authority funding these activities, especially for those participants who are not able to return to vocational employment or education. In addition, the committee recommended that the authority, when interpreting the definition of recreation and leisure, take a broad approach so that, where appropriate, it includes unusual activities that may be of particular interest and therapeutic value to some participants, such as those activities described by participants who gave evidence to the committee.

Another issue that came to the committee's attention during its review was the limited awareness of the Lifetime Care and Support Scheme. For example, the Greater Metropolitan Clinical Taskforce highlighted the limited awareness of the scheme by some service providers, especially those in rural and cross-border locations. The report acknowledged the authority's efforts in raising awareness of the scheme among those who will be directly involved, including health workers and other service providers, and has recommended that it ensure that education campaigns are widely spread to address awareness issues in country and cross-border areas.

The committee heard that participants and family members who are confronted with the prospect of a lifetime injury might find the initial confrontation with the scheme's existence overwhelming. Potentially, the knowledge alone that the scheme exists before they find themselves in the unfortunate circumstance of experiencing significant injury on the roads may help these families and participants. The committee has therefore recommended that the authorities consider conducting community awareness campaigns of the scheme for the general public.

In addition, the committee's report acknowledged that an increase in the general public's awareness of the scheme would also contribute to greater understanding of the scheme, leading to potential participants being identified more quickly and a general increase in the receptiveness to the scheme by the community and those involved. A community awareness campaign also provides an opportunity to communicate the benefits of the scheme and its positive role in helping people who are severely injured in motor vehicle accidents. I will finish the remainder of my speech on the committee report in my reply.

**The Hon. DAVID CLARKE** [4.44 p.m.]: As a member of the Standing Committee on Law and Justice I take this opportunity to make some comments regarding the committee's second review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council. The purpose of the New South Wales Government-administered Lifetime Care and Support Scheme is to provide medical and associated care and rehabilitation for those who have sustained serious injury as a result of a motor vehicle accident.

The scheme provides its services regardless of who was at fault, is funded through compulsory third-party insurance and commenced operation for children under the age of 16 on 1 October 2006 and for those persons 16 or older on 1 October 2007. The Lifetime Care and Support Authority manages the scheme, with the Lifetime Care and Support Advisory Council exercising an advisory role and, pursuant to the Motor Accidents (Lifetime Care and Support) Act 2006 of New South Wales, the Standing Committee on Law and Justice exercising a supervisory role over the performance of the designated functions of both bodies.

As at June 2009 there were 233 participants in the scheme, 30 of them children under the age of 16 years. Our committee received an array of submissions from interested and involved stakeholders, including those providing services and those receiving services under the scheme. As a result of its deliberations the committee has proposed nine recommendations which it believes will improve the working of the scheme, only some of which I will refer to today.

As a result of a disturbing and increasing number of incidents involving occupants of moving motor vehicles being injured as a result of projectiles being thrown by unknown persons at the vehicle the committee has recommended that the Minister for Finance request the Lifetime Care and Support Authority and/or the Motor Accidents Authority to conduct research into the issue specifically with regard to the number of such incidents, the nature and severity of such injuries and the potential impact on the Lifetime Care and Support Scheme and the compulsory third party insurance scheme if such incidents were to be included.

Mindful of evidence of the positive part played by recreation and leisure activities in the rehabilitation of injured persons, including psychological and social rehabilitation, the committee recommended that the Lifetime Care and Support Authority reconsider its funding guidelines, which currently exclude funding for activities that are not part of a rehabilitation program, so as to take a broader approach to such activities, including unusual activities that may be of particular interest and therapeutic value to participants.

I think it is fair to say that it is the committee's view that the active participation of stakeholders facilitates the successful operation of the scheme. With this in mind, the committee has recommended that the Lifetime Care and Support Authority should create and facilitate a small working group of representative participants and their family carers to examine participant and family carer issues in order to support the participant representative.

One issue that was of concern to the committee was evidence that lump sum compensation payments awarded to accident victims were being treated as capital by the Family Law Court in divorce settlements. It was suggested that the only way to avoid such a position would be to amend the Family Law Court or other relevant legislation. As a consequence, the committee has recommended that the Minister for Finance request that the New South Wales Attorney General examine the issue of awarded damages for the future care of injured people being used as part of divorce settlements and other legal settlements and, if appropriate, refer the issue to the Standing Committee of Attorneys-General. Whilst it is still early days as far as the scheme is concerned, the evidence received by the committee was that, on the whole, it appeared to be operating without major problems. It is hoped that the recommendations proposed by the committee will be acted upon with diligence.

**The Hon. JOHN AJAKA** [4.49 p.m.]: In speaking on report No. 40 of the Standing Committee on Law and Justice entitled "Second Review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council" I commend the committee Chair, the Hon. Christine Robertson, and the staff of the committee secretariat for the efficient and professional manner in which the hearings were conducted. I intend to focus my contribution to the debate on this report on five key issues: first, the need to conduct research into the issue of people hit by a projectile whilst in a registered motor vehicle to determine whether the lifetime care and support and compulsory third party schemes should be expanded to cover such incidents; second, the importance of adopting a sensitive approach in determining the appropriate timing for the introduction of the Lifetime Care and Support Scheme and the coordinator in the case of potential child participants; third, the role that recreation and leisure has in the psychological and social rehabilitation of participants; fourth, the expansion of the lifetime care and support education campaigns to address issues for rural service providers; and, fifth, the use of awarded damages for the future care of injured people in divorce and other legal settlements.

Turning to the first issue of scheme eligibility, as was noted in the first review report, accidents involving persons in a motor vehicle who are hit by a projectile are not covered under the lifetime care and support and compulsory third party schemes. Mr Dougie Herd, Chairman of the Lifetime Care and Support Advisory Council, clearly outlined the problem in relation to injuries sustained as a result of projectiles when he commented:

... if you are driving along a road in a motor car and somebody throws a brick off a bridge you are not covered, but if the car in front of you throws a brick in your windscreen you will be covered. I do not think it makes much difference to you where the brick came from. I guess we need to try to find a solution to that kind of problem.

The Department of Ageing, Disability and Home Care advised the committee:

... a proposal is being developed by the National Traumatic Injury Insurance Scheme working group for a national scheme to extend service provision to people with catastrophic injuries who do not receive adequate compensation through insurance and who are not injured in a motor vehicle accident.

In light of these submissions I stand with my colleagues in support of recommendation No. 1, requesting the Lifetime Care and Support Authority or the Motor Accidents Authority, as appropriate, to conduct research into this issue. I see this as the best step forward in seeking the most effective solution to this inconsistency in the scheme eligibility. Turning to the second matter in relation to the role of the Lifetime Care and Support coordinator, I note that during the second review "stakeholders raised issues relating to a general confusion of the role of the LTCS coordinator, the time at which the coordinator is introduced to potential participants and their families and inconsistencies relating to the application of the guidelines between different coordinators".

The biggest issue I gleaned from the submissions was that the lack of clarity in defining the coordinator's role continues to result in confusion for families seeking community rehabilitation, who are

unclear as to how their rehabilitation needs are to be met and how certain services are to be obtained. I felt that the issues were most clearly expressed by the Department of Rehabilitation at the Children's Hospital Westmead, which in its submission explained that its:

... clinical experience has shown that families remain in crisis state for some time following a motor vehicle accident and thus they require sensitive and timely provision of information ... Families have expressed that they have felt overburdened with requirements to meet extra people and deal with issues that are not vital to their understanding of their child's immediate needs while they are still in the acute stages of rehabilitation.

The department suggested that it would be most appropriate for the treating inpatient team to decide the appropriate timing of the introduction of the Lifetime Care and Support coordinator to "ensure that the needs of the child and family are met in a well-timed, sensitive manner that reflects the psychological, social and emotional status of the family in regard to their comprehensive rehabilitation". It was made clear throughout the hearings that the introduction of the Lifetime Care and Support Scheme and the coordinator needs to be timed sensitively. I agree with the committee's recommendation that the Lifetime Care and Support Authority, in the case of potential child participants, should consult with the treating rehabilitation team regarding the appropriate timing for the introduction of the Lifetime Care and Support coordinator.

The third matter I raise concerns the role that recreation and leisure play in the psychological and social rehabilitation of participants. A number of inquiry participants, including the Westmead Brain Injury Unit and participants in the Lifetime Care and Support Scheme, highlighted the importance of recognising leisure as an essential life role for most people and that catastrophic injury can significantly change a person's ability to pursue leisure interests. For instance, the Westmead Brain Injury Unit submitted:

We strongly believe the ability to engage in leisure activities, or any other life roles for that matter, contributes significantly to people's perceived quality of life.

The committee considered the Lifetime Care and Support Authority consultation paper *Leisure and Recreation in the Lifetime Care and Support Scheme (2009)*. This paper formed the basis for draft guidelines for access to leisure and recreation activities, which intend to provide guidance and information about what the Lifetime Care and Support Authority will fund. The draft guidelines indicate that "the Authority will fund reasonable and necessary access to leisure and recreation, which includes additional assistance ... and adaptation or modification to equipment required ... to participate in the activity due to the motor accident injury, but not the cost of the activity unless it is part of a rehabilitation program".

I support the committee's recommendation that the Lifetime Care and Support Authority carefully examine the role that recreation and leisure play in the psychological and social rehabilitation of participants and the merits of the Lifetime Care and Support Authority funding these activities. The fourth matter I raise concerns the limited awareness of the Lifetime Care and Support Scheme. As noted in the committee's report:

... the GMCT commented that whilst there was an initial education campaign for likely service providers regarding the establishment of the Scheme, there continue to be situations where non-specialised providers are not aware of the LTCS Scheme, the request and approval procedures and processes: The GMCT stated that these issues are of particular concern in rural or cross-border locations and suggest that further education and public awareness forums be conducted by LTCSA across NSW to target these locations and that print material about LTCS is made available at strategic locations, such as patient information stands.

I agree with the other committee members that general public awareness of the scheme will increase people's understanding of the scheme, enabling earlier identification of potential participants and an increase in the receptiveness to the scheme by the community. A final key issue brought to the fore throughout the inquiry was that lump sum compensation awarded to accident victims has been treated as capital by the Family Court in divorce settlements. The Bar Association indicated in its submission that the Family Court would determine each matter on the facts of the individual case, and that legislative changes to create a blanket ban on such awards being taken into account by the Family Court may not have the desired impact.

However, as indicated in the committee's report, "the issue of awarded damages being used in legal settlements may have an impact on a person's ability to buy into the LTCS Scheme". The committee did not want to have a situation where a participant had sufficient funds to buy into the scheme but those funds were eroded as a result of a Family Court settlement some years later and the participant was then not able to buy into the scheme. Accordingly, I support the committee's request that the Minister for Finance refer this issue to the New South Wales Attorney General for examination. I commend the report to the House.

**The Hon. CHRISTINE ROBERTSON** [4.57 p.m.], in reply: I thank the Hon. David Clarke and the Hon. John Ajaka for their contributions to the debate. They have dealt with many of the aspects I wanted to

address in reply, which is great. The input from a range of stakeholders, including legal representatives, medical and rehabilitation staff, allied health professionals, disability groups, and participants and their carers, has been very valuable for the review. In addition, representatives of the authority and advisory council gave us extensive information on the scheme. On behalf of the committee I express our gratitude to all stakeholders for their significant contributions. I also express my thanks to the committee secretariat—Rachel Callinan, Rebecca Main and Christine Nguyen—for their excellent work on this inquiry. I commend the report to the House.

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

## **COMMITTEE ON CHILDREN AND YOUNG PEOPLE**

### **Report: Children and Young People aged 9-14 years in NSW: The Missing Middle**

**Debate resumed from 3 September 2009.**

**The Hon. KAYEE GRIFFIN** [4.58 p.m.]: It is with great pleasure that I speak to this important report of the Committee on Children and Young People entitled "Children and Young People aged 9-14 years in NSW: The Missing Middle". It is a substantial report—consisting of some 353 pages in two volumes, and containing 59 recommendations. I would suggest that it is also a timely reminder of the continuing relevance of the role parliamentary committees have in providing and promoting a forum for public debate, which in turn can lead to more informed government administration and policy making. Although the committee's primary responsibility is to monitor and review the work of the Commission for Children and Young People and report its findings and recommendations to Parliament, the committee has a broader responsibility to examine trends and changes in services and issues affecting children and young people, and to make recommendations as to the need for changes to the functions and procedures of the commission, under section 28(1)(d) of the Commission for Children and Young People Act 1998. It was under this section that the committee self-referred the inquiry in February 2008.

The committee deliberately set broad terms of reference for the inquiry with the aim of creating as accurate a picture as possible of the needs of children and young people aged from about 9 to 14 years of age. The committee was to have particular regard to the extent to which the needs of children and young people in the middle years vary according to age, gender and level of disadvantage; the activities, services and support that provide opportunities for children and young people in the middle years to develop resilience—the ability to bounce back from adversity; the extent to which changing workplace practices have impacted on children and young people in the middle years, including possible changes to workplace practices which have the potential to benefit children and young people in the middle years; and any other matter which the committee considered relevant to the inquiry. The committee was impressed with the quality of the 110 submissions received, which confirmed its view that the inquiry was one of real relevance to children and young people, parents, carers and teachers, and the community as a whole.

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

## **ADJOURNMENT**

**The Hon. TONY KELLY** (Minister for Planning, Minister for Infrastructure, and Minister for Lands) [5.02 p.m.]: I move:

That this House do now adjourn.

## **HEATHCOTE TRAFFIC ARRANGEMENTS**

**The Hon. JOHN AJAKA** [5.02 p.m.]: The Labor Government plans to introduce a peak-period clearway on the Princes Highway between Jennings and Heathcote roads seemingly in order to reduce congestion of traffic in-bound to Sydney. Having corresponded with a number of local residents, it is obvious to me that the proposal not only shows a complete lack of concern for local enterprise but also has left the residents of Heathcote troubled and disenchanted. Given the failure of this incompetent Labor Government to adequately investigate the matter and consult local shop owners and residents, it is not hard to understand why.

Under the current proposal the clearway would be in place during three peak periods: 6.00 a.m. to 10.00 a.m. Monday to Friday on the northbound kerbside lane; 3.00 p.m. to 7.00 p.m. Monday to Friday on the

southbound kerbside lane; and, 4.00 p.m. to 9.00 p.m. northbound on Sundays and public holidays from October to April. Heathcote shopkeepers and business owners have stringently voiced their concern that having a northbound kerbside clearway along the highway will have a particularly devastating effect on the trading of local businesses along this stretch.

Pointing to a fact that was originally brought to their attention by the Roads and Traffic Authority, residents have stated that 50 per cent of the trading of Heathcote shops along the Princes Highway, with the exception of the IGA store, occurs between 6.00 a.m. and 10.00 a.m. Suffice to say the ill-thought plan to have a northbound clearway at precisely those times will, to quote one Heathcote constituent, be the "death knell" of these shops. From a resident and customer perspective the proposed peak-period clearways will also make it extremely difficult for elderly and less mobile customers to access shops on both sides of the highway. Furthermore, residents also maintain that the clearway in the southbound kerbside lane is unnecessary, given the lack of congestion and traffic hold-up even during peak periods. The residents also contend that the northbound clearway on Sundays and public holidays should be extended beyond October to April to include every Sunday and public holiday because of excessive traffic congestion.

Correspondence with Heathcote locals, community consultation and a visit by the Leader of the Opposition to the Princes Highway stretch in question, have demonstrated that the logic behind the proposed clearway is questionable at best. This proposal demonstrates another complete failure by the Labor Government to engage in any kind of community consultation and investigation. Members of the Coalition, however, have spoken to the local small business owners affected by the proposal. From that consultation we have been told that when a business owner spoke to the member for Heathcote, Mr Paul McLeay, on alternatives to a clearway such as a pedestrian bridge or underpass he did not seem at all interested. Another small business owner told us of spending a six-figure amount to set up a cafe in the row of shops but due to the uncertainty that the clearway proposal has created that owner is unable to open it.

Traffic management changes can have devastating effects on small business. Business owners told us that when the divider fence was installed across from the shops on the Princes Highway their businesses suffered revenue drops of between 35 per cent and 40 per cent. These local business men and women said that a peak-period clearway will probably cut their revenue in half, which would be the end of their businesses. Yet again the out-of-touch State Labor Government is ignoring the local community when making a decision that will directly affect the day-to-day lives of locals. It has failed completely to talk to those affected by the changes.

Unlike the display of disinterest and disengagement by the local member for Heathcote, the Coalition is committed to fighting for the people of Heathcote. I have started a petition calling on the Government not to introduce any clearway that will affect the Heathcote shops along the Princes Highway without the proper community consultation to which Heathcote constituents are entitled. Residents are fed up with the spin of successive former Labor Premiers Carr, Iemma and Rees, and now Premier Keneally. The Government should be focusing attention on the needs of local communities such as Heathcote.

### **SEX OFFENDERS REGISTER**

**Reverend the Hon. FRED NILE** [5.07 p.m.]: I speak in relation to the Sex Offenders Register and make a plea for this register to be made available to the public. I call for the law to be changed so that members of the public, especially mothers of young children, can examine the register to see whether a sex offender lives in their street, suburb or locality. My proposed Nicole's law would make this public process possible to assist parents to gain this knowledge. I have used the name Nicole, as members would remember, to honour nine-year-old Nicole who was brutally stabbed to death by John Lewthwaite in her bedroom at night.

Earlier this week I heard a mother speaking to Ray Hadley on radio 2GB about her shock when she learnt her 10-year-old daughter had been molested and photographed by a man whilst staying at the house of a friend. The woman and her two daughters, aged 4 years and 10 years old, had been invited by her female friend to visit her home and stay overnight. The woman happily accepted the invitation and went to the house not knowing that the male partner in that home was on the Sex Offenders Register for a previous assault of a child. Her female friend may possibly not have known that her partner was on that register. That case proves my point that the mother should have had the ability to check the register to see who the sex offenders were in her locality. If she had seen the name and address of this particular man she would never have visited the home with her two children to stay the night. It may even be revealed that it was the suggestion of the male to have his female partner invite this woman and her children to their home.

I am also concerned about the very low sentences being given in recent times by judges to individuals convicted of sex offences against children, that is, paedophiles. I believe it is a disgrace that sometimes the sentences are as little as two years imprisonment. It has been stated widely in the community that a number of our judges are out of touch with the anger felt by the community when individuals sexually abuse, and sometimes physically abuse, children. I believe judges should pay more regard to community feeling and impose maximum rather than minimum sentences.

Recent events have brought the situation to our attention even more. In a very tragic case, Trinity Lee Bates, aged eight, was abducted from her Bundaberg home last Sunday night. Her body was found rammed into a channel pipe near her house. Her parents awoke Monday morning to find that their daughter had been taken from her bedroom. The police have taken a person into custody in relation to that offence. I do not know whether that individual is on the sex offender register. In a case at Whalan in New South Wales another eight-year-old girl was kidnapped from her bedroom and sexually assaulted. In a third case a six-year-old was abducted outside her home in Wagga Wagga. New South Wales is facing a very serious situation. A number of young girls are being sexually molested and we must tighten up penalties and allow public access to the sex offender register.

### **MURRUMBIDGEE IRRIGATION AND RETIREMENT OF DICK THOMPSON**

**The Hon. TONY CATANZARITI** [5.12 p.m.]: I acknowledge the achievements of the recently retired Chairman of Murrumbidgee Irrigation, Mr Dick Thompson. Dick cannot be praised enough for his contributions to the Murrumbidgee Irrigation Area. I have had the pleasure of knowing Dick for some 20 years and had the good fortune to work closely with him. Indeed, serving on the Murrumbidgee Irrigation Board under Dick's stewardship taught me invaluable lessons on the importance of good governance, forward planning and people management that will hold me in good stead for years to come. His knowledge of irrigation and agricultural issues is enormous. The well-known refrain of "What Dick doesn't know about irrigation isn't worth knowing" is heard sweetly and sincerely from his colleagues on the land to Ministers of the Crown.

Dick's ability to maintain effective dialogue and negotiate with all those involved in irrigation is exceptional. He has worked with governments of all persuasions to get positive outcomes for the area. With his wife, Jan, Dick has been farming since 1972. From 1986 to 1997 he was a central executive member and chair of the Economic Committee of the Rice Growers Association. From 1989 to 1997 he was a member of Advisory Board Section 17, which advised the Minister on the operation of the Murrumbidgee Irrigation Area. In typical fashion, he resigned these posts to avoid any conflict of interest to take on his most challenging role: chair of the Water Resources Commission Murrumbidgee. During his tenure the commission has gone from a State-owned corporation to the largest privately owned irrigation business in Australia, Murrumbidgee Irrigation Ltd.

Murrumbidgee Irrigation is responsible to 1,600 shareholders, who are also customers owning 3,200 land holdings, and employs 180 staff. The business now has an annual turnover between \$35 million and \$40 million. It controls \$500 million of infrastructure assets that service \$2.5 billion in water entitlements and about 4,000 kilometres of irrigation channels. It services the Murrumbidgee Irrigation Area well and is one of the most diverse and productive areas in Australia. It contributes over \$2.5 billion annually to the national economy. Throughout his tenure Dick also has been at the forefront in meeting the challenges that face all of us through the effects of drought, climate change and continued pressures that affect the Murray Basin and Murray-Darling system.

Time does not permit me to list everything Dick has achieved. However, some of his greatest achievements include negotiating the move from a State-owned corporation and dealing with the issues of the local community, irrigators, unions and the Government in this historic change; negotiating the Murrumbidgee water sharing plan; championing the Barren Box storage and water project; and negotiating Snowy Hydro deals on behalf of our irrigators. Since 2000 Dick has been a member of the Murrumbidgee Management Catchment Authority. In 2008 he was appointed by Senator Penny Wong as a member of the Murray-Darling Basin Water Purchase Stakeholder Committee. He also found the time to serve as a member of the Murrumbidgee River Committee and the New South Wales Irrigators Council.

Dick has always been innovative. It was he who had the vision to pipe the whole of the Murrumbidgee Irrigation horticultural area. His vision for high-tech irrigation, which has commenced, will become a reality in the near future. These actions will mean that a substantial amount of water, our most precious resource, will be saved from evaporation in the earth channels. Actions like these are essential to the food bowl of this State. In addition to running the farm and all the activities I have mentioned, Dick has been greatly involved in the



community—his involvement extending to terms as president of the Hanwood Parents and Citizens Association and Hanwood Cricket Club and board member of the Griffith Golf Club, as he is a keen golfer. Given that Dick has retired as chairman of Murrumbidgee Irrigation after 13 years, it is important for us to recognise his achievements. He is not one who seeks the spotlight. He will be sorely missed. I am sure that all members would agree that Dick's service to the community serves as a beacon for us to emulate and celebrate.

### GOVERNOR LACHLAN MACQUARIE BICENTENARY

**Reverend the Hon. Dr GORDON MOYES** [5.16 p.m.]: This month marks the 200th anniversary of the swearing-in of Lachlan Macquarie as the fifth Governor of the colony of New South Wales. He served in that capacity from 1810 to 1821. Governor Macquarie was born in 1762 to a tenant farming family on a tiny island off the coast of Scotland, where eventually he was buried. At 14 he left his family to join the Army. He served in North America during the American War of Independence, and then served in Jamaica, India and Egypt before coming to the colony of New South Wales. When he arrived in the colony he was given absolute authority, as had his predecessors. His instructions were to:

Improve the Morals of the Colonists, to encourage marriage, to provide for Education, to prohibit the Use of Spirituous Liquors, to increase the Agriculture and Stock, so as to ensure the Certainty of a full supply to the Inhabitants under all Circumstances.

Governor Macquarie methodically divided Sydney into five districts, each overseen by a dedicated constable, and named most of the Sydney streets. He utilised convict labour to build roads, bridges, wharves, harbours and many other public works. He also had the convicts at work in the foundries, sawpits, limekilns, quarries, brickworks and shipyards, all contributing to his cherished vision of a prosperous, industrious and orderly state of affairs in the colony. Macquarie instituted effective social reforms by encouraging marriage and limiting alcohol in an attempt to control rampant public drunkenness. During his time in office church attendance and marriages both increased greatly. He established the Bank of New South Wales and a convicts' savings bank to encourage thrift and self-reliance. He was interested in the indigenous people and promoted the education of Aboriginal children. He set up an educational institution for them. He opened up the colony to exploration and settlement, founding the first inland town at Bathurst.

His supporters were many, but his critics were more powerful. The free settlers did not like his equal and fair treatment of freed convicts, whose talents he used extensively. At a time when 9 out of 10 residents were convicts, ex-convicts or the children of convicts, his treatment of people was unusually humanitarian. During his years in office he granted many thousands of pardons, conditional pardons and tickets of leave. He rewarded merit and punished vice without regard to rank or status. He was a reformer at every level. Amongst his many achievements he introduced the first coinage, the first horse races and the first botanic gardens and instituted agricultural fairs. He was the first Governor to give official recognition to Australia Day in 1818 and decreed it a public holiday. Under Governor Macquarie the colonists acquired their first places of worship, courthouses, independent newspapers and reliable roads. He promoted cultural and civil amenities and even appointed the first Poet Laureate. Governor Macquarie was deeply concerned about the needy in society. He set up a fund to assist people in need and established the first mental health institute.

In 1819 Commissioner Bigge was sent by the British Government to investigate complaints against Governor Macquarie. Unfortunately, Commissioner Bigge sided with the critics. Bigge could not recognise the value of all that Macquarie had accomplished and wrote a report condemning him. In response to the Bigge report, Governor Macquarie tendered his resignation in 1817, although it was not accepted until 1821. Thousands of people came to his farewell celebrations, thankful that he had turned their grubby convict colony into the basic foundations of an infant nation. He left behind him grateful people, but he returned to Britain broken-hearted, believing he had failed. He died soon after.

Some years ago, in the 1990s, my successor as president of the Rotary Club of Sydney, Mike Hodgetts, received a message from the club at Oban in Scotland, where Macquarie was buried, saying that his mausoleum was in bad repair. With Mike's help we raised funds, enlisted sponsorship from Macquarie Bank and sent a group of people from Sydney to the Isle of Mull to renovate the mausoleum, which is visited by thousands of people each year. The tomb describes Macquarie as "The Father of Australia". I believe that he should have been knighted for his service to this colony on his return to Britain, but the powerful friends of Commissioner Bigge prevented it.

Today we know that Governor Macquarie did not fail. We honour this man, 200 years later, for setting New South Wales on the path to greater things. It is 55 years since I first read the biography of Lachlan Macquarie and wrote my first assignment. He has grown in my estimation ever since.

## RIVER RED GUM LOGGING

**The Hon. CATHERINE CUSACK** [5.21 p.m.]: Our Premier, Kristina Keneally, spent the morning giving her analysis of today's news poll results that show Labor continues to languish with a primary vote of 30 per cent. The Premier said:

We are about rebuilding trust with the community and that is what we're focused on ... All I expect is that the people of NSW judge us on the services we deliver and the decisions that we make.

Meanwhile, outside the Parliament several thousand demonstrators closed Macquarie Street to protest against Premier Keneally's policies that are destroying their trust. Their banners read, "Red gum timber workers an endangered species", "How mad do I have to get?", "Premier do not be responsible for the death of red gum timber communities", "No flaming red gum national parks", "Red gum timber industries part of the solution not the problem".

I was not surprised by the passion and anger of today's demonstration. On 27 and 28 January I attended the Natural Resource Commission red gum community consultations at Deniliquin, Barham, Mathoura and Balranald. More than 1,000 citizens attended the forums to hear the findings and recommendations of the commission's assessment of red gum forests. What I found was a fear and loathing of National Parks that shocked me and ought to disturb every member of this place. No government department should fall into such disrepute with any community, much less a community it is about to engage with in a way that so profoundly transforms its economy and social structures.

At the heart of the problem is Yanga National Park. Having visited the park I believe it is playing a valuable role in restoring wetlands and habitat for endangered species, but the costs to the local community have been horrendous and were, in my view, avoidable. The Government has reneged on numerous promises and makes inane and stupid claims about jobs and tourism that are an insult to the intelligence of the local community and have heaped more fuel on the raging anger that I encountered at every stop and with every person I spoke to in the region.

The relationship with National Parks in the community is a disgrace and no genuine effort is underway to mitigate the problems, let alone repair its standing, as most Yanga staff are located in an office in Hay, 130 kilometres away from the park. Four years after taking possession of the park there is still no park sign on the highway, the promotional material is abysmal and there are dead and dying trees all over the place, which are not being cleaned up because it is not a priority in the park's budget. I suggested that the local firewood industry in Balranald could pick it up for free but was told that that could not be done in a national park because "it is not an ecological purpose". Is this the response of a government that is trying to get on with its local community?

I encountered communities in deep distress, particularly at Mathoura where the whole town feels doomed by the pending declaration of a national park. I was deeply moved by the dignity and restraint of participants. Men with shaved heads, long beards and wearing blue singlets, who have never spoken in public, stood in turn to read out their pre-prepared questions, which were intelligent and pithy, but too often not given a straight response by the commission.

The natural flooding regime of the Murrumbidgee and Murray rivers sees red gum seeds dispersed across a floodplain. Numerous saplings spring up after a flood. A select few are strong and grow quickly. The next time there is a flood the weak seedlings are destroyed and only the strong survive. On top of that, pre-European settlement local Aboriginal tribes cleaned the forest with fire. That is why the natural red gum forest is open woodland. The loss of both the Aboriginal fire regime and the natural flooding regime means that the weaker saplings are not being cleaned from the forest and the bush is thickening.

Our model of national parks in New South Wales is ill suited to the management needs of the red gum forests, which are very different from the management needs of rainforests. The commission is very clear in its findings on that point. Currently, a big problem is that we have too many trees, all doing poorly. Our national parks model will worsen the problem. The model is too centralised and too inflexible to meet the conservation needs of our red gum forests. I have not spoken of the community needs. My Nationals colleagues have spoken often on that issue and, to be honest, I thought they were exaggerating. But their claims are not exaggerated. There has been no justice in the community consultation process. The community's knowledge, care and love of the forests are beyond doubt and must be respected. I do not blame the commission for this debacle; I blame the Labor Government.

The Commissioner for Natural Resources, Dr John Williams, is a man I respect—a Wentworth scientist whose integrity and intellect are beyond reproach. He is imploring the local community to negotiate outcomes with the Government and to negotiate while the cement is wet. But the community is saying, "The cement never dries". They have no confidence in the process or any promises made by the Government. It is not cynicism based on isolation, although they feel isolated; it is cynicism based on bitter experience, especially at Yanga. Who can blame them? So when Premier Keneally says she is rebuilding trust in the community I feel utterly incredulous. How can she be so out of touch with what is going on? This Labor Government continues to function in a parallel universe to that in which the rest of us function.

### **FIRE BRIGADES MISCONDUCT ALLEGATIONS**

**The Hon. KAYEE GRIFFIN** [5.26 p.m.]: This afternoon I want to address statements made in this place last night by the Hon. Melinda Pavey. The member spoke of serious allegations of bullying and harassment within the NSW Fire Brigades. Serious allegations have indeed been raised about the historical workplace culture of the brigades. The fact that these allegations date back over many years does not lessen their impact. The Hon. Melinda Pavey stated that she has been investigating these allegations for a number of months. I am unsure whether she thinks she is the Independent Commission Against Corruption or the New South Wales Police Force, but she is coming across as more of an Inspector Clouseau.

The honourable member appears to be bumbling her way around the NSW Fire Brigades, ringing officers, both serving and retired, and attempting to persuade them to help her with her "investigations". Regardless of how old these allegations are, it is important that alleged victims get justice, and that is why this Government and Commissioner Mullins have always acted appropriately and referred all allegations to the New South Wales Police Force or to the Independent Commission Against Corruption. I urge anyone with information to come forward. We will continue to report this information to the police.

It is important that all members are aware that there is no evidence at this stage that this type of alleged activity is an ongoing issue. In modern fire brigades this kind of behaviour will absolutely not be tolerated. It is disappointing that the Hon. Melinda Pavey accused the Minister for Emergency Services and two former Ministers for Emergency Services—Minister Kelly and Minister Rees—of a cover-up. Many of these allegations occurred when the Coalition was last in government, and what did it do? Nothing.

I am advised that Commissioner Mullins is fully committed to protecting people from improper conduct, to driving reform and to working hard on a range of measures. Measures introduced by the commissioner include a new code of conduct for all employees, a comprehensive review of workplace conduct by external experts, a new complaints handling system and a new workplace conduct training program for all staff. Mr Mullins has been very proactive as commissioner in changing negative aspects of the culture of the fire brigades to ensure that people are safe at work. Men and women of the NSW Fire Brigades should know that they can come forward and have all their concerns listened to and actioned. This alleged behaviour is reprehensible. However, it is very important for the men and women of the NSW Fire Brigades today that they are not all tainted by these allegations and that their work in protecting people and property in New South Wales continues to be recognised and valued by the community.

### **MAITLAND ELECTORATE LIBERAL CANDIDATE PRESELECTION**

**The Hon. ROBYN PARKER** [5.29 p.m.]: I draw the attention of the House to interesting events that have occurred in the Liberal Party in the past few weeks. I particularly refer to the electorate of Maitland, where I live and have lived for the past 10 years. Of course, the electorate is close to my heart and I was delighted on Sunday to be endorsed as the Liberal candidate for Maitland. Preselections create a great deal of interest in the media and the community. That is appropriate because they are the process whereby political parties select their representatives to stand for election to this Parliament. However, sometimes the media gets it wrong—and in the case of the Liberal Party, it often gets it wrong. The Liberal Party preselection process is very democratic. We do not have quotas for women; we present ourselves on our merits. Some terrific people stand for preselection, but they do not always win. However, we still work together as a team before and after the process.

The Maitland electorate preselection process was, by and large, an enjoyable experience because I was able to meet and talk to many people at length rather than simply have a casual conversation at a function, booth and the like. Some wonderful people stood for preselection, as is their democratic right. I put on the record my admiration for Councillor Bob Geoghegan, who has stood twice for preselection and who continues in his role

on the Maitland City Council; Councillor Brad Luke, a new councillor who has businesses in Maitland and who represents the Liberal Party well in Newcastle; and Councillor Stephen Mudd, who is a new councillor and who makes an enormous contribution in the field of agriculture across the Maitland region.

Councillor Mudd and I spent the entire weekend at the Maitland Mercury Hunter River Super Show and I was delighted by the reception that the Liberal Party received at that event. I was pleased to stand for preselection with these fine people. We will work as a team—there is no "I" in "team". We are not in politics for ourselves; we are in it for the team, for what we believe in and for what the Liberal Party represents. I am very proud of that. Many people approached us and told us that they were delighted to see us and spoke about the failures of the State Labor Government. They expressed extreme concern and surprise that the member for Maitland, Frank Terenzini, has given a year's notice—that is, in effect, a year's notice of no confidence in the State Labor Government.

**The Hon. Greg Donnelly:** Point of order: The member cannot help herself. I draw her attention to Standing Order 91 (3), which deals with making imputations against a member of this House or another House, which is precisely what she is doing.

**The PRESIDENT:** Order! While the member may care to bring that matter to the Hon. Robyn Parker's attention, I note that the time for the debate has expired.

*[Time for debate expired.]*

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

**Motion agreed to.**

**The House adjourned at 5.32 p.m. until Thursday 25 February 2010 at 11.00 a.m.**

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