

# LEGISLATIVE COUNCIL

Thursday 11 November 2010

---

**The President (The Hon. Amanda Ruth Fazio)** took the chair at 10.57 a.m.

**The President** read the Prayers.

## REMEMBRANCE DAY

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

**The PRESIDENT:** I thank all honourable members for observing Remembrance Day by standing in their places to remember those who made the supreme sacrifice for their country.

## STANDING COMMITTEE ON LAW AND JUSTICE

### **Report: Review of the exercise of the Functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council—Third Report.**

**The Hon. Christine Robertson**, as Chair, tabled report No. 45, entitled "Review of the Exercise of the Functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council—Third Report," dated November 2010, together with tabled documents, submissions, correspondence and answers to questions taken on notice.

**Report ordered to be printed on motion by the Hon. Christine Robertson.**

**The Hon. CHRISTINE ROBERTSON** [11.01 a.m.]: I move:

That the House take note of the report.

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

## GUARDIANSHIP TRIBUNAL

### **Report**

**The Hon. Tony Kelly** tabled, pursuant to the Guardianship Act 1987, the annual report of the Guardianship Tribunal for the year ended 30 June 2010.

**Ordered to be printed on motion by the Hon. Tony Kelly.**

## STANDING COMMITTEE ON SOCIAL ISSUES

### **Report: Inquiry into Services Provided or Funded by the Department of Ageing, Disability and Home Care**

**The Hon. Ian West**, as Chair, tabled report No. 44, entitled "Inquiry into Services Provided or Funded by the Department of Ageing, Disability and Home Care," dated November 2010, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice.

**Report ordered to be printed on motion by the Hon. Ian West.**

**The Hon. IAN WEST** [11.02 a.m.]: I move:

That the House take note of the report.

I am pleased to commence debate on the motion that this House take note of the report of the Standing Committee on Social Issues entitled, "Inquiry into services provided or funded by the Department of Ageing, Disability and Home Care". With the imminent announcement of Stronger Together II there is a unique opportunity for positive change to be embedded in the New South Wales disability services system. Following the many achievements of the first phase of Stronger Together, there is anticipation of what the second phase will bring. This inquiry reminded us of the importance of disability services being planned and delivered in a way that enables people to live with maximum choice, flexibility and control over their lives. This cannot be underestimated. It is a goal that all disability services should strive to achieve as the priorities of Stronger Together II are announced and implemented.

Throughout the inquiry we were also reminded of the enormous responsibility of, and important role played by, Ageing, Disability and Home Care in the coordination, planning, service delivery, regulation and funding of disability services. The services funded and provided by Ageing, Disability and Home Care touch the lives of many people, both directly and indirectly, and effective planning is essential in ensuring that the system develops in a way that best serves the needs of the people. It is essential that the disability service system recognises and supports the contribution of the numerous unpaid carers on which the system depends. The disability service system would not function without the 750,000 unpaid carers, so it is vital that a process is established to prevent carers from having to experience a crisis before receiving support.

While the move towards a person-centred approach to service provision is unarguably supported by the committee and inquiry participants, many people still do not receive essential planning, services, support and a basic quality of care they both need and deserve. We heard from many service users and carers for whom, unfortunately, the current service system creates unnecessary challenges rather than helps to ease the unimaginable burden many of them face on a daily basis. I hope that the recommendations we have made can help to improve the support provided to the service users and carers. I sincerely hope it can improve the rate of compliance with the New South Wales disability service standards and prevent the many heartbreaking experiences we have observed from occurring in the future.

One of the key recommendations that has resulted from this inquiry relates to the establishment of an independent agency to monitor the compliance of disability services with the New South Wales disability service standards, the Disability Services Act and the United Nations Convention on the Rights of People with Disabilities. The need for this independent agency was initially identified in 1998 by the New South Wales Law Reform Commission, and its relevance remains strong, if not stronger, today. This agency would reduce the potential for conflict of interest to occur in the numerous responsibilities of Ageing, Disability and Home Care through monitoring quality and compliance, handling complaints and managing third party accreditation of disability service providers.

On behalf of the committee I thank all the participants for contributing their valuable time and knowledge during the inquiry. In particular, I thank the inspiring service users and carers who shared their often difficult experiences with the committee at the public forum. I take this opportunity to thank the committee secretariat—Rachel Simpson, Emily Nagle, Kate Mihaljek and Lynn Race—for their efforts in managing the inquiry process and preparing this comprehensive report in such a tight time frame. I also thank my fellow committee members for their commitment and compassion in examining the diverse and often complex issues presented to us. The report is supported unanimously by the committee and, if implemented, has the potential to improve the lives of many people.

I conclude by emphasising the importance of ensuring that all disability services comply with the New South Wales disability service standards and that they are planned and delivered in a person-centred way with the appropriate funding. I commend the report, the last report of the current Parliament for the Standing Committee on Social Issues, to the House.

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

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

### **Report: Children, Young People and the Built Environment—Follow-up Inquiry**

**The Hon. Kayee Griffin**, on behalf of the Chair tabled report No. 8/54, entitled "Children, Young People and the Built Environment—Follow-up Inquiry," dated November 2010.

**Ordered to be printed on motion by the Hon. Kayee Griffin.**

**The Hon. KAYEE GRIFFIN** [11.08 a.m.]: I move:

That the House take note of the report.

The original inquiry into Children and Young People and the Built Environment was held in the last Parliament and the oversight committee felt it was important to consider the follow-up issues with respect to children in the built environment and how the disciplines involved in supporting children and young people fit in with the appropriateness of our environment. One of the report's most important recommendations was to establish an interagency steering committee on children and young people and the built environment.

The report recommended that the role of the steering committee would be to consider and promote key projects and initiatives. The membership of the steering committee should comprise representatives of the following agencies: the Department of Local Government, the Local Government and Shires Associations, the Department of Community Services, the Department of Planning, the National Children's and Youth Law Centre, the Australian Institute of Architects, the Planning Institute of Australia, the Property Council of Australia, the New South Wales Centre for Overweight and Obesity, the Disability Council of New South Wales, the Community Relations Commission, the Department of Aboriginal Affairs, relevant tertiary institutions offering built environment courses, including but not limited to the University of New South Wales, the University of Sydney and the University of Technology, Sydney, and a youth representative from the New South Wales Youth Advisory Council or the Commission for Children and Young People's reference group.

The Commission for Children and Young People is to chair the proposed steering committee and is to be responsible for reporting on the committee's activities through current reporting mechanisms. The original report found that further steps were necessary on how to progress the recommendations of the original report and to ensure there is ownership through the Commission for Children and Young People. It is important to recognise that because of the involvement of so many disciplines, government agencies and private companies, there is no single catch-all solution. That was apparent during roundtable discussions. I recommend that members read this significant report because both the report and the steering committee will be important tools to determine appropriate ways to involve children and young people in the built environment in the future.

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

## **PETITIONS**

### **Byrrill Creek Dam Proposal**

Petition praying that the House ensure that any dam within Byrrill Creek is prohibited in the forthcoming Tweed River Area Unregulated and Alluvial Water Sharing Plan 2010, received from the **Hon. Ian Cohen**.

### **North-Western New South Wales Health and Emergency Services**

Petition calling on the Minister for Health and managerial staff of the Greater Western Area Health Service to secure the future of the area's 24-hour emergency service and to reinstate the ambulance service as soon as possible, received from the **Hon. Duncan Gay**.

### **Religious Education and School Ethics Classes**

Petition opposing the newly proposed secular humanist ethics course in public schools and calling on the Government to support the cancellation of the ethics course and express its support for scripture classes, received from the **Hon. Don Harwin**.

### **Euthanasia**

Petition praying that the House will oppose any attempts to legalise or decriminalise the practice of euthanasia to ensure that the quality of life of the elderly, handicapped or terminally ill is not subject to these unjust or unethical procedures, received from the **Hon. Trevor Khan**.

### **Marine Parks, Sanctuaries and Habitat Protection Zones**

Petition requesting a moratorium on the creation of all new proposed marine parks, sanctuaries and habitat protection zones and rejecting extensions to existing parks, sanctuaries and zones that further restrict fishing activities and removal of the National Parks Association report "The Torn Blue Fringe" for consideration by the Parliament, received from the **Hon. Duncan Gay**.

### **Coogee Bay Hotel Site**

Petition opposing any redevelopment of the site bounded by Coogee Bay Road and Arden and Vicar streets under part 3A of the Environmental Planning and Assessment Act 1979, received from the **Hon. Don Harwin**.

## **BUSINESS OF THE HOUSE**

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

#### **Motion by Mr David Shoebridge agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 229 outside the Order of Precedence, relating to the Dust Diseases Tribunal Amendment (Damages—Deceased's Dependents) Bill 2010, be called on forthwith.

#### **Order of Business**

#### **Motion by Mr David Shoebridge agreed to:**

That Private Members' Business item No. 229 outside the Order of Precedence be called on forthwith.

### **DUST DISEASES TRIBUNAL AMENDMENT (DAMAGES—DECEASED'S DEPENDANTS) BILL 2010**

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

#### **Second Reading**

**Mr DAVID SHOEBRIDGE** [11.27 a.m.]: I move:

That this bill be now read a second time.

First, I thank honourable members for agreeing to the second reading of this bill today. Every year more than 700 people are diagnosed with mesothelioma, which is a cancer caused by exposure to asbestos. It only one fibre to put you at risk. Victims can be as young as 20 or as old as 90. Victims and families are given little time to get their affairs in order. The average time from diagnosis to death is just five months. Some people get only three weeks. Others are misdiagnosed and therefore can have even less time, or the family discovers the true reason for their loved one's death only after they have died.

The period from diagnosis to death is an enormously emotional and traumatic time for families. There have been many changes in the past decades to have the law adapt to these realities. The Dust Diseases Tribunal has adapted its procedures to deal with the medical realities facing litigants, limitations provisions have been relaxed, and technicalities as to the time of commencement of proceedings have been removed. Many of these improvements, it must be acknowledged, have come during the term of this Government. All these developments are positive. However, one significant problem remains, and this bill aims to address it.

The purpose of the bill is to prevent the situation that arose in *Bi (Contracting) Pty Ltd v Eileen Sylvia Strikwerda and Anor*, a 2005 case in the New South Wales Court of Appeal. In that case, the widow's damages in proceedings in the Dust Diseases Tribunal were reduced by more than \$80,000 by reason of the fact that as a widow she would receive a financial benefit in the form of a distribution from the estate that included the general damages her husband received for the painful and early death he suffered from asbestosis. Strikwerda adopted the principle in *Public Trustee v Zoanetti*, a 1945 High Court case. In that case His Honour Justice Dixon said, in part:

In jurisdictions where the survival of causes of action for civil wrongs has been provided for by statute ... the damages recoverable by the legal personal representative of the deceased go to swell the estate in which the widow or other relative may share, whether under his will or on intestacy. It will, therefore, operate to increase the interest which, in the absence of any legislative direction to the contrary, must be taken into account by way of reduction of the pecuniary loss otherwise resulting to the widow of the deceased or his relative.

The Greens, and I believe all members in this place, consider it unfair to allow a defendant to reduce the damages payable to dependants by reason of the painful and preventable death the defendant occasioned to the deceased. It is a stark injustice to allow an asbestos manufacturer such as James Hardie to obtain a discount in the damages it must pay to a dependant, normally a widow, by reason of the fact that it has been ordered to pay general damages to the deceased, normally the widow's husband, for causing him a painful and untimely death by reason of their known negligence. Imagine a widow having a lawyer explain to her that the company that killed her husband was going to argue successfully before the courts that, because it had paid some money to compensate her for the painful and untimely death of her husband, it would use that fact to argue the widow had received an economic benefit from her husband's death. It only has to be stated to realise how offensive that is in practice.

The bill has the support of Asbestos Diseases Foundation of Australia and the Australian Manufacturing Workers Union, which has been a strong advocate for those suffering from the effects of asbestos. The bill also has the support of many victims of dust diseases and their families in this State. I know that many widows and others who are currently the subject of this potentially unfair practice have personally contacted many members in this place. The Greens understand that if the bill is successful it will apply only to a handful of claims in any given year and, while having a significant impact on the lives of those people, it will not have a significant impact on the compensation scheme overall or on the James Hardie fund. The bill mirrors similar legislation that was introduced recently in Western Australia, South Australia and Victoria.

The Greens also understand that last week the Attorney General referred the issue raised in the Strickwerda case to the Law Reform Commission. That referral, as I read it, applies more broadly than just to dust diseases claims. We do not object to the referral. However, given that this is a straightforward amendment that has already been applied in multiple jurisdictions in relation to dust diseases claims, the referral and the review do not represent a rational basis for delaying passage of the bill. The Government has raised concerns that the passing of this bill may conflict with the funding agreement entered into between New South Wales and James Hardie in 2005. There are two immediate answers to this concern. First, this has not prevented the very same law reform being introduced in other State jurisdictions since 2005. Secondly, if it is true that the funding agreement does contain such a defect, it should not be at the expense of this class of vulnerable dependants. I turn now to the specific provisions in the bill. The bill will insert new section 12E into the Dust Diseases Tribunal Act. The key provision in new section 12E is subsection (2), which provides:

- (2) The amount of damages to be awarded for pecuniary loss in proceedings to which this section applies is not to be reduced so as to take into account the amount of general damages that has been paid or is payable in relation to the deceased person's claim.

That key provision will remove the injustice that has been identified arising from the Strickwerda case. Schedule 1 [2] to the bill inserts part 7 of new section 16, which provides transitional arrangements whereby it applies new section 12E prospectively—that is, it will apply to all matters that have not been finally determined, including pending proceedings—but it will not unwind any prior determinations. I look forward to the prompt passage of this bill. It is a worthy goal for Parliament to turn this bill into law before the end of the year. That will end the uncertainty for a good many families across this State. It will also put an immediate stop to the unjust situation where a culpable defendant can obtain a discount in the damages it pays, normally to a widow, by reason of the fact that it previously paid general damages to her husband for having caused him to die a painful and suffocating death from an asbestos-related disease. I commend the bill to the House.

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

## **BUSINESS OF THE HOUSE**

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

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

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 197 outside the Order of Precedence, relating to the Library Amendment (Arrangements for Mutual Provision of Library Services) Bill 2010, be called on forthwith.

#### **Order of Business**

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

That Private Members' Business item No. 197 outside the Order of Precedence be called on forthwith.

**LIBRARY AMENDMENT (ARRANGEMENTS FOR MUTUAL PROVISION OF LIBRARY SERVICES) BILL 2010**

**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Catherine Cusack.**

**Second Reading**

**The Hon. CATHERINE CUSACK** [11.37 a.m.]: I move:

That this bill be now read a second time.

It gives me great pleasure to introduce this private member's bill to amend the Library Act 1939 to authorise local councils to enter into arrangements for the provision, control and management of libraries and library services. The need for this legislation has been debated for many years but has become urgent because one of our largest regional libraries, the Richmond-Tweed Regional Library—which has the second-largest circulation of any library in the State—is in jeopardy because its host council, Lismore City Council, is undertaking a hostile takeover using legislative defects as its excuse. By correcting alleged anomalies in the legal arrangements that underpin the State's system of regional libraries, we will safeguard the future of Richmond-Tweed Regional Library and protect all regional libraries.

The legal loopholes cited by Lismore City Council appear to rest on a conflict between the Local Government Act and the Library Act, which has seen regional libraries fall through the cracks. In simple terms, the Local Government Act governs how local councils allocate their funds. The Library Act, which governs State funding for libraries, is silent on the issue of regional libraries operating independently of host councils. This was not a problem when the Libraries Act was devised in 1939 but became a problem when the Local Government Act was modernised without providing for the cooperative arrangements under which regional libraries operate. Specifically, section 12 of the Library Act 1939 currently enables two or more local authorities to enter into an agreement under which one of the local authorities undertakes the function of providing, controlling and managing libraries and library services in the area or areas of the other local authority or authorities concerned. This section also enables local councils to enter into a similar agreement under which a local authority's library-related functions are exercised for or on behalf of that authority by another local authority, being a local council.

The object of the Library Amendment (Arrangements for Mutual Provision of Library Services) Bill 2010 is to amend the Library Act 1939 to enable two or more local authorities to enter into alternative arrangements for the provision, control and management of libraries and library services in any of their respective local government areas. Instead of agreeing that one of the local authorities undertake the function of providing, controlling and managing a particular library, local authorities will, subject to the approval of the Library Council, be able to enter into any arrangement for the provision, control and management of a library and library services in the area of any local authority that is a party to an approved arrangement. I state for the record that I would prefer not to have to take this step of developing and introducing a private member's bill. I would prefer that the Government moved to rectify the anomaly. I have gone down the track of seeking the assistance of the Minister for the Arts, Ms Virginia Judge. However, the Minister has ruled out an early move. That is why I have brought forward this private member's bill, which may yet be supported by Government members. If so, it would provide immediate relief to the crisis now facing Richmond-Tweed Regional Library.

Our regional libraries are a model of good governance and best practice and ought to be supported, not closed down. The value-add of such a system of pooled resources to local communities cannot be understated. Although Richmond-Tweed library is a poorly funded library system, it serves many disadvantaged communities. Through a system of pooled resources it has been able to operate school holiday programs to engage children in reading and to develop an outreach service with its mobile library. This enterprise would be impossible for any individual council to fund, but it is possible when local leadership is in place, resources are combined and goodwill exists between councils responsible for delivering services to their residents. This model is world's best practice in terms of good governance and service delivery. The floating book collection, which is managed by the Richmond-Tweed Regional Library, means that every resident in the four local government areas can access any book from any of the regional libraries at a modest cost. It is a truly wonderful service. It is the most trusted and valued of services in our community, and until recently has been working brilliantly in my region.

In June this year the Richmond-Tweed Regional Library Committee, comprising representatives of all four participating councils—Ballina, Byron, Lismore and Tweed—was informed by the General Manager of

Lismore City Council, Mr Paul O'Sullivan, that he had obtained a series of legal opinions that invalidated its authority, with the result that Lismore, as the host council for the administration of the library, would take over full control of the library's staff, budget, property management and allocation of resources. These actions caught many by surprise and caused considerable alarm among library users. The belief that the library system is the victim of a hostile takeover has caused an outcry in the local community. Unfortunately, the Keneally Government seems to be in denial about these problems.

I have received advice in response to questions that I put to the Minister for the Arts in Parliament. I asked, "What advice have you obtained regarding the legal status of regional libraries?" The Minister replied, "I am advised that arrangements in place for regional libraries are compliant with the Library Act 1939." I then asked, "Was it necessary for the Richmond-Tweed library system to be disbanded?" The Minister replied, "No, Richmond-Tweed Regional Library has not been disbanded." I asked, "Will you legislate to protect other regional libraries?" The Minister replied, "It is not necessary to legislate as there is no threat to regional library services."

Make no mistake—Richmond-Tweed Regional Library has been taken over. Its director, Martin Field, who was appointed through a joint selection process involving all four councils, has effectively been sacked and his position downgraded and stripped of its independence. Instead of a system of governance where reports were made to a representative committee of elected councillors from all four councils, the new library director will report to Lismore City Council's Director for Arts and Leisure. Lismore council will be solely responsible for appointing the new director. Library staff have become Lismore council employees and their pay scales have changed to Lismore council salary scales. They have undergone Lismore council staff induction program training. All library information technology systems are being physically integrated into Lismore council's IT systems and property in the Lismore local government area, including the library headquarters and book exchange facilities, is being vested in Lismore council.

It is very clear that one solution to the problem is to modernise the Library Act. The need to do so is urgent. The Government insists that it is not the fault of the Library Act. That is akin to a person dropping a glass onto concrete and arguing that the glass did not smash because it was dropped but, rather, it was the fault of the concrete. It is up to the Minister who is responsible for libraries to acknowledge and repair this problem. In the event of an O'Farrell Government being elected, I can assure the House that speedy action will be taken. I take this opportunity to acknowledge the dedication of my colleague Mr Anthony Roberts, the shadow Minister for the Arts, whom I have consulted with closely. He recently addressed the Regional Libraries Conference and has given the clearest assurances of our plan to work with libraries, not against them, to repair defective legislation and assure their future growth.

Locals in the Richmond-Tweed area are very fearful of the motives of the library takeover because Lismore council is known to be in financial trouble, having lost large sums on poor investment decisions. It spent more than \$1 million on a worm farm that does not work, and millions of dollars on flood-prone land for an industrial park that cannot proceed unless more funds are spent on land filling and raising the level to a legal height. The council built Lismore's \$19 million levee on an unstable section of riverbank at Club Lane, which has now slumped, causing large cracks in the levee and triggering a huge repair bill of \$520,000 to purchase and relocate the owners of an affected building, plus \$200,000 to repair the cracks. It invested \$7.4 million of ratepayers' funds in the United States investment bank Lehman Brothers and incurred huge losses when the bank collapsed in 2008. I am further advised that a large, purpose-built hangar at Lismore Airport next to the old Habie Habib terminal building is now sitting vacant. Lismore City Council built it for Aspect North to hold six aerial survey planes. Only one plane ever arrived.

I understand many complainants have contacted the Department of Local Government. I urge the department to respond positively to residents' requests for an inquiry. It is very clear that Lismore council is cash-strapped. I share community fears that the demise in the council's finances has coincided with the hostile takeover of such a prudently managed regional library, its 123 staff and its \$5.2 million in accumulated assets. I refer to some of the messages of concern. Jenny Coman, a former Byron councillor and member of the now disbanded library committee, wrote on behalf of the Friends of Byron Library:

... we are distressed to learn that while RTRL [Richmond-Tweed Regional Library], after operating successfully for all these years will now be taken over by the previous RTRL Executive Council, Lismore Council, and wonder whether a further model for a joint library service is available rather than a take-over by another Council, for example, the suggested County Council model or some other co-operative model....

Ms Coman also raised concerns that the Lismore administrative model would add costs of \$500,000 to operating the library and that this could be funded only at the expense of library services and hours of opening. The highly respected former library director, Martin Field, told the Byron shire *Echo*:

It's one of the top performing libraries in the state and one of the cheapest to run so any suggestion that costs can be saved, well there's not much left to cut.

Councillor Tom Talbot of Byron council said:

Lismore's doing the bully-boy approach and saying we can't do anything about it but we can, we can pull out and run our own library service.

I dearly hope that situation does not come about because all library users have so much to gain by maintaining a regional library system. Trish Gibson, a Lismore resident, wrote to the *Northern Star*:

The disbanding of the library Committee and the fact the Lismore Council has decided it no longer needs to provide yearly audited statements to the other Councils immediately sets off alarm bells.

Former Ballina councillor and library committee member Alan Rich wrote:

First a high speed, high stealth take-over of the Richmond-Tweed Regional Library system. Now ... Cr Isaac Smith—

Councillor Smith is the Deputy Mayor of Lismore and was the chair of the former library committee that has been disbanded—

is refuting that secrecy claiming the surprise staff theft had been discussed for at least two years in the library committee. Cr Smith you surprise me. You haven't even been in local government for two years ... Two years ago I was on the RTRL Committee. Many aspects of library management were dealt with during my nine years including that of Executive Council, but Lismore City Council's secretive over-reaching rip-off of RTRL management was never ever on any Committee agenda of mine.

The Lismore Community Action Network lodged a complaint with the Department of Local Government, stating:

As a result of the "sudden" takeover and the high level of confusion about the detail of the costs to each member council, there appears to be an inherent risk of eventual loss of services and extra costs to all four councils. This could ultimately be passed on to ratepayers, with an unacceptable risk to Lismore ratepayers in particular which already has unacceptably high and unaffordable rates in a low socio-economic area.

In our opinion, Lismore City Council has abused its corporate capacity, demonstrated poor management of information relating to this matter and has thus demonstrated poor governance in its role as executive council of the RTRL, and for these reasons we seek your attention to this matter.

Mr Max Boyd, the highly respected former Mayor of Tweed and long-serving chair of the library committee, travelled to Ballina as a concerned member of the public to address the last meeting of the library committee, held on 11 July. He explained the cooperative history of the library and the goodwill and investment made by council since the library was formed in 1973. He expressed his dismay that so much damage had already been caused to that goodwill and to the library, which had served our community so well, and his belief that Lismore lacked the authority to control library staff and seize assets.

The investment of our communities and the irreplaceable value of our regional library demand that we, as parliamentarians, do not stand idly by while defects in the laws that we are responsible for maintaining are used against this much-loved service. The bill seeks to overcome the use of those defects as an excuse to void the Richmond-Tweed Regional Library Agreement of 1973, which was reached between the four councils, and to safeguard all other regional libraries that operate on a cooperative basis. I urge all members to give serious consideration to supporting this bill. I commend the bill to the House.

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

## **BUSINESS OF THE HOUSE**

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

#### **Motion by Dr John Kaye agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 235 outside the Order of Precedence, relating to connections to Burma, be called on forthwith.

## Order of Business

### Motion by Dr John Kaye agreed to:

That Private Members' Business item No. 235 outside the Order of Precedence be called on forthwith.

## BURMA

**Dr JOHN KAYE** [11.52 a.m.]: I move:

1. That this House notes that:
  - (a) the military dictatorship in Burma continues to practice the widespread and systematic abuse of human rights and undermine moves towards dictatorship,
  - (b) more than 2,100 political prisoners remain in Burmese jails under appalling conditions that include regular torture and physical and sexual abuse, and
  - (c) the constitution under which the elections were held on 7 November 2010 has been widely condemned as fraudulent because it guarantees the ability of senior military officers to maintain effective control over key aspects of civilian and military affairs.
2. That this House calls on the New South Wales Government to consider applying targeted sanctions by amending its Procurement Policy to prohibit purchasing goods or services provided by businesses that conduct business with corporations that have connections to the Burmese military regime or its close associates, until democracy has been restored and human rights violations have ceased.

The history of Burma is one of complete tragedy. The thin veil of faux democracy that the recent election has supposedly drawn over the country does not disguise the fact that the Burmese are still under the heel of a fascist dictatorship. The military has been in control of Burma more or less continuously since 1962, and this election will change nothing. Since 1962 Burma has achieved the worst human rights record in the world. The Burmese military has continuously practised forced relocation and forced labour and has acted against the country's ethnic groups in a series of wars that have cost hundreds of thousands of lives. The Burmese military has now been accused of war crimes. The United Nations Special Rapporteur on Human Rights in Burma, Tomas Ojea Quintana, said in his March report that the Burmese military were guilty of what might amount to war crimes or crimes against humanity. Mr Quintana said:

There is a pattern of gross and systematic violation of human rights which has been in place for many years and still continues. There is an indication that those human rights violations are the result of state policy.

This is a regime that practises murder and rape on a regular basis and systematically uses violence to intimidate its community. This is a regime that holds 2,100 political prisoners, many of whom are regularly subjected to physical and sexual abuse, and all of whom are innocent of any crime other than exercising their human right to speak out against a regime that practises systematic intimidation and violence against its population.

The military controls all major sectors of the economy—mining, logging, oil and gas, transport, manufacture, and apparels. They and all other sectors of the economy, as well as exports, are completely under the control of the military or companies that have associations close to the military. International companies that invest in Burma or have business dealings in Burma inevitably end up supporting the regime. It must be understood that any high-level economic engagement with Burma amounts to support for the Burmese regime. If we continue to have any engagement with Burma at that level it means that we are providing more resources for the Burmese military regime to continue its campaign of oppression and violence against the Burmese people. There are very Australian few jurisdictions that are innocent in relation to companies having business dealings with Burma. I will cite an example of the New South Wales Government doing business with a company that has a direct relationship with the Burmese military. I do not do so in order to point the finger at the New South Wales Government or to criticise the Government in any way; I do so purely to point out that there is a real and important link between the New South Wales Government's purchasing policy and the military regime in Burma.

On 28 July 2010 the New South Wales Government Department of Services, Technology and Administration awarded a contract to a company called Barrett Communications. That company has a \$4 million contract for the provision of contractor and maintenance services for communications hardware. This is the same company that is on the Burma Campaign Australia's "Dirty List" of companies that deal with Burma. Barrett Communications is providing to the Burmese military radios that use frequency-hopping software that

switches rapidly between about 500 frequencies, making them hard to intercept and unscramble except by the most sophisticated intelligence agencies, such as the United States National Security Agency or Australia's Defence Signals Directorate. The radio sets have been deployed in recent months at the Burmese army's headquarters in the capital, Naypyidaw, and at the army's central, eastern and north-eastern commands that are involved in a long-running vicious campaign against the Shan and other insurgent forces.

The Burmese Government ministry is presently tendering for 50 more of these radios and modems, and numerous small trading firms were trying to get involved in the deal. This shows that the New South Wales Government is directly economically involved with and enriching a company that in and of itself is involved in providing hardware to the Burmese military to prosecute its war against the ethnic groups of Burma and against the Burmese people. This points to the urgent need to address the New South Wales Government's procurement policy to prohibit the purchasing of goods or services provided by companies that conduct business with corporations that have connections with the Burmese military regime or its close associates until that regime mends its ways, becomes a democracy and protects human rights. This motion calls on the New South Wales Government to consider the evidence relating to Barrett Communications and the other 12 Australian companies that are involved with propping up the regime in Burma. To fail to give this matter proper consideration is to turn our backs on the plight of the Burmese people and of those who are struggling for democracy. I urge members to consider supporting the motion. I commend the motion to the House.

**Reverend the Hon. FRED NILE** [11.58 a.m.]: I am pleased to support the motion. As Dr John Kaye indicated, there is a great deal of evidence about the brutality and ruthlessness of the current regime in Burma, which recently conducted phoney elections. Many members of the political party that won government legally—through the will of the people—in the original elections were placed under house arrest and so could not participate in those elections. The Burmese regime has acted ruthlessly against the Karen people, indigenous people who live in the mountains. I have seen reports that the military has dropped chemicals on villages and committed genocide against villagers who will not cooperate with the government. Many of those people are Christians as a consequence of early successful work by Baptist missionaries.

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

## QUESTIONS WITHOUT NOTICE

---

### BLACKTOWN RAILWAY STATION SAFETY

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Minister for Transport. Is the Minister aware that instances of violent crime, specifically assault, at Blacktown railway station, which is in the electorate of Blacktown, have increased from 13 in 2008 to 37 in 2009? Further, there were seven instances of riot and affray in 2009, which is an increase from none in previous years. Is the Minister aware of the concerns of the people of Blacktown that violent behaviour at Blacktown railway station is getting out of control? What is he doing to allay the concerns of the people of Blacktown about the increasing level of violence at their train station? Does he intend to spend more time in Blacktown in the coming months listening to these concerns? Will he be catching the train from Blacktown railway station every day to hear first-hand from concerned commuters?

**The Hon. JOHN ROBERTSON:** This is only one day late—I expected this question yesterday. Obviously the Leader of the Opposition has had to spend a bit more time drafting this question. The Keneally Government has placed and always will place a high priority on commuter safety, as demonstrated by its continued investment in rail security staff and services. RailCorp alone spent approximately \$100 million over the 2009-10 financial year to continue improving the safety of the rail network. The results of that investment and continued safety improvements have been clearly demonstrated in independent statistics released by the New South Wales Bureau of Crime Statistics and Research, which show a 30 per cent reduction since 2002 in recorded offences against the person on CityRail property, including on stations and trains.

It does not end there. I remind members opposite that the Government's initiatives over the past four years include additional closed-circuit television [CCTV] cameras. The network now has more than 8,700 cameras that target customer safety and vandalism. The Government has also improved and strengthened security at key infrastructure sites, including depots, yards, sidings and stations. That is in addition to the installation of 7,000 high-intensity lights and more than 750 customer help points. A person using a customer help point will be visible on closed circuit television and will be able to communicate with a trained CityRail

operator to obtain assistance. The rail security control centre operates 24 hours a day, seven days a week. The centre has the capability to live monitor land-based closed circuit television cameras across the network, including those covering commuter car parks, and can communicate with train and station staff to coordinate responses by transit, police and emergency services officers.

RailCorp security staff work closely with the NSW Police Force to ensure that our trains are safe. RailCorp and the NSW Police Force regularly conduct joint operations such as Operation Visions, which targeted crime and antisocial behaviour on the network. Operations like that send a clear message that crime and antisocial behaviour will not be tolerated on the rail network. These security measures are working. The results of customer surveys conducted by the Independent Transport Safety and Reliability Regulator indicate a reduction in the number of train users who felt threatened by the actions of other people on a train or at a station.

The New South Wales Government knows that security on the rail network is an important issue and that is why it is doing more. It is buying new trains with more security features such as closed circuit television cameras in carriages. It is providing Guardian train services on selected Friday and Saturday nights to ensure that CityRail customers have peace of mind when travelling at night. It is continuing the rollout of closed circuit television monitoring with more than 320 closed circuit television cameras installed across the network over the past year, and it is providing thousands of new car parking spaces close to stations with closed circuit television, security lighting and fencing.

**The Hon. MICHAEL GALLACHER:** I have a supplementary question. Will the Minister elucidate on the specific measures he is implementing to allay the concerns of rail users at Blacktown?

**The Hon. JOHN ROBERTSON:** The Leader of the Opposition told me that he had to consult a map to locate Blacktown. I am sure that is true of all members opposite. As I said, the Government has implemented a range of security initiatives across the rail network, including at Blacktown. Work is underway at Blacktown on a new commuter car park that will have the security infrastructure to which I have referred; that is, closed circuit television and increased lighting that will provide security for people moving between the car park and the platform.

## STATE ECONOMY

**The Hon. SOPHIE COTSIS:** My question is directed to the Treasurer. Will the Treasurer update the House on the latest economic data?

**The Hon. ERIC ROOZENDAAL:** Half an hour ago the Australian Bureau of Statistics released the latest official employment data. It indicates that the New South Wales unemployment rate is now 5.4 per cent, which is the national average. Significantly, the unemployment rate in New South Wales is lower than the rate in the other major States. It is below the 5.6 per cent recorded by Victoria for October, the 5.6 per cent recorded by Queensland and the 5.7 per cent recorded by South Australia. This is good news for the New South Wales \$400 billion economy. I can advise the House that 23,618 jobs were created in New South Wales last month. That is about 35 per cent of all jobs created in Australia in October. Since March last year, more than 155,000 jobs have been created in New South Wales and the unemployment rate has declined 1.3 per cent compared with the 0.3 per cent national decline. On a trend basis, the number of jobs in New South Wales has increased for 22 consecutive months and the number of full-time jobs has increased for 11 consecutive months. It is also good news that the nation's participation rate is at its highest level in at least one-quarter of a century.

Yesterday we heard further good news about the New South Wales economy. The green shoots of recovery continue to bloom across the State, including in the sheep paddocks of the north-west. I will digress because I have heard some discussion about the comparison I made yesterday between The Nationals and sheep. Some sheep growers have taken offence that their sheep flocks have been compared to Nationals members. I want to clarify and reiterate my view that Nationals members are indeed sheep. I will expand on that because I have this opportunity. I will provide members with the evidence upon which I based that comparison. We have members like the Hon. Trevor Khan—

**The Hon. Duncan Gay:** Point of order: I refer to relevance. There was nothing in the question about sheep. If the Treasurer wishes to make a personal explanation there are avenues through which he can do so in this House.

**The PRESIDENT:** Order! There is no point of order. The Treasurer should continue to be generally relevant in his answer.

**The Hon. ERIC ROOZENDAAL:** Agriculture, and particularly sheep, is an important part of the New South Wales economy.

**The Hon. Michael Gallacher:** You are not good on rural issues.

**The Hon. ERIC ROOZENDAAL:** I am a bit tired today. Whether it is deciding to hold a fundraiser or an annual golf day at an exclusive Sydney golf course or holding their national conference at Kirribilli, members of The Nationals wander about like sheep. But I digress—back to the green shoots of recovery. Official housing starts released yesterday by the Australian Bureau of Statistics show an increase in the number of mortgages taken out by owner occupiers in New South Wales, a 1 per cent increase on the trend basis for September 2010. This is higher than the national average increase of 0.7 per cent. This is the highest of all States. For example, in Queensland mortgages fell by 0.2 per cent.

### GROUNDWATER AND MINING

**Ms CATE FAEHRMANN:** I direct my question without notice to the Minister for Planning. Just the other day there was news of another contamination scare associated with coal gasification in Queensland showing traces of benzene, a known carcinogen, in three coal seam gas exploration wells. There have been previous cases of contamination, such as in October when traces of banned carcinogenic chemicals were found in fluid taken from eight coal seam gas exploration wells during routine tests by Australia Pacific LNG. Given this news, can the Minister assure communities across New South Wales that their water supplies are absolutely safe from contamination from all current coal seam gas activities he has approved in New South Wales? If not, will his Government commit to a moratorium on this highly unregulated industry until coal seam gas exploration and extraction can be proven safe to water supplies and agricultural lands in New South Wales?

**The Hon. TONY KELLY:** I can assure the House that the Department of Planning will thoroughly investigate any application that comes before it in relation to any of the issues raised by the member.

### ELECTRICITY INDUSTRY PRIVATISATION

**The Hon. DUNCAN GAY:** I direct my question without notice to the Treasurer. Is the Treasurer aware that one of his own colleagues, Kerry Hickey, has described the Treasurer's action in blocking Delta from signing its 10-year power contract as:

... total unprofessional conduct that created serious investment uncertainty for Hydro and its 800 workers.

He also said he was told by the Treasurer's people that it would take value away from the Government's gentrader privatisation process. Does the Treasurer recall that in answer to my question on the Kurri Kurri smelter this week he said the Government knows the smelters need certainty and that he is "at all times working to protect taxpayers' best interests". Can the Treasurer explain how will he, in his words, provide certainty and protect the best interests of the Kurri Kurri smelter and its 800 workers?

**The Hon. ERIC ROOZENDAAL:** The Government will continue to act in the best interests of the taxpayers. In relation to the rest of the question, I refer to my previous answers.

### REGIONAL ACHIEVEMENT AND COMMUNITY AWARDS

**The Hon. TONY CATANZARITI:** My question is addressed to the Minister for Planning, Minister for Infrastructure and Minister for Lands. Will the Minister inform the House about the Government's continuing support for regional community achievers?

**The Hon. TONY KELLY:** The New South Wales Government has been a proud sponsor of the New South Wales/ACT Regional Achievement and Community Awards since they started eight years ago. This year's awards ceremony took place in Wollongong late last month, officiated by the member for Wollongong, Noreen Hay. The awards pay tribute to the unsung heroes in rural and regional New South Wales. The Land and Property Management Authority has always sponsored the two divisions in the Community of the Year Award. This year's winner for a community with a population under 15,000 was the Cumnock Progress Association—a fantastic little town just outside the Wellington shire. This not-for-profit organisation was established more than 50 years ago. It has been instrumental in increasing the town's population by 29 per cent through the Rent-a-Farm-House for \$1 initiative. These are unused farmhouses on farms and the association is getting people to move to the area to rent those farmhouses for \$1.

**The Hon. Melinda Pavey:** It is a community driven initiative.

**The Hon. TONY KELLY:** It is a community driven initiative and that is why these people have won this award. Its latest tourism project is a creative scenic tourist bike route stretching from Molong through Cumnock and Yeoval to Dubbo, with art sculptures in the paddocks along Obley Road.

**The Hon. Rick Colless:** With bike lanes out there?

**The Hon. TONY KELLY:** No, but it is very safe to ride on those country roads, I have done it myself. It is much safer than in the city of Sydney. The award for the community with a population of more than 15,000 was won by Tweed Palliative Support, based at Murwillumbah. This non-funded organisation is operated solely by trained volunteers who have established a professional and caring service for patients requiring at-home palliative care. It has helped more than 1,200 clients, their families and carers since 1999 providing respite care, transport to and from doctor's appointments and treatment centres and the free loaning of equipment.

It was a Land and Property Management Authority initiative to introduce a new category in 2008, the Crown Reserve Trust Award, which also has two categories—one for Crown reserves managed by community volunteers and one for larger reserves managed by councils and other organisations. This award is part of a broader campaign by the Government to acknowledge and encourage reserve trust service particularly among the volunteers. The Banjo Paterson Park Trust at Yeoval—which is just outside the shire of Wellington, right on the border—was named the New South Wales top community trust. The Banjo Paterson Bush Park covers nine hectares of land on the eastern side of the village of Yeoval and is managed by the Yeoval and District Progress Association. In the six years since the park was established hundreds of trees have been planted, extensive erosion control completed and a large weed eradication program carried out.

The Silverton Village Community Reserve Trust, another great trust, won the award for corporate reserve trust. Established in 1999 the trust manages and maintains 13 reserves in Silverton—for those who do not know, just outside Broken Hill. It also coordinates a range of volunteers in the various trusts which involves the entire village population of 50 people. I congratulate the winners but these awards are about much more than just winning. They play a valuable role in reminding us that at the heart of every regional community the spirit of initiative and endeavour is strong. [*Time expired.*]

## ELECTRICITY INDUSTRY PRIVATISATION

**Dr JOHN KAYE:** I direct my question to the Treasurer. What are the impacts on the State Government's electricity privatisation of the injunction granted in the Supreme Court to the owner of the Kurri Kurri aluminium smelter to block the release of the details of the electricity supply contract with Delta Electricity? Does this mean that the bidders for the gentrader contracts for generators owned by Delta will not have access to the data to allow it to assess the impacts of the contract arrangements on their bottom line? In light of this uncertainty, will the Government delay the closing date for the bids for the gentraders?

**The Hon. ERIC ROOZENDAAL:** Of course, I feel the anxiety of the member, who has put wagers on the fact that the energy transaction will not occur. As we draw close to the end of the bidding process, I can understand his anxiety as one of his major cause célèbres of the year comes to an end.

**Dr John Kaye:** Point of order: The Treasurer is debating the question rather than answering the question. He may have difficulty answering the question but he may not debate the question.

**The PRESIDENT:** Order! There should be no argument among members during the taking of points of order. The Minister was not debating the question; consequently, he may continue to be generally relevant in his answer.

**The Hon. ERIC ROOZENDAAL:** I can assure the House that the transaction timetable remains exactly on time and bids will close as we said and the transaction will proceed.

## INDUSTRIAL RELATIONS COMMISSION FEMALE REPRESENTATION

**The Hon. CATHERINE CUSACK:** My question without notice is directed to the Attorney General. Is the Minister aware of the 1995 promise made by former Premier Bob Carr to achieve 40 per cent female representation on the New South Wales Industrial Relations Commission by the year 2000? Given the

commission that sets wages for millions of female workers continues to have only 31 per cent female representation and they are earning 88.6 per cent of their male counterparts remuneration, is the Government still seeking to make good its 1995 promise and, if so, when? What outcomes is the Government delivering for women and when does the Minister anticipate they will be delivered?

**The Hon. JOHN HATZISTERGOS:** A woman with significant industrial experience who had been appointed to the Industrial Commission invited the invective of the honourable member; she continually attacked her appointment. That was Ms Janice McLeay. On the one hand, the honourable member complains there are not as many women on the commission as she would like, yet when there was a highly qualified and experienced woman, who was able to participate in the deliberations of the commission, the honourable member used this House as a forum to attack her. A lot has happened since that time, in particular, the decision in the WorkChoices case—I understand the Liberal Party had something to do with that—which resulted in a significant amount of work with respect to the private sector for which the commission previously had responsibility transferring to Fair Work Australia.

**The Hon. Catherine Cusack:** It was to be 40 per cent from 2000.

**The Hon. JOHN HATZISTERGOS:** In case she has not worked it out, that meant a significant change in the volume of work the commission was required to do. There were also existing protections for members of the commission so that in the time I have been Attorney General, opportunities have not been there for other appointments to the commission on a permanent basis. Effectively, existing commission personnel have largely remained unchanged during that period as a consequence of those changes and developments. Having said that, I make the point that we are highly committed to ensuring that women are able to take their rightful places on not only tribunals and courts but also more broadly on government boards. I should mention with some pride that 40 per cent of the personnel of the magistrates' court, the Local Court of New South Wales, are now women. That significant achievement has been undertaken over a progressive period of time as vacancies occur. I have no doubt that as further vacancies occur in the Industrial Court and other courts and there are opportunities for women to be able to fill those positions, those opportunities will be taken.

### CITYRAIL SERVICES

**The Hon. PENNY SHARPE:** I address my question to the Minister for Transport. What initiatives are being implemented by the New South Wales Government to improve customer service on the CityRail network?

**The Hon. JOHN ROBERTSON:** I thank the honourable member for her question and ongoing interest in public transport. When it comes to public transport, good customer service can be the difference between whether people choose to catch a train or take the car. Customer service is a critical component in the delivery of better public transport for commuters. Delivering good customer service on our trains, buses and ferries is no small feat. Our public transport system carries more than 1.5 million passengers every day. Many of these people will use more than one mode of transport to get to and from their destination. Good services means not just paying lip-service to improving services; it is about implementing tangible changes that benefit passengers. It is about improving access to information and listening to what people have to say.

A good example of this was the new CityRail timetable that was introduced a month ago today for passengers on the eastern suburbs, Illawarra and South Coast Lines. The new timetable took advantage of the Government's \$436 million Cronulla line duplication and Loftus resignalling works to deliver more than 300 extra services a week for commuters. As with all new timetables, RailCorp sought feedback from customers prior to the introduction of the timetable, and the responses were considered and incorporated where possible. Since the start of the new timetable, customers have provided further feedback. This includes one customer who wrote to RailCorp to say:

I just wanted to say thank you for the much improved Eastern suburbs and Illawarra Line timetable. I am a long distance commuter and the express trains are a wonderful addition and help me get to work faster in the mornings. My evening trains are also much less crowded.

Another customer had this to say:

I just thought I would drop a line to advise RailCorp on ... the speed and level of comfort that the new train timetable has offered for the Cronulla line. I have found the express trains so much less crowded and congested both while travelling and on leaving the train in the city. Well done.

I make specific reference to that quote for the benefit of the Hon. John Ajaka. Some other customers wrote to request some further tweaks to the timetable. As a result, RailCorp will make some minor adjustments to the timetable from next Monday. Most of these alterations will improve the waiting time at Kiama, providing more time for passengers changing between South Coast intercity services and the service to Bomaderry. RailCorp will also make some other minor changes at Port Kembla to benefit commuters. Listening to feedback and implementing changes is what good customer service is all about. It is clear that through initiatives such as the CityRail Customer Charter, which I have here and would be happy to table, and stronger feedback mechanisms, RailCorp has significantly improved customer services.

On Tuesday night, I was honoured to be invited to open the 2009-10 Australian Customer Service Excellence Awards. I am also pleased to inform the House that at the awards, RailCorp's Customer Charter won the national customer charter award from the Customer Service Institute of Australia. There is no doubt that the customer charter with its specific focus on the needs of customers has significantly improved customer service and I congratulate RailCorp on this national recognition. Initiatives like the customer charter are improving services for passengers—services like the 131500 Transport Infoline and *131500.com.au*, which is one of the most frequently visited websites in New South Wales. Other initiatives like MyZone fares, introduced by the Government in April, are improving services by creating greater incentives for people to catch public transport. These types of transport initiatives improve services for passengers and the Government is delivering these services for the people of New South Wales right now.

### WOY WOY POLICE RESPONSE

**Reverend the Hon. Dr GORDON MOYES:** I ask the Treasurer, representing the Minister for Police, a question without notice. Is the Minister aware that an 84-year-old Umina Beach resident named Gwen Byrne recently had her vehicle stolen from outside her home on Melbourne Cup evening? Is the Minister aware that when Mrs Byrne reported the incident to the Woy Woy police, she was advised by the Woy Woy police officers to call back once she had found it? Could the Minister enlighten the House on how Mrs Byrne may come across her car if she has no other means of transport and why it is her job to look for it? Also, can the Minister indicate the New South Wales Police Force standard operating procedures for investigating car theft and why this matter has not been appropriately investigated according to New South Wales Police Force procedures?

**The Hon. ERIC ROOZENDAAL:** I will pass the question on to the Minister for his response.

### BUDGET PROJECTIONS

**The Hon. GREG PEARCE:** I direct my question to the Treasurer. The Treasury figures for the three months to the end of September indicate blowouts of \$174 million in employee-related expenses and \$250 million in other operating expenses after just three months of the financial year. What assurances can the Treasurer give to the people of New South Wales that his budget projections for 2010-11 are reliable and that a surplus outcome will be delivered?

**The Hon. ERIC ROOZENDAAL:** I do not know where the honourable member was yesterday but clearly he was not listening.

**The Hon. Michael Gallacher:** Don't you remember yesterday? He was here. Are you having problems?

**The Hon. ERIC ROOZENDAAL:** No.

**The Hon. Michael Gallacher:** You said you don't remember where he was yesterday. He was here.

**The PRESIDENT:** Order! I call the Leader of the Opposition to order for the first time.

**The Hon. ERIC ROOZENDAAL:** Clearly the honourable member was not listening if he was here. I think he was here but he probably was not listening; he was busy laughing with his colleagues. Yesterday we spoke about the latest information from the Commonwealth Government in relation to GST adjustments and reduction. That is a \$437 million hit on our budget going forward and obviously that will have an impact. I have indicated to the House that there will be a severe impact on the budget numbers going forward. All will be revealed in the mid-year numbers to be released in December. I can assure the people of New South Wales that the Government remains committed to building on the growth of the New South Wales economy, ensuring those

green shoots continue to grow within the New South Wales economy—protecting jobs and families and continuing to fund front-line services in New South Wales. Our neighbours in Queensland have lost their triple-A credit rating and it is costing them around \$200 million a year in additional interest rates. South Australia has had to cut services to protect its triple-A credit rating. In New South Wales, we improved our credit rating during the global financial crisis period, we continue to protect the strength of the New South Wales economy, and we will continue to act in the best interests of the taxpayers of this State.

### RED TAPE REDUCTION

**The Hon. CHRISTINE ROBERTSON:** My question is addressed to the Attorney General, and Minister for Regulatory Reform. Will he update the House on the Government's \$500 million red tape reduction target?

**The Hon. JOHN HATZISTERGOS:** I thank the Hon. Christine Robertson for her important question. The New South Wales Government is committed to reducing red tape in New South Wales for business and the community. In April last year the Government said it would reduce red tape by \$500 million by June 2011. By December last year we had already introduced reforms to slash \$338 million in red tape from the operations of Government. I can now report that as at June this year we have introduced reforms worth a total of \$400 million. This is a massive achievement and means \$400 million worth of more time on the clock and more money in the bank for individuals and business across New South Wales. It demonstrates that the Government is on track to meet its ambitious \$500 million red tape reduction target.

Last week I released the annual update of the Better Regulation Office "Making it easy in NSW: Annual update on regulatory reform in 2009-2010". The update sets out how the Government is delivering on its \$500 million target and details 167 red tape reforms implemented during 2009-10 that cut red tape. Reforms implemented during 2009-10 will save businesses \$340 million and the community \$60 million. The biggest red tape savings were achieved through improvements to planning approval processes. A new complying development process for approving minor changes to retail and commercial premises will save businesses an estimated \$72.9 million each year. The introduction of joint regional planning panels to determine large-scale developments will save businesses \$21.5 million each year in reduced holding costs. The removal of place of public entertainment licences has made it easier for hotels, clubs, restaurants and cafes to provide live entertainment. Clubs NSW estimates the savings for clubs alone to be \$500,000.

Businesses also benefited from a range of other significant reforms implemented during 2009-10. Through the New South Wales Government, the NSW Office of State Revenue entered into a joint audit agreement with the Office of State Revenue in Victoria to reduce the cost of payroll audits for businesses in both States. Under the agreement, businesses liable to pay payroll tax in both Victoria and New South Wales are now no longer subject to separate audits in each jurisdiction. These separate audits were estimated to involve 50 hours of the time of those businesses. The new joint audits have reduced this by 20 hours and will save these businesses a total of \$200,000.

Regulatory burden has also been reduced for New South Wales farmers. For example, banana growers in New South Wales will each save around \$432 a year from the repeal of the Banana Industry Act and the removal of an unnecessary State levy for pest and disease control. This amounts to an overall saving of \$192,000 each year for these businesses. The Government has also been able to achieve large cuts in red tape for the community. Money is now dispersed more quickly to beneficiaries of deceased estates following reforms to Supreme Court probate processes. Determinations can now be made on the papers rather than through court attendance, and executors are only required to provide receipts to document services when this is justified on a risk basis. Additional time is also saved by a new requirement for parties to file draft orders with their initial applications instead of the court preparing them. The community is estimated to save \$7.6 million each year as a result of these reforms.

Other reforms for the community include those for social housing clients and clients of the New South Wales Trustee and Guardian. Social housing clients now have a much simpler way of applying for housing assistance through a single form. Previously, clients had to lodge an application form with Housing NSW and then complete additional and separate forms with other housing providers. This reform will save an estimated \$675,000 for the community. New South Wales Government red tape reforms like these are making life easier for everyone in New South Wales: for businesses looking to reduce their compliance costs, for the community looking for more streamlined services, and for the Government looking to increase efficiencies. The reforms translate into real projects, real jobs and real savings for the businesses of New South Wales.

## RELIGIOUS EDUCATION AND SCHOOL ETHICS CLASSES

**Reverend the Hon. FRED NILE:** I ask the Attorney General, representing the Premier, a question without notice. Is the Government aware that the St James Ethics Centre sponsors the controversial ethics course conducted in primary schools and also sponsors the annual event Festival of Dangerous Ideas, which contains a great deal of anti-Christian content such as "Religion Poisons Everything", "Replacing Religion", "Godbotherers", and so on? Is the Government aware that the co-curator of the event and Executive Director of the St James Ethics Centre, Dr Simon Longstaff, is on the public record as saying he finds the mockery of religious belief highly amusing? Will the Government therefore cancel any plans for ethics classes in 2011 that would be run in competition with scripture classes—or Special Religious Education [SRE]—that already contain positive Christian ethics?

**The Hon. JOHN HATZISTERGOS:** Reverend the Hon. Fred Nile seeks to marry two things: the Festival of Dangerous Ideas and the ethics classes. The ethics classes have been the subject of a range of questions and responses in this Parliament. With regard to the Festival of Dangerous Ideas, I have to confess that I attended the event, or least one session of it, and frankly I found it very interesting. It allowed for a competition of different perspectives to be put forward. I believe that in a democracy we should be tolerant to those sorts of views, even though we may not necessarily accept them.

## EMERGENCY SERVICES FUNDING

**The Hon. MELINDA PAVEY:** My question without notice is directed to the Treasurer, and Minister for State and Regional Development. Has the Government received representations from councils across the State complaining about further cost shifting onto local government as a result of the Government's changes to emergency services funding arrangements? Is the Treasurer aware that this is precisely what the Government said would not happen when it announced the changes? What is the Government doing to ensure there is no loss of total funding to the State's emergency services, in particular the State Emergency Service [SES], as a result of these changes, given that many councils are deciding to stop direct contributions to their local State Emergency Service branch? Can the Treasurer guarantee that the community is now not less safe as a result of this cost shifting by the Government?

**The Hon. ERIC ROOZENDAAL:** I undertake to pass the question on to the relevant Minister for an appropriate response.

## YOUTH PARTICIPATION IN POLICY DEVELOPMENT

**The Hon. HELEN WESTWOOD:** My question is addressed to the Minister for Youth. Will the Minister update the House on the opportunities for youth participation within the New South Wales Government?

**The Hon. PETER PRIMROSE:** I thank the Hon. Helen Westwood for her question. Young people have the right to participate in the development of youth policies in New South Wales, and the Government is committed to making sure they have an opportunity to do so. This commitment is set out in the Premier's memorandum "The Best Practice Principles for Youth Participation". This memorandum is to be observed by all Ministers, chief executives and agencies, and I am proud that the Keneally Government seeks to fulfil that commitment at every opportunity. The principles encourage and support young people to participate in government decision-making, in implementing the New South Wales State Plan, and in providing input to the development of programs and services that impact on their lives.

The Keneally Government has a number of initiatives in place to ensure that high levels of youth participation are achieved. For example, applications recently closed for the appointment of two Youth Commissioners to the New South Wales Community Relations Commission, under the purview of my parliamentary colleague the Attorney General. Acknowledging that multiculturalism is one of New South Wales's greatest social and economical strengths, the Community Relations Commission keenly recognises the voice of youth as a vital component in promoting equal rights and responsibilities as well as representing the richness of our diverse community.

The New South Wales Student Representative Council, supported by the New South Wales Department of Education, is the peak student leadership, consultative and decision-making forum for school students across the State. The New South Wales Student Representative Council consists of peer-elected members from across

the State, and includes two Aboriginal student leaders to ensure a strong representation of the student population of the State. Members of the Student Representative Council consult with and represent their peers at a State level, and provide advice on educational and youth issues to departmental and government officers and to other youth agencies.

In my own portfolios I am keen to ensure that young people are able to provide input into government policy and decision-making. In that regard I recently announced the establishment of a Carers Advisory Council, in accordance with the Carers (Recognition) Act 2010. At least one member of that council will be a young primary carer, and I am pleased to have such an important voice advancing the interests of young carers in New South Wales. I also announced that I will ask the council as one of its first tasks to look at issues facing the 90,000 carers in New South Wales who are aged under 25 years.

On a broader level, the Government's statutory Youth Advisory Council, which reports directly to me as Minister for Youth, is one of the most effective ways for young people to get involved in government decision-making. The council provides a direct avenue of communication between the young people of New South Wales and the New South Wales Government. It enables the Government to tap into young people's insights, thoughts, views and opinions on a wide range of issues, and to develop appropriate youth-related policies and programs across the State. I have recently received reports from the council on the work it performed in 2010, and I am currently considering their recommendations on a number of issues. The term of the current council will end at the close of this year.

I place on record my thanks to the retiring members of the council for their contributions to youth policy development in New South Wales. The Government is now looking at selecting new council members from across New South Wales from those who put their names forward for consideration as council members in 2011. I will be looking to appoint young people from the country and the city, from different cultural and linguistic backgrounds, and from different life experiences, to ensure input from a council that can broadly represent the diversity of all young people in New South Wales.

### WAGGA WAGGA CITY COUNCIL

**Mr DAVID SHOEBRIDGE:** I direct my question without notice to the Minister for Planning. The Minister recently issued a show cause notice to Wagga Wagga City Council stating his intention to impose a planning administrator on the local council. Given the complaints relied upon by the Minister in the notice to the council parallel the complaints of a local builder and developer whose complaints were soundly rejected by a recent decision of Deputy President Grayson in the State Industrial Commission, will the Minister now agree to withdraw the notice and accept that there is no rational justification to remove this local community's control over its local development?

**The Hon. TONY KELLY:** I thank the honourable member for his question. Actually, I did not advise the council that I was going to appoint a planning administrator. The department wrote to Wagga Wagga City Council asking why one should not be appointed, and listed a number of complaints that had been made by a number of people. In fact, I was asked about this matter in particular when I attended a Planning Institute award recently. A person at that event who was from Sydney complained about Wagga Wagga City Council. But a number of concerns—

**Mr David Shoebridge:** Was that at a branch meeting?

**The Hon. TONY KELLY:** Does the member want an answer to his question? A number of concerns have been raised. We have presented those concerns to the council in order to give it an opportunity to respond to the department. I do not want to pre-empt what the department might recommend, because I do not know what the council's response will be. I have heard in the media that it has been suggested, for example, that the time taken by the council to complete and deal with development applications has reduced dramatically in the past five months. I want to give the council natural justice. I will not do what the member is seeking to do; he is not affording these people natural justice. I want to give the council an opportunity to go through the process and take the time to consider the complaints to ascertain whether there is a reasonable explanation for these issues, and to allow it to respond to the department. I will not make any recommendations about planning powers until the council exercises its rights to natural justice and has an opportunity to respond to the department.

## PLANNING CONTROLS ON PLACES OF WORSHIP

**The Hon. TREVOR KHAN:** I direct my question without notice to the Minister for Planning. Is the Minister aware of a proposed development control plan by Canterbury City Council that would have the effect of introducing new planning controls on "places of worship"? Is the Minister aware that the development control plan is intended to cover not only places of worship but also alterations and additions to previous places of worship, increases in the number of worshippers, and increases in the frequency of services or introduction of new or additional activities? Is the Minister aware that the development control plan will, amongst other things, restrict the operating hours of places of worship to between 7.00 a.m. and 7.00 p.m. Monday to Friday, and between 9.00 a.m. and 9.00 p.m. on Saturday and Sunday? Will the Minister inform the House what action he will take on the introduction of development control plans that restrict people's right to freely exercise their religious beliefs?

**The Hon. TONY KELLY:** I thank the honourable member for that interesting question. I cannot attest to the veracity of the matters raised in his question but I will certainly look into them. The Community Relations Commission has already made a submission to me about this. I undertake to obtain advice on the matter and get back to the member. If the times referred to by the member are correct, problems will certainly arise with the conduct of midnight mass and early Sunday morning mass.

## ILLAWARRA TOURISM

**The Hon. SHAOQUETT MOSELMANE:** I address my question without notice to the Treasurer, Minister for State and Regional Development, and Minister for the Illawarra. Will the Minister update the House on efforts to increase tourism in the Illawarra?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for his question and interest in this matter. More good news for the Illawarra and its growing economy! Thanks to funding from the New South Wales Government, international visitors will continue exploring the natural wonders of the Illawarra and the South Coast. The New South Wales Government is providing \$70,000 through our Enterprising Regions Program to enable Tourism Wollongong to continue targeting international markets. This is the second year we have provided funding support for this successful initiative, which has helped the region tap into international markets and draw visitors to this stunning and beautiful region. The program has helped boost international tourist visits to the South Coast to more than double the State average last year, and it is set to continue thanks to New South Wales Government support.

Tourism Wollongong is a driving force for the industry, and it has used the funding to employ a project officer and support international marketing of the South Coast region. The results so far have been impressive, with more than 16 per cent of the 12 million South Coast region visitor nights attributable to international tourists. This is significantly above the State average of 7.7 per cent over the past four years. The latest funding will assist Tourism Wollongong in continuing its work in raising awareness of the region. Tourism Wollongong aims to continue targeting markets in South-East and North-East Asia and New Zealand, as well as seeking new opportunities in America, Europe, India and the United Kingdom.

Tourism is an important industry for the Illawarra and South Coast, with domestic and international visitors injecting about \$1.8 billion into the region every year. The New South Wales Government is committed to doing all it can to strengthen the economies of our regional communities and create new jobs. The support of Tourism Wollongong's international tourism efforts is just one example. Between September 2008 and July 2010, the New South Wales Government has helped secure 544 business projects in regional New South Wales. This represents almost \$2.4 billion in capital investment and the creation of more than 9,600 jobs. This good news builds on our recent initiatives to bring new tourism opportunities, particularly major events, to the Illawarra region.

In May this year, the New South Wales Government announced it would jointly fund a feasibility study into the development of a conference and convention centre in Wollongong with the University of Wollongong. It is anticipated that a purpose-built conference and exhibition centre will help to attract larger events and exhibitions to Wollongong. In a further effort to attract high-quality events to the Illawarra region, the New South Wales Government has committed \$28.9 million to building a new grandstand at WIN Stadium. The Government has also supported the construction of the Southern Gateway Centre at Bulli Tops and the iconic Seacliff Bridge, which is a major tourism drawcard for the Illawarra. The Government will continue to support the tourism industry in the Illawarra by providing the funding and support needed to make the Illawarra a major drawcard for tourists.

### DUBBO GUN SHOP INSPECTION

**The Hon. ROBERT BROWN:** I direct my question without notice to the Hon. Eric Roozendaal, representing the Minister for Police. Will the Minister advise the House why the New South Wales Firearms Registry is conducting a "routine audit" of a firearm's dealership located at 77 Victoria Street, Dubbo, the premises of Mr Austin Bourke, when it is known that the premises have been closed since police executed a search warrant on those premises on 23 August 2010, thoroughly inspected and locked the premises, and have now commenced legal proceedings against Mr Bourke? Is this because Mr Bourke has pleaded not guilty to each of the allegations and, through his solicitor, has put police to strict proof regarding the same? Does the Minister consider it to be appropriate that the New South Wales Firearms Registry should be conducting a "routine audit" now that the proceedings have commenced?

**The Hon. ERIC ROOZENDAAL:** I thank the Hon. Robert Brown for his question. I will pass it on to the Minister for Police for an appropriate response.

### SILVER BEACH, KURNELL

**The Hon. JOHN AJAKA:** My question without notice is directed to the Minister for Planning. Following claims by local residents and beachgoers that the width of Silver Beach has been reduced by one third since the development of the Kurnell Desalination Plant, can the Minister confirm the size in square metres of the beach prior to the commencement of the development of the desalination plant and the size in square metres of the beach following its restoration? Does the Minister recall the assurances of his Government that upon the completion of the plant neighbouring Silver Beach would be restored to "as good or better" condition? What action will the Minister take to ensure that the concerns of local residents and beachgoers are allayed and that the beach is at least restored to its original size and condition?

**The Hon. TONY KELLY:** I thank the Hon. John Ajaka for his question and his confidence in my mathematical ability. I cannot remember the size of the beach in square metres. I undertake to provide the member with an answer.

### RAIL TURNBACK PROJECTS

**The Hon. KAYEE GRIFFIN:** My question without notice is addressed to the Minister for Transport. Can the Minister update the House on the progress of the Liverpool and Lidcombe turnback projects?

**The Hon. JOHN ROBERTSON:** The New South Wales Government is forging ahead with a number of major infrastructure projects on the CityRail network as part of the \$2.1 billion Rail Clearways Program. The program focuses on congestion points on the rail network, simplifying the operation of train services and improving capacity and service reliability. Already the Government has completed several Rail Clearways projects including the \$65 million Bondi Junction turnback; the \$88 million Revesby turnback; the \$59 million Macdonaldtown turnback and stabling project; the \$112 million Hornsby stabling and platform 5 project; the \$12 million Berowra platform 3 project; and, most recently, the \$436 million Cronulla line duplication and associated signalling project.

These projects are delivering real benefits for commuters across Sydney, as I speak. For example, the Cronulla line duplication resulted in a new timetable on the Eastern Suburbs and Illawarra lines being introduced last month, and that includes more than 300 services a week for commuters. I repeat for the benefit of the Hon. John Ajaka: 300 services a week for commuters. Turnbacks at Bondi Junction, Revesby and Macdonaldtown are facilitating faster turnarounds of trains and are helping improve on-time running and reliability. I am pleased to inform the House that in recent weeks early works commenced for the delivery of another of the New South Wales Government's Rail Clearways projects—the \$142 million Liverpool turnback project. The Liverpool turnback will remove the need for different services to compete for paths through the station by separating terminating and commencing services from through trains. This will ease congestion on the network around Liverpool Station and reduce delays, particularly during peak hours. It will allow for an increase in the number of services terminating at the station during peak and off-peak periods.

Early geotechnical surveys and site investigation works for the Liverpool turnback project have commenced, with major construction to follow next month. The Liverpool turnback includes a new 1.8 kilometre section of track for through services and a reconfigured turnback, allowing terminating trains to lay over before starting the next service. The project also includes a major upgrade to Liverpool Station, with a

new platform and concourse and footbridge extensions, as well as the installation of a lift and stairs. The existing signalling system will be overhauled to take advantage of the extra capacity of the turnback. This \$142 million investment in better transport for Liverpool commuters will have a positive impact on the smooth running of local train services.

The Liverpool turnback is one of 13 projects as part of the Rail Clearways Program and the final project to commence construction. Work on other clearways projects is progressing well. The final stages of the Lidcombe turnback are underway, with commissioning of the project set to be undertaken over the coming weeks. The Lidcombe turnback will play a significant role in improving reliability by reducing network traffic between Lidcombe and Strathfield and providing Bankstown line trains with a separate platform to terminate and turn back train services. Other major clearways projects under construction right now include the \$774 million Kingsgrove to Revesby quadruplication project, which involves the construction of two additional tracks between these stations running through Padstow, Riverwood, Narwee and Beverly Hills stations. It involves the construction of 10 new rail bridges, the modification of five existing rail bridges, the installation of a number of noise walls and major upgrades to railway stations along the corridor. In addition, construction is continuing on the \$231 million stage one of the Richmond line duplication between Quakers Hill and Schofields.

**The Hon. KAYEE GRIFFIN:** I ask a supplementary question. Could the Minister elucidate his answer?

**The Hon. JOHN ROBERTSON:** As I said, other clearways projects under construction right now include the \$774 million Kingsgrove to Revesby quadruplication project, involving the construction of two additional tracks between stations at Padstow, Riverwood, Narwee and Beverly Hills. In addition, construction is underway and continuing on the \$231 million stage one of the Richmond line duplication between Quakers Hill and Schofields. Last month a new section of track was completed and brought into use and work is continuing at pace to ensure that the two tracks come into operation in the middle of next year. The New South Wales Government is delivering these projects right now and passengers are seeing the benefits on the rail network, including extra services, increased reliability and faster travel times.

#### UNREGISTERED FIREARMS OFFENCES

**The Hon. ROBERT BORSAK:** My question without notice is directed to the Treasurer, representing the Minister for Police. Can the Minister advise the House what percentage of persons charged with a criminal offence involving drugs, theft or violence in which an unregistered firearm is used, are charged with possession of an unregistered firearm or unauthorised possession of a firearm under the Firearms Act? If the percentage is less than 100 per cent, could the Minister advise why?

**The Hon. ERIC ROOZENDAAL:** I thank the Hon. Robert Borsak for his question and interest in this matter. I will pass the question on to the Minister for Police and endeavour to obtain an appropriate response. As the question relates to drug offences, the member may be interested in a recent newspaper report of a person in Leichhardt who was charged with drug offences. I believe the person was a Greens councillor.

**The Hon. Don Harwin:** Point of order: The issue of relevance immediately arises. The Minister also may be straying towards a matter that is before the courts.

*[Interruption]*

**The PRESIDENT:** Order! The Chair does not need advice from the backbench. The question asked by the Hon. Robert Borsak related to criminal offences. Accordingly, that part of the Minister's response was in order. However, the Minister should be aware of the sub judice provisions while continuing to be generally relevant.

**The Hon. ERIC ROOZENDAAL:** I was referring to an article about a Greens councillor from Leichhardt being charged with drug offences. I make no comment as to the outcome of any court proceedings. It gives me an opportunity to reflect on the scourge of drugs in society. We all need to be vigilant in dealing with the challenges of drug availability and drug use in modern society. I am concerned, as I am sure all members are, about the challenges faced by young people in relation to drugs. As a father I worry about my children in the future having to grapple with issues of drug use and peer pressure. They may interact with people who use

drugs. I am sure they will deal with this issue and do the right thing. It is a matter of concern to every parent and family. Drugs are an insidious part of life in New South Wales and modern society has to deal with the challenges. The Government has funded many projects to deal with the problem of drugs.

**The Hon. John Hatzistergos:** We have expanded the Drug Court.

**The Hon. ERIC ROOZENDAAL:** As the Attorney General pointed out, we have expanded the Drug Court. This has been a very important initiative. We have of course increased funding to police and we are seeing decreases in all levels of crime. That is part of our commitment to confronting crime and drugs because experience shows that crime and drugs go hand in hand. I do not accept the argument that some drugs are soft and some drugs are hard. Dealing with drugs is a challenge and to meet that challenge there needs to be a multifaceted approach across all levels of government. It is very important that there be a bipartisan approach to this problem.

In relation to the matter raised in the question, I undertake to speak to the Minister for Police about them and seek his response. I have spoken to police about the challenges of drugs on many occasions and I know that the Minister shares my concerns about drugs in our society. I also know that the Minister has often consulted with police about how they are grappling with the scourge of crime and drugs in our society. I applaud the actions of the police in continuing to prosecute drug pushers and drug dealers as best they can. But we also need to educate the youth of Australia about the dangers of drugs and how to have the confidence to say no when they are offered drugs. *[Time expired.]*

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

**Questions without notice concluded.**

#### **COURT SUPPRESSION AND NON-PUBLICATION ORDERS BILL 2010**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. John Hatzistergos.**

**Motion by the Hon. John Hatzistergos 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 later hour.**

#### **NATURE CONSERVATION TRUST AMENDMENT BILL 2010**

#### **ELECTION FUNDING AND DISCLOSURES AMENDMENT BILL 2010**

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

*[The President left the chair at 1.04 p.m. The House resumed at 2.35 p.m.]*

#### **TABLING OF PAPERS**

**The Hon. Michael Veitch** tabled the following papers:

- (1) Annual Reports (Departments) Act 1985—Reports for the year ended 30 June 2010:  
 Board of Studies and Office of the Board of Studies  
 Department of Justice and Attorney General  
 Land and Property Management Authority
- (2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2010:  
 Board of Surveying and Spatial Information  
 Chipping Norton Lake Authority  
 Cooks Cove Development Corporation

Festival Development Corporation  
Lake Illawarra Authority  
Luna Park Reserve Trust  
State Property Authority  
Sydney Harbour Foreshore Authority

**Ordered to be printed on motion by the Hon. Michael Veitch.**

**COMMITTEE ON THE OFFICE OF THE OMBUDSMAN AND THE POLICE INTEGRITY  
COMMISSION**

**Report: Report on an Inquiry into Improper Associations in the NSW Police Force**

**The Hon. Luke Foley**, on behalf of the Chair, tabled Report No. 13/54, entitled "Report on an Inquiry into Improper Associations in the NSW Police Force", dated November 2010, together with transcripts of proceedings and minutes of meetings.

**Report ordered to be printed on motion by the Hon. Luke Foley.**

**The Hon. LUKE FOLEY** [2.38 p.m.]: I move:

That the House take note of the report.

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

**BUSINESS OF THE HOUSE**

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

**Motion by Dr John Kaye agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 235 outside the Order of Precedence, relating to connections to Burma, be called on forthwith.

**Order of Business**

**Motion by Dr John Kaye agreed to:**

That Private Member's Business item No. 235 outside the Order of Precedence be called on forthwith.

**BURMA**

**Debate resumed from an earlier hour.**

**Reverend the Hon. FRED NILE** [2.39 p.m.]: I fully support this motion. As I said earlier, the democratic government of Burma was overthrown in a coup led by General Ne Win in 1962. The general ruled the country for nearly 26 years and pursued his policies under the slogan of the "Burmese Way to Socialism". From 1962 until 1974 Burma was ruled by a revolutionary council headed by the general and almost all aspects of society—business, media and production—were nationalised or brought under government control, even innocent organisations such as the boy scouts. In an effort to consolidate power, Ne Win and many other generals resigned from the military and took civilian posts. They instituted elections in 1974, but with a one party system. Between 1974 and 1988 Burma was effectively ruled by Ne Win through the Burma Socialist Programme Party, which was the only political party in the country until 1988. As a result of that political system, Burma became one of the world's most impoverished countries.

Protesters have been voicing their objection to military rule in Burma since its establishment. On 7 July 1962, government forces broke up demonstrations at the University of Rangoon and in the process killed 15 students. In 1974, the military violently suppressed anti-government protests at the funeral of U Thant and student protests held in 1975, 1976 and 1977 were quickly suppressed by overwhelming force. A new constitution was adopted by the Socialist Republic of the Union of Burma in 1974. Hundreds of thousands of people have fled Burma because of persecution, and a large number of them are now in Australia—and they are

very welcome. Over the years I have attended a number of meetings they have held at Parliament House to voice their support for the reinstatement of a free and democratic Burma. A series of anti-government protests commenced on 15 August 2007 in response to the policies being implemented by the so-called State Peace and Development Council, which in reality is a military junta.

The Karen tribe, which is the largest of 20 minority groups in Burma, has been involved in insurgency activities against the government in Burma since 1950. The Karen tribes people established a militia to defend themselves from Burmese army personnel who attacked their villages. The militia, which has been very effective, operates in the mountain areas. The Burmese Government has given the Karen militia an ultimatum that its forces must join the Burmese army—the same army that has been persecuting them. I gather that is a definite threat and that if they do not accept the direction it will lead to all-out war with the Burmese military, which will try to destroy them. The Karen militia is facing a dilemma, but reports I have seen suggest that it has decided not to accept the direction and to stand up against the Burmese authorities.

What is happening to these peaceful people who simply wish to go about their lives is a tragedy. The military will not allow them to do that; it wants to have total control over every individual in the country. That has a detrimental effect on the economy and on human rights in Burma. It remains to be seen whether stopping the purchasing of goods and services provided by businesses connected with the Burmese military regime will have any impact. It is a symbolic action, and it may be necessary to look at further sanctions similar to those used against other dictatorships. I would support such a move, and I am pleased to support the motion.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [2.44 p.m.]: On behalf of the Government I speak in support of the motion moved by Dr John Kaye. I also speak as an ambassador of the Campaign for Burma, in which capacity I am privileged to be asked as a member of Parliament to speak out on issues concerning Burma. In supporting this motion I acknowledge the Burmese people who live in Sydney and throughout New South Wales and who constantly try to draw our community's attention to the human rights abuses, antidemocratic activities, corruption and failures of the military junta in Burma. I particularly acknowledge the Burmese members of Parliament who were democratically elected in May 1990. It was at this election that the National League for Democracy won a large majority of assembly seats. I have been privileged to meet some of the people who were elected and who have never been able to take their seats in Parliament. Some of them now live in exile in Australia. They remind me that the simple act of standing up—as we are doing now—and placing on the public record their concerns about Burma could lead to their being arrested. These activists remind us of the need for the Australian community to use our freedom to assist the people of Burma.

Since 1962, 40 million Burmese people have lived under a repressive military regime, which has ruled using every form of repression against its own people. Political imprisonment, torture, forced labour, systematic rape, recruitment of child soldiers, and the killing of ethnic villagers, are just some of the methods that have been, and continue to be, employed. Another method the military regime has used is to dress up in democratic clothing and push through an undemocratic constitution that reinforces its own power. On 7 November, under this wolf-in-sheep's-clothing constitution, the first so-called democratic elections were held in more than 20 years. The Australian Government, through the Minister for Foreign Affairs, has said this about the election:

We have very grave reservations about the elections. They are being conducted under patently unfair election laws that place severe restrictions on political parties.

International media and international observers are banned.

Eleven political parties have been dissolved by the authorities and several others have been denied the right to register.

Parties' ability to campaign and gain access to the media is severely constrained.

There are over 2,000 political prisoners, including Daw Aung San Suu Kyi. Australia has consistently called for their immediate and unconditional release.

Despite these unpromising circumstances, many Democrats in Burma have chosen to contest the elections.

We respect their decision to do so—as we do the decision of those who have chosen to not participate.

A number of the 37 registered parties contesting the elections are not affiliated with a regime. We acknowledge their right to pursue the limited opportunities they have to try and create new political space in Burma and give opportunities for democratic and ethnic voices to be heard.

...

Australian knows that the struggle for democratic change in Burma is ongoing. So our targeted sanctions, travel bans and ban on defence exports will remain in place to maintain pressure on the Burmese authorities to address human rights concerns and pursue real change.

This motion acknowledges the sham that was the 7 November election. More importantly, it asked what we as a New South Wales Government and Parliament can do to put more pressure on this regime. The Australian Government has implemented a number of targeted sanctions against the Burmese regime, or its associates and supporters. The sanctions currently cover targeted financial sanctions implemented by the Reserve Bank of Australia and restrictions on financial transactions involving members of the Burmese regime and their associates and supporters. There are travel restrictions, restrictions on visas to travel to Australia by members of the Burmese regime and their associates and supporters, and there is also an arms embargo. As I said, the motion before the House does not insist that sanctions must be put in place through the procurement policy. However, it asks us to consider what we can do through this policy to stop people doing business with a regime that is one of the most brutal on the planet. I commend the motion to the House.

**The Hon. GREG PEARCE** [2.49 p.m.]: I state on behalf of members of the New South Wales Liberal Party and The Nationals in this place that we support action for democracy in Burma. We all deplore human rights abuses and the sham election process that has taken place. As the Parliamentary Secretary stated, the Australian Government has initiated various sanctions that we regard as appropriate in the circumstances. That leads us to express concern as to whether it is appropriate to have this debate in the New South Wales upper House, given our jurisdiction and interests. Nonetheless, we are dealing with the issue. I also question the sense of considering using New South Wales government procurement policy to address what we all agree is a very serious human rights and democracy issue.

Procurement policy—and I have shadow ministerial responsibility for procurement—is driven by issues such as value for money for New South Wales citizens. Therefore, I have some reservations about whether this is the right approach to take in dealing with very serious issues such as this. Members must realise that devising sanctions involves a detailed and comprehensive understanding of procurement and the whole procurement chain. In fact, there could be quite perverse outcomes if we simply stopped buying from Burma, in that the Burmese people who manufacture the products that New South Wales wants to buy may be subject to adverse outcomes. With those small reservations, I reiterate our support for the motion and look forward to hearing further speakers in the debate.

**Dr JOHN KAYE** [2.52 p.m.], in reply: I thank Reverend Nile, Ms Sharpe and Mr Pearce for the thought they have put into their contributions and for their support of this important motion. I shall not respond to every point raised in debate. Reverend Nile and Ms Sharpe outlined the desperate situation of the Burmese people. Ms Sharpe, in quoting the words of Daw Aung San Suu Kyi, outlined the importance of using our freedom to help people in Burma gain their freedom. I thank the Opposition for the open-minded way in which it has approached this motion. I know that it was not minded to support the motion and I understand the reservations that Mr Pearce expressed about using State purchasing policy.

I point out that the motion calls for an investigation, so we recognise the complexity involved. There is no question that these are complex issues and that the driving philosophy behind procurement policy is value for money. However, I point out that the motion seeks ways in which we can prohibit the purchasing of goods and services provided by companies that conduct business with corporations that have connections with the Burmese military regime. We are trying to use the purchasing power of the people of New South Wales, along with that of other States, nations and businesses around the world, to tie a tight bow around the neck of the Burmese military and to loosen its grip on power. It is very important that we begin to starve this regime of the billions of dollars that each year flow directly to the military, without civilian oversight—money that it uses directly to repress the Burmese people.

I referred earlier to Barrett Communications with which New South Wales has a \$4 million contract. That company directly supplies military hardware to the Burmese military that it uses in repressing not only minority ethnic groups but also Burmese people in places such as Rangoon. It is time we began to make life much harder for the Burmese regime; we must do everything we can to assist the struggle for democracy by the Burmese people. I thank members for their support. I acknowledge also the remarkable work of Burma Campaign Australia in keeping the Burmese issue alive in this country and in working with the Burmese community to advocate for freedom, democracy and national reconciliation. I pay my respects to the National League for Democracy and to members of the Burmese Parliament who were democratically elected in the 1990 election and who live in Australia. I commend the motion to the House.

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

**Motion agreed to.**

## **BUSINESS OF THE HOUSE**

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

**The Hon. CATHERINE CUSACK** [2.55 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 177 outside the Order of Precedence, relating to a reference to General Purpose Standing Committee No. 5, be called on forthwith.

This matter is urgent because it refers to a very significant waste management facility serving the Macarthur area councils, including Campbelltown, Camden and Wollondilly. Problems being experienced at the facility, which was previously known as Jacks Gully Waste and Recycling Centre, are urgent because of the pending sale of WSN Environmental Solutions. Residents are alarmed and concerned that chronic ongoing problems at the facility will not be addressed because of the sale. Residents and local councils are gravely concerned that special immunities the State Government has granted itself for the purposes of the sale could be abused to unilaterally renegotiate the contracts with affected local councils, in terms of the price they pay for their waste, in order to shift onto those councils the cost of the repairs to the Jacks Gully facility, which has not functioned properly since the day it was established.

Residents are suffering the effects of odour emanating from the facility because of its poor design. The Mayor of Camden is concerned that the Keneally Government will evade its responsibilities in respect of the odour problem and the costs to councils. It is vital that this matter is investigated prior to the privatisation of WSN Solutions by Treasurer Eric Roozendaal. The second facility is the proposed Orchard Hills landfill facility. Since I gave notice of this motion the Government has rejected an application for the quarry to be used as a landfill facility, and residents welcome that decision. Nevertheless, we believe an inquiry is urgent and necessary because the process of evaluating the part 3A application for a landfill to be established on the site has revealed—much to the shock of the whole community, particularly in the Orchard Hills area—that the bunds established for the purposes of noise abatement have been constructed from asbestos.

**The Hon. Christine Robertson:** Don't forget to establish urgency.

**The Hon. CATHERINE CUSACK:** This is very urgent.

**The Hon. Christine Robertson:** That's not urgent.

**The Hon. CATHERINE CUSACK:** What is more urgent for the Government than dealing with asbestos-contaminated material in a residential area?

**The Hon. Greg Donnelly:** I will look up "urgent" in the dictionary for you.

**The Hon. CATHERINE CUSACK:** I ask the Government Whip: Are you saying that asbestos-contaminated material in a residential community is not an urgent matter in the eyes of the Government? I hear no answer from the Government Whip. In the Opposition's view—

**The Hon. Greg Donnelly:** The definition of "urgent" is, "pressing; calling for immediate action, or decision or attention".

**The PRESIDENT:** Order! There will be no debate across the Chamber.

**The Hon. CATHERINE CUSACK:** I thank the Government Whip for his definition of "urgent". He has given a fantastic summary as to why it is urgent that we investigate the matter of asbestos-contaminated bunds in the middle of a residential area in Orchard Hills. With regard to the Jacks Gully facility, as we know, the facility has been operating in a dysfunctional manner since it was supposedly commissioned and opened in July 2008. Indeed, the plant has still not been fully commissioned, and the Auditor-General has documented its huge operating losses. I believe that the— *[Time expired]*

**The Hon. LYNDIA VOLTZ** [3.00 p.m.]: This motion is not urgent, despite the Hon. Catherine Cusack's assertion to the contrary. It is no more urgent than the Hon. Jennifer Gardiner's motion on radiotherapy on the *Notice Paper*, or the Hon. Ian Cohen's bill on threatened species. The Hon. Catherine Cusack has already noted that the Minister has made a decision on this matter and that no such facility is proposed. The motion is not urgent.

**The Hon. IAN COHEN** [3.02 p.m.]: On behalf of the Greens I indicate that we do not support urgency for the motion.

**The Hon. Matthew Mason-Cox:** Oh!

**The Hon. IAN COHEN:** I acknowledge the shock and awe of the Hon. Matthew Mason-Cox. I have a specific reason for doing so, which I will come to in a moment. I acknowledge that we generally concede to such motions being debated. However, as much as I would like to put certain matters on the record, we are nearing the end of the Fifty-Fourth Parliament of New South Wales and it would be disrespectful to the House to indulge in debate on a motion that contains impossibilities and one that, through the passing of time, has become redundant in some respects. Debate on a motion that in all likelihood cannot reasonably be complied with should not receive urgency.

Many in this place understand that calling for an inquiry when General Purpose Standing Committee No. 5 would most likely not have the time to finalise a report, or potentially even reach final deliberative stage, is unrealistic. I expect that the Hon. Catherine Cusack would be aware of these limitations. I am sure that her party is cognisant of the real barriers to establishing an inquiry of this nature in the dying days of the Fifty-Fourth Parliament of New South Wales. The Opposition and the Greens often talk about due and fair process in terms of timing and workload in this place. In this sense, the motion should not receive urgency. I know that some crossbench members share the concern that it is inappropriate to call for an inquiry when it is a virtual impossibility for the committee to dedicate sufficient time to that inquiry. Indeed, it really sells the issue short.

The second element of why the Greens oppose urgency for this motion is that, according to a media release from the Minister for Planning dated 8 October 2010—to which the Hon. Catherine Cusack referred—the New South Wales Government has refused planning approval for the \$12.3 million landfill and waste recovery facility at a former quarry site at Orchard Hills, in Sydney's west, proposed by Dellara Pty Ltd. The terms of reference proposed by the Hon. Catherine Cusack ask the committee to investigate assessment of development applications, licensing conditions and monitoring, and community consultation and complaints handling. I ask the honourable member to consider how the committee would investigate licensing and monitoring conditions when there are none for Orchard Hills. It is an impossibility, and the House should not give urgency to such impossibilities. I pose the question to the House: Do we really need to debate urgently a motion to establish an inquiry into a refused development application at the very end of the Fifty-Fourth Parliament of New South Wales, given that the committee may not complete its report? To my mind that would be less than sensible.

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

**The House divided.**

**Ayes, 16**

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Clarke	Mr Khan	Mr Pearce
Ms Cusack	Mr Lynn	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Reverend Nile	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

**Noes, 22**

Mr Catanzariti	Mr Kelly	Mr Shoebridge
Mr Cohen	Mr Moselmane	Mr Veitch
Ms Cotsis	Mr Obeid	Mr West
Ms Faehrmann	Mr Primrose	Ms Westwood
Mr Foley	Mr Robertson	
Ms Griffin	Ms Robertson	<i>Tellers,</i>
Mr Hatzistergos	Mr Roozendaal	Mr Donnelly
Dr Kaye	Ms Sharpe	Ms Voltz

**Question resolved in the negative.**

**Motion negatived.**

## **BUSINESS OF THE HOUSE**

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

**Motion by Hon. Lynda Voltz agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 230 outside the order of Precedence, relating to the ninety-second anniversary of the Armistice, be called on forthwith.

### **Order of Business**

**Motion by Hon. Lynda Voltz agreed to:**

That Private Members' Business item No. 230 outside the Order of precedence be called on forthwith.

## **ARMISTICE DAY**

**The Hon. LYNDIA VOLTZ [3.11 p.m.]: I move:**

That this House notes that:

- (a) the year 2010 marks the 92nd Anniversary of the Armistice, when Australians remember those have who fought and died for our country in war and armed conflicts, and
- (b) each year Australians observe one minute silence at 11.00 am on 11 November, in memory of over 102,000 people who have died in wars and armed conflicts.

In this Chamber on Remembrance Day we have the opportunity to reflect on those who have fought and died in war. Much of this opportunity relates to our own experiences of the wars and how they have affected our nation. On previous Remembrance Days I have been able to describe the horror that two of my great grandfathers would have faced on the Western Front. All wars have a great impact on our families, communities and nation; none more so than the Second World War. Not only did it consume our families—members of which had yet again left our shores to fight—but also, for the first time, it brought the war to our own shores.

Many of my family members served in the Second World War, including my great uncle Keith Walsh. Uncle Keith was imprisoned in the Changi prisoner of war camp, where prisoners of war assisted in the building of the Burma-Thailand Railway. Uncle Keith served with the 2/20th Australian Infantry Battalion, which opened its headquarters at Wallgrove Camp, west of Sydney, on 15 July 1940. The battalion's recruits were drawn principally from Sydney, Newcastle and the North Coast. By that stage most of my family were living in Singleton, including my uncle Keith. He travelled from Singleton to join up. The battalion trained at Wallgrove, Ingleburn and Bathurst before embarking for Singapore on 2 February 1941 as part of the 22nd Brigade of the 8th Australian Division.

Upon arrival in Singapore on 18 February 1941 the 2/20th battalion moved to south-west Malaya, where it trained for service under tropical conditions. The battalion spent most of its time operating around Port Dickson, but was based at Seremban during April. At the end of August the battalion redeployed to the port of Mersing on the east coast. Mersing, connected to Singapore by a surfaced road, was a potential landing place for an enemy force and, as war with Japan was increasingly likely, much of the battalion's energy was devoted to preparing defence positions. On the night of 6 December 1941 the battalion stood to arms but over a month would pass before the first of its men were in action.

On 7 January 1942, C Company was detached to form half of a special force that was deployed to delay the Japanese approach to Endau, a town further north along the coast. It clashed with the Japanese on several occasions from 14 January, until it was due to rejoin the battalion on 26 January—my uncle's birthday. In the meantime, Japanese troops had also been engaged in the vicinity of the main position of the battalion around Mersing, which was heavily bombed. Once rejoined by C Company, the 2/20th Battalion withdrew from Mersing. It arrived in Singapore on 31 January to take up a position on the northern flank of the 22nd Brigade's

sector on the west coast of the island. Its platoons and sections had to be widely dispersed because of the wide frontage to be covered. When the Japanese launched its invasion on 8 February, the 2/20th battalion was readily infiltrated, although the Australians were initially able to inflict heavy casualties on the invaders.

Despite the confusing fighting, most of the men of the 2/20th battalion were able to withdraw in reasonably good order to form a north-south defensive perimeter along Lim Chu Kang Road. However, it soon became apparent that the 2/20th would be overwhelmed in this position. It was ordered to withdraw along the road to the south, where the battalion was scattered and never fought as a formed unit again. In parties of varying sizes its troops fought in the desperate fighting retreat towards Singapore city that ended with surrender on the night of 15 February. Initially imprisoned in the sprawling Changi prisoner of war camp, it was not long before members of the 2/20th battalion were allocated to external work parties. The first parties were dispatched around Singapore and southern Malaya, but members of the 2/20th battalion later found themselves as members of parties bound for the camps along the Burma-Thailand Railway and in Borneo, Japan, French Indochina, Java, Sumatra and Malaya.

These men endured the worst horrors of Japanese captivity, and many died. The surviving prisoners were liberated in late August 1945 and began returning to Australia almost immediately. The 2/20th Australian Infantry Battalion was formally disbanded later that year. My uncle Keith was only 16 when he went to war; he was really a child. He claimed he was older than he was, in order to enlist in the army. Uncle Keith's mother was an Aborigine, so he looked very Aboriginal. On his return from Changi he had a severe dislike of anyone wearing a uniform, and that is hardly surprising given what he and other servicemen and women endured in prisoner of war camps.

I remarked to some members earlier today that Uncle Keith, being a young Aboriginal bloke in the 1950s who could box and did not like people in uniform, was often locked up by the local constabulary. The soldiers who returned home from prisoner of war camps were not given much support in those days and they suffered terribly. Their families also suffered a great deal. Some soldiers endured horrors they could never talk about and had seen things they could never get over. They could not cope with their lives back in Australia and often their families were on the receiving end. It was a terrible situation. Uncle Keith lived a terrible life once he returned from the war, and he died a very young man.

Today is the ninety-second anniversary of Armistice Day. We are approaching the Centenary of the Battle of Gallipoli. I know that some members in this Chamber are interested in educating our young people about the battles. Between 2014 and 2018 we will have many occasions and many reasons to commemorate. The New South Wales Government has established a Centenary of Anzac Commemoration Committee, which is charged with preparing a New South Wales Government submission to the Commonwealth National Commission on the Commemoration of the Anzac Centenary. The establishment of this committee will ensure that the people of New South Wales can work with the Federal Government's national commission, as well as with other States and Territories, in delivering commemorations and activities at national, State and local levels. The committee also will provide to the New South Wales Government by 31 May 2011 a program of commemoratives, and educational and community awareness activities in the lead-up to and during the centenary.

The New South Wales committee has begun its work with the first round of regional consultations occurring this week in Wollongong, Bathurst, Wagga Wagga and Sydney. Further rounds in other parts of New South Wales will take place in the new year. The committee chair, the Hon. John Watkins, recently made an official visit to Belgium in the company of the 2010 Premier's Anzac Memorial Scholars. Talks were held with government and civic leaders in the Flanders region on our respective plans for the Centenary of World War I. Mr Watkins, whilst on a private visit to London, took the opportunity to meet representatives of the Ministry of Defence and the Imperial War Museum to progress partnerships between New South Wales and Britain in planning for the centenary. The recent visit by the Premier's Anzac Memorial Scholars to the Western Front was the third such pilgrimage since the program began in 2009 with an inaugural visit to Gallipoli. As well as the pilgrimage to the Western Front, a cohort of scholars visited Korea and Japan earlier this year where, together with Mr Frank Terenzini, Minister Assisting the Premier on Veterans' Affairs, they represented New South Wales at sixtieth anniversary commemorations of the commencement of the Korean War.

Visits each year by specially selected senior high school students will alternate between Gallipoli and the Western Front, as well as one Asian pilgrimage occurring each year, which in 2011 will be to Vietnam. These pilgrimages are a crucial foundation for continuing to remember Australia's wartime sacrifices into the future. They are tours of genuine respect and commemoration. Graves are visited, tributes are laid, citations are

recounted and memories are awakened. In this way we will create in New South Wales a cohort of young leaders from our senior years of schools throughout the State. They will represent a new generation of commemorative leadership who will ensure that the memory of these horrific periods throughout the past century remain an essential component of our understanding of ourselves as individuals and as a nation. For 92 years Remembrance Day has provided a precious moment for reflection. We will continue to remember by ensuring that coming generations understand the sacrifices of the past.

**The Hon. CHARLIE LYNN** [3.23 p.m.]: Australia was 13 years old when our mother country, Great Britain, entered the Great War against Germany on 4 August 1914. Our ties were strong and, although we had a male population of less than three million, 416,809 young men answered the call to defend our freedom. Of this number 60,000 were killed in action and never returned, 155,000 were wounded and 4,044 were taken prisoner. It was a very heavy price to pay by such a young nation. Up to that time Australia was regarded as a colonial outpost. We had not forged an identity and we remained British to our bootstraps. This changed with the landing of Australian and New Zealand troops on the beaches of Gallipoli on 25 April 1915. Our young diggers were tough, laconic and brave. They were not impressed by pomp and ceremony. Their respect had to be earned. They were called Anzacs. History records that while Gallipoli was an ill-fated expedition, it laid the foundation of our Australian identity. It was, in fact, the baptism of our nation.

Australia's early involvement in the Great War included the Australian Naval and Military Expeditionary Force taking possession of German New Guinea and the neighbouring islands of the Bismarck Archipelago in October 1914. In November 1914 the Royal Australian Navy made a significant contribution when HMAS *Sydney* destroyed the German raider SMS *Emden*. On 25 April 1915 members of the Australian Imperial Force landed at Gallipoli, together with troops from New Zealand, Britain and France. They began a campaign that ended with the evacuation of troops on 19 and 20 December 1915. Following Gallipoli, Australian forces fought campaigns on the Western Front and in the Middle East. Throughout 1916 and 1917 losses on the Western Front were heavy and gains were small. The Middle East campaign began in 1916 with Australian troops participating in the defence of the Suez Canal and the Allied reconquest of the Sinai Peninsula. In the following year Australian and other Allied troops advanced into Palestine and captured Gaza and Jerusalem. By 1918 they had occupied Lebanon and Syria. On 30 October 1918 Turkey sued for peace. In 1918 the Australians reached the peak of their fighting performance in the battle of Hamel on 4 July. From 8 August they took part in a series of decisive advances until Germany surrendered on 11 November.

Australian women volunteered for service in auxiliary roles as cooks, nurses, drivers, interpreters, munitions workers and skilled farm workers. Whilst the Government welcomed the service of nurses, it generally rejected offers from women in other professions to serve overseas. Australian nurses served in Egypt, France, Greece and India, often in trying conditions or close to the Front where they were exposed to shelling and aerial bombardment. The effects of the war were felt at home. Families and communities grieved as we lost a generation of our finest young men. It was a devastating blow for such a young and isolated nation. Our women had to increasingly assume the physical and financial burden of caring for their families. Our involvement in the Great War, the war to end all wars, caused strong divisions in our society. This reached a climax in the bitterly contested and unsuccessful conscription referendums held in 1916 and 1917. When the war ended, thousands of ex-servicemen, many disabled with physical or emotional wounds, had to be reintegrated into a society that was keen to consign the war to the past and to resume normal life. In 1919 Siegfried Sassoon wrote:

Have you forgotten yet?  
Look down, and swear by the slain of the War that you'll never forget ...

Have you forgotten yet?  
Look up, and swear by the green of the spring that you'll never forget.

I contend that we are forgetting. This morning I was one of many who attended the official Remembrance Day service at Martin Place. As the clocks chimed in the ninety-second anniversary of the Armistice at the eleventh hour of the eleventh day of the eleventh month, the traffic continued to thunder by on George and Pitt streets, radio and television stations continued to broadcast their programs, and people bustled by. I wondered why we cannot take just one minute out of our increasingly busy schedules to pause, reflect, and pay a silent tribute to the 60,000 service men and women who bequeathed us the Anzac legacy in World War I.

I also wondered why our wartime history is not part of our primary, secondary and tertiary education curriculums. I pondered over the recent revelations about the rewriting of our wartime history by left-wing academics who have always empathised with our enemy. I commend the recent series of articles in the

*Quadrant* magazine on this subject. I reflected on the treachery of left-wing unions, the members of which refused to load our ships for our diggers in subsequent wars in New Guinea and Vietnam. I tried to suppress my anger and disgust at the disrespect shown by the leader of the left wing in this place, the Hon. Linda Voltz, when two weeks ago she led the charge to shut down a motion of support for our troops fighting in Afghanistan.

Times have changed dramatically since our Anzacs landed on the beaches of Gallipoli in 1915 to fight in the war to end all wars. Since then our nation has had to conquer the adversity of the Depression, another world war, the Cold War, communist insurgencies in Korea, Malaya, Borneo, Indonesia, Vietnam, and now the war against terror in Iraq and Afghanistan. Fortunately, because of our geographic isolation, Australia has been shielded from the carnage of almost continuous warfare in Europe, the Middle East, Africa and Asia since the Armistice. We have also been protected by alliances with our great and powerful friends Britain and the United States of America.

We now have the good fortune to have a couple of generations that have never experienced the horrors of war, and we should be grateful for that. However, the war of terror now has the capacity to bypass our national borders and our national security systems. We must therefore remain vigilant and not allow the propaganda of our adversaries—which is propagated through their supporters and the apologists in the left of academia, the media and politics—to sap our national will. We must never forget the words of Siegfried Sassoon in 1919:

Look down, and swear by the slain of the War that you'll never forget!

Lest we forget.

**The Hon. KAYEE GRIFFIN** [3.31 p.m.]: The tradition of remembrance that we uphold today—one minute of silence in honour of our fallen and those who have served— speaks not only for the Great War and past conflicts but also for battles fought in earlier times and sourced from increasingly distant memories. Our silent reflection speaks also of present day operations and fields of endurance. Some 1,550 Australian soldiers, together with 120,000 troops from 47 nations, are presently deployed in Afghanistan in a strategic mission to ensure international security.

Since 11 September 2001 the parameters of war have markedly changed. The war in Afghanistan is not a conventional battle with clearly defined boundaries of engagement, but our soldiers face the same dangers that any conflict brings. In the nine years of operations in Afghanistan 158 Australian soldiers have been wounded and, tragically, 21 have been killed in action. The first troops arrived in Afghanistan with the Special Task Force in October 2001 and withdrew in December 2002 as the focus of combat shifted to Iraq. Australian troops did not return again to Afghanistan until September 2005, when internal violence was again escalating within Afghanistan.

Our defence forces, in concert with the international community, are determined to create opportunities for Afghanistan, including for its women and children. Whilst the immediate concern is to stabilise the security of Afghanistan, there is also an imperative to ensure that basic health, education, civil policing capacity, infrastructure development and improvements in governance are progressed. For our forces in Afghanistan it comes with a painful sacrifice. Today we remember the defence force units who have been deployed in Afghanistan and the 21 men of those units who have paid the ultimate price. We remember and thank them for their service.

Sergeant Andrew Russell of the Special Air Service Regiment was the first of our combat deaths in Afghanistan in February 2002, when his patrol vehicle hit a land mine. A further 10 young men have been tragically lost in the past three years of the Afghanistan conflict: Sergeant Matthew Locke, and Signaller Sean McCarthy of the Special Air Service Regiment; Trooper David Pearce of the 2nd/14th Light Horse Regiment; Private Luke Worsley, Lance Corporal Jason Marks and Lieutenant Michael Fussell of the 4th Battalion Royal Australian Regiment (Commando); Private Gregory Sher of the 1st Commando Regiment; Corporal Matthew Hopkins of the 7th Battalion Royal Australian Regiment; Sergeant Brett Till of the Incidents Response Regiment; and Private Benjamin Ranaudo of the 1st Battalion Royal Australian Regiment.

Ten of our young men have fallen this year—92 years after World War I ended, when there were such hopes for peace and an end to world conflict. They were Sapper Jacob Moerland and Sapper Darren Smith of the 2nd Combat Engineer Regiment; Private Timothy Aplin, Private Benjamin Chuck and Private Scott Palmer of the 2nd Commando Regiment; Trooper Jason Brown of the Special Air Service Regiment; and Private

Nathan Bewes, Private Tomas Dale, Private Grant Kirby and Lance Corporal Jared MacKinney of the 6th Battalion, Royal Australian Regiment. We will remember them. The suffering is borne by those left behind—the families and friends who remain to mourn; the young wives who have lost their husbands and life partners; the small children who have but scant memories of their fathers; the parents who have lost their sons and grandsons; and communities who have lost their friends and neighbours.

The war in Afghanistan is not over but those who have fallen and now are engraved in our memories did not perish in vain. Enormous inroads have been made to ensure that Afghanistan, with the help of Australians and the international community, builds its capacity to develop and provide for its own security. The work of the Australian forces is ongoing. The incoming soldiers of the Second Mentoring Task Force from Darwin, based in Uruzgan Province in Southern Afghanistan, are now taking over the tasks of their counterparts of the First Mentoring Task Force, who have returned home to Brisbane.

Today we honour all our soldiers—those brave men and women who continue to protect our lives in the face of war. As we remember and honour our service men and women today we reflect on some of the historical military endeavours and the lasting memorials around Australia that pay tribute to those who have fallen. I always like to speak on Remembrance Day motions in this place because I have always had a strong interest in military history and I believe it is important that we take time to remember and acknowledge the sacrifices made by Australian service men and women. I believe it is important also to remember the contributions of all those who make sacrifices during wartime, both on and off the battlefield, including the nurses and doctors in hospitals and the families and friends who see loved ones head off to war. I appreciate that for ex service men and women it must be extremely difficult to witness the coverage of current hostilities as the feelings and emotions of their own past experiences come to the surface.

In the past I have spoken about the book *Canterbury's Boys*, a publication designed to honour those from the Canterbury municipality who served in World War I following the disappearance of the community's original honour roll. *Canterbury's Boys* is an excellent publication providing a detailed local history of the service of and sacrifices made by local community members during wartime. In my local area one of the most visible reminders of Australia's wartime history is the site of the largest military hospital in Australia during World War II, Herne Bay—or "Hernia Bay" as it is called in a book written about it—which was established in Riverwood in 1942. Herne Bay Military Hospital eased the pressure on civilian hospitals treating war casualties while at the same time provided increased accommodation for troops and medical staff with facilities shared between the United States Army, the Royal Navy and the Australian Army. The streets surrounding this site are a reminder of the connection between Australia and her allies, with local street names recalling the past American presence: Pennsylvania Road, Wyoming Place and Michigan Crescent.

Last year I was pleased to speak on the seventy-fifth anniversary of the opening and dedication of the principal war memorial in New South Wales, the Anzac Memorial in Hyde Park, which underwent extensive refurbishment. On completion of the refurbishment a moving ceremony was held during which guests of honour released Stars of Remembrance into the Well of Contemplation, with each star bearing the name of one of more than 100,000 Australians who have died serving their country.

I have mentioned previously the moving experience I had when I attended the Anzac Commemoration Service in Gallipoli in 2000 and the pride I felt at participating in such an event. As a former mayor of Canterbury I have a connection with another mayor of Canterbury, the Hon. Stan Parry. Although Stan Parry was not born in Canterbury, he survived Gallipoli, where he served as a sapper, and went on to become involved in local government and later to serve as a member of this House for about 16 years. I was most pleased to learn of Stan's connection with Gallipoli and this place. As a former mayor and as a member of this place, I acknowledge his role as mayor and as a proud member of this House.

Other members have mentioned family and friends who have served this country in war. I have also spoken previously about my two great-uncles—James Griffin and Thomas Sweeney. James Griffin was posted as missing and my great-grandmother and great-grandfather were informed 12 months after he went missing that he was killed on 14 November 1916. It had taken one year to resolve that. I am sure that my family, and my great-grandparents in particular, held out some hope that James would be found, that perhaps he had been wounded or had lost his memory. The anticipation that perhaps he had not died in the battle of Fleurs had kept their hopes alive for 12 months, thinking that there was a possibility that they may see their son again. Unfortunately, a court of inquiry established that he and a number of others had been killed on 14 November 1916. My other great-grandmother, Johanna Sweeney, raised five children and two granddaughters. After the First World War when Thomas Sweeney came home, she nursed him through his years of suffering from the

effects of mustard gas poisoning and other side effects of his service. Although she was more fortunate than my other great-grandmother because her son came home, she had to watch Thomas die at 31 years of age when he would have had such a great life before him.

According to the *Canterbury Boys*, about 20,000 people lived in the Canterbury area during the First World War and nearly 2,000 of them served in the armed forces. Mates followed mates into the services. A large group of young men from the Harriers Club—32 out of 34—signed up because their friends did. At that stage they thought they were off on a great adventure. Of course, we know it was not an adventure, and that is true of all the wars in which this country has been involved. We are not reflecting simply on our families losing their loved ones; we are also acknowledging the difficulties that families face when they try to pick up the pieces after a loved one is lost. Remembrance Day and Anzac Day afford us the opportunity to reflect publicly on those losses. We should remember everybody who has fought for our country—the servicemen and the servicewomen—and the families left behind, especially when they do not know the fate of a loved one. It is extremely important that we continue to formally acknowledge the sacrifices made by our servicemen and servicewomen and their families. We pledge to recall with gratitude the service of those who have fallen that their sacrifice will never be forgotten.

**The Hon. RICK COLLESS** [3.43 p.m.]: I support this motion. It is similar to a motion of which I gave notice in July about Fromelles. I have walked the fields of Flanders and through the streets of Fromelles and Pozières. It was an extremely moving experience to be there 90 years after these atrocities took place.

My grandfather served on the Western Front in 1918. Fortunately—or unfortunately—for him, he was injured very soon after arriving in France. He lost the front part of his forehead as a result of a shrapnel injury and lived the rest of his life—the next 40 or 50 years—with a metal plate in his skull. Given the medical technology available at the time, the doctor who operated on him did an amazing job. He was one of the lucky people who came home and led a relatively normal life. Members have told the House about the terrible injuries that many of our countrymen suffered and that resulted in their early death.

I noticed while visiting Fromelles and the surrounding area that all the villages looked very new. The quality of the photos taken during the First World War is obviously nothing like the quality of the photos we take today. However, they clearly depict a landscape devastated by bombing. Photos of Fromelles show a vague outline of the church on the horizon; the rest of it was flattened. A photo of the main road at Pozières shows total devastation. Today it is home to only a couple of thousand people, but it is a vibrant place and it has many buildings.

Today's edition of *The Age* contains an article under the headline "A village remembers" that refers to 71-year-old Gerard Delannoy, a resident of the town of Fromelles, who said, "Nobody can forget those who died for our country." Of course, he was referring to the Australians who died during the First World War. During my time in Fromelles I noticed references to Australia everywhere, including depictions of kangaroos on buildings and diggers' hats with the rising sun insignia. They are an acknowledgement of the contribution that Australians made to the freedom that the French now enjoy.

Members who have studied the language would know that the French word for "school" is "école". A street sign in Fromelles points to the École de Cobbers. On the day of the dedication of the Fromelles war cemetery I noticed a sign that read "Don't forget me, cobber". That is a reference to Sergeant Simon Fraser, who carried an injured cobber out of the field of fire. Apparently the injured soldier called to Fraser, "Don't forget me, cobber", and Fraser picked him up and carried him to safety. Fraser's gesture is commemorated in a famous statue in France.

There are many great, emotional stories about what happened in those days. We can never begin to understand the horror of war. If members were to take the time to visit some of these areas they would appreciate the respect with which the French people remember Australian soldiers. It is a very moving thing to experience. I commend the motion to the House and congratulate the Hon. Linda Voltz on moving it.

**Reverend the Hon. FRED NILE** [3.49 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the motion moved by the Hon. Lynda Voltz, which states:

That this House notes that:

- (a) the year 2010 marks the 92nd Anniversary of the Armistice, when Australians remember those who have fought and died for our country in war and armed conflicts, and
- (b) each year Australians observe one minute's silence at 11.00 am on 11 November, in memory of over 102,000 people who have died in wars and armed conflicts.

Like other members, I was privileged to attend the Remembrance Day service this morning in Martin Place and to see again many of the old veterans taking part in that ceremony. These events are always very moving. I congratulate all those who organised the service, and the chaplains who led it and the prayers. My father was born in England and he was in the British Army. When he was a young man of 17 he joined the Gloucestershire Regiment. In World War I he fought in the trenches in France against the Germans where he was wounded in the leg by machine-gun fire. After returning to England to recover he went back to France again and served almost right up to the Armistice in France. My father was named Frederick John Nile—the same name as me. His brother, my uncle Joseph Nile, served in the British Navy.

Many of my relatives have served either in the British Army or the British Navy, or in the Australian Army or in the New Zealand Army—mother is from New Zealand, she was a Clark. Her brothers, particularly Ronald Clark, served in the New Zealand Army in North Africa during World War I. He was always very proud of his army service and their hat, which is different from our Australian slouch hat. One of the family members on my wife's side, Keith Wright, was 23 when he was in Singapore with the eighth division and he was captured as a prisoner of war. He was taken to Burma to work on the Burma railway, where, unfortunately, he died. His remains were found and are now buried in the Australian military cemetery in Thailand. As other members have said, we often forget the suffering of family members. Over the years we often visited Keith Wright's sister, who is still grieving the loss of her brother on the Burma railway. For a long time no-one knew what had happened to him until the authorities were able to recover his remains. There is now a memorial stone in the military cemetery marking his death at the age of 23.

I suppose my father being in the British Army had an influence on me as a young man, because I joined the army cadets when I was 14 and then volunteered for national service when I was 17. I finished up spending 22 years in the Army Reserve, even though I was a minister. I could have been a chaplain if I had wished, but I continued to serve as an infantry officer and finally I became an infantry company commander in charge of D Company, 4th Battalion Royal New South Wales Regiment. I was commissioned in the 45th Infantry Battalion, which is a very famous battalion, also called the St George Regiment. I noticed that Major-General Gordon Maitland was at the Remembrance Day service today. He was my company commander way back in the 1950s and eventually became a major-general in the Australian Army. I have always admired him. He is a great man and a great historian. He has written many military books, particularly on the history of the Victoria Cross and so on. He is still writing.

I suppose my wife and I are patriotic, like many others and, like others, we have also undertaken pilgrimages to Gallipoli, to Anzac Cove, and walked over the same places where Australians and New Zealanders, as the Anzac force, served and died—it is a moving experience. We have also been to France and visited the cemeteries where thousands of men are buried. It shows the price of war. Australian history reminds us that Australians have not started wars but have served to bring about peace by fighting against dictatorships, whether in the First World War or in the Second World War against Nazism. No-one could sit idly by and allow that sort of regime to take over the world, as it did Europe. Although many of these battles were fought a long way from Australia's soil, they were all directly involved with the future of Australia.

I give thanks to all those men and women who volunteered to serve in our army, navy and air force over the years and those who are serving today in conflicts, recently in Iraq and now in Afghanistan, in the most difficult of circumstances. Young men are willing to give their lives to serve our nation and, sadly, as we know, more than 20 have died in Afghanistan serving our nation. I am pleased to support this motion. I will always give full support to those who serve in our Australian Defence Force. It is not a political issue. No matter what political party we belong to, we should give our full, genuine support to all those who serve our nation in our army, navy or air force, and I will continue to do that. Lest we forget.

**The Hon. LUKE FOLEY** [3.56 p.m.]: I support this motion. I particularly want to pay tribute to two men who were serving members of New South Wales Parliament when the First World War broke out and who enlisted in the Australian armed forces and served in the Great War. I pay tribute to Ted Larkin, the serving Labor MP for the State seat of Willoughby. He was among the first to enlist in the First World War. Ted Larkin represented Australia in the first-ever rugby union test against New Zealand in 1903. He became the first full-time secretary of the infant New South Wales Rugby League in 1909 and his personal efforts and enthusiasm resulted in rugby league being established in country areas and in Catholic schools. Of course, more than 100 years later those groups are still the strongholds of the sport of rugby league. Rugby league rates Ted Larkin as one of the game's most competent administrators. Larkin, always a staunch Labor man, surprised very many by winning the North Shore seat of Willoughby for Labor at the 1913 State election.

**The Hon. Rick Colless:** Probably the last time you won it.

**The Hon. LUKE FOLEY:** No, it is not. Eddie Britt won it on that sublime day in 1978 in the Wranslide. Ted Larkin proved to be a capable performer in State Parliament. He had a promising political career but enlisted when the First World War broke out. At dawn on 25 April 1915 the first battalion landed at Gallipoli. Ted Larkin's platoon scaled the heights of Pine Ridge above Anzac Cove. Turkish reinforcements massed for a counter-attack to drive the Australians from the high ground. In the afternoon of that day, 25 April 1915, Sergeant Ted Larkin's life ended in a hail of machine gun fire.

Patriotism took a heavy toll on the Larkin family. Not only did Ted Larkin leave a grieving widow and two young sons, his brother Martin was also killed at Gallipoli. The New South Wales Rugby League donated the proceeds of the 1915 City Cup Final, £171/1/-, to Ted Larkin's young family. A memorial to Sergeant Ted Larkin and Lieutenant Colonel George Braund, the Liberal member for Armidale, is on the southern wall of the Legislative Assembly. Larkin and Braund were the two serving members of the New South Wales Parliament who fell in the Great War.

I pay tribute also to Ambrose Carmichael, the education Minister who went to war. Two weeks ago I hosted a dinner to mark and celebrate the 100th anniversary of the first New South Wales Labor Government. Ambrose Carmichael was the Minister for Public Instruction in that Government. Today we would refer to that role as the Minister for Education and Training. He was also the State member for Leichardt. In early 1915 he resigned from the Ministry and shortly thereafter enlisted as a private soldier, at the age of 48. He announced he would recruit a thousand riflemen to join him and undertook a recruiting drive. Carmichael's riflemen's march yielded over a thousand volunteers as it moved from town to town. They were called Carmichael's Thousand and made up the 36th Battalion. The pride of the 36th was its band, reflecting Ambrose Carmichael's interest in music. As education Minister he had established the Sydney Conservatorium of Music and promoted music and the arts.

The 36th Battalion sailed in March 1916 and moved into the lines in France during the last weeks of the Battle of the Somme. Carmichael was wounded on 21 January 1917. In this action he was awarded the Military Cross for rescuing troops cut off by the enemy. In May he was promoted to captain and wounded again in October. In February 1918 he was invalided back to Australia, travelling as honorary aide-to-camp to the new Governor of New South Wales, Sir Walter Davidson. Carmichael, still a member of Parliament, was returned to New South Wales and was feted as a hero. Urging the need for more troops on the Western Front, Carmichael undertook a busy round of speaking engagements. He spoke of the war bringing a new equality. He said that unionists and capitalists had shared the horrors of the front line and peace would bring a democracy based upon the brotherhood of man. On his death in 1953 the Legislative Assembly moved a condolence motion. I am sure the Hon. Michael Veitch will appreciate the remarks of former Digger Fred Cahill, Labor member for Young, who spoke movingly of Ambrose Carmichael's leadership, personality and character. Towards the end of his speech Fred Cahill said:

I should know. I was No. 733 of Carmichael's thousand.

I commend these men. Of course, there were serving members of Parliament from all sides of politics who enlisted in the Great War. Today we pay tribute to them.

**Reverend the Hon. Dr GORDON MOYES** [4.03 p.m.]: On behalf Family First I speak briefly to the motion. Others have spoken eloquently and I do not think there is a need to go over the same points. I was also at the Cenotaph today and I must commend all the organisers for a very moving civic remembrance. Over the years I have attended I have always felt they were very well presented and everyone involved gave their presentations with the utmost sense of respect and dignity. I was particularly moved today for a reason I do not really understand, but I noted that when the war widows and some female Defence Force personnel placed their wreaths, they were wearing their World War II uniforms. These ladies were WRANS—they in the navy. I was touched to note that all these war widows from World War II and female Defence Force personnel would all be about 90 today and almost all of them walked with a stick. I thought to myself, "We are seeing the last remnants. They are the last few". We remember particularly with great gratitude what they have been through.

A female brigadier from the Australian Defence Force, who has served in Iraq and Afghanistan, gave a brilliant address. She spoke of her feelings and experiences as a professional soldier working with the armed forces in those countries. I will not take up the time of the House now but I had an opportunity some years ago, in 1983, to put together a film crew of 35 professional people—cinematographers from places like New York

and sound recorders from Central Europe, London and other places—to go to Middle East and European sites. I made a professional film called *Our Magnificent Defeat*. For about 15 years that film was screened every Anzac Day on the Channel 7 network around Australia. It was then taken up by other countries and filmed on public broadcasting throughout America, the United Kingdom and France. We sold countless numbers of videos to schools, RSL clubs and others who wanted to see the film. It was the first film made in the actual trenches of Gallipoli since the burial party arrived with C. E. W. Bean in 1922. This was before travelling to war sites became popular with Australian backpackers.

Recently we reissued the film on DVD and the significant sales indicate a new generation of people showing interest in the trenches. I remember one Anzac Day at dawn walking along Anzac Cove and not seeing another person on the beach. I realise there are other great war sites, such as Korea, where I visited war graves in vast numbers, Borneo, Malaysia, Vietnam, where Australian Defence Force personnel were engaged as peacekeepers, Africa, Namibia, Somalia, Cyprus and Iraq and Afghanistan where we were engaged in the war against terrorism. We remember them today. People die; people survive; people remember. On this day those of us who are healthy and well remember.

I have a 30-foot high flagpole at my home and I fly the Australian flag every day. Today a son came to my home, lowered the flag to half mast and raised it again at the appropriate moment on the eleventh of the eleventh. But my wife added a touch. At the foot of the flagpole she placed a vase of red Flanders poppies. I had picked the red poppies in Europe, dried them out between pages of film script and brought the seeds home to Australia—those seeds were passed by quarantine—and planted them. Today blossoming in our backyard garden are large numbers of brilliant scarlet Flanders poppies, some of which my wife picked and placed at the foot of the flagpole this morning. Lest we forget.

**The Hon. LYNDIA VOLTZ** [4.09 p.m.], in reply: I thank honourable members for their contributions. There is a longstanding tradition that we try not to politicise our service personnel or remembrance celebrations. That longstanding tradition is supported by most returned services organisations and defence associations, and most politicians have the discipline to respect it. However, we are a Chamber of passionate and forthright ideas. We are perhaps at our most passionate in debates on issues such as this that have touched our nation for a long time, and particularly issues involving conscience. That is not a bad thing in a Chamber; indeed, it is a good thing. However, the one thing we in this country know about war is that, rich or poor, white or black, city or country, from the outback to the islands, it has touched everyone in this nation at some stage. Every year this House recognises that. Again, I thank members for their contributions.

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

**Motion agreed to.**

## **CRIMES AMENDMENT (GRIEVOUS BODILY HARM) BILL 2010**

### **Second Reading**

**Debate resumed from 21 October 2010.**

**The Hon. MATTHEW MASON-COX** [4.11 p.m.]: I speak in support of the Crimes Amendment (Grievous Bodily Harm) Bill 2010, introduced in this place by Reverend the Hon. Fred Nile as a private member's bill. At the outset I indicate that this bill strikes me as being a matter of simple common sense, as it seeks to correct an anomaly in our criminal justice system. This anomaly can be best illustrated by a few simple examples. If a person assaults a woman causing the woman to suffer serious physical harm, such as ruptured organs or serious disfigurement, that assault is rightly described under our State criminal law as an assault causing grievous bodily harm. Accordingly, the perpetrator of such a heinous act is rightly charged with the serious offence of assault causing grievous bodily harm. If a person assaults a pregnant woman causing that woman to miscarry, the court of public opinion would similarly consider such an assault to be disgraceful and cowardly, equally heinous and a serious matter requiring serious treatment by the criminal justice system. In my view, such an assault should be described as an assault causing grievous bodily harm—even more so if the perpetrator knew the woman was pregnant.

If a person is driving dangerously and crashes into another car being driven by a woman, causing her serious physical harm, that conduct is rightly described under our State criminal law as dangerous driving causing grievous bodily harm. Accordingly, the perpetrator is rightly charged with the serious offence of

dangerous driving causing grievous bodily harm. If a person is driving dangerously and crashes into another car being driven by a pregnant woman, causing that woman to miscarry, the court of public opinion would similarly consider such dangerous driving to be a menace and a serious matter requiring serious treatment by the criminal justice system. In my view, such driving should be similarly described as dangerous driving causing grievous bodily harm.

The issue in each of the circumstances contemplated by the bill is whether we as a society regard an assault, dangerous driving or other unlawful act that causes a pregnant woman to miscarry as serious offences under this State's criminal justice system. I do, and I believe that the overwhelming majority of the citizens of this State do. Indeed, this has been well and truly illustrated by the public outrage that has been expressed about recent cases of this type. Whether a woman is six, 12, 18 or 24 weeks pregnant does not change the seriousness of the assault or the seriousness of the dangerous driving that caused her to miscarry. Accordingly, I commend the bill to the House.

**Reverend the Hon. Dr GORDON MOYES** [4.14 p.m.]: On behalf of the Family First Party I speak in support of the Crimes Amendment (Grievous Bodily Harm) Bill 2010. The object of the bill is to amend the Crimes Act 1900 to ensure that offences under that Act relating to the infliction of grievous bodily harm extend to the destruction by a person, other than in the course of a medical procedure, of a child in utero. The proposed amendments extend the offence to the destruction of any form of human life in the embryonic stage. Such offences currently apply to human life in the foetal or later stages. Many studies in recent years have made the appalling finding that, outside of medical complications, homicide is the number one cause of death among pregnant women. Although it is probably not necessary to explain this, the death of a pregnant woman in almost every case means the death of the baby she carries in the womb.

I will cite several American studies. For instance, one published in the March 2005 edition of the *American Journal of Public Health* found that homicide was a leading cause of death among pregnant women in the United States between 1991 and 2000. A 2001 study published by the *Journal of the American Medical Association* reported that 20 per cent of women in the American state of Maryland who died during pregnancy had been murdered. Other researchers found the same trend in New York and in the Chicago area, Illinois, throughout the 1980s. A year-long examination by researchers at the *Washington Post* of death-record data in states across the United States documented the killings of 1,367 pregnant women and new mothers since 1990. This is only part of the national toll, because no reliable system is in place to track all such cases.

In addition to all these murders, according to the United States Centre for Disease Control and Prevention, approximately 324,000 pregnant women living in the United States are hurt by an intimate partner, or former partner, each year. Australian statistics and studies show the same pattern. On Wednesday this week at lunchtime I hosted the monthly Focus on Family Values Forum, which I conduct in the Parliament Theatre. It so happens that this week the forum focused on domestic violence and looked at research across Australia undertaken by researchers connected with the Benevolent Society of New South Wales. Again, it became clear during the forum that the majority of pregnant women who are hurt or killed are hurt by an intimate partner or former partner.

Experts say that while pregnant women are most commonly targeted by the men in their lives—particularly their boyfriends or husbands, or their ex-boyfriends or ex-husbands—they also need to be wary of other women. Cases have occurred where women have killed their husband's pregnant lover when his adultery was discovered. Cases unfortunately also occur in multicultural settings where, for instance, the mother-in-law murders her son's lower-caste pregnant wife because she disapproves of the marriage. So-called "honour killings" of girls and women who have become pregnant outside of marriage, or to someone of another race or faith, are also occurring, carried out by fathers and sons on behalf of the family. There is not just one scenario in these murders of women. The motivations for murdering or hurting pregnant women are much more varied and complex than the standard scenario we may be considering.

Most of the men who kill pregnant women have been involved in romantic or sexual relationships with their victims, and see the pregnancy and unborn child as unwanted obstacles and burdens in their lives. The existence of the expected baby is a complication in his life—which he goes about trying to remove. Many American men are currently serving time for killing women who refused to have an abortion. These women were killed by being run over, drugged, shot, stabbed, pushed off a cliff, or by other means. The men's excuse is frequently that they felt they had been "trapped" by a woman who purposely became pregnant. They may first deny that they are the father of the child, then press for an abortion and, if that fails, make plans to murder the woman and the child. Many say that they did not want the responsibility, or did not want to have to pay child support.

Secular relationship experts advise women that there are ways to protect themselves from male violence during pregnancy by being very wary of the men they become intimate with. For instance, any sign of controlling behaviour should be taken as an indication of future risk. In other words, women should be very careful about who they decide to have children with. It has been observed that women who are keen to be mothers do not always make the best decisions about love and may rush into relationships too quickly.

As a reminder of an old wisdom that is not often heard these days, faith-based relationship experts say that the safest lifestyle choice for any woman is to have a lifelong commitment from a man who vows to be faithful to her and is committed to their shared family values. They explain that women should not be casual in their affections if they wish to be cherished, protected and safe from harm; they should wait for someone special before permitting intimacy—that is the traditional ideal. Attorney Lynn M. Paltrow, the Executive Director of National Advocates for Pregnant Women in the United States of America, commented that those who are most likely to be harmed by the United States version of this law are women who want to continue their pregnancies to term. She wrote:

The Unborn Victims of Violence Act 2004 created a federal law making it a crime to cause harm to a "child in utero," recognizing everything from a zygote to a foetus as an independent "victim," with legal rights distinct from the woman who has been attacked. More than 30 [US] States already have similar laws on the books.

The State of South Carolina offers a chilling example of the ramifications of laws creating special foetal interests. In 1984, South Carolina's Supreme Court created a State feticide law in response to a case where a man viciously stabbed his pregnant girlfriend, causing her, among other injuries, to lose her pregnancy ... South Carolina used this law against a pregnant woman who was charged with failing "to provide proper medical care for her unborn child."

I will quote this advice at length because Ms Paltrow paints a most dreadful picture of how legislation can be used for a purpose altogether different from what was intended by its framers. She continued:

... South Carolina ranks number one in murders of women by men and last in the number of state dollars spent on drug treatment, the primary targets of the state's foetal protection laws are pregnant women and new mothers who need drug treatment and mental health services. As a result, scores of women in South Carolina who could benefit from treatment have been arrested, some escorted from hospitals in chains and shackles while still pregnant, others still bleeding just following a delivery.

What is really shocking is that South Carolina's feticide law goes even further, and has been used to punish a woman for a stillbirth. In 2001 Regina was a homeless woman of 22 with a drug problem. She became pregnant. Despite her problems she wanted the baby, but her pregnancy ended in stillbirth. The hospital did not offer counselling or drug treatment, but rather supported launching a criminal case against her. This young woman was convicted of murder, despite the health authorities concluding that there was no evidence that her drug use had even caused the stillbirth. These problems with laws—albeit in only one state of the United States of America—raise questions as to what we are trying to do here. We are committed to safeguarding pregnant women and children. Some laws may create a legal foundation for the policing of pregnancy and the punishment of women. That is the last thing I would ever hope to see occur in this country.

From the more than 700 speeches delivered in the Legislative Council, I remember a number of notable ones. One concerned the passing of Byron's Law back in 2005. This law allows police to charge offenders and the courts to sentence with up to a maximum of 25 years those found guilty of killing unborn children through their physical violence to the babies' mothers. At the time we were seeking to bring a charge of manslaughter against a person who deliberately stomped upon the womb that held an unborn child, with the intention of killing it. The law declared the unborn child was a human being and therefore murder or manslaughter charges could be laid. It was a great step forward for New South Wales, as until then unborn babies were not counted as human beings until the time of independent breathing. However, there were two omissions from the law, and an event on the Central Coast brought this to light.

I remember quite vividly when local mother Brodie Donegan from Ourimbah, who was eight months pregnant, went for a walk on Christmas Day and, less than a kilometre from my home, was run down by a 40-year-old woman driver under the influence of drugs and alcohol. According to existing New South Wales law, unborn baby Zoe was not a human being because, despite spending eight months in her mother's womb, she had not taken a breath. Further, the driver did not intend to harm the child. So Byron's Law was not enforceable. The culpable driver charges are limited to driving under the influence of drugs and dangerous driving causing grievous bodily harm. In baby Zoe's case, police and insurance company records have no record of her death. The hospital seems to have ignored treatment for unborn baby Zoe in favour of treating her mother, Brodie.

The Attorney General and the Minister of Police, both extremely good politicians, will soon introduce new legislation for debate. Potentially called Zoe's Law, the change will ensure that Zoe's life is not only

recognised and remembered, but will also ensure justice so that any unborn baby's death even by accident will attract charges of manslaughter at least, and possibly murder, subject to circumstances. This would be a good outcome as it would also remove what is now known to be a faulty test—that is, there is no life in an unborn baby unless that baby is actually breathing. Recently in New South Wales we observed International Women's Day. I recalled that, although progress has been made, there are still unfair daily pressures on women when the State can establish what a "good woman" and "a fit mother" should look like and whose reproduction is most valued.

I strongly believe that what is most needed in order to protect women and their children, throughout their lives from the child's conception, is to enact measures that strengthen women's economic positions, educational and work opportunities, autonomy, and healthcare. Since my return from the Cenotaph earlier today for Remembrance Day, I have met with some professors from Macquarie University to consider ways in which we can develop access to university education for young women with profound disabilities. Women also need to be valued as members of society whether or not they have children. I fear the potential punitive use of a bill such as this: it could be used, as in South Carolina, to punish rather than to protect pregnant women. I hope I have alerted the House to that possibility by raising these issues. I also hope we never see that day come. I support the bill.

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

## **BUSINESS OF THE HOUSE**

### **Suspension of Standing and Sessional Orders: Precedence of Business**

#### **Motion by the Hon. John Hatzistergos 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 this day.

#### **Precedence of Business**

#### **Motion by the Hon. John Hatzistergos agreed to:**

That Government Business take precedence for the remainder of the sitting.

## **BUSINESS OF THE HOUSE**

### **Postponement of Business**

**Government Business Notices of Motions Nos 1 to 3 postponed on motion by the Hon. John Hatzistergos.**

## **SURROGACY BILL 2010**

### **In Committee**

#### **Consideration of the Legislative Assembly amendments.**

#### *Schedule of amendments referred to in message of 10 November 2010*

No. 1 Page 7, insert after line 34:

#### **11 Geographical nexus for offences**

- (1) This section applies for the purposes of, and without limiting, Part 1A of the Crimes Act 1900.
- (2) The necessary geographical nexus exists between the State and an offence against this Division if the offence is committed by a person ordinarily resident or domiciled in the State.

**Note.** Section 10C of the Crimes Act 1900 also provides that a geographical nexus exists between the State and an offence if the offence is committed wholly or partly in the State or has an effect in the State.

No. 2 Page 13. Insert after line 8:

**28 Maturity of younger intended parent must be demonstrated**

- (1) If an intended parent was under 25 years of age when the surrogacy arrangement was entered into, the Court must be satisfied that the intended parent is of sufficient maturity to understand the social and psychological implications of the making of a parentage order.
- (2) An intended parent who was under 25 years of age when the surrogacy arrangement was entered into must provide evidence to the satisfaction of the Court:
  - (a) that he or she received counselling from a qualified counsellor about the surrogacy arrangement and its social and psychological implications before entering into the surrogacy arrangement, and
  - (b) that the counsellor was satisfied that he or she was of sufficient maturity to understand the surrogacy arrangement and its social and psychological implications.
- (3) This precondition is a mandatory precondition to the making of a parentage order.
- (4) This precondition does not apply to a pre-commencement surrogacy arrangement.
- (5) If the Court grants leave to an intended parent to make a sole application in respect of a surrogacy arrangement that involves 2 intended parents, it is not necessary to establish that the intended parent who is not a party to the application meets this precondition.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [4.30 p.m.]: I move:

That Legislative Assembly amendments Nos 1 and 2 be agreed to.

I speak in support of the Surrogacy Bill 2010 as amended in the other place. I will briefly outline the details of the two amendments. The first amendment adds a new section that extends the geographical nexus of offences in division 2 of part 2 of the bill so that the relevant relationship exists if the offence is committed by a person ordinarily resident or domiciled in New South Wales. The effect is that if a person ordinarily resident or domiciled in New South Wales commits the offence outside of New South Wales territory, the offence is an offence against the law of this State. On the extraterritoriality of offences, Professor Anne Twomey's *The Constitution of New South Wales* states:

Early cases ... suggested that the State's legislative powers were confined to the area of their territory and could not have an extraterritorial operation. This doctrine ... later developed so that a law could have an extra-territorial application as long as it was a law for "peace, order and good government" of the relevant jurisdiction. There must be a connection between the law and the territory in which it was enacted ...

The relationship may be presence, residence or domicile ... "or even remoter connections".

It is rare for New South Wales to pass laws criminalising conduct that essentially occurred outside the State. However, the reality of surrogacy is that the prohibitions on commercial surrogacy in New South Wales can be and are circumvented by people going to countries that allow it. The Standing Committee of Attorneys-General, as well as various speakers in this and the other place, reconfirmed the position that commercial surrogacy is not in the best interests of children born out of these arrangements. Extending the offences in the bill in this way is consistent with provisions already in place in Queensland and the Australian Capital Territory. It confirms this Parliament's opposition to commercial surrogacy and prevents such arrangements from being used to circumvent our prohibition on it. I support the amendment to the bill.

The second amendment adds a provision dealing with intended parents who are under 25 years of age. The bill provides that they must be 18 years. This is a mandatory condition to the making of the order. New section 28 will require the maturity of the intended parents under 25 years to be demonstrated to the satisfaction of a court and that this was the case both at the time of the application for a parentage order and at the time the preconception surrogacy agreement was entered into. The court can still grant parentage orders to people under 25 years but there will be an added safeguard. I support the amendment to the bill, which will strengthen the legislative scheme requiring all people, especially young people, to think very carefully in light of professional advice about whether surrogacy is the best option for them.

**The Hon. LYNDA VOLTZ** [4.33 p.m.]: I seek clarification from the Attorney General. I have just become aware of these amendments and I do not have a great deal of information. What is the effect of these amendments on people in current surrogacy arrangements? A number of people have raised the issue that they

are currently involved in legal commercial surrogacy arrangements overseas. Can the Attorney General clarify the effect of this legislation in those circumstances? Also, what are the repercussions of extraterritorial offences that are classified as criminal offences?

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [4.34 p.m.]: The offences are only prospective, not retrospective, for people who have previously engaged in conduct that is sought to be outlawed. The penalties are the penalties set out in the legislation. They will not vary.

**The Hon. DON HARWIN** [4.34 p.m.]: The Attorney General was speaking very quietly in his response and I did not hear him. I would be grateful if the Attorney General could repeat his remarks.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [4.35 p.m.]: As I indicated, there is no retrospective impact in relation to persons who have previously carried out or engaged in conduct that is sought to be prohibited by this legislation. The penalties are the same as the penalties that exist in relation to commercial surrogacy, as outlawed in this legislation.

**The Hon. LYNDA VOLTZ** [4.35 p.m.]: I seek clarification. Will a person who is in an arrangement and is currently in the first month of pregnancy be captured by this legislation?

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [4.35 p.m.]: Clause 8 of the bill, on page 6, creates the offence of entering into a commercial surrogacy arrangement. So it applies in relation to entering into the surrogacy arrangement.

**The Hon. DON HARWIN** [4.36 p.m.]: If I understand the Attorney General correctly, the operation of this bill would not affect anyone who had already entered into a surrogacy arrangement.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [4.36 p.m.]: It is prospective and the provision applies after the date the new legislation is proclaimed. After the legislation is proclaimed the offence is entering into a commercial surrogacy arrangement.

**The Hon. GREG DONNELLY** [4.37 p.m.]: I will speak briefly to the two amendments from the other place. I support both amendments wholeheartedly. The amendment of Ms Linda Burney, Minister for Community Services, essentially does nothing more than fortify and underpin the legislation that we passed in New South Wales to outlaw commercial surrogacy. I was a member of the committee that inquired into this matter and the issue of commercial surrogacy was ventilated thoroughly in evidence from both witnesses and submissions. The committee produced a report with clear findings. The findings were that to the extent the Parliament was mindful to go down the path of creating surrogacy legislation in this State such legislation should not provide for commercial surrogacy. I fully endorse the amendment of Ms Linda Burney.

As to the amendment of Mr Frank Sartor, members would be aware that during debate in this House I sought to enhance the provision within the Act by making it a condition that would apply to the person bearing the child. Not only did I support the position that the person should be 25 years of age; I moved an amendment to provide that, in addition, the woman would have had at least one live birth. I considered this was reasonable and consistent with legislation in other jurisdictions in Australia and overseas. Members will recall that that amendment was not successful.

That said, it is very pleasing that this amendment of the Hon. Frank Sartor is before us. The amendment, if I could use the word again, fortifies the question of what is a fundamental aspect of this area of surrogacy, which is consent and the ability of the person contemplating becoming a surrogate mother to fully comprehend the implications of her actions. I believe that the amendment of the Hon. Frank Sartor enhances that position. For those reasons I fully support the two amendments.

**The Hon. TREVOR KHAN** [4.39 p.m.]: I will read part of what I believe is a thoughtful letter that expresses some of my disquiet about the amendment dealing with commercial surrogacy. I invite the Attorney General to give consideration in due course to what I am about to read. The letter states:

May I start by saying, I personally do not support overseas commercial surrogacy arrangements which diminish women's autonomy or exploit social inequality, such as female poverty.

However, whilst commercial surrogacy is a difficult issue, I am extremely concerned about the effect of this foreshadowed amendment on children who will invariably be born in these legal commercial arrangements overseas, and who will have a shadow of criminality hanging over their heads for the rest of their lives.

If this amendment passes, almost all heterosexual people and gay men who have a child overseas through surrogacy will be made criminals and could face penalties and/or imprisonment. Unfortunately the reality remains that most overseas jurisdictions that Australian heterosexual people and gay men go to have commercial surrogacy schemes (e.g. the US, India etc).

The risk is that their children, through no fault of their own, and who will be born in these legal situations overseas, will face the dilemma of having parents who, for example, may not be able to go to the Family Court for parenting orders because to do so may entail admitting to committing a crime. The end result will be children who are born in legal commercial arrangements overseas and who will have no avenue for even minimal recognition in Australia. Whilst I have no doubt that this is a well-intended amendment, I am concerned that it will have the unintended consequence of hurting children and denying them material legal recognition for the rest of their lives.

Whilst I do not think that the amendment is necessary at all—

and this was in respect of a letter that was forwarded to the Minister—

if you were to push ahead with it, may I propose some suggestions for ways to curtail its unintended consequences:

- Ensure the amendment only applies to jurisdictions where commercial surrogacy is illegal in that country overseas. That is, only criminalise people who break the laws of other countries by commissioning commercial surrogacy arrangements where they are not allowed. This would respect the principle that nation states be given the sovereignty to regulate within their territory, but leaves NSW in the neutral position of not affirming their decision but still recognising that children need to be fairly treated as a matter of priority; **and/or**
- Suspend the applicability of the criminalisation provision where a foreign court has approved the surrogacy arrangement or granted the intended parents legal recognition as parents. This will ensure that any commercial surrogacy arrangement must be approved by a foreign court - which is likely to inquire into the issue of informed consent by the birth mother, whether the arrangement was lawfully entered into in accordance with the laws of that country etc. It gives the surrogate mother the added protection of ensuring that any commercial surrogacy arrangement must be properly carried out in accordance with the law of that country; **and/or**
- Add a defence of no knowledge of the law prior to conception - the reality is, this amendment is being proposed without any consultation with affected persons, and these people are unlikely to know that what they are doing will be criminal until it is too late; **and/or**
- In the worst case scenario, ensure that no criminal proceedings can be brought under the provision without the approval of the Attorney, who must refuse to grant permission where it would harm the interests of the child involved.

I don't support exploitation of poor overseas women in any way, but I don't think criminalising overseas commercial surrogacy in NSW is the answer. People who undergo commercial surrogacy are already denied recognition of their parentage upon return to Australia under the Bill - criminalising their conduct will go one step further and actively contribute to disadvantaging their children far beyond what is being contemplated.

That thoughtful letter gives appropriate consideration to some of the conflicting issues. One of the difficulties I see with this issue is that some quite sophisticated jurisdictions overseas permit commercial surrogacy. Many States of the United States, which one could not say is an impoverished and backward country, allow commercial surrogacy and have protections in place for surrogate mothers. What we are essentially saying is that even though there may be protections for surrogate mothers in sophisticated jurisdictions such as the States of the United States of America—indeed there are protections for all the parties to the process—notwithstanding that, we will legislate to make illegal an act that in those jurisdictions is legal. I consider that to be, whilst not an impossible legal concept, an interesting exercise to engage in.

It may very well lead to a circumstance whereby in order to circumvent this legislation, in their earnest desire to fulfil their maternal and paternal desires of having a child, people will make themselves ordinarily resident in another jurisdiction and, having become ordinarily resident in another jurisdiction and had a child by commercial surrogacy, may very well then in due course transplant themselves back here again without the protections that I believe were the earnest desire of the vast majority in this Chamber to see provided. On the last occasion this bill was before the House I pointed out the difficulty that we are left with the body—the child. If our earnest desire was to see, in a sense, the expectation of so many people for having a child and then having protections for that child, then this style of amendment defeats the goodwill that led to us passing the legislation through the House in the first place.

I understand that we can go to the birthplace of my grandfather and say that we do not want women in India being exposed to the filthy lucre that we can bring from Australia and forcing women to be exploited. But I have difficulties in saying that that applies in sophisticated and wealthy jurisdictions where the protections for surrogate mothers exist. I am decidedly troubled by the amendment. I understand its intent but I think it undermines what we attempted to do on the last occasion.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [4.47 p.m.]: I will respond to the matters that have been raised so far and, in due course, any further matters that might arise. I inform honourable members who share the concerns of the Hon. Trevor Khan that it is not correct to say that what we are doing through this legislation is denying persons who engage in commercial surrogacy an avenue in which to access the legislation because this legislation also denied an avenue for obtaining a parentage order for anyone who was involved in a commercial surrogacy arrangement. That is the case now and it was the case when the bill was being debated in this House. It is a mandatory pre-condition that a parentage order cannot be made if there is a commercial surrogacy. It does not matter whether the commercial surrogacy was arranged locally or overseas. So that is not the issue here. However, the Act also criminalises persons who are involved in a commercial surrogacy arrangement or who offer to enter into a commercial surrogacy arrangement, and there is a penalty of up to two years imprisonment.

This amendment seeks to expand that to apply to a New South Wales resident or a New South Wales domiciled person who enters into a commercial surrogacy arrangement overseas. It simply extends that prohibition to cases of persons who go overseas or to other jurisdictions where that might be entertained. In respect of the child, it is important to reflect on the conclusions of the Standing Committee on Law and Justice, which considered these different issues. The committee's report stated that inquiry participants almost unanimously expressed their clear opposition to commercial surrogacy. The report further states:

Associate Professor Nicholas Tonti-Filippini, Head of Bioethics at the John Paul II Institute for Marriage and Family, described commercial surrogacy as 'economic exploitation' noting that 'in the areas where it happens the women who agree to be surrogates are nearly always economically disadvantaged.' Associate Professor Tonti-Filippini added that the fact there was a contract to exchange the child rendered the child a 'product or an object.'

Professor Margaret Somerville from the Centre for Medicine, Ethics and Law at McGill University in Montreal, argued that 'commercial surrogacy commodifies, objectifies and reifies the transmission of human life from one generation to the next and fails to uphold respect for the passing on of life' noting that in developing countries it tended to 'exploit very poor and desperate women, who have no other means of support.'

They are some of the views expressed during the inquiry. As I said, in formulating this legislation we closely followed the advice of the committee, which heard all the relevant evidence and came to informed conclusions. The Hon. Trevor Khan is correct in saying that a person could defy this legislation. However, such a person would not get a parenting order, and it was never intended that such a person would get a parenting order. Of course, he or she could go down the adoption route. The Government is sending a clear message that it does not endorse commercial surrogacy. Hopefully that message reaches the people who are considering entering into an arrangement of that nature and we will not have the problems to which the committee referred in its report.

**Mr DAVID SHOEBRIDGE** [4.52 p.m.]: The Greens oppose these amendments. I recognise the good intentions that underpin both amendments, particularly the first amendment, and the clear aim of reducing the number of commercial surrogacy arrangements that are entered into. Often those arrangements can be to the detriment of the woman who has been given money to provide her womb for the surrogacy. We had extensive debate about surrogacy arrangements and the tenor of that debate reflected the widespread view in New South Wales that commercial surrogacy arrangements should be unlawful and that steps should be taken to restrict them. That is my starting point in considering the first lower House amendment.

Passing a law to make entering into an overseas commercial surrogacy arrangement a criminal act in New South Wales will at best have only a marginal impact on the number of New South Wales citizens who do so. No evidence has been presented suggesting that it will have any meaningful impact on this practice. Indeed, these amendments have appeared very late in the day after lengthy consultation. The legislation that is passed by this House is subjected to full and proper scrutiny over some years, but this amendment has had only a couple of days of scrutiny and consideration and it is not generally supported by the community.

The urge to have a family is overwhelming for many people. IVF procedures are not successful for many couples and it can be difficult to find a person prepared to carry a child under an altruistic surrogacy arrangement. That is the biological and factual reality. Many people driven by that overwhelming urge to have a child will travel to jurisdictions in which commercial surrogacy is not illegal. The Hon. Trevor Khan mentioned States in America, such as California, that have sophisticated laws that deal with commercial surrogacy arrangements. Making entering into those arrangements unlawful in New South Wales will not stop couples from heading off to those jurisdictions. In fact, it will only make criminals of those people for entering into an arrangement that they will enter into in any event. It will not stop the practice.

It may mean that couples who choose an overseas commercial surrogacy arrangement never return to New South Wales. They might make the decision to become parents and in the process they will be banished by

this amendment. Alternatively, it could mean that people who enter into such an arrangement will not go through the adoption process to establish parenting rights because of the fear of being prosecuted and facing a two-year jail term. The children that result from these arrangements will suffer unacceptable harm and will not be protected by any law. I accept the Attorney's advice that these surrogacy laws will not apply to any commercial arrangements. I am talking about the adoption laws and the ability to obtain parenting orders under the Family Law Act. That situation will cause unacceptable harm to those children. In the past 24 hours my office has received a number of communications from people who are very concerned about this legislation.

**The Hon. Greg Donnelly:** The messages started at 3.00 p.m. today.

**Mr DAVID SHOEBRIDGE:** The Hon. Greg Donnelly is correct.

**The Hon. Greg Donnelly:** The campaign started at 3.00 p.m.

**Mr DAVID SHOEBRIDGE:** The campaign started then because that is when the people of New South Wales were given genuine notice of this amendment and the criminalisation of this activity. One submission received by my office states:

I am writing in relation to the proposed amendment which would criminalise a New South Wales resident from accessing commercial surrogacy outside Australia.

While I understand that commercial surrogacy has been rejected by the New South Wales government for many valid reasons, many families have no choice but to choose commercial surrogacy. I have a dear friend whose second child was born to a surrogate in Canada—she and her husband had no choice but to use a surrogate, as she was told by her doctors that having another child would quite literally kill her. She didn't have a sister or anyone close who could carry a child for her, and yet she so wanted her existing son to have a sibling.

I worry that this amendment says to her son that his birth, his very existence, is "illegal"—that he should not have been born. Yet he is, in fact, a much loved son and brother who knows that his mum and dad went to extraordinary lengths to have him.

Criminalising overseas surrogacy will not stop parents from having children overseas, but it will send a terrible message to the children born from those arrangements. I therefore ask that you vote against this amendment.

Another representation—again received since 3.00 p.m.—states:

I am writing to express my opinion regarding the proposed amendment to the surrogacy legislation. I plead with you not to support this amendment for the rights of all the children currently born through overseas surrogacy arrangements and the children who are about to come into this world under such circumstances such as my own child.

I do not want my child to be born under illegal circumstances and always have this stigma associated with them for their life. They deserve to be treated as normal citizens no matter how they come into the world.

My child is only six months away from being born and it sends shivers down my spine that this legislation could pass and ruin my child's and my family's life.

The Attorney has clarified that the law will be prospective and that, on his reading, it will not criminalise that particular arrangement. However, if the arrangement were entered into a day after this legislation is passed, it would be a criminal act. One further submission is in these terms:

I am writing to voice my concern about the amendment which was added to the surrogacy bill last night which criminalises residents of NSW who engage in commercial surrogacy arrangements overseas. Hundreds of families in NSW have been created this way—straight couples, gay couples and single people. I am very worried that the children of these families will be stigmatised by the move to criminalise the system which brought them in to the world.

Many people have no other option than overseas surrogacy and I worry that the desire to have a family—which most people take for granted—will drive them to break the law and seek help having children overseas regardless of this new law. This will create families who will be living under the very real threat of prosecution and even jail time. This will put a great deal of pressure on the children and the parents.

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

**The Committee continued to sit.**

**Mr DAVID SHOEBRIDGE:** The submission went on:

So much about the surrogacy bill is progressive and are welcome. However, I believe the amendment on overseas commercial surrogacy—which was added without public debate and at the last minute—ignores the reality of modern society and put children at great risk of marginalisation and stigmatisation.

The amendment comes from a good place. It comes from a genuine concern to reduce the number of commercial surrogacy arrangements, but it will not have that effect in practice. If it has any effect, it will be only marginal. Children will still be born to these arrangements. What we will be saying to the intended parents is either "You are banished from New South Wales because you entered into this arrangement. Do not return because you will be prosecuted", or "If you do return, you must hide the genesis of your child from the authorities and, therefore, most likely from the child. You must hide the true circumstances in which the arrangement was entered into to avoid criminal prosecution."

Alternatively, and perhaps in addition, such parents will not go through the existing process of adoption or obtaining parenting orders in the Family Court, because if they put themselves through that quite intrusive and intensive process, it will inevitably come out that they have entered into an arrangement involving a criminal act and they will face up to two years in jail. How does jailing those parents help anyone? How can jailing them be anything but a backward step in the best interests of the children who will be created, regardless of what we say in Parliament?

As both amendments have been moved in globo, I speak also to the second amendment to put on the record our objection to it. As I understand it, there is no statement broadly from our society, from this Parliament or from people I have heard make submissions on the matter that people aged 18 to 25 need some kind of special licensing arrangements before they can become parents. There is no suggestion that people aged 18 to 25 have to go through some counselling arrangement before they have children because there is a general presumption that 19-year-olds, 22-year-olds or 24-year-olds are somehow likely to be incompetent or emotionally unstable parents. As a society we do not put restrictions or restraints, or cast aspersions on, parents who are aged 18 to 25—and it would be wrong to do so, because we all know from our personal experience that mothers aged 20 or 22 and fathers aged 24 or 25 are every bit the parent that people aged 26, 27 or 39 are.

It is inexplicable that we should consider placing such a requirement for additional counselling. We are not talking here about the woman who carries the child; we are talking about the prospective parents. Why are we putting in place additional constraints and checks and balances for those parents when, as a society, we have never said—and we never should say—that people aged 22 years are anything other than entirely confident, loving and capable parents, just like somebody aged 32 years.

**The Hon. CHRISTINE ROBERTSON** [5.04 p.m.]: I support both amendments. The 25-year age provision was discussed at some length by the members of the Standing Committee on Law and Justice—that is, the age at which people can competently make huge decisions such as handing a baby to a family—

*[Interruption]*

Mr David Shoebridge obviously has not read the bill in its entirety, because the birth mother has incredible rights and her decision is a most significant component of the process.

**Mr David Shoebridge:** I was talking to the amendment.

**The Hon. CHRISTINE ROBERTSON:** I was talking about 25 years.

**Mr David Shoebridge:** That is fine for the birth mother; I am talking about the amendment.

**The Hon. CHRISTINE ROBERTSON:** I support the amendment that relates to the 25 years of age provision. I am troubled, however, by the reaction to the amendment that was proposed relating to overseas commercial surrogacy. Altruistic and commercial surrogacy was the crux of the inquiry. This was not an easy process. Many issues were discussed, but this was about the rights of children from surrogacy and about how the process could be mended. We had heard some appalling stories of people having to wait for up to seven years for an adoption process to be sorted through. We considered all these issues, but the most important one was altruistic and commercial surrogacy.

We talked a bit about overseas commercial surrogacy. We did not delve into it too deeply, but it was on the horizon, as it were, and we gave it consideration. Another important issue was State shopping, which is a huge problem. As different States have different laws, obviously people will cross State borders to get what they want. I do not mean it is the same here in Australia as it is in the United States of America, but it is true that different laws in different States make the process either easier or more difficult. People were leaving New

South Wales to go to another State because the law in that State allowed them to do things they could not do here. Consistency of laws across Australia is a major issue. The committee did not discuss the international issues in too great a detail.

The New South Wales Act should make it a criminal offence for anyone to deliberately enter into a commercial surrogacy arrangement overseas. This is the case for other criminal offences committed overseas, and I am not troubled by that concept. I was troubled, however, about the potential for retrospectivity, such that people who are currently engaged in the process, believing that they are acting legally in accordance with adoption legislation, would be seen to be engaging in a criminal activity. This provision was not intended for that purpose. That people already engaged in the process could be said to be acting criminally really concerned me. So what did I do? I obtained legal advice. Why on earth was that not done by others before all this email nonsense started today? That legal advice was as the Attorney informed us; it is precise. People will not be entrapped. Many of those who have emailed us today fearing what will happen to them in the future already have children. They are well and truly outside this law and cannot be included. I find this to be a very uncomfortable process. I endorse both amendments and I endorse the bill.

**Reverend the Hon. FRED NILE** [5.08 p.m.]: To assist members I shall read onto the record an email I have just received from Linda Burney, who moved this amendment in the other place. In it Ms Burney expands, if you like, the reasons for her amendment. She makes the point that the amendment was passed in the other place without any opposition or objection. She writes:

The amendment, which is attached, will achieve the following:

**1. Cementing the Government's position on commercial surrogacy and advance the best interest of children**

The position on commercial surrogacy is that it commodifies children and surrogate mothers. This is the view of the National Health and Medical Research Council, the Standing Committee of Attorneys-General and the NSW Government. Commercialisation of human reproduction is not in the best interest of children born out of these arrangements or surrogate mothers, and therefore it is prohibited in NSW.

**2. Closing a loophole in the proposed Bill**

In its current form, the Bill makes clear that commercial surrogacy is prohibited in NSW but makes no mention of NSW citizens engaging in commercial surrogacy in other jurisdictions. It is important that the legislation is consistent to give effect to the Government's policy that commercial surrogacy is not supported because it is not in the best interests of children.

**3. Preventing exploitation of vulnerable women**

Commercial surrogacy carries the risk of (economic) exploitation of women in vulnerable positions, especially in developing countries without strong regulation where surrogacy is a growth industry. If we do not allow commercial surrogacy in NSW, the same law should apply to NSW citizens overseas.

I seek leave to have the remainder incorporated in *Hansard*.

**Leave granted.**

---

**I have discussed this matter in detail with the Attorney-General and he is supportive of the amendment.**

Members may have questions about the impact on children born of overseas commercial surrogacy arrangements, which my amendment seeks to prohibit for NSW citizens.

In the discussions and debates on the Surrogacy Bill, two considerations are paramount. The first one is the best interest of children. The second one is that it is wrong to take advantage of women who hire out their bodies because they are poor, either here or anywhere else.

I have not heard any disagreement with either principle in this House or in the other place, nor with the Bill's prohibition on commercial surrogacy in NSW.

In all the discussions and debates considering surrogacy two considerations shine through—commercial surrogacy is not in the best interest of the child born out of such an arrangement, and it is wrong to take advantage of women who hire out their bodies because they are poor.

I believe this is the message this Parliament needs to send to all citizens. Commercial surrogacy—an act that commodifies women and children—is wrong, whether it takes place in Australia or another State or another country. This is the same message that has already been sent in other jurisdictions like Queensland. I am not asking that NSW act alone in this regard.

Having said that, I do agree that we should not punish children for the actions of their parents. That is why I have not moved any amendment to the Adoption Act that would preclude these children from being adopted, nor is there anything in the Bill stopping family law orders being made to provide legal recognition. In other words, children will not be disadvantaged because applications can still be made for them to be adopted or for family law parenting orders.

It is a fact that applicant parents will have to admit that they did the wrong thing under NSW law and accept the consequences. I do not consider this is wrong when all the advice that I have received is that the principle which we are seeking to uphold for the benefit of children and of women is the right principle.

The point of my amendment is to create a very clear deterrent and prevent further growth in the overseas commercial surrogacy industry, and prevent a growing number of disadvantaged children in NSW born through commercial surrogacy overseas.

If it is accepted that commercial surrogacy cannot be supported here, I see no reason why people think it should be accepted overseas. The fact is these are not arrangements that are in the interests of children.

I agree that this is a very difficult judgment call but I urge you to agree with me that the right judgment call is being made to uphold the rights of women while not disadvantaging children.

If you have any further questions please feel free to call me or my policy advisor Wim Schoeman.

Yours sincerely

Linda Burney MP  
Minister for Community Services

---

I support the two amendments from the other place.

**The Hon. JOHN AJAKA** [5.11 p.m.]: I speak in support of both amendments. Last time I spoke on this bill I spoke passionately—some of my colleagues said I spoke a little too passionately but it is an area with which I had some concern. I will speak to the second amendment first, the amendment dealing with maturity. This amendment does not prohibit an intending parent who is under 25 years of age from being able to enter into a surrogacy arrangement, so it is not a prohibition. It merely requires a court to be satisfied that the person has sufficient maturity to enter into the arrangement and has obtained counselling in those circumstances. If a person aged 23, 24 or even 21 clearly demonstrates sufficient maturity and obtains sufficient counselling, the arrangement can be entered into.

If legal advice is necessary and an intending parent is under 25 years of age, the lawyer will know from this legislation that evidence is required demonstrating that the intending parent has sufficient maturity and has had the appropriate counselling. Therefore, I see no reason not to support the amendment. It is in line with the spirit of the committee's report and recommendations. I believe it will assist all parties involved in entering into proper surrogacy arrangements and ensure that all preconditions are satisfied.

I have listened to my colleagues' arguments, which I believe are genuine. I have previously argued that we do not want to create two classes of children where different laws apply to children born in different circumstances so that, in effect, the children become second-class citizens. If we use that reasoning to support the surrogacy recommendation, we need to then go to the first principle, that is, the committee unanimously recommended commercial surrogacy should not be permitted—full stop. Indeed, the committee was of the view that all steps should be taken to discourage and prevent it. If we do that in New South Wales, we are encouraging intending parents to travel overseas, thereby encouraging commercial surrogacy. That could create a two-tier system. For those reasons the amendments should be supported.

**The Hon. MATTHEW MASON-COX** [5.15 p.m.]: I wish to support the amendments. I find myself in a rather odd position in that I opposed the original bill but I believe these amendments are an improvement to what is otherwise flawed legislation, so I support them. However, I wish to make a couple of comments. I note the contribution of Reverend the Hon. Fred Nile in relation to what Linda Burney said in the other place and her detailed consideration of the issues. I refer in particular to the comments in the other place of Pru Goward, the member for Goulburn. I place those on record, particularly in light of the comments made by the Hon. David Shoebridge in opposing the amendments:

The strong moral reason for supporting this amendment is the exploitation of women in countries such as India and parts of Asia where the sex trade and organ sale industries flourish. Sadly, the surrogacy industry in particular would be attractive to women in those extremely poor countries ...

Women are not cows; they are not animals and their job is not to bear children for money because other people want children. If it is good enough to ensure that Australian women cannot be exploited commercially for this purpose, out of respect for women around the world—particularly the vulnerable women of Asia and other countries where commercial surrogacy flourishes—we should be particularly mindful that if we do not support this amendment, effectively we are saying that there is one rule for our women and another rule for women in poor countries. That is not good enough. Whilst this Parliament does not have a leading role in international relations and affairs, it should, as much as it is able, uphold Australian values—

I emphasise those words, "uphold Australian values"—

which must mean respect for all and the rights of all to live lives free of exploitation. Voting the right way will reflect our commitment to women in those poor countries and reinforce their rights as human beings.

I do not think the arguments in favour of the amendment proposed by Linda Burney could be put any better than that. Accordingly, I support the amendment. The comments of the member for Goulburn strongly make the case. To oppose the amendment will open the door slightly to permit commercial surrogacy and this is strongly not reflective of the views of the wider Australian community. In my view, these amendments, particularly the amendment of the Hon. Frank Sartor, reflect the serious misgivings held in the wider community about this bill. We are considering the amendments from the other place, but those amendments reflect the wide misgivings of members of the other place about this bill which, I think, is reflective of the wider community. The views of those opposing the amendments are less reflective and it is probably wise if we consider this from the perspective of the number of children who will be affected by the proposed provisions. It is easy to lose one's perspective when we are talking about one child or 10 children. We must also keep in perspective the wider community's views on these issues. These amendments will go some way to addressing those misgivings and, as I stated at the outset, will improve what is otherwise flawed legislation.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [5.20 p.m.]: I wish to raise a few matters. Many of the matters have been raised by other speakers in this debate, but it is important to emphasise them. Commercial surrogacy was not directly the subject of the committee's report. The committee investigated altruistic surrogacy. To the extent that the committee looked at the issue of commercial surrogacy, however, the committee was not only clear on the matter; it was unanimous. Sylvia Hale, who was a member of the Greens, sat on that inquiry. At no stage during the inquiry did she advocate the case for commercial surrogacy. There is no logic in saying on the one hand, "We are not going to endorse commercial surrogacy in New South Wales" and on the other hand saying, "We will recognise commercial surrogacy if it occurs overseas. We will permit people to go overseas to exploit vulnerable women, and to pay them to bear someone else's child, and then to hand over the child." That was never something the committee endorsed.

The committee, to the extent that it looked at commercial surrogacy, stated in its response, "The inquiry participants almost unanimously expressed clear opposition to commercial surrogacy." The committee ultimately made the recommendation calling for an expanded definition in relation to commercial surrogacy—which is what this bill does. Ms Hale did not object to it at any point; indeed, she supported that aspect. There are other aspects of the legislation that the committee members disagreed on, but with regard to that aspect they were unanimous.

The issue of 18- to 25-year-olds as intended parents has also been raised. The committee also looked at this issue. I make it clear that when the member for Rockdale, the Hon. Frank Sartor, first mooted his amendment he proposed that the intended parents had to be 25 years of age or older. That was his initial proposal. I had a discussion with him about the importance of ensuring that, as far as possible, people who enter into these arrangements are encouraged to go down the surrogacy route, for good reason: they will have access to counselling and legal advice, and they will be clearly across the details of the expectations. Following that, the Hon. Frank Sartor modified his amendment to enable people under 25 years of age to be brought within this legislation, with the additional requirement that the amendment entails. The committee again looked at the issue regarding intended parents. The committee said at page 84 of its report:

There was limited evidence received during the inquiry relating to the importance of the age of intending parents or the duration of their relationship.

The committee also said:

The Australian and New Zealand Infertility Counsellors' Association argued that a minimum age of 25 was appropriate for intending parents and that the relationship "has been sustained for a period of at least 2 years".

The Queensland Commission for Children and Young People agreed with that. With regard to other jurisdictions, in Queensland intended parents have to be 25 years of age or older. In Western Australia, at least

one of the intended parents has to be 25 years of age or older. In the Australian Capital Territory, the court making the orders has to take into account whether both of the intended parents are 18 years of age or older, which is an additional requirement.

The Sartor amendment simply seeks to require a focus to be placed on the age of the intended parent. The reason for that is quite clear: to ensure that the intended parent is of sufficient maturity to understand the social and psychological implications of the making of a parentage order. Do we not want that? Do we not want to know that the person in whose care the child is placed and who will have responsibility for the child has the relevant social and psychological ability to carry out the obligations of parentage? I believe this is an appropriate amendment that focuses attention. It does not disadvantage people who are under 25 years of age; it simply ensures that the parties have a focus on the social and psychological implications of the making of a parentage order and that they receive pre and post counselling, which again focuses on those social and psychological implications.

For those reasons I support both of the Legislative Assembly amendments. I hope that in this debate members reflect on the importance of ensuring that the best interests of the child are maintained, as will occur through the second amendment that has been moved. The best interests of the child will also ultimately be maintained, I believe, by ensuring that commercial surrogacy is not something that this Legislature sanctions.

**Reverend the Hon. Dr GORDON MOYES** [5.24 p.m.]: On behalf of Family First I indicate that I support both of these amendments, and I am pleased that they have been moved. We believe that commercial surrogacy is illegal in New South Wales under the motions we produce, and we wish to extend that geographically. I cite the example of sex tourism, which is illegal in New South Wales. We do not encourage people to go to other countries for sex tourism, particularly where exploited poor people are involved in sex tourism. In fact, we say that if an Australia citizen is involved in sex tourism in Thailand, or another overseas country for that matter, that person is committing an illegal act as if that person were in New South Wales. We believe that any form of commercial surrogacy in poor countries is an exploitation of those women that must be discouraged. The exploitation of poor women is an age-old problem. Some members of this House have proposed that once more money should be exchanged for a "womb for rent". Commercial surrogacy is illegal in New South Wales, and it should also be illegal if people seek it elsewhere.

We also support the amendment with regard to the age of maturity. Age of maturity is always a difficult issue, given that people mature at different stages. The State cannot prevent pregnancies at any age. But the State can discourage people who are young and immature from becoming pregnant, both through their own actions and through the actions of others. The State does everything it can to seek maturity. For example, in the newspaper today there is an article about an 11-year-old girl who has become pregnant to a 30-year-old man and that man is being charged with an illegal act. But no-one would agree that the 11-year-old girl was acting with a sense of maturity. We recognise that maturity at conception is essential. It is essential for natural birth, in vitro fertilisation, or surrogacy. As the Attorney General said, the amendment does not prevent younger parents from having children via surrogacy. The amendment simply seeks to prevent younger parents becoming pregnant without due consideration and the maximum maturity, which they will bring to their new relationship with the child.

**Mr DAVID SHOEBRIDGE** [5.27 p.m.]: It is unfortunate that in what has otherwise been a non-partisan but principled exchange, where genuine differences of opinion have been exchanged in this Chamber, the Attorney General sought by way of his contribution to make it a partisan debate. For the record, where the Attorney characterises opposition to this amendment as seeking to promote or endorse overseas commercial surrogacy arrangements, that is absolutely not the case with regard to any of the contributions I have heard from members who are opposed to this amendment. No-one is seeking to endorse or promote overseas commercial surrogacy arrangements. It is a matter of accepting the social and factual reality that, regardless of what we as members seek to pass as laws in New South Wales, human nature and social reality mean these overseas commercial surrogacy arrangements will continue to happen. It is a question of how the New South Wales Legislature should best deal with that fact. To suggest that those who are opposed to the extraterritoriality of these laws—which is a most unusual step for the Parliament to take—are in some way seeking to promote or encourage overseas commercial surrogacy arrangements is mischievous; indeed, it is simply wrong.

**The Hon. TREVOR KHAN** [5.31 p.m.]: To prevent this matter from going around in circles, and to prevent the temperature in this Chamber rising unnecessarily, pursuant to Standing Order No. 152 I move:

That the question be amended by omitting "agree" and inserting instead "disagree".

In speaking to the motion I rely upon my previous comment that it essentially relates only to one issue—not to both. I do not seek to amend what has been described as the Sartor amendment; I only seek to amend what I will describe as the Linda Burney amendment. If more time had been available perhaps I would have adopted a different course. I have clearly heard what the Hon. Matthew Mason-Cox said about the Indian situation, and I referred to that myself. As the amendment seeks to adopt a broadbrush approach, I believe it is an inappropriate way to proceed.

**The Hon. GREG DONNELLY** [5.30 p.m.]: The two amendments were ventilated in great detail in the other place. The *Hansard* detailing those amendments was available this morning for interested members to read. The same issues have been ventilated again this afternoon basically by referring either directly or indirectly to the *Hansard*. Importantly, the Attorney General has also made specific and clear reference to the report that underpinned the legislation. That report was prepared very carefully and thoroughly over a period of time. I think the amendments enhance and improve the bill. I say that notwithstanding that I oppose the bill and I do not intend to re-examine the issues as to why I oppose this bill. I think the two amendments fortify and reflect the recommendations of the inquiry and therefore I do not support the amendment moved by the Hon. Trevor Kahn.

**The Hon. LUKE FOLEY** [5.32 p.m.]: I did not see this one coming. It is quite a googly bowled up to us at the end of a sitting week. Numerous members who opposed the bill when it was before this House now wholeheartedly support the Legislative Assembly amendments. I voted for the bill and I also wholeheartedly support these amendments, but I want to explain why. I was prepared to accept, particularly after briefings from the Attorney General, that this bill provided for sensible regulation of altruistic surrogacy arrangements in New South Wales. On that basis I am very comfortable with the substantive bill. The first amendment returned to us from the other place is worthy of support because it seeks to ensure that the offence of commercial surrogacy is not one that simply prevails when those arrangements occur within the New South Wales jurisdiction but when citizens of New South Wales go offshore to make such arrangements.

We have a Labor movement in large part because of capitalism and the commodification of people's labour. The Australian Labor Party was created to defend people's lives and relationships from commodification. My party's ethical and humanist traditions reject the intrusion of market capitalism into every aspect of the lives of human beings. I cannot accept a situation where two people can go to a Third World country, engage a commercial surrogacy agency, as it has been put to me in emails this afternoon, and hire a woman, whom I suspect is in a very vulnerable economic position, to have a baby for them. That is a classic example of the intrusion of the market into all aspects of human life, and I reject it. My party's values have always stood against that extension of capitalism over all aspects of life. They are not arrangements that I can find in any way acceptable. If the Legislature provides that these sorts of arrangements ought not be entered into in New South Wales, we ought to similarly reject them when people resident in New South Wales travel outside the jurisdiction to seek to bring them about.

**Reverend the Hon. FRED NILE** [5.36 p.m.]: The Hon. Trevor Khan said he had moved his amendment to stop the Chamber from going around in circles. But if his amendment is carried, and I hope it is defeated, it would do exactly that. It will then toss the ball back to the other place, where the members unanimously supported these amendments. I do not think those in the other place will change their minds overnight. It will then come back to us again. The only way to move forward is to defeat the amendment proposed by the Hon. Trevor Khan and allow the two amendments from the other place to be passed by this Chamber.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.37 p.m.]: I speak particularly to the amendment moved by my colleague Ms Linda Burney in the other place. As to issue of surrogacy generally, I support in principle the notion that adults in our community can make careful, generous and loving arrangements via surrogacy to allow children to become part of loving families. I believe that single people, heterosexual couples and gay couples should be able to make these arrangements. My support for the arrangements set out in the surrogacy bill debated previously, although I did not speak to it, relied upon the arrangements being made as an altruistic arrangement with the proper protections and support in place for the commissioning parents, the woman who agrees to become a surrogate, and any children that are born as a result of those arrangements.

I do not support commercial surrogacy. I do not believe that commercial surrogacy is in the best interests of children or in the best interests of women. The amendments that were passed in the lower House seek to clarify that the prohibition of commercial surrogacy applies in arrangements made overseas, as well as in

New South Wales. Although there have been a number of discussions about this, I place on record the reasons put forward. Those reasons include that without the amendment to the bill put forward by Minister Burney, the bill will not provide reasonable safeguards to ensure that overseas surrogacy arrangements comply with parentage requirements; that the arrangement is altruistic and not commercial; that counselling and legal advice is available; and that informed consent is given. Minister Burney stated in the other place:

It is generally considered that most overseas surrogacy arrangements are commercial in nature and that any related evidence or documentation is largely unverifiable. Further, overseas surrogacy arrangements result in an inability to undertake proper appeal mechanisms or properly uphold the rights of the child or the birth mother.

Without an extra-territorial clause prohibiting overseas surrogacy arrangements, the principle of altruistic surrogacy and requirements for the granting of a parentage order will be undermined. This is because it will not be unlawful for New South Wales couples to arrange commercial surrogacies outside New South Wales. Indeed, it is likely to encourage such persons to make these arrangements outside Australia where measures that promote the best interests of children and prevent exploitation for commercial gain may not be in place.

The intention of this amendment is to close any loopholes in relation to the treatment of individuals who seek commercial surrogacy in New South Wales and overseas. I accept the intention of this amendment as reasonable. However, the consequences of this amendment cause me considerable difficulty. Of all the recent conscience votes, I have had little problem finding my way through the complexities. However, this one brings into play a number of competing principles and challenges for me in relation to the best interests of children and the best interests of women in Australia and overseas. I am troubled by the notion of commercial transactions for the formation of families, no matter how much a family is desired.

The amendment requires me to consider as a legislator the nature of deterrents, the enforceability of these deterrents and who will be punished ultimately. The amendment concerns me because there will be children who will have difficulty accessing the same protections that apply to other children in this State. These are parenting protections that I have fought very hard for as a member of Parliament on behalf of all families. I do not believe commercial surrogacy is a good thing for children. The bill makes it clear, and across Australia it is not something that is supported by our parliaments. I do not agree with a loophole—whether people believe it to be a loophole or not—that would have the effect of making more people likely to enter into such arrangements, no matter how well-intentioned those who seek such arrangements are and how much they desire a family of their own.

The amendment seeks to make this issue very clear and ultimately act as a deterrent to reduce the number of children born under commercial surrogacy arrangements. That is a desirable outcome. Without wanting to turn this contribution into a Robert Oakeshott style speech—I fear I may have done so already—I want to place on record an email I received from Professor Jenni Millbank of the University of Technology, Sydney. I have a great deal of respect for Professor Millbank. I believe she understands these issues better than most and it is worth putting her remarks on the record. Professor Millbank said:

While I agree with Ms Burney there are many reasons to be concerned about the potential for exploitation of participants in international commercial surrogacy I strongly urge you not to support such an amendment.

A provision criminalising participation in paid surrogacy overseas would not prevent intended parents from NSW from engaging in such practices. The evidence from all of the surrogacy inquiries around Australia clearly demonstrates that when faced with legal obstacles, including criminal sanctions, intended parents travelled wherever necessary and paid whatever necessary to pursue their only possibility of having children. In Queensland and, in the past, Victoria, extra territorial prohibitions on surrogacy and payment of egg donors respectively had no effect whatsoever in preventing this.

Such sanctions do, however, increase the incentives for fraud and deception about parentage and in doing so pose a significant risk to the interests of children.

There is already anecdotal evidence that some intended parents returning to Australia from international surrogacy arrangements are presenting themselves to Australian immigration authorities as the birth parents when this is possible (e.g. when a birth certificate has been issued or reissued in the foreign jurisdiction with both intended parents names listed). Extra territorial sanctions will vastly increase the likelihood of this deception occurring. Once such deception has taken place, parents may then feel that they must continue it with the State and also others, including the child—with implications for records of health information for the child as well as access to information about genetic heritage and the birth mother's identity.

Criminal sanctions also mean that parents who do acknowledge the birth through surrogacy are placed in an invidious position when seeking parental status or parental responsibility for the child through the state regime or Family Court orders. If they admit to payment they could be charged with an offence, if they conceal payment they are engaging in perjury (and such concealment may also involve concealing information of the birth mother's identity in order to conceal evidence of payment).

Access to the protection and security offered by a legal relationship with the parents who are raising them is the key benefit to children offered by the Surrogacy Bill 2010. I believe that this amendment would significantly impair this benefit to children, and would do so without reducing the likelihood of payment in international surrogacy.

I place Professor Millbank's remarks on record because I believe members should consider carefully her contribution to this debate. This amendment ultimately forces me to decide whether the best interests of children and women as a group are served by clear deterrents to reduce the likelihood that children will be born by commercial surrogacy. It asks members to balance the reality that there are children here and now in New South Wales, and children who may live in New South Wales in the future, who will be without adequate legal protections that give them the security of their own relationship to their parents.

The great unknown at this stage is what happens when those parents seek parenting orders and/or adoption orders for their children. What happens when they expose themselves to this provision? I acknowledge that nothing in the bill prohibits them from seeking such orders. However, I am greatly concerned that children will be left stranded as a result of their parents' fear that they will not be able to obtain those orders. I seek reassurance from the Attorney General in that regard. Today we are being asked to vote on these amendments. Although I am deeply troubled by this amendment, I will not oppose it. However, I will watch closely the impact on children in New South Wales. If it emerges that a class of children in this State is not afforded the same level of protection that applies to other children, I will fight very hard to have those protections restored.

**The Hon. GREG DONNELLY** [5.46 p.m.]: I want to clarify a matter that the Hon. Penny Sharpe referred to in her reflections on the comments of Professor Jenni Millbank of the University of Technology, Sydney. As members would be aware, yesterday afternoon Professor Millbank delivered the John Marsden Memorial Lecture. I do not know whether the Hon. Penny Sharpe attended the lecture. I tried to obtain a copy of the lecture today, given that we would be ventilating this matter this afternoon. The lecture was previewed in various publications online over the past couple of weeks to inform people about the contents of the paper.

**The Hon. Penny Sharpe:** I didn't see you there.

**The Hon. GREG DONNELLY:** I was not at the presentation yesterday. However, according to the reviews I read, Professor Millbank was arguing the rationality of commercial surrogacy, and she made no apology about it. As I understand it, she believes that commercial surrogacy is not an arrangement that should be outlawed in a secular developed society such as our own. She says it should be on the cards not just for same-sex couples, gays and lesbians, and single persons—

**The Hon. Trevor Khan:** You are saying this without access to her paper.

**The Hon. GREG DONNELLY:** —but also in regard to heterosexual couples.

**The Hon. Trevor Khan:** You are not quoting her paper. You are quoting from third parties who wrote a review.

**The Hon. GREG DONNELLY:** In other words, heterosexual couples under the arrangement, even if the woman is fertile, should be able to contemplate commercial surrogacy. Last Sunday Adele Horin in a review commented on the speech delivered yesterday afternoon. Her article is worth reading. I am sure that all members read it on the weekend so I will not quote it all now, but I will read one paragraph that I believe sums up the concerns of the majority of members in this House. Adele Horin said:

Outsourcing surrogacy to countries like India or Ukraine opens the women there to exploitation of the kind our MPs are keen to avoid here.

In laissez faire fertility markets overseas, poor women have no protection ... they give up the right to be able to change their mind after the birth.

Mr David Shoebridge promoted the idea of California as being enlightened in terms of its legislative framework. Even in the state of California surrogate mothers do not have rights. The article stated:

Even in parts of the US, surrogate mothers lack basic protections.

So in a First World country, which is at the cutting-edge of biotechnology, there are no basic rights for surrogate mothers.

**The DEPUTY-PRESIDENT (The Hon. Kayee Griffin):** Order! For the most part the debate has been orderly and conducted in good spirit, and I would hope that it continues in that vein. Regardless of their point of view on any particular issue members should show respect to the member with the call by listening to his contribution in silence.

**The Hon. GREG DONNELLY:** This is a very important debate on amendments to the bill and it is important to put the full picture clearly so that honourable members can inform themselves before they make a decision. There are people who are advancing the case that commercial surrogacy should be an absolute right. What we have done in this legislation, through the process of an upper House inquiry and a report and deep reflection, is produce a bill—which is soon to become a Act—outlawing commercial surrogacy. I believe that is the position this House should support.

**The Hon. HELEN WESTWOOD** [5.51 p.m.]: I have some concerns with the amendments. I wish we were dealing with the amendments separately but I will deal with the easiest one first. I am comfortable supporting the amendment concerning the maturity of younger intended parents. Younger people will not be prohibited from entering into surrogacy arrangements, and I think that counselling before parenthood is a very good idea—it is a shame it does not happen more often. I am of the view that older parents do not necessarily make better parents. Having had both my kids before I was 25 and my kids having done the same, I believe that good parenting is not practised only by those who are older than 25. Counselling before going into a surrogacy arrangement for people under 25 is reasonable.

I will not oppose amendments and thus prevent the bill being passed. It has certainly taken some time to get to this point and I do not want to do anything that would prevent the bill from becoming law. However, I have concerns about the first amendment. Despite all the work that has been done on this issue, this is one area that we have not examined. No-one knows what the consequences will be for children. Do we know how many who choose to go into commercial surrogacy arrangements overseas return with their children even though the arrangement was prohibited? What would that mean for those children? Will they then be denied the same rights as other children? I doubt that parents will proceed to an adoption if they risk being prosecuted or jailed. I believe it places the children at risk.

I absolutely support the principle of a prohibition on commercial surrogacy. I have heard the argument that commercial surrogacy is the exploitation of women. I would argue that it is the exploitation of poor women. As a feminist I would never endorse it. But I am greatly concerned that we do not really understand what the consequences of this amendment will be when it becomes law for children born of those commercial surrogacy arrangements overseas. I know there will be a review in three years, but I would have preferred a much better examination before we got to this point. I also would have preferred if there were some way of monitoring the situation so that, if needs be, we could revisit the legislation to ensure that these children are not disadvantaged in any way. However, I probably will not oppose the amendments because I do not want to prevent this bill passing into law.

**Question—That the amendment of the Hon. Trevor Khan be agreed to—put.**

**The Committee divided.**

**Ayes, 8**

Mr Cohen  
Ms Cusack  
Ms Faehrmann

Mr Khan  
Ms Voltz  
Mr West

*Tellers,*  
Dr Kaye  
Mr Shoebridge

**Noes, 29**

Mr Ajaka  
Mr Borsak  
Mr Brown  
Mr Catanzariti  
Mr Clarke  
Ms Cotsis  
Ms Ficarra  
Mr Foley  
Mr Gallacher  
Miss Gardiner

Mr Gay  
Mr Hatzistergos  
Mr Kelly  
Mr Mason-Cox  
Mr Moselmane  
Reverend Dr Moyes  
Reverend Nile  
Ms Parker  
Mrs Pavay  
Mr Pearce

Mr Primrose  
Mr Robertson  
Ms Robertson  
Mr Roozendaal  
Ms Sharpe  
Mr Veitch  
Ms Westwood  
*Tellers,*  
Mr Colless  
Mr Donnelly

**Question resolved in the negative.**

**Amendment of the Hon. Trevor Khan negatived.**

**Question—That Legislative Assembly amendments Nos 1 and 2 be agreed to—put and resolved in the affirmative.**

**Legislative Assembly amendments Nos 1 and 2 agreed to.**

**Resolution reported from Committee and report adopted.**

**Message forwarded to the Legislative Assembly advising it of the resolution.**

### **SPECIAL ADJOURNMENT**

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

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

### **TABLING OF PAPERS**

**The Hon. Michael Veitch** tabled the following paper:

NSW Businesslink Pty Ltd—Annual Report for the year ended 30 June 2010

**Ordered to be printed on motion by the Hon. Michael Veitch.**

### **PLANNING APPEALS LEGISLATION AMENDMENT BILL 2010**

**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Michael Veitch, on behalf of the Hon. Tony Kelly.**

### **Second Reading**

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [6.03 p.m.], on behalf of the Hon. Tony Kelly: I move:

That this bill be now read a second time.

I am very pleased to introduce the Planning Appeals Legislation Amendment Bill 2010, which has been developed in conjunction with my colleague the Attorney General. The bill amends the Land and Environment Court Act 1979, the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Amendment Act 2008. The primary purpose of the bill is to provide quick, just and cost-effective appeals and reviews for users of the planning system. In particular, it aims to make it easier and cheaper for home owners to have local council decisions on development applications and modification applications reviewed by the Land and Environment Court by introducing a new conciliation-arbitration scheme designed specifically for disputes involving small-scale development.

The New South Wales Government has a longstanding aim to reduce the costs of, and time taken for, appeals in the Land and Environment Court for reviews of council decisions on smaller-scale developments with lesser environmental impacts. Small-scale development proposals make up the vast majority of development applications and modification applications lodged with councils. For example, in 2008-09, 59 per cent of all development applications were for new dwellings or alterations and additions to existing dwellings, and 93 per cent of all development applications were for development with a construction cost of less than \$500,000, the average being \$288,000 for new dwellings and \$74,000 for alterations and additions to existing dwellings. Despite this, only 23 per cent of merit appeals to the court in 2008-09 concerned development applications for single dwellings and alterations and additions to existing dwellings. This figure is too low. The Government is keen to make it easier for homeowners to seek a review of councils' decisions on their development applications so they can exercise their rights as quickly and as cheaply as possible.

In 2008 the Government legislated to establish a scheme of private independent planning arbitrators to review council decisions on small-scale development quickly and cost effectively. The Government remains committed to the original purpose behind the introduction of the planning arbitrators: the need for a fair, quick

and cheap way of reviewing council decisions. With the introduction of the new conciliation-arbitration scheme in this bill to achieve those very aims, we propose to repeal the planning arbitrator provisions. Following further stakeholder consultations the Government has developed this new scheme of conciliation-arbitration in the Land and Environment Court. The chief judge of the court has been consulted and supports the proposed scheme.

The conciliation-arbitration scheme will provide a fair, quick and cost-effective way of reviewing council decisions on development applications and modification applications for single dwellings and dual occupancies. The Government is of the view that this scheme is best run by the court given its specialist jurisdiction and the extensive planning experience of its judges and commissioners. The new conciliation-arbitration scheme will supplement the existing alternative dispute resolution mechanisms currently run by the court. Over the last few years the court has sought to promote and expand the use of conciliation as an alternative to dealing with disputes by way of full hearings. As evidence of its success since 2007 the court has successfully increased the use of conciliation with a 158 per cent increase in the number of conciliation conferences and subsequent improvements in clearance rates. The proposed conciliation-arbitration scheme will build on the court's success by introducing a new hybrid conciliation-arbitration model designed specifically for small-scale development.

Schedule 2 to the bill provides for the conciliation-arbitration scheme by inserting new provisions in the Land and Environment Court Act 1979. The key features of the new conciliation-arbitration scheme are that reviews of council decisions on development applications and modification applications for single dwellings and dual occupancies, including subdivisions, will be automatically fast tracked to mandatory arbitration-conciliation at the first call over. The court will also be able to transfer other individual matters into the scheme at the request of the parties or on its own motion where the case is suitable for this type of dispute resolution. A commissioner will be allocated to assist the parties in trying to reach agreement by way of conciliation. Conciliation conferences will typically be held on-site providing an opportunity for neighbours, objectors and other members of the community to express their views on the proposed development. The parties' experts will also be provided with an opportunity to participate in the process, and applicants and councils will be entitled to be legally represented. In the event the parties are unable to reach agreement the commissioner will without further adjournment immediately determine the matter by way of arbitration.

The commissioner's decision will be binding on the parties as there will be no right to further merit appeal. Further appeal will be available in respect to questions of law, thus guaranteeing parties the same rights as if their appeal was decided after a full hearing. Both parties will therefore need to ensure that they are authorised to enter into a binding agreement when they attend the conciliation conference. One of the greatest barriers in the court's existing conciliation procedures is that many council staff or legal representatives do not attend conciliation conferences with sufficient authority to be able to negotiate a settlement. This will not be acceptable under the new scheme as it is one of the key reasons for unnecessary adjournments and consequent delays and increased costs in appeals. The parties in conciliation or the commissioners in arbitration will be able to amend proposals through agreement or by the imposition of conditions. However, there will be limited opportunity for applicants to significantly amend their plans once the review has commenced. The court's analysis of the causes for delays in existing appeals reveals that amending plans during the proceedings effectively doubles the cost and time taken to conclude appeals.

The mandatory nature of the scheme and the requirement for the matter to be disposed of by the same commissioner who presided over the conciliation are essential and necessary components of the scheme, designed to deliver demonstrable time and cost savings for both parties and the court. A party's ability to voluntarily opt in and opt out of existing conciliation conferences is one of the main barriers to achieving timely and cost-effective resolution of disputes currently. Of course, the new scheme provides the necessary safeguards to protect the interests of the parties. Commissioners will be specifically trained to ensure that they can fulfil the dual role of conciliator and arbitrator fairly and equitably without prejudice to either of the parties. In addition, the practices of the court will facilitate the proper administration of the scheme. For example, all proceedings will be required to be held in plenary session with no opportunity for ex parte negotiations. Ultimately the court may on application of the parties or on its own motion terminate the proceedings at any time and refer the matter back to the court for reallocation where the circumstances warrant. This may include cases involving questions of law or complex issues where multiple experts may be required to give evidence, where substantial amendments are required to the applicant's plans, where a party might have genuine concerns about the same commissioner determining the matter by arbitration or where reallocation is required in the interests of justice.

Any perceived concerns about the dual role of a commissioner presiding over a conciliation conference before needing to make a binding decision by way of arbitration is not supported by the current experience of

the court. For example, in relation to existing conciliation practices, 85 per cent of matters that go to a section 34 conciliation conference are disposed of by the commissioner who undertook the initial conciliation either because the parties reached agreement or otherwise agreed to the same commissioner disposing of the matter. Over 48 per cent of matters not settled by agreement during conciliation were later disposed of by the same commissioner that conducted the conciliation.

A court practice note will be developed to address practical implementation issues and to ensure proper management of the scheme. The practice note will address such matters as requirements for on-site conferences; procedures for amending plans and submitting draft conditions of consent; the procedures for allowing neighbours, objectors and other members of the community to have their say; the role of the parties' experts and the means by which they can participate at different stages in the process; and requirements for parties to be suitably empowered to enter into binding agreements. This practice note will be developed in consultation with the court users group and court practitioners to ensure it addresses all the relevant implementation issues.

Feedback from consultations with stakeholders stressed the importance of ensuring that the new scheme is well publicised so that councils and applicants are aware of the new requirements for this class of appeal. In this regard a range of promotion initiatives is proposed, including promoting the scheme through the court users group and other practitioner forums; on-line information on the court website; user-friendly brochures and information that will be available at the court registry and distributed to councils for display in public areas; and user-friendly information being available on the Department of Planning's website with links to the court's website for easy access to on-line forms.

The new conciliation-arbitration scheme is specifically designed for dealing with disputes concerning small-scale development. It aims to deliver significant time and cost savings for applicants, councils and the community alike. With a benchmark to be set by the court of 95 per cent of all matters to be resolved within 90 days, less than half the six-month benchmark set by the court for class 1 appeals, the new scheme will greatly assist in making the court more accessible to homeowners as well as delivering flow-on benefits across the planning system as a whole. If conciliation-arbitration is successful, it will be open to the Attorney General to expand by regulation the types of small-scale development that can be included in the scheme.

I now move to other aspects of schedule 1 to the bill, amending the Environmental Planning and Assessment Act 1979 for appeals and reviews. The bill makes an amendment to section 97B of the Environmental Planning and Assessment Act 1979, which deals with the requirement for the court to make mandatory cost orders where an applicant amends plans during the course of the proceedings. This provision was inserted in the Act in 2008 to provide a disincentive for applicants amending plans during the course of the proceedings. As mentioned earlier, amending plans has the effect of doubling the time and cost of the proceedings because of the need for adjournments to allow for assessment of the revised plans by the consent authority. The amendment to section 97B brings it closer to the original purpose of the provision; namely that it is only the costs of the consent authority thrown away as a result of having to consider the proposed amendments that should be taken into account in determining the quantum of costs and not the assessment of the development application as a whole.

The bill also amends the statutory limitation period for merit appeals from twelve to six months. This is instead of the three-month limitation period introduced in 2008 but which we have not commenced. The six-month limit strikes a better balance, bringing us closer to the time period for appeals in other States while still allowing for reconsideration of the proposal. It balances the need to speed up the time taken to resolve reviews to reduce cost and uncertainty for applicants and neighbours whilst also providing applicants with sufficient time to negotiate with council or explore the option of internal review under section 82A of the Environmental Planning and Assessment Act 1979 before deciding if they will commence an appeal in the court.

I am pleased to advise that the bill also provides for expanded rights to internal review for applicants. These internal reviews, which are based on the well-established practices under section 82A of the Environmental Planning and Assessment Act, will now extend to determinations of modification applications as well as development applications. In addition, there will be a new right to internal review where a council determines to reject a development application for reasons of inadequacy or failure to comply with statutory requirements. This is an important addition to applicants' review rights given the reforms the Government is currently undertaking in respect to "stop the clock" procedures applying to the assessment of development applications. It will ensure that councils are made accountable for decisions to reject a development application.

The bill also includes amendments to the Environmental Planning and Assessment Act to require councils to notify a joint regional planning panel, or the Planning Assessment Commission where there is an appeal to the court concerning a decision of the panel or the commission. The council as the consent authority is the relevant party to the appeal. However, this amendment ensures that the panel or the commission, as the case may be, whilst not being a party is still able to be heard during the proceedings. The amendment is in the same terms as existing provisions in the planning Act that enable concurrence authorities to be heard in appeal proceedings. It is an appropriate amendment that recognises the important role of the panels and the commission in the decision-making process and corrects an anomaly in the existing Act. Schedule 3 to the bill repeals the existing planning arbitrator provisions in the Environmental Planning and Assessment Amendment Act 2008 and makes necessary consequential amendments for the remaining parts of that Act.

In conclusion, the Planning Appeals Legislation Amendment Bill includes important reforms aimed at delivering quick, fair and cost-effective appeals and reviews for all users of the planning system. The introduction of the conciliation-arbitration scheme in the Land and Environment Court for single detached dwellings and dual occupancies will make the court more accessible to homeowners and applicants for minor development, thereby making the planning system more equitable. In addition, the extension of internal reviews to include modification applications and rejected development applications provides increased rights for applicants as well as making councils more accountable for their decisions. The bill is an important further step in building Australia's best planning system. For these reasons I commend the bill to the House.

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

## **SUPERANNUATION ADMINISTRATION AUTHORITY CORPORATISATION AMENDMENT BILL 2010**

**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Penny Sharpe, on behalf of the Hon. John Hatzistergos.**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [6.24 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

The purpose of the Superannuation Administration Authority Corporatisation Amendment Bill 2010 is to expand the functions of Pillar Administration. Pillar Administration, in one form or another, has existed for some 100 years, providing administration services for the management of retirement savings. It was initially tasked to administer these funds accumulated by public sector employees. However, following the passage of the Superannuation Administration Authority Corporatisation Act 1999, Pillar Administration expanded its market to include private sector clients. The Act set out the principal functions of Pillar Administration as "the development, promotion and conduct of its business of providing superannuation scheme administration and related services". Pillar currently provides such services to the trustees of superannuation funds.

Since that time Pillar's reputation as a capable and reliable administration services provider has grown. It is now the industry's third largest provider of superannuation services, administering just under two million accounts. The purpose of the bill I bring to the House today is to build on this strong and sound business by allowing it to expand its administration functions to include other financial services besides superannuation. These are services that Pillar Administration is well placed to provide and indeed are very similar to those it already offers to the superannuation industry. The expansion of service functions proposed by this bill will also bring Pillar Administration into line with its major competitors, which offer a much broader range of services than superannuation administration.

This expansion will provide significant benefits to both New South Wales taxpayers and the Illawarra region, where Pillar Administration is based. The Superannuation Administration Authority Corporatisation Amendment Bill 2010 seeks to amend the Act to enable Pillar to provide administration and related services to financial services providers. These services include, but are not limited to, the following: collecting payments on behalf of financial service providers; providing information and advice to clients of financial services providers; keeping and maintaining client records; preparing financial statements on behalf of financial service providers; and processing claims and other transaction on behalf of financial service providers. The bill also provides for Pillar to have such other functions as may be prescribed by the regulations.

I would like to make it clear that Pillar Administration is not responsible for the investment of superannuation funds, and this bill does not include any amendments that would make this possible. The bill simply builds on those administration functions that Pillar Administration does so well in the superannuation industry by allowing it to provide similar products to other financial service providers, such as life insurance companies. In doing so, Pillar Administration will be able to offer a similar range of services provided by other industry players, enabling it to compete on a level playing field. The financial services industry is currently Australia's largest industry, employing some 400,000 people. With its expanded statutory functions Pillar Administration will be well positioned to attract an increased share of this market to Wollongong. This will grow jobs in the Illawarra region while providing increased dividends to New South Wales taxpayers and ensure that Pillar can continue to compete in this highly competitive, high-volume, low-margin industry. I commend the bill to the House.

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

### ADJOURNMENT

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [6.28 p.m.]: I move:

That this House do now adjourn.

### THE GREENS

**The Hon. ROBERT BORSAK** [6.28 p.m.]: I speak about my fears for this State after March next year. It would appear that the Government has done its best to self-destruct after 16 years of running this State. And it seems that the Coalition is keeping its head down in the hope that by doing nothing it will not make any mistakes—and therefore get itself elected. But if there is to be a change of government, I would not be surprised if, as recently happened in England, the outgoing Treasury people leave the incoming Treasury people a note wishing them good luck because there is no money. It does not paint a pretty picture, does it? But worse than that is the thought that the Greens may somehow manage to win lower House seats, or an additional upper House seat, and thereby would be able to cripple the next government, whatever colour it may be.

We have had a glimpse of what the future may look like in New South Wales after the next election from what the Greens have done in Tasmania. Unfortunately, not many people have really noticed what Green policies have done down there over the years. But believe me, it is the template that they will be imposing here next year should they manage to get the chance. For example, has anyone seen the latest joke out of Tasmania: that the Labor Government has just won peace in its time in the forests by doing a deal with the Greens? The deal is that the Government will throw hundreds of timber workers onto the scrap heap and end logging in native forests, and the Greens, in return, will stop their illegal activities such as tree spiking and preventing hardworking timber people going about their lawful work, and—wait for it—they will also support a pulp mill. Yes, you heard that right. How dumb is that Government? No-one can deal with the Greens: their agenda never ends. And just watch, now that the Greens have got their Holy Grail, by ending logging in native forests in Tasmania, you can bet they will find something else to use to not support the mill going ahead. And it is a fact. You do not have to go far back in time to find out what that might be.

Some may recall that when Christine Milne first started campaigning against the original mill proposal back in about 1988 she decided that Tasmania should not have a pulp mill because it would be too big for Tasmania. The original reason had nothing to do with native forests. It was because it was a project that was going to see a billion-dollar investment in Tasmania and would provide hundreds of jobs, at a time when Tasmania was, and still is, an economic basket case. But investment and jobs are apparently not things the Greens find attractive. So, the Greens having signed off on a "peace deal", we can watch and expect the Greens to revert to form. There is no way in the world they will support a pulp mill in Tasmania.

Any government that thinks it can deal with the Greens and that the Greens will keep their word is also misguided. The Greens are zealots and their agenda is never-ending. How long will it be before the green protestors are back in the Tasmanian forests protesting about something else that they decide is right for the people of that State? I remember a former Tasmanian Premier one day saying that the trouble with the blow-in greens from interstate during the Franklin Dam issue was that they brought with them just one shirt and one dollar. And guess what? They did not change either of them before they left several months later. And wasn't that issue a good one for Tasmania! The Greens said, "Don't dam the Franklin River", and they promised that

hundreds of thousands of white-water rafters would flock to Tasmania to paddle down the river every year. Well, guess what? They did not build the dam and, unlike the movie *Field of Dreams*, the rafters did not come either. Indeed, what happened was that because the Franklin River was not dammed for a power station—a clean, green one, as the Greens used to say about hydro power—Tasmania ran out of power. Now the people of Tasmania have to run an extension cord from Melbourne to make sure they can keep warm in winter.

The Greens' movable agenda is breathtaking. Once they decided hydro power was not clean and green because it meant damming rivers, they changed and backed wind power instead. But guess what? Wind power is now off the agenda as well. So you can see why the Greens make such a mess of everything. A quote from Tasmania seems to sum up the Greens and their ideas. Unfortunately for Tasmania, that State has been experiencing the Greens in Parliament for about 20 years and the mainland is only now catching up. The quote I have referred to was by a very eloquent tourism Minister. He said the Greens would not be happy until every Tasmanian was living at Jackey's Marsh, drinking scotch thistle broth and whittling Huon pine condoms. I do not think he was far wrong. And what the Greens are now threatening to do to the mainland is not far removed from that thought.

### TRIBUTE TO SIR NEVILLE HOWSE

**The Hon. KAYEE GRIFFIN** [6.33 p.m.]: Today marks the anniversary of a most sombre occasion. Ninety-two years ago, at 11.00 a.m., the guns on the Western Front fell silent, and the killing stopped, bringing to an end over four years of violence and bloodshed on a scale the world had never seen before. As we mark this occasion it is important to remember the men and women who have served this nation in times of war. In paying tribute to those men and women, I would like to commit this short time to reflect on Australia's first Victoria Cross recipient, Sir Neville Howse.

Born on 26 October 1863 at Stogursey, in Somerset, England, Neville Howse studied medicine at the prestigious London Hospital, where he attained his residential surgical certificate and was admitted to the Royal College of Surgeons. Neville migrated to Australia in 1889, working at the Manning River Hospital in Taree and later in Orange, establishing himself as a competent and sought-after medical practitioner throughout the area. When the Boer War broke out between Britain and the Afrikaner Republics in South Africa, Howse was quick to answer the Empire's call to arms, enlisting in the New South Wales medical corps in January 1900, and commissioned as a lieutenant in the 2nd Contingent.

Howse disembarked at the Cape in mid February, joining Sir Ian Hamilton's force as it marched on Johannesburg. The Boers were forced to retreat and, after the engagement at Diamond Hill over 11 and 12 July, which General Hamilton credited as "the turning point of the war", the conflict shifted from one of set-piece battles to a guerrilla campaign, with Howse treating many casualties from the various engagements. To counter these guerrilla tactics, Imperial forces turned their attention to cornering the elusive Boer General De Wet, pursuing his forces across the countryside. It was during this pursuit that, on 24 July, the New South Wales Mounted Rifles, to which Howse was attached, fell upon part of De Wet's rear guard, capturing five grain-loaded wagons. De Wet, unwilling to yield the precious grain destined for his beleaguered army, engaged the colonials and, as De Wet himself testified, "one of the hottest fights one can imagine followed".

Despite the intensity of the fighting, this skirmish would be long forgotten to history had it not been for the bravery displayed by Sir Neville Howse, who, on seeing a trumpeter fall as he sounded a retreat in the midst of the battle, rode into no-man's land under heavy crossfire and without cover to treat the wounded soldier. As Howse rode, his horse was shot from under him, but the gallant surgeon remained unfazed, treating the injured soldier for a gunshot wound to the bladder, hoisting him onto his shoulders and carrying him to safety. The trumpeter survived, and Howse was recommended for the Victoria Cross by his superiors, becoming the first Victoria Cross recipient serving in an Australian unit and, at the time, the only medical personnel to receive such an accolade.

Howse returned to Orange in 1901 as a war hero. Ever the patriot, he returned to South Africa for a second tour of duty later that year. Twice elected mayor of Orange, Howse was mayor when World War I broke out in 1914, and again he was quick to enlist. He served with the Australian Expeditionary Force in the capture of German Pacific colonies, then at Gallipoli, where he ably assisted with the treatment and clearance of casualties, for which he received the Companion of the Bath. From November 1915 Howse served as the Director General of Medical Services for the Australian Imperial Force, taking charge of administering the provision of medical treatment for Australian troops from Egypt to England, a role he excelled at. After six months leave awarded by Prime Minister Hughes to all service men and women who had served continuously since 1914, Howse returned to England in 1919 to assist with the repatriation of sick and wounded soldiers.

After the war, Howse turned his energies to politics, being elected as Nationalist member for the Federal seat of Calare in 1923, and going on to serve notably as Minister for Health and Defence and Minister for Repatriation in Prime Minister Stanley Bruce's Cabinet. He operated as a straight forward and principled politician. As Minister for Health he was committed to improving Commonwealth provision of health services, even dissenting from his own Government's 1924-25 budget for its lack of funding increases for health. As Minister for Defence he expressed concern over Britain's commitment to Australia's defence if distracted by her own priorities, a concern that history proves was well placed.

Howse was defeated in Calare at the 1929 election by his Labor opponent, as the proposed industrial relations reforms resulted in the Bruce Government being decisively swept from office. Intending to restart his medical career, Howse returned to London to renew his skills. It was there that, during an operation for gallstones, pancreatic cancer was discovered. He failed to recover, and he passed away on 19 September 1930. In a condolence motion Howse's Labor successor, George Gibbons, reflected on the extent to which Howse had served his community, noting that there was "scarcely a home in the rural districts in which he lived whose inmates have not, at some time, been supported by his practised sympathy in their hour of trouble". The selfless service of men and women like Howse makes our nation proud. Today I pay tribute to them, as we mourn those who fell and remember those who have passed. I would also like to pay tribute to my grandmother, Katherine Griffin, who was Neville Howse's nurse in Orange.

### TRIBUTE TO SHEIKH SAQR BIN MOHAMMAD AL QASIMI

**The Hon. JOHN AJAKA** [6.38 p.m.]: Today I speak about the passing of His Highness Sheikh Saqr bin Mohammad Al Qasimi, ruler of Ras Al Khaimah of the United Arab Emirates, who was born in 1925 and died on Wednesday 27 October 2010. At the time of his death, Sheikh Saqr was the longest-serving ruler in the world. Taking control of an impoverished, isolated sheikhdom in 1948, at a time when the people of Ras Al Khaimah were at the whim of terrible poverty, the ruler would over the next 62 years transform the state into the thriving Emirate it is today.

At the mere age of 23 years there was little doubt about the challenges His Highness faced. The economy was paralysed and unemployment was rife. The sheikhdom was running on a seriously depleted treasury and there was a gaping lack of civil structures. However, from the very beginning Sheikh Saqr fought hard for his people. He sought to renew investment in the sheikhdom's agricultural base to aid the economy. And crucially, he invested in education, arranging scholarships, many paid from personal funds, to send the best and brightest to schools and universities.

In the 1940s and 1950s, Sheikh Saqr's most dedicated mission was to establish a schooling system in Ras Al Khaimah. Having been one of the few able to receive a formal education, he understood the underlying advantage and power that came with knowledge. He lobbied friendly governments, while using his own limited funds to further the situation. As his biographer, Graeme Wilson, said:

Unlike his efforts in agriculture which would bear fruit within one or two years, education was a long-term effort, but one to which he was committed.

Indeed, contemporary critics argue that Ras Al Khaimah's widespread crediting with having the most educated national population in the lower Gulf is a direct result of the Ruler's education policies of the 1950s and 1960s. His biographer further said:

The Ruler oversaw an education system which at the time was a drain on State funds, but ultimately was a far-sighted vision which formed a basis on which modern Ras Al Khaimah, and later the United Arab Emirates, would come to rely.

Sheikh Saqr was a diligent and headstrong leader, able to overcome the largest of hurdles to make Ras Al Khaimah the thriving emirate it is today. Some of his many achievements include that the agriculture industry grew to help sustain not only Ras Al Khaimah's own population but also generated enough produce to export to other emirate states, as well as other parts of the Arab coast; the initiative of stone extraction from the Ras Al Khaimah's Hajar Mountains became a major source of wealth from 1960, paving the way for the first cement company in the 1970s of the United Arab Emirates, and consequently the world's largest ceramics producer in the 1980s, RAK Ceramics; and the development in public health, where hospitals were built and his people benefited from modern medicine. He was a keen exponent of bringing together all the emirate states, and Ras Al Khaimah joined with the remaining six to form the United Arab Emirates in 1972. In the words of his son, the newly anointed Ruler of RAK, His Highness Sheikh Saud bin Saqr Al Qasimi:

[Sheikh Saqr] worked tirelessly on behalf of his people. From as early as I can recall, he has risen at dawn, spent the entire day working in his office and hosting Majlis, which lasted well into the night. His limitless energy remains legendary.

In December last year, with the Leader of the Opposition, Mr Barry O'Farrell, I had the honour of meeting Sheikh Saud here in the New South Wales Parliament during the launch by Moe Sultan of the Gulf Australia Business Council. Many of our colleagues were present at the same time and they also had the honour of meeting His Highness. I am confident that Sheikh Saud will continue the great work of his father for the continued benefit of the people of Ras Al Khaimah. On behalf of my family and my parliamentary colleagues, I convey my deepest condolences to Sheikh Saud, his family and the people of Ras Al Khaimah.

### NATIONAL PARKS ASSOCIATION OF NEW SOUTH WALES

**The Hon. ROBERT BROWN** [6.43 p.m.]: I take this opportunity to expose the extent of hypocrisy exhibited by the National Parks Association of New South Wales and other so-called conservation and bushwalking clubs. The National Parks Association of New South Wales portrays itself as a conservation organisation that "seeks to protect, connect and restore the integrity and diversity of natural areas in New South Wales." However, the truth is that the National Parks Association of New South Wales and other so-called conservation groups have a long history of systematically flouting the rules governing the activities that can be undertaken in our national parks. The various Acts, regulations and codes governing the activities undertaken in national parks are there to help protect our natural places, yet the National Parks Association of New South Wales thumbs its nose at those rules.

I list just a couple of examples of openly publicised multiple breaches of the rules that are designed to protect the natural heritage of our national parks. First, on the weekend of 11 to 12 October 2008, the National Parks Association of New South Wales organised a bushwalking event at Deep Pass Canyon in the Wollemi National Park. The group comprised 26 participants, including 13 children, which in itself exceeds the maximum group size for the adventure activities they were undertaking—canyoning and abseiling. This event was reported, complete with photographs, on the association's website. It rained that weekend, so the National Parks Association of New South Wales group lit a fire in a cave to cook their dinner and dry their clothes—another clear breach of the regulations. Even more concerning is its blatant disregard for the safety of others. One adult carried a 4-year-old child on his back when abseiling down a wet and very slippery section of rock. That activity risked the safety of the young girl, and should have attracted a penalty of up to 30 penalty units.

On this single bushwalking incident the National Parks Association breached no less than five regulations codes, including their own codes of conduct: the Wollemi National Park Plan of Management, National Parks and Wildlife Regulation 2002, the National Parks Association of New South Wales Policy on Appropriate Recreation in National Parks, the National Parks and Wildlife Service: Canyon Code of Ethics, and the Confederation of Bushwalking Clubs New South Wales: Bushwalkers' Code. The association clearly acts with impunity and without fear of prosecution by a duplicitous New South Wales National Parks and Wildlife Service that appears to turn a blind eye to environmental degradation perpetrated by hoards of National Parks Association of New South Wales members and other bushwalking club members that invade our national parks every weekend.

On the weekend of 28 to 29 March 2009, Sydney University bushwalkers organised a bushwalking trip to the Colo River in the Wollemi National Park—again highlighted on the website. This particular group breached multiple sections of the national parks regulations, as well as various bushwalking codes including the Wollemi National Park Plan of Management, National Parks and Wildlife Regulation 2002—multiple sections, and the Confederation of Bushwalking Clubs New South Wales: Bushwalkers' Code. The photographic evidence taken from the website shows what apparently appears to be an alcohol-fuelled mob of 34 persons cavorting in the pristine Colo River drinking beer. The trip report also includes this pearler, "a big old carpet python happened across our activities." A photograph shows the old carpet python being handled by one macho bushwalker. That is in direct contravention of the regulations, which explicitly prohibits interference with any wildlife.

The objects of the National Parks and Wildlife Act require the Minister, the Director General and the National Parks and Wildlife Service to give effect to the public interest in the protection of the values for which land is reserved under this Act, and the appropriate management of those lands. Despite the Act being binding on the Crown, the Department of Environment, Climate Change and Water and the New South Wales National Parks and Wildlife Service to manage group numbers, there is no evidence in the annual reports for 2005-06, 2006-07 or 2007-08 of any prosecutions for exceed maximum group size of 20 person; exceed maximum group size of 12 persons, for adventure activities; and exceed maximum group size of eight persons, for canyons involving abseiling. This is surprising since most conservation and bushwalking clubs advertise walks in advance and then publish their trip reports revealing where breaches have been committed—that is where I collected the evidence of the multiple breaches.

That the annual reports of the Department of Environment, Climate Change and Water show no convictions for exceeding permitted group sizes for the period in question, I can only assume that the Department of Environment, Climate Change and Water and the New South Wales National Parks and Wildlife Service is turning a "blind eye" to the activities of conservation and bushwalking clubs. If that is the case, then the Department of Environment, Climate Change and Water and the New South Wales National Parks and Wildlife Service is failing to uphold their statutory obligations regarding the protection and preservation of scenic and natural features for which land is reserved under the Act.

### DUST DISEASE COMPENSATION

**The Hon. IAN WEST** [6.48 p.m.]: I consider the matter of compensation to relatives, including the relatives of asbestos victims, to be of the utmost importance. That is why I support the referral of the laws surrounding the payment of compensation to relatives to the New South Wales Law Reform Commission. I am aware that some jurisdictions have enacted legislation to overrule the principle that compensation to a relative for pecuniary loss is reduced if general damages to the legal personal representative of the deceased have enlarged the estate, thereby increasing the amount to be distributed to the relative from that estate. I note these provisions have been enacted with regard to dust diseases claimants but not to other classes of claimants.

The principle of offsetting damages in this regard is a long established one. It originated in the United Kingdom under Lord Campbell's Act in the 1800s, and was upheld by the High Court in *Public Trustee v Zoanetti* in 1945. The reforms that have been proposed to the Greens, the Government and the Opposition by representatives of the Australian Manufacturing Workers Union and Unions New South Wales, seek to better protect the interests of widows of asbestos victims. I wholeheartedly support New South Wales unions in their endeavours to ensure the best and fairest system is available. That is why the Government has gone down the path of seeking out a detailed analysis of the law in this regard, looking at dust diseases claimants, and also relatives of other persons who have died as a result of some other negligent conduct.

The proposed Dust Diseases Tribunal Amendment (Damages—Deceased's Dependents) Bill seeks to address one type of claimant. The law reform process that the Government has embarked on will address this and other types of claimants. I consider it vital to be fair and thorough in the processes that we embark upon. Families of deceased workers deserve to know that the compensation regime operating in New South Wales is the best and fairest it can be. By referring this area of law to the Law Reform Commission and seeking comment from stakeholders and the community, the Government will be in a strong position to move forward. The Greens have advocated openness and transparency and thorough processes. Only two days ago Mr David Shoebridge, when speaking on the Workers Compensation Legislation Amendment Bill, stated:

... the law in relation to compensation in New South Wales is extraordinarily complex. This area of the law should be relatively straightforward, providing relatively easy to understand and accessible benefits to injured workers. One of the reasons it is so complex is that it contains many restrictions on the rights of injured workers.

It seems that the process Mr Shoebridge has embarked upon in this regard will not seek to address the broader question of compensation to other types of claimants. This seems to me to do little to make the law less complex in this regard. Some people seem to be under the misapprehension that we have referred the general issue of damages surviving death to the Law Reform Commission. That is not the case. This matter is even more complex and I believe would have taken the Law Reform Commission longer. The Australian Manufacturing Workers Union has responded to the referral to the Law Reform Commission as follows:

We have welcomed the Review, which is in response to a campaign for reform by Unions New South Wales, the AMWU, ADFA ... The Attorney General has responded very quickly, meeting with us within days of our letter to him and has now established this Review, headed by prominent retired judge and Chair of the New South Wales Law Reform Commission, James Wood QC. The Attorney General has been very supportive in his commitment to resolving what is a complex legal issue. We will be making a submission to the Review and see the Attorney General's quick response to our representations as a very positive first step towards just compensation for the families of those whose lives have been devastated by asbestos.

### FISHING RESTRICTIONS

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [6.53 p.m.]: I wish to talk about an important issue affecting the real people of this State, that is, the Greens-Labor coalition against fishermen.

Many members would remember that before the last State election former Minister Ian Macdonald promised that there would not be another marine park. What did we get? We got another two marine parks. All members would remember that the Batemans and Port Stephens marine parks were put together by drawing

lines on a map at the behest of the Greens, with next to no community consultation. Since then this Government, in an increasingly cosy coupling with the Greens, has pushed more and more sanctuary zones on our fishermen, locking up much of our prime fishing areas. The Keneally Labor Government has done this with little, and in some cases no, scientific evidence. Kristina Keneally has shown time and again that she has little regard for regional communities and struggling fishing families affected by these closures. I have long called for a moratorium on the creation of any more marine parks or sanctuary zones in this State. Recently the Shooters and Fishers Party introduced the Marine Parks Amendment Moratorium Bill. In June this year the Minister for Transport and wannabe Labor leader, John Robertson, got to his feet in this House as lead Government spokesperson and stated:

We do not oppose the Marine Parks Amendment (Moratorium) Bill 2010.

He also said:

The Government provides in-principle support for this bill.

In August this year the Minister for Environment and Climate Change, Frank Sartor, stated in a letter:

The New South Wales Government plans to improve the management of existing parks rather than establish new ones.

Ministers Sartor and Robertson implied that the Opposition and I had been scaremongering on the issue and Minister Whan stated that we could not be trusted. It then changed. Recently, despite these public promises from her own Ministers, Kristina Keneally, in what we then saw as a desperate attempt to gain Greens votes, reneged on the promises made in this House. But we were wrong that her motive was for Greens votes. Because last night with the Election Funding and Disclosures Amendment Bill, Kristina Keneally shook hands with the Greens in a grubby deal that will ensure a legacy of money going to New South Wales Labor and a significant increase in the funding the Greens can extract from New South Wales taxpayers.

We now understand that the backdown on the moratorium was, in fact, a dodgy deal for the Greens to support the Government's election funding bill. The legislation was supposed to be about restoring faith, raising standards and putting the public first when it comes to politics, public administration and government. Instead, New South Wales Labor and the Greens formed a sneaky and underhanded alliance designed to advantage only themselves at the cost of real reform. It has become typical of this Labor Government to go back on its word. Fishermen across New South Wales will be disappointed, but probably not surprised that the shabby Keneally Labor Government would rather ensure its own access to money than properly look after the interests of fishing communities or marine environments.

Unfortunately, we are seeing an increasingly desperate Premier who will stop at nothing to try to resurrect her terminally broken Government. It is a sad day for New South Wales when we see such dodgy, self-serving ideals from not only the Government but also the Greens, who are supposedly all about openness, honesty and transparency. Fishermen and regional communities deserve better than to be pawns in Kristina Keneally's chess game with the Greens. In this latest deal the Greens got what it wanted, Labor got what it wanted—support for its bill and union money—and the fishing communities and families across the State got screwed.

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

**Motion agreed to.**

**The House adjourned at 6.58 p.m. until Tuesday 23 November 2010 at 2.30 p.m.**

---