

# LEGISLATIVE COUNCIL

Thursday 25 November 2010

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

**The President** read the Prayers.

## NEW ZEALAND MINING DEATHS

### Ministerial Statement

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [11.01 a.m.]: On behalf of the New South Wales Government I express my deepest sympathy to the families of the people who perished in the New Zealand Pike River coalmine explosion. As honourable members would be aware, the 29 miners included two Australians, William Joynson, aged 49, from Maryborough in southern Queensland, and Joshua Ufer, aged 25, from Townsville. Mr Johnson was well known on the Fraser Coast and hailed from a family of miners. Our thoughts go to his wife, Kim, and their two children. Our thoughts also go to the Ufer family and indeed all the other families that have tragically lost a loved one.

Late yesterday afternoon when the news broke of a second explosion, which eliminated any hope for the miners, our hearts sank. From the reports in the media, the 29 men have been missing underground for almost six days. I am sure members of this House will join with me in conveying to the families of the miners our sincere sympathy at this very difficult time. Their grief, which has followed days of terrible anxiety, is unimaginable. I also commend everyone involved in the rescue operation for their efforts, especially the experts from New South Wales. New South Wales has an international reputation in mine rescue. The New South Wales Government will continue to work with our State and Federal colleagues, the New Zealand Government and local and international organisations: we stand ready to offer and provide any further assistance.

Mining brings significant economic benefits and employment opportunities, especially to people living in regional and rural areas. However, safety is an all-important issue for miners. The most valuable asset of a mine is the people working it; each and every miner should be able to return home safely to family. Once again on behalf of the Government I acknowledge the lost miners, the unspeakable sadness their families are experiencing, and the work of all involved in this heart-wrenching rescue mission.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [11.03 a.m.]: I echo the comments of the Minister. This tragedy has hit a community. Grandparents, parents and children are missing crucial members of their community as a result of the finalisation of this tragedy. They have gone through a week of not knowing the fate of their loved ones, but anyone who lives in a coalmining community lives with that possibility on a daily basis. When we go to work we assume that we will return home at the end of the day. Methane gas is the unknown that makes mining so volatile and so hard for families. I speak from a knowledge of mining communities and also of having a son-in-law—the father of my grandchildren and the husband of my daughter—who is a miner and mining engineer who is part of a rescue squad. It is not only the families of the miners who are affected but also the people who organised the rescue. They have had to deal with the harsh possibility that the miners may have lost their lives on the first day but have clung to the hope that they would be found alive. Those in charge of the rescue operation had to make the hard decisions not to put other people at risk of losing their lives. They must have gone through nearly as much hell as the families of the miners. Our thoughts and prayers are with them. Let us hope that we will continue to make mining better and safer.

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

## VIOLENCE AGAINST WOMEN

### WHITE RIBBON DAY

**Motion by the Hon. Helen Westwood agreed to:**

1. That this House notes that:
  - (a) Thursday 25 November 2010 is International Day for the Elimination of Violence against Women, known as White Ribbon Day, and is the start of 16 Days of Activism to Stop Violence Against Women, and
  - (b) up to three-quarters of women and girls worldwide experience physical or sexual violence in their lifetime.

2. That this House:

- (a) congratulates and supports community efforts around the State to organise White Ribbon Day activities that highlight the ongoing injustice of violence against women, and
- (b) acknowledges the important role men play in wearing white ribbons on this day and being positive role models for other men and boys.

### **REGULATION OF THE SECURITY INDUSTRY**

#### **Motion by the Hon. Robert Borsak agreed to:**

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the review undertaken by Deloitte between February and April 2010 of the regulation of the security industry by the NSW Police Force in the possession, custody or control of the NSW Police Force, the Department of Premier and Cabinet, the Premier or the Minister for Police and any document which records or refers to the production of documents as a result of this order of the House.

### **BIRDON MARINE PTY LTD**

**Mr DAVID SHOEBRIDGE** [11.08 a.m.]: I seek leave to amend Private Member's Business item No. 243 outside the Order of Precedence for today of which I have given notice by omitting "14 days" and inserting instead "21 days".

#### **Leave granted.**

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

That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of the passing of this resolution the following documents created since January 2005 in the possession, custody or control of the Minister for Climate Change and the Environment or the Department of Environment, Climate Change and Water relating to land owned by Birdon Marine Pty Ltd adjoining Glen Ewan Road, Port Macquarie, and any other land owned by Birdon Marine Pty Ltd on the banks of the Hastings River:

- (a) any documents relating to the decision to prosecute, or cease to prosecute, Birdon Marine Pty Ltd, or any related corporation, in relation to contamination of the land, including:
  - (i) any minutes of meetings of the Environment Protection Authority Board,
  - (ii) any briefing papers or memorandums provided to the Environment Protection Authority Board,
  - (iii) any legal advice provided to the Environment Protection Authority Board, the Minister for Climate Change and the Environment or the Department,
- (b) any documents relating to contamination of the land including:
  - (i) environmental or investigative reports,
  - (ii) contamination of the Hastings River due to the contamination of the land,
  - (iii) communication with Port Macquarie Hastings Council,
  - (iv) directions, orders, notices or management notices issued,
- (c) any documents relating to the remediation, or planned remediation of the land, by or on behalf of Birdon Marine Pty Ltd,
- (d) any documents relating to the presence of toxic biocide tributyltin on the land or in the Hastings River, and
- (e) any document which records or refers to the production of documents as a result of this order of the House.

### **AMBASSADOR OF THE UNITED ARAB EMIRATES**

#### **Motion by the Hon. Marie Ficarra agreed to:**

- 1. That this House welcomes the appointment of His Excellency Ambassador Ali Nasser Ali Nualmi as the ambassador appointed for the United Arab Emirates to Australia.
- 2. That this House notes that:
  - (a) the Gulf Australia Business Council (GABC) was officially launched in the NSW Parliament last year by His Highness Sheikh Saud Bin Saqr Al Qasimi, the Crown Prince and Ruler of Ras Al Khaimah, United Arab Emirates and the Executive Director of the Gulf Australia Business Council, Mr Moe Sultan, and

- (b) various members of the State and Federal parliaments have become honorary members of the Gulf Australia Business Council, including:

The Hon. Amanda Fazio MLC, President of the Legislative Council  
 The Hon. Richard Torbay, Speaker of the Legislative Assembly  
 The Hon. Verity Firth MP, Minister for Education and Training  
 The Hon. Barbara Perry MP, Minister for Local Government, Minister for Juvenile Justice and Minister Assisting the Minister for Planning, and Minister Assisting the Minister for Health (Mental Health),  
 Mr Barry O'Farrell MP, Leader of the Opposition,  
 Mr Andrew Stoner MP, Leader of The Nationals,  
 Mr Adrian Piccoli MP, Shadow Minister for Education, Skills and Youth Affairs, Shadow Leader of the House,  
 Mr Anthony Roberts MP, Shadow Minister for Citizenship, Shadow Minister for Volunteering and the Arts,  
 Mr Thomas George MP, Temporary Speaker of the Legislative Assembly,  
 The Hon. Don Harwin MLC, Opposition Whip,  
 The Hon. Shaoquett Moselmane MLC, Temporary Chair of Committees in the Legislative Council,  
 The Hon. Marie Ficarra MLC, Shadow Parliamentary Secretary to the Leader of the Opposition,  
 The Hon. David Clarke MLC, Shadow Parliamentary Secretary to the Shadow Attorney General,  
 The Hon. John Ajaka MLC, Shadow Parliamentary Secretary to the Leader of the Opposition,  
 The Hon. Paul McLeay MP,  
 The Hon. Laurie Ferguson MP, Federal Parliamentary Secretary for Multicultural Affairs and Settlement Services,  
 The Hon. Warren Truss, Federal Leader of the Nationals, Federal Shadow Minister for Trade, Transport and Local Government,  
 The Hon. John Cobb MP, Federal Shadow Minister for Agriculture and Food Security,  
 The Hon. Christopher Pyne MP, Federal Opposition Leader of the House,  
 Senator the Hon. Helen Coonan, and  
 Senator the Hon. Richard Colbeck.

3. That this House congratulates Mr Moe Sultan and the Gulf Australia Business Council on their outstanding work to promote increased bilateral trade, commerce and investment between Australia, the Gulf Cooperation Council and their respective regions.

### **BIRDON MARINE PTY LTD**

#### **Production of Documents: Order**

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

That, under Standing Order 53, an Address be presented to the Governor requesting that Her Excellency may be pleased to cause to be laid upon the table of the House within 14 days of the date of passing of this resolution all documents in the possession, custody or control of the Minister for Climate Change and the Environment, the Department of Environment, Climate Change and Water, including witness statements and affidavits, relating to any court process by or on behalf of the Environment Protection Authority, the Department or the Minister against Birdon Marine Pty Ltd or any related corporation, relating to land adjoining Glen Ewan Road, Port Macquarie.

### **BUSINESS OF THE HOUSE**

#### **Formal Business Notices of Motions**

**Private Members' Business item No. 248 outside the Order of Precedence objected to as being taken as formal business.**

### **ALCOHOL LICENSING ENFORCEMENT COMMAND**

**Dr JOHN KAYE** [11.12 a.m.]: I seek leave to amend Private Members' Business item No. 249 outside the Order of Precedence for today of which I have given notice by omitting the words "the Minister for Gaming and Racing, Communities NSW, the NSW Office of Liquor, Gaming and Racing, and the Minister for Police or the". Effectively, the motion will request for a call for papers from the New South Wales Police Force.

**Leave granted.**

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

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents in the possession, custody or control of NSW Police:

- (a) any advice provided since 1 July 2007 by the Alcohol Licensing Enforcement Command (ALEC) of the NSW Police to the Director General of Communities NSW in respect of schedule 4 of the Liquor Act 2007 (NSW), and
- (b) any document which records or refers to the production of documents as a result of this order of the House.

## LOCAL HEALTH NETWORKS

**Dr JOHN KAYE** [11.13 a.m.]: I seek leave to amend Private Members' Business item No. 250 outside the Order of Precedence for today of which I have given notice by omitting "14 days" and inserting instead "18 days".

**Leave granted.**

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

That, under Standing Order 52, there be laid upon the table of the House within 18 days of the date of the passing of this resolution the following documents in the possession, custody or control of the Premier, the Minister for Health or the Department of Health:

- (a) any advice provided to the Government since 1 April 2010 in relation to the creation of the Local Health Networks in New South Wales, including any document relating to the selection of boundaries, number of networks and their links to primary health care boundaries, and
- (b) any document which records or refers to the production of documents as a result of this order of the House.

## ASBESTOS-RELATED DISEASES

**Motion by the Hon. Ian West agreed to:**

1. That this House notes that:
  - (a) 22 to 28 November 2010 is Asbestos Awareness Week,
  - (b) asbestos-related disease leads to debilitating effects and poses serious challenges for the families of those suffering, and
  - (c) the dangers of unsafely handling asbestos have been known for years, and that the long lag time between exposure and the onset of symptoms means that instances of disease are still being diagnosed, even though asbestos use is now outlawed.
2. That this House:
  - (a) notes the great work of those who have brought the dangers of asbestos to the community's attention, and
  - (b) remembers those who the community has lost to asbestos-related disease and extends its deepest sympathies to their families.

## TABLING OF PAPERS

**The Hon. John Robertson** tabled the following papers:

- (1) Annual Reports (Departments) Act 1985—Report of the Department of Environment, Climate Change and Water for the year ended 30 June 2010.
- (2) Annual Reports (Statutory Bodies) Act 1984—Report of the Cancer Institute NSW for the year ended 30 June 2010.

**Ordered to be printed on motion by the Hon. John Robertson.**

## AUDITOR-GENERAL'S REPORT

**The Clerk** announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance review of the Auditor-General entitled "NSW Lotteries Sale Transaction", dated November 2010, received and authorised to be printed this day.

## PETITIONS

### 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 **Reverend the Hon. Fred Nile**.

**Multicultural Community Liaison Officer**

Petition requesting that the House call on the Government to appoint a multicultural community liaison officer for the Hurstville and Kogarah local government areas, received from the **Hon. Marie Ficarra**.

**Religious Education and School Ethics Classes**

Petition requesting that the House call on the Government to ensure that planned ethics classes are offered at a separate time from special religious education classes, received from **Reverend the Hon. Fred Nile**.

**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**.

**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 **Reverend the Hon. Fred Nile** and the **Hon. Jennifer Gardiner**.

**Keerrong Valley Coal Seam Gas Mining**

Petition requesting that the House act to stop all activity concerning the potential coal seam gas mining in the Keerrong Valley, received from the **Hon. Jennifer Gardiner**.

**PARLIAMENTARY ELECTORATES AND ELECTIONS FURTHER AMENDMENT BILL 2010**

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

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

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

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

**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 Member's Business No. 248 outside the Order of Precedence, relating to the Australian Services Union equal pay case, be called on forthwith.

**Order of Business****Motion by Mr David Shoebridge agreed to:**

That Private Member's Business No. 248 outside the Order of Precedence be called on forthwith.

**PAY EQUITY**

**Mr DAVID SHOEBRIDGE** [11.25 a.m.]: I move:

1. That this House notes that:

- (a) feminised work has historically been undervalued and underpaid in Australia,
- (b) last year, the gap in average weekly earnings between men and women rose, and Australian women, on average, earn 18 per cent less than Australian men,

- (c) women workers in the Social and Community Services [SACS] sector have wages 30 per cent lower than comparable workers in the public sector,
  - (d) the Australian Services Union's [ASU] Equal Pay case has been lodged with Fair Work Australia on behalf of Australia's 200,000 community and disability workers, seeking to establish equal pay for the sector,
  - (e) over 18 months ago the Federal Government, fully aware of the costings involved, signed an agreement to fund the outcome of the ASU's Equal Pay Case,
  - (f) in a submission to Fair Work Australia last week in regards to the Equal Pay Case, the Federal Government indicated that any money to fund the outcome of this case would be at the cost of other government services, in effect seeking either a more moderate wage increase, or reduced employment and services in the sector,
  - (g) this amounts to the Federal Government reneging on its agreement to support the ASU's Equal Pay Case,
  - (h) without full Federal Government support for the cost impact of the Equal Pay Case, the principle of equality will be lost and services in the sector will dramatically reduce because the cost impact of the wage increase will fall on the SACS sector employers and their clients, particularly on the women workers who the case was intended to assist, and
  - (i) without a commitment to fully fund the Equal Pay Case, the community and disability sector will be forced to reduce employee numbers, cut standards of care and limit the range of services it has traditionally offered to some of the most marginal members of our community.
2. That this House calls on the Government to:
- (a) support the ASU's Equal Pay case before Fair Work Australia on behalf of community and disability sector careworkers,
  - (b) acknowledge the importance of the Equal Pay Case to address pay discrepancies,
  - (c) increase funding to the Social and Community Services sector,
  - (d) commit to funding the outcome of the ASU's Equal Pay case, and
  - (e) urge the Federal Government to live up to its previous promise to fund the much-needed pay equity outcomes from the Equal Pay case

This motion seeks the support of this House to call on the Government to support the Australian Services Union equal pay case before Fair Work Australia. The case has been run by the Australian Services Union on behalf of the community and disability sector careworkers throughout Australia. Unfortunately, with the transition to a Federal award under the Fair Work Act many community and disability sector careworkers in New South Wales particularly have faced substantial reductions in their take-home pay. As part of the arrangement of the transition to the Federal award system there was agreement at the time, some 18 months ago now, between the Federal Government and the Australian Services Union that the union would be allowed to bring the equal pay case before Fair Work Australia in order to ensure that the gap in wages between those mainly women workers in the community sector and comparable workers in other sectors is closed.

Over the past year the gap in average weekly earnings between men and women has risen. Australian women on average earn 18 per cent less than Australian men. Women workers in the social and community services sector receive wages some 30 per cent lower than comparable workers in the public sector. That is the inequality the equal pay case seeks to address. The Australian Services Union's equal pay case has been lodged with Fair Work Australia on behalf of Australia's 200,000 community and disability workers seeking to establish equal pay for that sector. Pause for one moment and think about that: 200,000 mainly women workers are doing much-needed work in the community and disability sector but are receiving on average 30 per cent less take-home pay than comparable workers in non-feminised sectors receive for doing similar work.

In a submission to Fair Work Australia last week regarding the equal pay case the Federal Government indicated that any money to fund the outcome of the case would be at the cost of other government services. In effect, it was seeking that Fair Work Australia provide a more moderate wage increase or, in the absence of the full-funding commitment from the Federal Government, ultimately there would be a reduction in employment or services in the very sector the equal pay case seeks to help—either outcome is deeply unattractive. In effect, that amounts to the Federal Government reneging on its agreement in principle to support the Australian Services Union's equal pay case. Unless the Federal Government agrees to fund the outcomes of the case, there can be no equal pay.

Without full Federal Government support for the cost impact of the equal pay case, the very principle of equality will be lost and services will be dramatically reduced because that wage increase cost impact will fall

on the social and community sector employers and their clients. That means the costs of the equal pay case will be met by the very people it seeks to assist: the predominantly female workforce and those people in the community and disability sector so in need of this assistance. The community and disability sector will suffer without that commitment to fully fund the equal pay case. The sector will be forced to reduce employee numbers, cut standards of care and limit the range of services traditionally offered to some of the most marginal members of our community.

The motion calls on this Government to support the Australian Services Union's equal pay case that is before Fair Work Australia on behalf of community and disability sector care workers, to acknowledge the importance of the equal pay case in addressing pay discrepancies in the sector, to increase funding to the social and community services sector, and to commit funding to the outcome of the Australian Services Union's equal pay case. A commitment by the New South Wales Government to fund the part of the community sector's funding that arises at a State level is just as important as is a commitment from the Federal Government. The motion also calls on the New South Wales Government to urge the Federal Government to live up to its previous promise and fund the much-needed pay equity outcomes from the equal pay case. I commend the motion to the House.

**The Hon. LYNDIA VOLTZ** [11.30 a.m.]: I support the motion but I intend to move amendments at a later stage. I will detail the amendments after outlining the Government's support for the groundbreaking application by the Australian Services Union. Work labelled as women's work has been undervalued for too long. That is why in 1997 the New South Wales Government referred to the Industrial Relations Commission of New South Wales an inquiry into pay equity. From that inquiry emerged the New South Wales Equal Remuneration and Other Conditions Principle. In 2000 the New South Wales Industrial Relations Commission established this principle as a first step to ensuring that work performed in female-dominated industries and occupations was not undervalued. With this principle, the unions could bring before the commission evidence of historical gender-based undervaluation of work performed in female-dominated sectors.

New South Wales was the first jurisdiction in the nation to develop this industrial mechanism for identifying gender-based undervaluation of work. With women comprising more than 45 per cent of the New South Wales workforce, it comes as no surprise that the New South Wales Government supports the Australian Services Union initiating the first test of the equal remuneration provisions under the Fair Work Act. Most importantly, the New South Wales Government's submission seeks to ensure that employees in the State now covered by the national industrial relations system have access to equal remuneration provisions that at the very least are comparable to those that operate under the New South Wales industrial relations system.

In March this year the Australian Services Union lodged an application for an equal remuneration order for the social and community services sector in Fair Work Australia. The application seeks to establish that the work performed in this sector has been historically undervalued simply because this industry is dominated by women. It also seeks a wages classification structure which introduces additional increments at all levels to ensure that workers are paid appropriately for the valuable work they do. Finally, the application seeks to ensure that workers in the social and community services sector across the nation receive increases in rates of pay which reflect the 18 to 37 per cent increases awarded to Queensland community workers following the Queensland Industrial Relations Commission's decision in 2009.

The New South Wales Government filed its contentions before Fair Work Australia on 6 August this year. The contentions reflect the Government's established position on closing the gender pay gap, drawing on our experience and jurisprudence in our State. The New South Wales Government supports an approach that can advance the principles of pay equity for men and women who are performing work of equal or comparable value. Our contentions promote the utility of the New South Wales Equal Remuneration and Other Conditions Principle to assist Fair Work Australia's consideration of the evidence before it during the test case. The New South Wales equal remuneration principle enabled the New South Wales Industrial Relations Commission to identify gender-based undervaluation of work in the context of the industrial regulation of female-dominated industries and occupations.

The New South Wales submission also provides Fair Work Australia with insight into the broader dimensions of gender-based undervaluation, such as no unionisation, a history of consent awards, and increasing rates of women engaged in casual and part-time employment. The Fair Work Act provides Fair Work Australia with the power to make an equal remuneration order if it is satisfied that there is not equal remuneration for men and women employees who are performing work of equal or comparable value. The Government believes that the New South Wales Equal Remuneration and Other Conditions Principle is the best scaffolding for identifying gender-based undervaluation of work in pay equity cases.

Supporting the social and community services sector in other ways is also a top priority. The Government has made a commitment to work with the non-government sector to consider the outcome of the equal remuneration order to ensure we are well placed to support community organisations in implementing the decision of Fair Work Australia next year. New South Wales Government agencies are engaging with key stakeholders in the non-government organisations sector, including employer groups, peak organisations and service providers, to explore opportunities for productivity improvements in service delivery. The focus of these consultations is to ensure that these productivity improvements support organisations in meeting possible wage increases across the board—not just those services to which the New South Wales Government contributes. Importantly, the focus of this work will be on measurable strategies that improve the quality of service delivery.

As part of a wider regeneration of the sector, the Keneally Government is engaged in intensive community consultation on the future direction of disability services in New South Wales. The next phase of the Government's strategy will introduce fundamental reforms that address the way we deliver disability services. These reforms will place the person with a disability at the centre of decisions about their life and their support plan. All the growth of these new services and all of these reforms rely on one thing: skilled workers to deliver quality services. This is why the Keneally Government is absolutely supportive of pay equity and improved pay conditions for workers in the community care sector. Now more than ever before we need to attract more workers to deliver the substantial expansion of disability services that the Keneally Government has planned for the future, so we will welcome the Premier's funding announcement towards the end of the year.

The test case also presents a platform for improving workforce development in this sector. This will bring about real opportunities for employees by developing a qualification structure and ensuring consistency in the use of classifications across non-government organisations, thereby addressing many of the issues around attraction and retention of staff in the sector. To ensure that the Government is well informed about the potential impact of an equal remuneration order a major workforce profile research project has just been completed through the Social Policy Research Centre of the University of New South Wales. This research will assist in our understanding of where the major impact of any decision of Fair Work Australia in this case will be felt and, when the outcome is known, it also will assist us to plan accordingly.

To ensure that non-government organisations in the disability and community services sector have resources available to meet any future wage increases we have provided 2 per cent indexation in this financial year on the latest components of grants, despite there being no wage increases for workers in the sector. This will enhance the sector's capacity to offset any wage increases in 2011-12. Until the outcome of the Australian Services Union's application for an equal remuneration order is known, neither this Government nor any other jurisdiction is in a position to assess the real impact of this important test case on the sector, or any flow-on impacts for service delivery. The Government is committed to working with the social and community services throughout the proceedings and during implementation of Fair Work Australia's decision. The Government's submission to Fair Work Australia has been developed to ensure that the tribunal has a full understanding of the size and composition of the affected workforce and will be able to assess the likely impact of any pay increases in the future. I call on members to support the motion, subject to the amendments I foreshadowed. I urge members to accept the amendments. I move:

1. Omit paragraph 1 (e) and insert instead:
  - (e) on 30 October 2009, the Federal Government signed a Heads of Agreement with the ASU regarding the ASU's application for equal remuneration orders in the SACS sector,
2. Insert after paragraph 1 (i):
  - (j) in response on 6 August 2010, the NSW Government filed its contentions and evidence in Fair Work Australia. The principal contention is that the tribunal should have regard to the NSW Equal Remuneration and Other Conditions Principle in exercising its jurisdiction and to the successful application of this Principle in the New South Wales setting.
3. In paragraph 2 omit "calls on the government to".
4. In paragraph 2(a) omit "support" and insert instead "supports".
5. In paragraph 2(b) omit "acknowledge" and insert instead "acknowledges".
6. Omit paragraph 2(c) and (e) and insert instead:
  - (c) notes that the NSW Government provides annual indexation to its funding to assist the sector to meet the cost of future wage increases,



- (d) urges Fair Work Australia to have regard to the NSW Equal Remuneration and Other Conditions Principle,
- (e) notes that over the last 3 to 4 months the Keneally Government has engaged in intensive community consultation on the future direction of disability services in NSW,
- (f) notes that the Premier has committed to making a funding announcement before the end of the year,
- (g) urges the Federal Government to bring forward its timing for the announcement of a fully funded national disability insurance scheme.

**Dr JOHN KAYE** [11.40 a.m.]: The great promise of a progressive society is that equal work earns equal pay. The great promise of the Whitlam Government was equal pay regardless of gender. The great promise of Prime Minister Julia Gillard was that she would translate those fundamental principles of the labour movement and the Australian Labor Party into support for the Australian Services Union's equal pay case. The workers in this sector have been deeply and profoundly sold out by the Labor Party. The social and community services sector—a sector that represents some of the finest and most committed workers in our society—has been told that it no longer has support for its equal pay case. Not only is that a sell-out of those workers; it is a sell-out of the fundamental principles of the Labor Party, the union movement and a fair and just society.

We have moved well beyond the concept that one should be paid differently because of one's gender. We have moved well beyond the concept that, because one belongs to a class of people that is predominantly one gender, the work one performs is remunerated at a lower rate. This motion is an important statement by this Parliament that we will not stand by and watch important workers in the social and community services sector have wages 30 per cent lower than comparable workers in the public sector—largely because the work is predominantly performed by women. I strongly support the motion. However, I move:

That the question be amended by omitting in paragraph (1) (a) "feminised work" and inserting instead "work performed predominantly by women".

There is some ambiguity about what the expression "feminised work" means. Although I accept that the term is used broadly in the sector and the trade union movement, the term "work performed predominantly by women" makes the intent of the motion much clearer. With that amendment, I strongly commend the motion to the House.

**Mr DAVID SHOEBRIDGE** [11.43 a.m.], in reply: While I am pleased that much of the body of the motion is supported by the Government and the Hon. Lynda Voltz in particular, it is unfortunate that the amendments will gut the real commitment that the motion seeks: funding the outcome of the Australian Services Union's equal pay case. My motion calls on the Federal Government to live up to its prior commitment to fully fund it. With all due respect to the Hon. Lynda Voltz, to suggest that a 2 per cent indexation on the wage-related component of State grants will in any way come close to meeting the funding commitment needed to get pay equality in the sector fails to acknowledge what the Government is supporting, which is that female workers in this sector have wages 30 per cent lower than comparable workers in the public sector, not 2 per cent lower. The balance of the amendments essentially involve backslapping of the Government and are not worthy of support. The key issue is not 2 per cent indexation; the key issue is to make a commitment to fully fund the State component of the equal wage case. Without that commitment the balance of the words ring hollow.

**The PRESIDENT:** I propose to put the question on the amendment of Dr John Kaye first and then the questions on the amendments of the Hon. Linda Voltz seriatim.

**Question—That the amendment of Dr John Kaye be agreed to—put and resolved in the affirmative.**

**Amendment of Dr John Kaye agreed to.**

**Question—That amendment No. 1 of the Hon. Lynda Voltz be agreed to—put and resolved in the affirmative.**

**Amendment No. 1 of the Hon. Lynda Voltz agreed to.**

**Question—That amendment No. 2 of the Hon. Lynda Voltz be agreed to—put and resolved in the affirmative.**

**Amendment No. 2 of the Hon. Lynda Voltz agreed to.**

**Question—That amendment No. 3 of the Hon. Lynda Voltz be agreed to—put.**

**The House divided.**

**Ayes, 28**

Mr Ajaka	Ms Griffin	Ms Robertson
Mr Catanzariti	Mr Khan	Ms Sharpe
Mr Clarke	Mr Lynn	Mr Veitch
Mr Colless	Mr Mason-Cox	Ms Voltz
Ms Cotsis	Mr Moselmane	Mr West
Ms Cusack	Mr Obeid	Ms Westwood
Ms Ficarra	Ms Parker	
Mr Foley	Mrs Pavey	<i>Tellers,</i>
Miss Gardiner	Mr Pearce	Mr Donnelly
Mr Gay	Mr Primrose	Mr Harwin

**Noes, 8**

Mr Borsak	Reverend Dr Moyes	<i>Tellers,</i>
Mr Brown	Reverend Nile	Mr Cohen
Dr Kaye	Mr Shoebridge	Ms Faehrmann

**Question resolved in the affirmative.**

**Amendment No. 3 of the Hon. Lynda Voltz agreed to.**

**Question—That amendments Nos 4 to 6 of the Hon. Lynda Voltz be agreed to—put.**

**Division called for and Standing Order 114 (4) applied.**

**The House divided.**

**Ayes, 28**

Mr Ajaka	Ms Griffin	Ms Robertson
Mr Catanzariti	Mr Khan	Ms Sharpe
Mr Clarke	Mr Lynn	Mr Veitch
Mr Colless	Mr Mason-Cox	Ms Voltz
Ms Cotsis	Mr Moselmane	Mr West
Ms Cusack	Mr Obeid	Ms Westwood
Ms Ficarra	Ms Parker	
Mr Foley	Mrs Pavey	<i>Tellers,</i>
Miss Gardiner	Mr Pearce	Mr Donnelly
Mr Gay	Mr Primrose	Mr Harwin

**Noes, 8**

Mr Borsak	Reverend Dr Moyes	<i>Tellers,</i>
Mr Brown	Reverend Nile	Mr Cohen
Dr Kaye	Mr Shoebridge	Ms Faehrmann

**Question resolved in the affirmative.**

**Amendments Nos 4 to 6 of the Hon. Lynda Voltz agreed to.**

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

**Motion as amended agreed to.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Precedence of Business****Motion by the Hon. Penny Sharpe agreed to:**

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

**Precedence of Business****Motion by the Hon. Penny Sharpe agreed to:**

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

**The PRESIDENT:** Order! I place the Hon. Duncan Gay on a call to order for failing to set his mobile phone on silent mode while he is in the Chamber.

**Pursuant to sessional orders business interrupted at 12 noon for questions.****QUESTIONS WITHOUT NOTICE****TWEED POLICE STATION**

**The Hon. MICHAEL GALLACHER:** My question without notice is directed to the Minister for Planning. Is the Minister aware that his department has rejected a development application by the New South Wales Police Force to commence construction of the new Tweed police station? Is the Minister aware this will mean that the people of Tweed will have to wait even longer to see a new police station up and running? Has the Minister been in any discussions with his colleague, the Minister for Police, as to how this matter will be resolved? What has the Government already spent on this project due to the bureaucratic hold-ups and without a single brick being laid?

**The Hon. TONY KELLY:** I thank the honourable member for his question. I am aware of the particular block of land and the application for not just police but I think a police and emergency services site in Tweed Heads. For many years the police have been looking for a new site where they can relocate some staff—particularly the highway patrol—out of Tweed Heads itself, perhaps even relocate the Kingscliff police station somewhere appropriate, close to the highway, so they can get to the highway more quickly. I think it is possible that there could be some other emergency services at the site. I know the police have been looking for a number of years—not just at this private freehold land but also at a number of Crown land sites with which I have been involved in another portfolio. I know that they are looking to find an appropriate site. I am led to believe that the site that I think the member is alluding to is not zoned correctly. It is farming land. I stand to be corrected, but the Department of Planning asked the police to see if there was a more appropriate site on the basis that this was not zoned appropriately—it was zoned rural land and, according to the Department of Agriculture and Primary Industries, it was primary agricultural land.

**NSW LOTTERIES SALE**

**The Hon. SOPHIE COTSIS:** My question is addressed to the Treasurer. Would he update the House on the report by the Auditor-General on the New South Wales Lotteries transaction?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for her question and her interest in this matter. This morning the Auditor-General released his report on the New South Wales Lotteries transaction. I welcome this report and its findings. This report clears the air once and for all. The New South Wales Lotteries transaction was a great deal for the people of New South Wales. The families of New South Wales got an excellent deal, which helped to pay down State debt and to strengthen the New South Wales balance sheet. The transaction process was given a clean bill of health from an independent probity adviser and now the Auditor-General himself confirms that all bidders were treated equitably during the process.

This was an excellent result and the Auditor-General confirms it. His report shows that the people of New South Wales received just over a billion dollars for a business valued at over \$500 million—a great result for the people of New South Wales. I quote the Auditor-General's key finding:

Nothing has come to my attention in this review of the NSW Lotteries Sale Transaction to indicate there has been a waste of public resources or lack of financial prudence.

There you go—straight from the Auditor-General's report! We can now show that this was a very good deal for the people of New South Wales, as confirmed by the Auditor-General of New South Wales.

There are many other findings in the report that I wish to bring to the attention of the House and place on the official record. This report condemns everything that Michael Baird and the Opposition have said about the New South Wales Lotteries transaction. The shadow Treasurer told five big lies about the transaction. The Auditor-General found no evidence to back up any of them. For the benefit of the House, I will go through each of the lies and the Auditor-General's response.

**The Hon. Michael Gallacher:** Point of order: I think you will recall, Madam President, that the word "lies" is unparliamentary and attacking a member of another place is also unparliamentary, particularly when used in the context of telling lies. I would ask the Treasurer to withdraw the comment and not continue.

**The PRESIDENT:** Order! It is not appropriate for the Leader of the Opposition to ask that the comment be withdrawn. That is outside the standing orders. However, a member cannot make a reflection on another member unless by way of substantive motion. It is unparliamentary for a member to call another member a "liar", but it is not unparliamentary for a member to refer to "lies".

**The Hon. ERIC ROOZENDAAL:** The wisdom of Solomon! Lie No. 1: Bidders were told not to bid on the unclaimed prizes—the Auditor-General says wrong. Lie No. 2: There was not a level playing field—the Auditor-General says wrong. Lie No. 3: The unclaimed prizes were sold below what they were worth—the Auditor-General says wrong. Lie No. 4: There were serious complaints—the Auditor-General says wrong. Lie No. 5: There were problems with the lotteries legislation—the Auditor-General says wrong. Five big lies from the shadow Treasurer, and today we have had that confirmed by the Auditor-General. This report is a condemnation of the shadow Treasurer and the Opposition, who ran a relentless campaign to damage the sale process, to damage the reputation of the public servants working on it and to damage the advisers. This shows the lack of judgement of the Opposition and the lack of judgement of the shadow Treasurer.

**The Hon. SOPHIE COTSIS:** I wish to ask a supplementary question. Could the Treasurer please elucidate his answer?

**The Hon. ERIC ROOZENDAAL:** It shows his lack of judgement and commonsense, and his misguided—and frankly amateur—attempts to destroy the process have now been examined by the Auditor-General and exposed as untrue. The former merchant banker turned mudslinger failed and today stands condemned and humiliated by his reckless actions. I welcome the Auditor-General's report. I thank all the people who worked tirelessly on this transaction, including Treasury and all the advisers, and the good work they did for New South Wales, which got a very good result for the people of New South Wales. I also thank the Auditor-General for putting to bed and finishing, once and for all, the mudslinging of the Opposition.

#### NSW LOTTERIES SALE

**The Hon. MATTHEW MASON-COX:** I direct my question to the Treasurer. How does the Treasurer respond to the serious concerns that the Auditor-General has raised on the determination of the value of unclaimed prize money in the lotteries sale, which the market estimates was sold for \$50 million less than it was worth, and I quote directly from the Auditor-General's report:

Detailed documentation of the assessment of the value of unclaimed prizes was not produced. What limited documentation was produced did not adequately demonstrate how the Review Committee determined its recommendation. The lack of documentation on this issue, involving a high value asset, is a serious deficiency in recordkeeping relating to the sale process.

**The Hon. ERIC ROOZENDAAL:** I am more than happy to respond. I want to go on the record a bit more on the Auditor-General's report because he really did go through a lot. I think it is worth recounting all of the smears that the Opposition has rubbed over this transaction. Let us go to the key findings of the Auditor-General that the process was financially sound and in the best interests of the taxpayers of this State. The Auditor-General also disproved complaints made public about the transaction in a smear campaign led by Michael Baird. Let us go through all the Opposition's smears. Smear No.1 was when Michael Baird appeared on *The World Today* on ABC Radio on 29 March. He said, "Some of the bidders were told not to bid on particular parts of the business, which is the unclaimed funds, which are obviously a very significant valuable asset of a 40-year licence, but the winning bid appears to have bid on it." There it is, straight from Michael Baird's mouth, his first accusation.

Now for the truth that disproves that smear once and for all. On page 3 of the Auditor-General's report, he said: "I found no evidence to indicate that all bidders were not provided with the same information in relation to unclaimed prizes." There you have it, the first finding of the Auditor-General that proves Michael Baird and his little mate the junior professor over here have been smearing the transaction. Lie No.2 from Michael Baird appeared in the *Daily Telegraph* on 2 June.

**The Hon. Duncan Gay:** Point of order: I draw your attention to a ruling by President Johnson on 29 March 1990: The interjection "It is because you tell lies" is offensive and should be withdrawn. Given the precedent of eminent President Johnson, I ask that you rule that the use of the word "lies" is out of order.

**The PRESIDENT:** Order! I uphold the point of order of the Deputy Leader of the Opposition. However, I rule that the term "smear" is not unparliamentary.

**The Hon. ERIC ROOZENDAAL:** Smear No. 2 from Michael Baird appeared in the *Daily Telegraph* on 2 June. He said, "There was not a level playing field in relation to the Lotteries transaction." The truth is on page 18 of the Auditor-General's report: "I found no documentary evidence to indicate that any bidder was provided with information relating to unclaimed prizes that was not available to all bidders." A complete rebuttal of another smear from Michael Baird and the Opposition. I refer now to smear No. 3 and I quote Michael Baird—

**The Hon. Matthew Mason-Cox:** Point of order: It relates to relevance. The question relates to the lack of documentation and the quote from the Auditor-General in relation to there being a serious deficiency in the sale process. I ask you to direct the Treasurer to answer the question and stop the tedious repetition.

**The PRESIDENT:** Order! The Treasurer will continue to be generally relevant in his answer.

**The Hon. ERIC ROOZENDAAL:** Smear No. 3 from Michael Baird appeared in his news release of 12 May. He said, "The unclaimed prize revenue was sold for well below market estimates." Now the truth: I quote from page 3 of the Auditor-General's report. He said, "I found no evidence to indicate that the value of unclaimed prizes was not properly assessed." Smear No. 4 was said by Michael Baird on AAP on 25 April this year: "The truth is there is a serious complaint from one of the consortiums involving many players." On page 12 of his report, the Auditor-General said: "New South Wales Treasury and the Probity Adviser noted that despite— [*Time expired.*]

## MEROO LAKE

**The Hon. ROBERT BROWN:** I direct my question to the Minister for Transport, representing the Minister for Climate Change and the Environment. Given the late-night annexation by the Government and the Greens of the Meroo Lake recreational fishing haven, which was one of dozens set up over a decade ago and paid for to the tune of almost \$30 million out of recreational fishing licence fees, will the Minister advise what other recreational fishing havens the Government and its Green masters are planning to steal back from recreational fishers and which they now fear will go one by one into the maw of the great Green lockout?

**The Hon. JOHN ROBERTSON:** I undertake to get an appropriate answer for the member.

## LIVERPOOL PLAINS WATER LICENCES

**The Hon. DUNCAN GAY:** My question is directed to the Minister for Planning, representing the Minister for Primary Industries, and in his own capacity as Minister for Planning. Is the Minister aware of concerns on the Liverpool Plains that mining company Shenhua is currently purchasing water licences from the limited pool in the area before the completion of the water study? Does the Minister consider this to be appropriate?

**The Hon. TONY KELLY:** I thank the honourable member for his question. I will not debate whether I think it is appropriate to transfer water licences from the land to which they belong. I will undertake to pass the question to the Minister for Primary Industries. I am also aware that a two-year water study has just started. I am pretty sure it will take about two years to complete. Obviously the Department of Planning will be looking to the results from that study and any other information they get before they give approval. I am not sure that applications have been lodged yet for those areas.

## FAMILY VIOLENCE

**The Hon. CHRISTINE ROBERTSON:** My question is addressed to the Attorney General. Will the Attorney update the House on the latest initiatives of the New South Wales Government in cooperation with the Commonwealth to address the issue of family violence?

**The Hon. JOHN HATZISTERGOS:** As members will be aware, today is United Nations International Day for the Elimination of Violence Against Women, known as White Ribbon Day. It is a time for the community to come together and send a clear message that domestic violence will not be tolerated. The Government is urging all members of the community to participate in the White Ribbon Day program and I have been pleased to announce that the Government is providing a grant of \$71,500 to help and support the White Ribbon Day organisation in continuing its campaign to eliminate violence against women.

A key focus of White Ribbon Day is engaging men to eliminate violence against women and challenging the cultural norms that inform the attitudes and behaviours that result in some men being violent towards women. The Government has a proud record of reform of domestic violence and sexual assault laws, and we are constantly striving to improve the way the legal system works to protect women and children from violence. That is why in 2009 I commissioned a joint report, alongside the Commonwealth Attorney-General, from the New South Wales and Australian Law Reform Commissions to examine the interaction of Commonwealth, State and Territory laws relating to family violence and child protection. On 11 November this year we launched the final report, entitled "Family Violence—A National Legal Response".

There are at least 26 different regimes around Australia that deal with family violence, leading to complexity and the potential for inconsistency between State and Federal jurisdictions. The report quotes a nine-year-old talking about the re-traumatisation she and her mother experienced in the court system:

I felt worried that mum was going to go back and forth and back and forth and it wasn't going to stop ... [I felt] freaked out, I couldn't get to sleep, I had nightmares, I was crying a lot ... [It was just all] horrible and frightening.

That appears on page 898 of the report. The report provides a blueprint to address the concerns of victims by improving practices and legal frameworks so that the legal responses to family violence are fair and just and the legal system is as seamless as possible. One of the major reforms outlined in the report is the establishment of specialist family violence courts. In response to this, the Government announced last week the formation of a working group to examine the implementation of family violence courts in New South Wales, and this will include examination of proposals to establish sexual assault courts throughout the State.

The report makes a number of other recommendations to improve legal frameworks and practices across jurisdictions, including amending the Family Law Act to give Children's Courts the same power as Magistrates Courts; national reforms to sexual assault laws that give victims greater protections in court; nationally consistent child protection reforms; corresponding jurisdictions giving all courts dealing with violence protection orders the ability to continue dealing with family matters on an interim basis; improving the quality and use of evidence to make it easier for victims to have their stories heard in court; and the further development of alternative dispute resolution.

The report recognised that New South Wales has been leading the way on issues surrounding child protection and sexual assault, and singled out our State laws in these areas as a basis in the recommendations. We have to do all we can to stop victims of domestic and family violence falling through jurisdictional cracks in the legal system. I thank the Australian Law Reform Commission and the New South Wales Law Reform Commission for their important work on this subject. The Government will consider the Law Reform Commission's recommendations in detail and it will be discussing the report with all State and Territory Attorneys General when they meet next month.

## ELECTION FUNDING REFORM

**The Hon. ROBERT BORSAK:** My question without notice is directed to the Attorney General, representing the Premier. Can the Attorney General advise the House how much public funding was provided to lower House candidates, by candidate and by electorate, for the Independents and party-nominated candidates in the 2003 and 2007 elections? What is the latest rationale behind the party-endorsed candidates having to win an average of at least 4 per cent of votes across all electorates contested before being entitled to public funding? How does this Labor-Green deal unfairly disadvantage smaller political parties, and was it the intent of the deal—

**The Hon. Greg Donnelly:** Point of order: The member's question is out of order because of the nature of the argument inherent in the language used by him. The member knows how to formulate questions. His question contains argument and imputations and it is out of order.

**The Hon. ROBERT BORSAK:** To the point of order: There is no argument here; it is a clear-cut question. The Government does not want to address this issue because it knows that it slipped something through in that legislation.

**The PRESIDENT:** Order!

**The Hon. Greg Donnelly:** I think the member has hoisted himself with his own petard.

**The PRESIDENT:** Order! The Government Whip will resume his seat. The member should not seek to make a debating point under the guise of speaking to a point of order. I rule that the question is in order. However, the time for asking the question has expired.

**The Hon. JOHN HATZISTERGOS:** Details of public funding to candidates at previous elections is publicly available information and websites provide that information. I encourage the member to seek that information. As I have said to people on many occasions, I do not provide a research service for things that are publicly available. I refer the member to those services which will provide him with the information that he seeks. However, another point of order could have been taken about reflecting on a resolution or a vote of this House. This matter was debated at length and members from different parties contributed, and the House resolved the issue by voting favourably for a particular proposal. As I said earlier, if the member wants to look at *Hansard* he will find that information publicly available. No doubt he will be able to inform himself of the details of that debate.

#### COMMISSION FOR CHILDREN AND YOUNG PEOPLE

**The Hon. EDDIE OBEID:** My question is addressed to the Minister for Youth. In light of the fact that the United Nations Universal Children's Day was observed last Saturday, could the Minister update the House on recent initiatives to protect the rights and wellbeing of children in New South Wales?

**The Hon. PETER PRIMROSE:** The rights and wellbeing of children in New South Wales are represented by the Commission for Children and Young People—an independent body funded by the New South Wales Government. The commission was established with the unanimous support of the Parliament, which recognised the importance of having an organisation in New South Wales dedicated to promoting the rights and wellbeing of children. In 1990 Australia ratified the United Nations Convention on the Rights of the Child. This established a set of legal obligations under the United Nations international human rights framework. As such, Australia is required to ensure that its treaty obligations are implemented and enforced.

The commission plays an important role in supporting the New South Wales Government to monitor, assess and report against Australia's requirements under this treaty. The principles underpinning the convention align closely with the work of the commission. The commission's work falls into three broad areas: wellbeing, participation and prevention of harm to children. Examples of ongoing and recent initiatives that support this focus include the commission's Young People's Reference Group—a group of 12 young people aged 12 to 17 years who work with the commission to communicate the views of children to the Government. In addition to operating the Working with Children Check, the commission has developed a set of tools and resources for employers to put in place child-safe and child-friendly policies and practice.

**The PRESIDENT:** Order! I place the Hon. Rick Colless on a call to order for failing to set his mobile phone on silent mode.

**The Hon. PETER PRIMROSE:** An important part of protecting the wellbeing of children is prevention, whether it is the prevention of childhood illnesses through vaccination or the prevention of injury or death caused by accidents. Since it was established in 1996, the New South Wales Child Death Review Team has been looking at the causes of child deaths and at ways of preventing them. The team is provided with administrative and research support by the commission and has produced 14 annual reports and 7 special reports. The special reports include: fatal assaults, suicide and risk taking, neglect, sudden and expected deaths in infancy, and trends in child death. The team has been remarkably successful in providing policy and research advice. Since it was established the number of child deaths each year has fallen significantly.

To complement this work, the commission also cooperates closely with injury prevention experts across the State to identify and respond to emerging risks to children and young people. The commission currently is working with a range of New South Wales government agencies, such as the Department of Planning and divisions of local government, as well as peak industry bodies such as the Royal Australian Institute of Architects and the Planning Institute of Australia, to support the development of child-friendly built environments in New South Wales. As part of this work, the commission launched the Healthy Cities Illawarra Child Friendly by Design Toolkit, which complements the "built4kids" publication. This toolkit will assist designers and planners to create child-friendly built environments.

The commission is working also with New South Wales government agencies to fulfil the Government's commitments in response to the "Inquiry into Children and Young People Aged 9-14 years in NSW: The Missing Years." Early in 2011 the commission will publish the first e-book containing descriptive and statistical information about children in New South Wales. The intent is to improve our understanding of the needs of children and to help policymakers focus on contemporary issues facing children and young people. Universal Children's Day gives us all an opportunity to remind ourselves of the importance of protecting the rights and wellbeing of children in New South Wales.

### OFFICE BUILDING RATINGS

**Mr IAN COHEN:** I direct my question to the Treasurer. Will he advise the House how many New South Wales government buildings have achieved and maintained a National Australian Built Environment Rating System [NABERS] rating of 4.5 stars under the Office Building Strategy of the New South Wales Government's sustainability policy? Will he advise the NABERS rating of all New South Wales government buildings which house agencies and departments that fall under his portfolio?

**The Hon. ERIC ROOZENDAAL:** I will take the member's question on notice.

### RESIDENTIAL CONSTRUCTION

**The Hon. GREG PEARCE:** My question is directed to the Treasurer. Can he update the House on the latest economic data by commenting upon yesterday's Australian Bureau of Statistics figures for construction work done in the September 2010 quarter for total residential building, which saw a fall in New South Wales from \$2.15 billion in the June quarter to \$2.14 billion, seasonally adjusted? Can he comment on the fact that New South Wales residential construction was significantly less than in Victoria for the same quarter, where there was \$2.95 billion worth of construction, and well down on the same figure for the June 1995 quarter when this Government came to power and over \$2.3 billion of residential construction was completed in that quarter?

**The Hon. ERIC ROOZENDAAL:** I acknowledge the member's interest in the latest economic data. I will start with data from the Australian Bureau of Statistics relating to construction work done. If the member looks at the September quarter he will see that the trend in New South Wales for construction work done is about \$2.2 billion, which is double the figure for Victoria and more than three times what is happening in Queensland.

I am happy to talk about it and go through findings of the Australian Bureau of Statistics [ABS] line by line. While we are on the matter of economics, I do have more to say. I try to stay on top of these things. It is important that the Treasurer be astute and alert and read the latest data. Indeed, the Census Business Confidence Index shows that for December New South Wales had a substantial increase in business confidence—very pleasing for New South Wales. I can talk also about the HIA-Commonwealth Bank of Australia Housing Affordability Report, which has just been released for the September quarter 2010. Nationally, the affordability index rose by 3.6 per cent in the September quarter 2010. This compares to just a 1.9 per cent rise in Sydney and a 5.9 per cent rise in Western Australia. The Australian Bureau of Statistics established house price index data for the September quarter shows that established house prices in Sydney rose 11 per cent and for the eight capital cities the average rise was 11.5 per cent compared to a year ago. The latest data show that Melbourne is the least affordable city in Australia for would-be home owners.

**The Hon. Rick Colless:** That's nonsense.

**The Hon. ERIC ROOZENDAAL:** That is the latest data. It seems that the economic geniuses opposite know better than the latest HIA-Commonwealth Bank of Australia Housing Affordability Report. I advise the Hon. Rick Colless that this is the latest data. When he wakes up and smells the roses he will



understand. The New South Wales Home Builders Bonus in the State's comprehensive housing supply strategy is helping to support increases in housing construction, easing housing affordability issues. The latest Australian Bureau of Statistics data show that on a seasonally adjusted basis New South Wales private sector house approvals in September 2010 were 8.1 per cent higher than they were a month ago. The New South Wales Home Builders Bonus, which, of course, we announced in the budget, already has supported more than \$702 million in New South Wales housing construction activity in the first two months. Already nearly 2,200 families and investors have taken advantage of the Home Builders Bonus since it began on 1 July, putting more than \$21 million in stamp duty back into the pockets of the people of New South Wales.

### NSW LOTTERIES SALE

**The Hon. SHAOQUETT MOSELMANE:** My question is addressed to the Treasurer. Will the Treasurer update the House on the Auditor-General's findings on the New South Wales Lotteries transaction in response to public comments made on the transaction?

**The Hon. ERIC ROOZENDAAL:** I am pleased the member wants more information on these important issues. Earlier I was going through the process, because I believe it is important, of knocking down one by one the straw men set up by the Opposition and exposing the smears of Opposition members against the transaction, the transaction team and public servants in general. From memory I had reached smear No. 4. On 23 April in the *Australian Associated Press* [AAP] Michael Baird said:

The truth is there's a serious complaint from one of the group involving many players.

Now I will put the truth on the record. Page 12 of the Auditor-General's report states:

New South Wales Treasury and the probity adviser noted that despite the suggestions in the media—

and certainly by the Opposition—

there were no official complaints made to the probity adviser even though all bidders were afforded the opportunity to do so in the rules for transaction provided to all bidders.

There it is. I had to endure a censure motion on this precise issue and the Auditor-General proved that smear was wrong.

**The Hon. Matthew Mason-Cox:** You should hang your head in shame. You were exposed.

**The Hon. ERIC ROOZENDAAL:** I acknowledge that interjection. The Hon. Matthew Mason-Cox is now calling the Auditor-General a liar. The Hon. Matthew Mason-Cox knows better than the Auditor-General. He knows better than the probity adviser. The Opposition will stoop to any level. It is unbelievable.

**The Hon. Matthew Mason-Cox:** Point of order: I ask the Treasurer to withdraw that statement. It is a gross smear and an imputation that I certainly did not make. I ask him to withdraw.

**The PRESIDENT:** Order! As the member has taken offence to the comments of the Treasurer, I ask the Treasurer to withdraw them.

**The Hon. ERIC ROOZENDAAL:** I withdraw. I find it astounding that, even when the Auditor-General says that there was no truth to the accusation or complaints, Opposition members still question the process. They want to question the probity adviser and the Auditor-General because they are all about smear. The Opposition and the shadow Treasurer engage in smear and seek to destroy anything that will cause damage to this State. Smear No. 5: Michael Baird stated in a media release on 1 April:

The State Labor Government has contravened the spirit of the law in the sale of the NSW Lotteries by selling unclaimed prize money, which may mean legislation needs to come back to Parliament.

Let us reflect. A former merchant banker is now determining legal advice on transactions of this State. This really qualifies the shadow Treasurer and his ability. Using all of his experience from the murky world of merchant banking, he wants to give us legal advice on a transaction. Fortunately we have probity advisers and the Auditor-General to give us advice. On page 21 of his report the Auditor-General said:

I found no evidence to indicate that the inclusion of unclaimed prizes in the successful bid was precluded by the Public Lotteries Act 1996.

This is a damning indictment of the poor judgement of Michael Baird. Michael Baird's ability to do his job clearly is under question. This is what happens when you get a merchant banker used to the fast and easy deals in the merchant bank world trying to interfere in a serious transaction. When one moves from being a merchant banker to a mudslinger, one has to get it right. Clearly, the Opposition got it wrong and the Auditor-General has proved that.

**The PRESIDENT:** Order! If the Deputy Leader of the Opposition continues to interject, I will place him on a second call to order.

### **TAXI INDUSTRY**

**Ms CATE FAEHRMANN:** My question is directed to the Minister for Transport. The Legislative Council's Select Committee on the NSW Taxi Industry released its report in June and the Government is due to respond to that report on Wednesday 1 December this year, which I believe is next Wednesday. Can the Minister confirm today that he will respond to the report and the inquiry's recommendations by 1 December, next Wednesday? If not, what will be his reasons for the delay?

**The Hon. Greg Pearce:** Wait till Wednesday and ask him.

**The Hon. JOHN ROBERTSON:** I acknowledge the interjection of the Hon. Greg Pearce and agree with him. The member should wait until next Wednesday.

### **MINDARIBBA RAILWAY STATION**

**The Hon. ROBYN PARKER:** My question without notice is directed to the Minister for Transport. Following recent reports that the Mindaribba railway station has been closed without explanation for the past 15 months, can the Minister explain why the station is closed? How long does he expect the station to remain closed? How much did the new platform at the station cost and will it need to be rebuilt? How much are the taxi vouchers that are given to commuters travelling to Mindaribba costing the New South Wales Government every month?

**The Hon. John Hatzistergos:** Do you know how many railway lines the last Liberal Government closed?

**The Hon. JOHN ROBERTSON:** As tempting as it is to talk about how many railway lines those opposite closed, I will not. The question is quite detailed and warrants an appropriate answer. I will take the question on notice and get the member an answer.

### **WOMEN BUS DRIVERS**

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Transport. Will the Minister inform the House about the fortieth anniversary of women bus drivers in New South Wales?

**The Hon. JOHN ROBERTSON:** I thank the member for her question and ongoing interest in public transport matters. Yesterday it was my great pleasure to attend a commemoration of the fortieth anniversary of the first women to drive government buses in New South Wales. It was an honour to be part of the celebrations at Brookvale depot, the very place where the first female bus driver commenced bus driving duties. On 29 October 1970 June Lusk, then a bus conductress as they were referred to, was one of 10 women who commenced training to become a bus driver. Of that initial group of 10 women, June was one of 8 from the group to obtain her bus driver licence. On 27 November 1970 she became the first woman in New South Wales to be rostered to bus driving duties. It is hard to believe that it was not until the 1970s that women were given the chance to drive a bus, and even then it only came about thanks to the efforts of a small group of courageous and outspoken women.

June Lusk attended yesterday's event, along with her son Richard and her grandson Jay. Both Richard and Jay followed in June's footsteps and also became bus drivers. June is a bright spark with a warm smile and welcoming manner. It was a very great privilege to meet her yesterday. Her achievements are remarkable. I place on the record my appreciation of her efforts.

**The Hon. Melinda Pavey:** Didn't that happen under us?

**The Hon. JOHN ROBERTSON:** I acknowledge the interjection. It did happen under a Coalition government, but women had to fight to get it. I know my own daughters would be shocked and would find it hard to believe that just 40 years ago women were not permitted to drive a government bus. The campaign for women to be employed as bus drivers began in April 1970. When it was suggested that truck drivers could be recruited to relieve a shortage of bus drivers at that time, the women employed at the Waverley Bus Depot were furious that they were not being considered as a recruitment source.

**The PRESIDENT:** Order! If members of the Opposition persist with interjections, I will place them on calls to order.

**The Hon. JOHN ROBERTSON:** It shows the disregard the Opposition has for this matter and for people who work in public transport. The reaction of the women at the depot was the beginning of a concerted campaign by some talented and hardworking women transport workers who were willing and able to fill in during the shortages. At that time women were lorry drivers, cab drivers, pilots and captains of ships and had driven buses during World War II, so the logical question at that time was: Why could they not drive the buses?

June De Lorenzo from the Waverley Bus Depot led the women bus drivers' campaign. In 1970 she moved the historical resolution for women to train and become government bus drivers. Eventually, through strategic campaigning and the strength of women like June, the barriers against women were broken down. Following women taking the wheel and the end of years of resistance to women becoming bus drivers, there were other significant changes won for women flowing from those achievements. As recorded by June De Lorenzo, when writing for the Rail, Tram and Bus Union:

In 1975 bus driver Sue Fairless of the Brookvale Depot brought to the attention of her Depot Union Representative the fact that women bus workers did not share in the paid maternity leave benefits granted to other female Government employees.

The Union Executive took this matter up with the Labor Council and because of this action women bus, rail and ferry employees gained paid maternity leave.

The right to end age discrimination against women bus workers also was won. Previously while men could be employed up to the age of 54, women could be employed only up to the age of 34. Another victory was the right of women employees to continue in their employment during pregnancy. When women began working as bus drivers, they were stood off duty when it was known to management that they were pregnant.

**The Hon. PENNY SHARPE:** I ask a supplementary question. Will the Minister elucidate his answer?

**The Hon. JOHN ROBERTSON:** In November 1981 bus driver Vicki Gosling challenged this practice and won her case in the Equal Opportunity Tribunal of the Anti-Discrimination Board. The work of those early women campaigners was revolutionary. To date there are approximately 322 women bus drivers working for the State Transit Authority. I am sure all members of the House join me in congratulating all those women on their truly remarkable accomplishments.

### ELECTRICITY INDUSTRY PRIVATISATION

**Dr JOHN KAYE:** In addressing my question to the Treasurer, I refer to the informal review by the Australian Competition and Consumer Commission [ACCC] of the eligibility of AGL and Origin to participate in the privatisation of electricity assets by the New South Wales Government, to the fact that the report-back is due today, and to the fact that the Australian Competition and Consumer Commission posted on its website late last night the following notification:

The New South Wales Government has advised that it is conducting further analysis of bids for the privatisation of electricity assets. The ACCC has therefore deferred its decision and will announce a new proposed date when further information regarding the final bids is received from the Government.

I ask: What further analysis is being conducted? When will that further analysis be provided to the Australian Competition and Consumer Commission? What are the implications for the privatisation of the electricity industry?

**The Hon. ERIC ROOZENDAAL:** The Government recognises that, as the national competition regulator, the Australian Competition and Consumer Commission plays an important role in ensuring we have competitive markets. Of course the Australian Competition and Consumer Commission will play an appropriate role in energy reform transactions. The Government is running a live transaction and will not compromise

taxpayers' interests by providing a running commentary on transaction processes. Any announcements will be made at the appropriate time. The New South Wales Government's energy reforms are on track to be completed by the end of the year.

### DENILIKUIN POLICE STATION

**The Hon. JENNIFER GARDINER:** In directing my question to the Treasurer, I refer to his responsibility for both the sale of government land under the State Property Authority and for the collection of proceeds of the sale of Crown land. I ask: Will he consider retaining the site of the current Deniliquin police station for the delivery of government services, such as meeting the Deniliquin district's future healthcare needs? Will he do so while allowing NSW Police to be financially compensated for the failure of that property?

**The Hon. ERIC ROOZENDAAL:** I thank the Hon. Jennifer Gardiner for her question. My advice is that the State Property Authority is part of the responsibilities of the Minister for Planning. I will refer the question to him.

### FREIGHT INFRASTRUCTURE PLANNING

**The Hon. TONY CATANZARITI:** My question is addressed to the Minister for Planning. Will he update the House on how the New South Wales Government is planning to meet freight infrastructure needs of Sydney and New South Wales?

**The Hon. TONY KELLY:** I thank the Hon. Tony Catanzariti for his question and continued interest in New South Wales infrastructure. The freight task in Sydney is significant. It is driven by major freight hubs, such as Sydney Airport and Port Botany, major employment areas, such as the Western Sydney Employment Area, and major industrial areas, such as Moorebank, Ingleburn and Milperra. Forecasts indicate that the freight task is set to grow by 2.2 per cent a year up until 2036. It is of critical importance to the New South Wales economy that the Government plan and deliver the necessary infrastructure to support that growth.

As outlined in the New South Wales State Plan and Metropolitan Strategy, the New South Wales Government and Sydney Ports aim to double the proportion of container movements to and from Port Botany by rail from the current 20 per cent to 40 per cent and to reduce the increasing road congestion by taking container trucks off the road around Port Botany and the M5 Motorway. To achieve those aims, Sydney needs to improve its intermodal capacity and, in doing so, improve integration between Sydney's distribution centres and the port. Today I inform the House that the Department of Planning has commenced the planning process for the proposed \$490 million Sydney Intermodal Terminal Alliance [SIMTA]. The intermodal facility will be situated on an 83-hectare site at Moorebank. The department has declared the proposed facility to be a major project that will be assessed under part 3A of the Environmental Planning and Assessment Act.

The size and development type of the project make it a major project of State significance under part 3A of the Environmental Planning and Assessment Act. That will ensure that the local community has access to a very structured, transparent and consultative process. The alliance's concept plan for the new terminal comprises a rail link connecting the site to the Southern Sydney Freight Line, an intermodal terminal, and a range of associated warehousing and distribution facilities. My understanding is that the proposal has the potential to generate more than 1,700 jobs and, more importantly, will be an integral part of a logistical framework for freight transport in a growing city.

The strategic potential of Moorebank as an important link in Sydney's freight network has been recognised for some time now. In 2005 the Commonwealth and the New South Wales Government identified the broader Department of Defence land at Moorebank as a suitable site for an intermodal terminal facility. That was confirmed by a report on intermodal freight requirements for Sydney by the Freight Infrastructure Advisory Board, which is a joint New South Wales Government and stakeholder committee. That report was published in 2005. I emphasise that the proposal is now at the very first stage of the overall planning assessment process. A number of important steps must be taken before any final decision is made.

I understand that shortly the Department of Planning will issue the alliance with its environmental assessment requirements. The alliance must address those specific matters in preparing for formal environmental assessment. Subsequently the proposal will undergo a thorough merit assessment by the Department of Planning that will include public exhibition and detailed consideration of all the issues raised in public submissions. I repeat that this is just the commencement of the process. There will be plenty of opportunity for the public to make submissions.

I reiterate what I stated at the outset. The New South Wales Government is committed to planning and delivering the infrastructure required to support the State's growth and the State's economy. This includes infrastructure to move the freight that our society and the economy need. The alliance's proposal to build a new intermodal terminal at Moorebank is potentially an important project for Sydney's future. It will receive careful and rigorous planning assessment.

### ENERGY PRICING

**Reverend the Hon. Dr GORDON MOYES:** I ask the Minister for Transport, and Minister for the Central Coast, on behalf of the Minister for Energy, a question without notice. In 2010 the Independent Pricing and Regulatory Tribunal approved an average increase of 10 per cent for EnergyAustralia customers, 7 per cent for Integral Energy customers and 13 per cent for Country Energy Customers. Is the Minister aware that residents throughout New South Wales have been receiving energy bills that are twice the amount of their previous bills for the same time last year? Is the Minister aware that energy suppliers are sending estimate bills to residents that are inaccurate, and then sending out formal bills shortly afterwards that are almost double the original amount? Will the Minister indicate why energy suppliers are not duly regulated so as to be fair and consistent in their billing? I understand that this is also a serious problem for people who have the new smart meters for solar energy input.

**The Hon. JOHN ROBERTSON:** The Government has implemented a series of approaches to deal with energy prices, and it has a generous package of benefits, which I could detail. Regulations are in place with regard to estimated bills and the requirements placed on energy retailers. Energy retailers are regulated in terms of whether they estimate bills and how often they are allowed to do so. Energy consumers have rights, including the right to go to the Energy and Water Ombudsman in New South Wales. If people are having issues with their energy supplier, including billing issues, we always encourage them to lodge a complaint with the Energy and Water Ombudsman. We had a very cold winter this year. The Government has put in place a series of steps to ensure that we alleviate problems for the most needy in our community by making a package of benefits available to them.

**The Hon. Duncan Gay:** The price increase wasn't because of the cold winter; it was because of the cold heart and incompetence of this Government.

**The PRESIDENT:** Order! The Minister is advised to ignore interjections because they are always disorderly.

**The Hon. JOHN ROBERTSON:** They generally do not make much sense either. I will undertake to get an answer for Reverend the Hon. Dr Gordon Moyes.

### ST GREGORY'S ARMENIAN SCHOOL, BEAUMONT HILLS

**The Hon. DAVID CLARKE:** My question without notice is directed to the Attorney General, and relates to St Gregory's Armenian School in Beaumont Hills, which, prior to being involuntarily closed, was recognised as one of the top 50 schools in New South Wales, according to the Government's National Assessment Program—Literacy and Numeracy testing. Is the Minister aware that auction signs have been placed at the front of the school's property and advertisements have been placed in various newspapers advising of the pending auction of the property on 14 December 2010? Given that the agents undertaking the sale of the property have advised that they are acting on behalf of the Commonwealth Bank of Australia and the title of the property still remains in the names of Michael and Daniel Ghougassian, will the Attorney General advise what he intends to do to ensure that justice is done in relation to these matters?

**The Hon. JOHN HATZISTERGOS:** First, I congratulate the Hon. David Clarke on his round of successes in various preselection contests.

**The Hon. Greg Donnelly:** But he didn't get them all up.

**The Hon. JOHN HATZISTERGOS:** He did not get them all up, but he got a few up. Now he is sharpening his knife and exercising all the skills he has acquired over several years. It is appropriate that the House should acknowledge his input into the make-up of some of the candidates who have been preselected. On the more serious point, I am advised that on 26 February 2009 a visit without notice was conducted by a board inspector and a registration officer to verify the current operation of St Gregory's Armenian School. At that time

the school notified the board that the number of teaching staff had been reduced from 18 in 2008 to 2 in 2009. The school also notified the board that it had ceased operations for years 7, 8, 9, 10, 11 and 12. At the board's registration committee meeting on 10 June 2009 a report was provided in relation to a turnover of half or more of the teaching staff. The committee approved the continued monitoring of the school, given the scale of the recent changes in the school's operation.

In late 2009 it was reported to the Office of the Board of Studies that the school may close due to matters related to funding. The board was subsequently advised in 2010 that the Supreme Court had appointed a liquidator to wind up the school. The school was formally closed in July 2010. The principal of the closed school has advised the office that all the parents were making satisfactory arrangements for the continued education of the six students enrolled at the time of the school's closure. The issue of the school's dealings with the Commonwealth Bank is a matter between those organisations. We are not privy to their dealings. I am advised that the Supreme Court appointed a liquidator to wind up the school earlier this year. It may be presumed that the sale of the school property is taking place on the instructions of the liquidator.

### HOME CARE SERVICE

**The Hon. HELEN WESTWOOD:** My question is addressed to the Minister for Disability Services. Will the Minister outline the results of the New South Wales Home Care Service client satisfaction survey?

**The Hon. PETER PRIMROSE:** I am pleased to advise the House that the New South Wales Government's Home Care Service has achieved an outstanding 95 per cent satisfaction rating from its clients around New South Wales. The results show that clients were happy with the high standard, promptness and reliability of services provided and the quality of the people it employs. The Home Care Service helps people to live independently in their own homes by providing domestic assistance, personal care and respite care to older people and people with a disability. Home Care provides more than 3.6 million service hours to about 55,000 clients each year and employs more than 4,000 staff through a network of 43 branches across New South Wales, including eight Aboriginal branches that provide a wide variety of services specifically for indigenous clients.

This survey, undertaken by an independent research organisation, covered a random sampling of 565 clients and their carers around the State. These clients and carers were split evenly between metropolitan and rural and remote areas. The results of the survey are extremely pleasing and show that the Home Care Service has consistently maintained a very high standard. Across the State 34 per cent said they were satisfied, and a big majority—61 per cent—said that they were highly satisfied with the service they received. It shows that overall clients and their carers welcome the high standard of service provided by Home Care, the promptness and reliability of the service and the quality of the people employed. Clients said that the staff are happy, pleasant, nice company and caring. They also said that the service is prompt and reliable and that the staff do what they say they will do.

I formally congratulate the Home Care Service staff on this excellent result, and recognise that their goodwill and caring attitude is essential to the satisfaction reported by the clients. We should remember that the reason staff are able to go about their work in such a positive way is in no small part due to their secure working conditions and fair rates of pay. This is a result of their joining and participating in their union, the Liquor, Hospitality and Miscellaneous Workers Union, and the union's work in organising staff to represent themselves in negotiations over pay and conditions. Heaven forbid that the Home Care staff would ever have to negotiate with an anti-worker and anti-union government in the future—one that was determined to cut the public sector workforce and shift costs onto the community through casualisation or wage cuts. I certainly hope that no-one in this House would ever dream of doing such a counterproductive and destructive thing at any time in the future.

Clearly, Home Care is providing the services clients require and doing so in the way they need; and in doing so it saves the public money by allowing people to stay at home longer. Of those surveyed, 30 per cent said they would not be living at home without the services provided by Home Care. This is a testament to the value of our Home Care staff. I am proud of the Government's record on investing in quality home care for the people of this State. In 2010-11 the total Home Care budget is \$213.5 million, with about \$174 million provided through the Home and Community Care Program, which is a joint Commonwealth-State initiative. I am pleased to say that Home Care is continuing to provide a valued service in a way that addresses clients' very personal needs and allows a significant number of people to remain independent or to stay at home for longer than they would otherwise.

[Interruption]

**The PRESIDENT:** Order! I place the Hon. Charlie Lynn on a call to order for failing to set his mobile phone on silent mode.

### IDENTITY CONCEALMENT AND CARNITA MATTHEWS

**Reverend the Hon. FRED NILE:** My question is addressed to the Attorney General. Has Ms Carnita Matthews been found guilty of laying a false complaint against a police officer and been sentenced to six months imprisonment? Did Ms Matthews seek to deceive the court by falsely claiming that she did not sign or present a statutory statement to local police, that it was done by another person wearing the burqa? Did the police prosecutor prove that the signature on the statutory statement was that of Ms Matthews as it matched the signature on her licence? What additional offence should Ms Matthews be charged with for seeking to deceive the court, in cooperation with her solicitor, and will she be charged with a further offence? Does this case justify the importance of passing my face covering bill for the enforcement of law in New South Wales?

**The Hon. JOHN HATZISTERGOS:** On 19 November Ms Matthews was convicted of knowingly making a false report to police and was sentenced to six months imprisonment. I am aware that Ms Matthews has appealed her conviction and has been released on conditional bail pending a hearing in the District Court. In relation to that matter I do not propose to make any further comment as it is not appropriate for me to do so at this time. I reiterate what I have said on a number of occasions: it is not my responsibility to investigate or charge people with criminal offences. It is a responsibility of police to carry out that function. Any issues relating to charging and investigating criminal offences should be directed to those who are responsible for the police. In relation to the face covering bill, I offered Reverend the Hon. Fred Nile on a previous occasion to have that matter debated in this House and appropriately resolved. He has declined that offer.

**Reverend the Hon. Fred Nile:** Until I get a conscience vote.

**The Hon. JOHN HATZISTERGOS:** I do not know that so far as the Christian Democratic Party is concerned there is much of a conscience, beyond that of the member himself.

**Reverend the Hon. Fred Nile:** It is a party policy conscience vote.

**The Hon. JOHN HATZISTERGOS:** Is it?

**Reverend the Hon. Fred Nile:** Yes.

**The Hon. JOHN HATZISTERGOS:** I am very tempted to say something about that but I will refrain.

**Reverend the Hon. Fred Nile:** I will give you a copy of our constitution to read.

**The Hon. JOHN HATZISTERGOS:** The member should not provoke me. I think I have answered all aspects of the question.

If members have further questions, I suggest that they place them on notice.

### COURT TRANSCRIPT COSTS

**The Hon. JOHN HATZISTERGOS:** On 27 October 2010 the Hon. Trevor Khan asked me a question about court transcript fees. The answer to the question of the Hon. Trevor Khan, and this is supplementary to what I have previously said, is: No, transcript fees are set by legislation contained in schedule 1 of the Civil Procedure Regulation 2005 and schedule 2 of the Criminal Procedure Regulation 2010. It is important to note that transcripts are provided free of charge to judicial officers, parties in criminal proceedings, and parties in civil proceedings where a judicial officer has ordered that the transcript be provided free of charge. The majority of transcripts produced by the department are provided free of charge, and only partial cost recovery is achieved for transcripts that are sold.

Fees for supplying a copy of a transcript for proceedings under three months old are \$79, and that includes the first eight pages of the transcript, then \$9.70 for each additional page. For transcripts of proceedings over three months old the fee is \$97, and that includes the first eight pages of the transcript, then \$11 for each

additional page. Parties may also order a sound recording of proceedings, supplied on audio tape or CD/DVD, for \$44. Members of the public who have difficulty paying for a transcript may apply to the court to have the cost of transcript fees waived.

The department has recently completed an upgrade of 100 courts from analogue to digital recording technology. I referred to that matter on the last occasion. This upgrade has helped achieve efficiencies that have enabled the department to continue to provide transcripts for criminal proceedings free of charge, and to continue to subsidise the cost of producing transcripts for civil proceedings. This upgrade has also enhanced the capacity of the court to conduct its business because by sharing resources across our system transcripts will be typed faster and more accurately. That is the reason that the system is being implemented along with other technological upgrades. The department is currently planning an upgrade of an additional 300 courtrooms, and that will modernise equipment and processes, enabling further efficiencies to be achieved.

### **BILLBOARD ADVERTISING**

**The Hon. JOHN HATZISTERGOS:** On 21 October 2010 Reverend the Hon. Fred Nile asked me a question about billboard advertisements by Calvin Klein and T-shirts sold by Roger David that depicted semi-naked women in a gang rape scene with a group of men. Reverend the Hon. Fred Nile asked whether the Government will take action to ensure that all media on public displays are appropriate, at least for minors, and will protect the women of New South Wales. Further to my answer, I inform the House that billboard advertising is regulated under the Australian Association of National Advertisers Code of Ethics, administered by the Advertising Standards Bureau. Amongst other things, the code requires all advertising to comply with Australian laws and to portray matters of sexuality, sex and nudity with sensitivity to the relevant audience. It also provides that advertising shall not portray violence unless it is justifiable in the context of the service advertised.

On 13 October 2010 the Advertising Standards Bureau upheld a complaint made about the Calvin Klein billboards. The complaint took issue with the appropriateness and sensitivity to the audience of the sexual content of the advertisement and possible connotations of violence and sexual assault. The Advertising Standards Bureau's decision can be read in full on its website. Calvin Klein has taken down the advertisements and indicated that they will not be used again in the future. In regard to the Roger David T-shirts, laws are in place in New South Wales regulating offensive behaviour. The particular circumstances of each case will determine what action is taken.

### **Questions without notice concluded.**

*[The President left the chair at 1.06 p.m. The House resumed at 2.35 p.m.]*

### **NATIONAL BROADBAND NETWORK CO-ORDINATOR BILL 2010**

### **BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT AMENDMENT BILL 2010**

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

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

#### **Report: Eleventh General Meeting with the Inspector of the Police Integrity Commission**

**The Hon. Luke Foley**, on behalf of the Chair, tabled report No. 14/54, entitled "Report on the Eleventh General Meeting with the Inspector of the Police Integrity Commission", dated November 2010, together with questions on notice, transcript of proceedings and minutes.

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

**The Hon. LUKE FOLEY** [2.37 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.**



## TRIBUTE TO KATHRYN MAREE KNOWLES

### Ministerial Statement

**The Hon. TONY KELLY** (Minister for Planning, Minister for Infrastructure, and Minister for Lands) [2.38 p.m.]: It is with some sadness today that I note the passing of one of the Central West's favourite daughters, Kathryn Maree Knowles. Honourable members would have best known Kath as a former mayor of Bathurst City Council, where she ably led the city from 2004 until its amalgamation with Evans shire in 2005, making her the city's third female Labor mayor and the youngest female ever elected to that position.

Kath was born in Wellington to parents Tom and Susie Knowles on 7 December 1970 and was a welcome addition to the young family. Honourable members may have met Tom in his capacity as former mayor of Wellington shire, but what some members may not know is that, while Tom was re-elected as mayor of Wellington in 2004, his daughter was elected as the mayor of her community in the neighbouring local government area of Bathurst city. Kath went on to be the first administrator, from May 2004 to March 2005, of the new Bathurst Regional Council and served a total of six years as councillor, contributing much to the region and to the surrounding local communities. I should here note that Kath had the honour of topping the local council polls in the March 2005 elections.

As mayor of Bathurst Kath had stewarded a three-year campaign for increased funding to transform the Mount Panorama racetrack into a world-class venue. Her efforts were awarded with a Federal Government budget boost of \$10 million, which matched a commitment made by the New South Wales Government of \$10 million. From memory, I think Bathurst City Council also contributed \$10 million.

I am not sure if having a father and daughter serving terms concurrently as local government mayors is a first for this State, although I think the *Daily Telegraph* at the time suggested it was—even a first for the nation—but what I do know is that the collective service of the Knowles family to local government is indicative of their strong commitment to representing their communities' views through advocacy, sensible leadership and the formulation of long, strategic directions to ensure that local needs are achieved.

In addition to her involvement in local government, Kath worked in the electorate office of the member for Bathurst, Gerard Martin, for a period of more than three years. She also stood as the Labor candidate for Calare at the 2001 Federal elections, again demonstrating her strong commitment to her community and its interests. More recently, Kath was employed as the government relations officer of Country Energy at its office in Port Macquarie, where she performed her work to a high standard and with professionalism.

Kath died last week, on 19 November, in Canberra after a short battle with liver cancer at the age of 39 years. She is survived by her husband, Paul, to whom she was a loving and dedicated wife. Kath will be sadly missed by her family and friends, the country communities of Wellington, Bathurst and Port Macquarie, her colleagues and her many friends within the Labor Party. A celebration of Kath's life is being held at 2.00 p.m. today—right now—at St Patrick's Catholic Church at Wellington. Kath, you will be remembered for your cheerful smile, your quick wit, and your leadership as a young and determined advocate for the people of Bathurst—a champion of rural and regional New South Wales.

**The Hon. DUNCAN GAY** (Deputy Leader of the Opposition) [2.43 p.m.]: I join with the Hon. Tony Kelly in expressing our deep regret at the passing of Kath Knowles. I do so perhaps slightly from afar compared with the Minister's relationship with the Knowles family, as he lives in Wellington and has worked and lived with Tom and Susie, and known Kath over many years. The juxtaposition of careers that the Hon. Tony Kelly referred to was an outstanding achievement of the time, with Tom being the mayor of Wellington and Kath the mayor of Bathurst. In many ways they were different: Dad had the smaller town and his daughter had the bigger one. I am not sure of Tom's politics: I suspect that if you scratched him hard enough you would find a bit of Country Party there in the background. I certainly know that you did not have to scratch Kath that hard—she was Labor, and an adornment to the Labor Party. She did a great job in her community and people had respect for her as mayor. I went to a dinner earlier this week to farewell Craig from Country Energy and welcome the new boss, Terry, and the greatest part of the conversation was the sadness everyone in Country Energy felt at the loss of Kath.

I know from operating the National Party through the Bathurst area and having been duty member of the Legislative Council for Bathurst for a long time how highly we rated Kath. One of our greatest fears was that Kath Knowles would be the Labor Party candidate for the seat. I have to say it was only a fear that we would not

win the seat; it was not a fear that she would not do a good job. She certainly would have done a good job, as we know she did as mayor. We will miss her: she was terrific. Thank you, Tony, for allowing me to join you in this expression of sympathy at the passing of Kath Knowles.

## **BUSINESS OF THE HOUSE**

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

#### **Motion by Reverend the Hon. Fred Nile agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 31 outside the Order of Precedence, relating to the Liquor Amendment (Drinking Age) Bill 2010, be called on forthwith.

#### **Order of Business**

#### **Motion by Reverend the Hon. Fred Nile agreed to:**

That Private Member's Business item No. 31 outside the Order of Precedence be called on forthwith.

## **LIQUOR AMENDMENT (DRINKING AGE) BILL 2010**

**Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.**

### **Second Reading**

**Reverend the Hon. FRED NILE** [2.47 p.m.]: I move:

That this bill be now read a second time.

This is a very straightforward piece of legislation, perhaps the most straightforward we have ever had in the New South Wales Parliament. The purpose of the Liquor Amendment (Drinking Age) Bill 2010 is straightforward: the bill would amend the New South Wales Liquor Act 2007 to increase the legal age of alcohol consumption in New South Wales from 18 years of age to 21. The bill would achieve this by amending the definition of "minor" to mean anyone under the age of 21 years. Needless to say, this bill is based on the best available science relating to the direct physiological impact that alcohol has on the adolescent brain and the subsequent social problems this facilitates. The bill seeks in section 4, definitions, to omit the term "18 years" from the definition of "adult" in section 4 (1) and to insert instead "21 years". In section 4 (1), the definition of "minor", the bill seeks to omit "18 years" and insert instead "21 years". In sections 38 (4) (g), 114 (3) (a) and (6) (a), 117 (3) (b), 124 (3) (a), 126 and 152 (2) the bill seeks to omit "18 years" wherever occurring and insert instead "21 years".

There have been numerous inquiries into the effect of alcohol in our society. For example, one Senate inquiry established that Australia's greatest social problem was alcohol. People could be forgiven for believing that our greatest social problem was marijuana, pornography or heroin, but that Senate inquiry confirmed that our greatest social problem was alcohol, which costs our nation well over \$7 billion a year. Members might well ask why I am introducing this bill now. Recently there has been a lot of agitation about the need to increase the legal drinking age. My bill has been greatly influenced by recent scientific research conducted by Professor Ian Hickie, an Australian Medical Research Fellow with the Brain and Mind Research Institute at the University of Sydney. Professor Hickie produced a research paper entitled, "Alcohol and The Teenage Brain: Safest to keep them apart."

That report contains valuable information which in the past has not been available either to this State Parliament or to the Federal Parliament. Information is available now because of the new highly sensitive brain imaging techniques that have been developed. In the past well-meaning scientists believed that brain development could be affected only before birth and in early childhood. Scientists assumed that the brain was fully developed after that stage and that there was no need to be concerned about any exposure to alcohol or to other substances. The view that was commonly held was that the critical period for the non-consumption of alcohol was before birth and early childhood. However, that view has been dramatically changed as a result of this research.

Even the most recent National Health and Medical Research Council guidelines published in 2009 are based on the traditional view that we need to be concerned only about what happens before birth and in early childhood. As a result of the development of sensitive brain imaging techniques—thoroughly developed by Professor Hickie—available studies suggest that the adolescent brain is particularly sensitive to the negative effects of excessive or prolonged alcohol exposure, including the adverse effects of binge drinking. Every day we see headlines in the newspapers relating to binge drinking—something that will only be exacerbated in the Christmas season. After sitting for their Higher School Certificates students go off to the Gold Coast and binge drink until they are unconscious. Professor Hickie states:

Additionally, one needs to consider the large body of evidence of the degree of direct harm due to injury (including significant head injuries) that results from excessive risk-taking in young people who consume alcohol. This degree of risk-taking while intoxicated is likely to reflect the combination of the disinhibitory effects of alcohol (which are present at all ages due to dampening down of frontal lobe function) and the relative lack of development of the frontal lobes in adolescents. From this perspective the risk of accidental injury due to excessive risk-taking and poor impulse control is particularly likely to be evident in younger teenagers who use alcohol.

Members will remember recent road tragedies in which P-plate drivers who had three or four passengers in their vehicles crashed and all occupants in those vehicles were killed. In most incidents alcohol is a major factor that leads to such accidents. Teenage drinkers are not aware of the impact of alcohol on their brains. Professor Hickie also states:

If one weighs up the available evidence concerning direct risks to brain development, short and long-term effects on cognitive and emotional development and risks of associated injury due to poor judgement and lack of inhibition, on balance, two conclusions now appear to be justified:

1. Alcohol should not be consumed by teenagers under the age of 18 years;
- And
2. Alcohol use is best postponed for as long as possible in the late teenage and early adult years.

That is my logic for wanting to increase the age limit from 18 to 21. Professor Hickie continues in his report:

The key emerging scientific issues that support this view are:

The frontal lobes of the brain underpin those major adult functions related to complex thought and decision and inhibition of more childlike or impulsive behaviours.

All members would have witnessed that sort of behaviour in teenagers who often are childlike and impulsive as their brains are still developing. Professor Hickie continues:

These parts of the brain undergo their final critical phase of development throughout adolescence and the early adult period. While there is considerable individual variation in this process, it appears to continue well into the third decade of life (age 22-25 years) and may be particularly prolonged in young men ...

I am sure that the female members of Parliament would be proud of that fact. As indicated in the report, alcohol impacts more adversely on young men, which is evident every day—an issue that greatly concerns our society. Groups of young men aged 18 to 21 who are under the influence of alcohol prowl our streets at night, engage in gang fights, injure themselves and other people on the streets, and often injure police officers who try to break up the groups. The report goes on to state:

The final phase of frontal lobe development occurs at the same time as the onset of all of the common and serious mental health problems. Seventy-five per cent of adult-type anxiety, depressive psychotic and substance abuse related disorders commence before the age of 25 years;

Alcohol has significant toxic effects on the cells of the central nervous system, and depending on dose and duration of exposure, is likely to result in serious short-term and long-term harm. Those harmful effects are most likely to be evident in areas in which the brain is still undergoing rapid development (i.e. frontal and temporal lobe structures);

The report goes on to state:

Alcohol, even in small doses, is associated with reduction in activity of the normal inhibitory brain processes. Given that such processes are less developed in teenagers and young adults, alcohol use is likely to be associated with greater levels of risk-taking behaviour than that seen in adults;

Earlier I gave as an example car accidents involving young teenage drivers who, under the influence of alcohol, exhibit risk-taking behaviour. The report also states:

Alcohol normally results in sedative effects as the level of consumption rises. It appears that teenagers and young adults are less sensitive to these sedating effects (due to higher levels of arousal) and are, therefore, likely to continue with risk-taking behaviours. As they also experience loss of control of fine motor skills, the chances of sustaining serious injuries (including head injuries) are increased;

Finally, the report states:

Exposure to significant levels of alcohol during the early and mid-adolescent period appears to be associated with increased rates of alcohol-related problems as an adult as well as a higher rate of common mental health problems such as anxiety and depression;

Young people with first lifetime episodes of anxiety, depression or psychotic disorders who also consume significant amounts of alcohol are at increased risk of self-harm, attempted suicide, accidental injury as well as persistence or recurrence of their primary mental health problem.

I have a copy of that report which I will not read but which I seek leave to table.

**Leave granted.**

We all know that the debate about increasing the age at which people should be allowed to drink was stimulated by former Prime Minister Kevin Rudd. Members may remember that when he appeared on the ABC's *Q&A* program the studio was filled with young Australians, and when asked by the program's host, Tony Jones, whether the "legal drinking age should be upped from 18 to 21", Mr Rudd responded, "Of course." This comment stimulated debate across Australia. A number of surveys were conducted on the issue and more than 6,000 people voted in online polls on News Limited websites across the country. An alcohol ban for people under the age of 21 was supported by 51 per cent of those who voted. In Western Australia 64 per cent agreed that the age limit should be increased, with 36 per cent against the proposal. In New South Wales and Queensland more than 66 per cent of online voters agreed with Mr Rudd's comment, "Of course it should be increased to 21 years of age." Obviously, many other comments have been made on the subject by many individuals. A mother of seven sons, five of whom have convictions for driving under the influence of alcohol, blamed a broader cultural influence for the nation's drinking woes. She said:

Was it the slick advertising on TV they watched over the years? Was it the "blokey" camaraderie? Was drinking a "rite of passage"? Or were they too immature to understand the consequences of their actions?

My suggestion—they stop advertising (everywhere—not only on TV); have safe transport available (buses and trains) after closing time; increase the cost of alcohol; educate them at school via visits to re-hab centres.

Finally she said:

Why was the drinking age reduced in the first place? Alcohol addles the brain ...

Most members in this Chamber probably do not realise that the legal drinking age was 21 years.

**The Hon. Catherine Cusack:** What year was that?

**Reverend the Hon. FRED NILE:** I understand it was reduced to 18 in 1974. In historical terms, 1974 is only yesterday. Up until then the legal age for drinking alcohol was 21 years. One comment justifying the change was that the Vietnam War and other events had caused some destabilisation in our society, and it was thought that the age at which people could drink alcohol legally should be lowered. We are no longer involved in the Vietnam War but we do have our problems in Afghanistan, and bearing a number of factors in mind I believe that it is time that we reviewed the so-called legal drinking age. On average, one in four hospitalisations of 15- to 25-year-olds is the result of alcohol consumption. Further, in an average week 70 Australians aged under 25 will be hospitalised because of alcohol-caused assault, and in an average week 4 Australians aged under 25 will die as a result of alcohol-related injuries. I have many similar statistics.

Since 2000 the greatest increase in alcohol-related hospital admissions has been among the 18- to 24-year-olds, with an overall increase of 130 per cent. Some members may be reluctant to face this issue, but we must face it and deal with it. The problem is getting worse. In 2008 NSW Health revealed a 59 per cent increase in alcohol-related emergency department cases between 2000 and 2007. More than 40,000 people needing treatment for alcohol use were admitted to hospitals in each of those years, including a 200 per cent surge in the number of young women who drink as much as their male friends. We also had a cry for help from the New South Wales State Commissioner of Police, Andrew Scipione, who called on the State Government to consider raising the legal drinking age. In a *Daily Telegraph* article on 20 November Mr Scipione was reported as saying:

It is a debate the country must have to address booze-fuelled violence.

His call came amid revelations that his tough approach to alcohol appears to be working, with more than half the problem venues in New South Wales having their restrictions removed after lifting their game. However, at the same time the number of so-called "prescribed hotels" had increased from 48 to 66, thanks to an influx of previously unregulated venues. The article reported:

Mr Scipione said that while it might be politically problematic for the Government to raise the drinking age, that was not his concern and it ought to be discussed.

"One of the real discussions we have to have is, at what age do we go down that legal sanction" he said.

"I think it's a debate that needs to be had. I'm all for anything that will reduce the level of incidents, particularly involving young men."

Alcohol researcher Professor Rob Moodie, former head of VicHealth, agreed and said that the age at which alcohol was consumed needed to be raised one way or another. He said:

The evidence is that higher drinking ages means lower risk for the population.

In New Zealand a decade ago the drinking age was lowered from 20 to 18 years—as is the case here in New South Wales. A poll taken last month in New Zealand found that three-quarters of the population believed that lowering the age had made alcohol-related violence worse. I agree with Commissioner Scipione. He is at the cutting edge of our society's problems with all the reports he receives daily from New South Wales police officers, many of whom deal with problems caused by alcohol. Paul Bibby, a journalist for *Urban Affairs*, has collated material on the subject from various sources, including from Professor Ross Homel of Griffith University. Professor Homel said something should be done regarding the legal age. He said:

It's a similar story [for age]. A number of countries have bitten the bullet and raised the drinking age, particularly for high-alcohol beverages, and seen a reduction [in] alcohol-related harm for that age group and in the tendency of younger people to become heavy drinkers.

A recent senate inquiry that examined many alcohol-related matters noted at paragraph 4.29 of its report:

The Committee also notes the research on behaviour cited in submissions ... which reported that when adolescents consume alcohol, most do so at risky levels with 85 per cent of alcohol consumption for females aged 14 to 17 years and 18 to 24 years at risky or high risk levels for acute harm. More recent data confirmed these findings in a number of studies and surveys all showing high rates of harmful drinking.

The committee noted further that recent surveys indicated "that 9.1 per cent of 14-to 19-year-olds (and a greater proportion of girls than boys) drink at risky or high risk levels at least once a week". This is an important issue and, as I said in my opening remarks, because of new scientific evidence this Parliament must respond. Professor Jon Currie, director of addiction medicine and mental health at St Vincent's Hospital, Victoria, supports the concept of raising the drinking age, as does Professor John Toumbourou of Deakin University and the Murdoch Children's Institute, who said:

In countries or states where it has been introduced there has been a 15% reduction in deaths and harm related to alcohol ... Where the reverse has occurred, such as in Australia where some States dropped the drinking age from 21 to 18 in the 1970s, there has been an equivalent rise in deaths and harm ...

This is a solution that has worked in United States ...

Drug Free Australia's spokesperson on alcohol issues, Wendy Herbert, stated:

In 1974 the legal age to consume alcohol was dropped to 18 in Australia. Since then we have seen a generation of young Australians who have grown up thinking that it's safe to drink to excess - that it's a 'right of passage'.

Raising the drinking age back up to 21 was a successful strategy in United States. This is a country that has a far greater population base and diverse legal system to contend with than we do in Australia. The research from the US (from its National Traffic Safety Administration) has revealed that by raising the drinking age back up to 21, 16,409 lives have been saved from road death in a sixteen year period. The estimates from the study show that the raised minimum age drinking laws in all States have reduced traffic fatalities in 18 to 20 year olds by 13%.

Obviously, we are all concerned to save the lives of our young people. Wendy Herbert went on to state:

Apart from reducing road carnage, raising the drinking age is one of the key issues to reducing overall alcohol and drug abuse. Alcohol is a main gateway drug. When people delay the start of alcohol use to 21 they are less likely to develop addiction to alcohol or any other drug.

Delaying the onset of alcohol use also falls in line with the latest research on the development of the adolescent brain.

Earlier I cited material on that topic. Citing similar evidence from the United States of America, Wendy Herbert stated:

The thirteen year long US National Institute of Mental Health study confirms research that shows a delay of drinking (and its likely gateway into other drugs) till 21 reduces the harm from these substances. This 13 year longitudinal study using MRI has produced no other counter research.

By allowing a substance-free maturity of the prefrontal cortex and the development of a fully functioning brain, capable of understanding consequences of decisions, the risk of dependence and addiction to drugs and alcohol for those who delay drug and alcohol experimentation till 21 is considerably minimised ...

This is backed by a recent international comparison of underage alcohol use, conducted by Australian and US researchers and involving 6,000 children, which has found rates of binge drinking are up to three times higher among Australian year 9 students compared with equivalent American teenagers. The study's authors, including Professor Toumbourou, said the findings of higher binge drinking rates in Australia showed the current approaches are not working. The rising rates of Australian teenagers being admitted to hospital for alcohol-related injuries made the findings of serious concern.

I have cited some reports that indicate it is time to give serious consideration to increasing the legal drinking age to 21. I know that some people have said previously that this is not a real proposition, but I believe that it is, and my belief is fortified by the evidence that I have cited. I am amazed by the results of my research on the topic. Many organisations, particularly medical organisations, support increasing the legal drinking age. In a newspaper interview the President of the Sunshine Coast Medical Association called for the legal drinking age to be increased to 21. He was reported as saying:

... after the recent spate of alcohol-fuelled violence on the Sunshine Coast and following reports of mayhem involving a pack of 100 teenagers in Coolumb on Friday night ... [and] as a parent with two children in their 20s, [Dr Stevenson] would support any move to increase the legal drinking age from 18 to 21.

Dr Stevenson said the consequences of binge drinking were "devastating" not just for the drinker, but for their friends and family.

"(Parents) need to be very aware, and very afraid because in the medical world we see the consequences of alcohol devastating lives every day, whether it's in general practice or in a hospital environment – it ruins lives, it maims and kills.

It is very important for members to seriously consider this issue. A State member of the Queensland Parliament, Mark McArdle, supports the proposition underpinning the bill. He said that a range of solutions to curb alcohol-fuelled violence need to be discussed and that raising the legal drinking age is one of them.

This is an issue of vital importance. The Queensland President of the Australian Medical Association issued a statement indicating that he wants the legal drinking age increased to 21. There is a nationwide move to increase the legal drinking age. It would be wonderful for New South Wales to take the lead on this issue. That would show the people of New South Wales what members of Parliament with courage can do—members who care about young men and women, who want to save our young people from road accidents and who want the neurological development of young people to be healthy and unimpeded by the harmful impacts of alcohol.

If young people consume alcohol, neurological damage will cause problems not only when they are teenagers but also, as reports indicate, when they become adults in terms of behaviour and long-term health. Even from the Government's self-interest perspective, questions such as "Will this save money? Will this be good for the State's budget?" can be answered 100 per cent in the affirmative. I urge all members to give serious consideration to the bill. I urge members not to close their minds to the purpose of the bill. I invite members to study the evidence independently and to base their vote on new evidence provided by reports from the medical profession and universities. I urge members to vote in favour of the bill. I thank members for their attention.

**Debate adjourned on motion by the Hon. Greg Donnelly 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. Don Harwin agreed to:**

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 8 in the Order of Precedence, relating to the Bondi Road Summer Clearway, be called on forthwith.

### Order of Business

#### Motion by the Hon. Don Harwin agreed to:

That Private Members' Business item No. 8 in the Order of Precedence be called on forthwith.

#### BONDI ROAD SUMMER CLEARWAY

**The Hon. DON HARWIN** [3.18 p.m.]: I seek leave to amend Private Members' Business item No. 8 in the Order of Precedence for today of which I have given notice by deleting in paragraph 1 (a) "1 December 2009 and will cease on Monday 1 March 2010" and inserting instead "summer 2008-2009".

#### Leave granted.

Accordingly, I move:

1. That this House notes that the Bondi Road Summer Clearway:
  - (a) has operated westbound on Bondi Road from Sandridge Street to Council Street between 3pm and 7pm on weekends and public holidays since summer 2008-2009,
  - (b) has resulted in a reduction in trade of up to 90 per cent for some businesses along Bondi Road,
  - (c) has cost local businesses along Bondi Road tens of thousands of dollars in lost revenue,
  - (d) has resulted in numerous businesses laying off staff or cancelling plans to hire additional staff for the summer period, and
  - (e) has worsened the parking and congestion problems in residential side streets.
2. That this House notes that the Member for Coogee has been unable to convince his own Government that the clearway should be scrapped.
3. That this House calls on the Keneally Labor Government:
  - (a) to scrap plans to reintroduce the clearway from 1 December 2010, and
  - (b) work with Waverley Council and the local community to find alternative solutions to the problem of traffic congestion in the area.

I thank members for agreeing to an urgent discussion on this motion as the matter will reach a critical point before the next opportunity to debate private members' business. No doubt members will have noticed that in the past few weeks I have received and presented to the House petitions with the signatures of more than 300 local residents, business owners and employees who are concerned about this issue. The State Government has scheduled the reintroduction of the Bondi Road summer clearway for the first weekend in December. This is another example of the Keneally Labor Government's total disregard for the opinions of local residents and businesses, despite its rhetoric about community consultation.

The clearway is opposed by Waverley Council, the Bondi and Districts Chamber of Commerce, the majority of local business owners and many local residents. Yet the Government persists with this ill-considered response to the traffic congestion problem. For the third consecutive summer the clearway will operate westbound on Bondi Road from Sandridge Street to Council Street between 3.00 p.m. and 7.00 p.m. on weekends and public holidays. It will come into effect on 1 December—that is next week—and remain in force until 27 March next year, which is coincidentally, the day after the State election. In April 2009, shortly after the clearway was first introduced as a trial over the summer of 2008-09, as referred to in the motion, the Roads and Traffic Authority [RTA] released a comprehensive report.

Appendix E of the report was entitled "Evaluating the Impact of the Bondi Road Summer Clearway Initiative on Local Business". In this section of the report it was acknowledged that 61 per cent of businesses along the affected section of Bondi Road experienced a decline in trade. Local business owners identified the clearway as the principal cause of these declines in patronage and trade. This is hardly surprising. For more than two-thirds of the businesses along Bondi Road, summer is their peak trading period, while for almost as many Saturday is the busiest day of the week, generating a substantial portion of their weekly trade. According to the

Roads and Traffic Authority review, almost three out of every four businesses had a negative opinion of the clearway. It is worth quoting some of the comments that business operators made when asked about the reason for their drop in trade. For example, one person said:

The clearway stopped all my passing trade that comes in after going to the beach in the morning.

Another person said:

The clearway made it too hard for customers popping in for takeaway food as they could not park.

The majority of businesses were able to quantify the negative impact on their trade. According to the report:

This ranged from a decrease of 5% to 90%, most commonly 20% and an average value of 31%.

One-quarter of businesses reported a drop in trade of between 20 per cent and 60 per cent, while nearly 10 per cent said that their business had more than halved. It is distressing to imagine what it must have been like for business owners to face such a massive drop in trade during what is usually the busiest time of the year. Numerous businesses laid off staff or cancelled plans to hire additional staff for the normally busy summer months as a direct result of the clearway's impact on their trade. One business owner indicated that he would be relocating his shop elsewhere should the clearway be reintroduced in subsequent summers. Several businesses were forced to reduce their trading hours because of falling patronage. One business owner told the Roads and Traffic Authority survey:

The business had to close at 2 o'clock on Sunday due to the clearway being in operation.

Another said:

The clearway when in operation made us close the business early because people couldn't stop to get papers.

A third said:

The clearway on weekends affected us badly and took a lot of customers away. We close on Sunday now because of it.

Businesses on Bondi Road rely on accessible parking to deliver trade and customers to their door. The clearway has the effect of removing approximately 135 car parking spaces from along Bondi Road, and 51 of these are located directly outside shops. Without a reasonably convenient place to park their vehicles, people will simply not shop along Bondi Road. As the Roads and Traffic Authority report found:

... businesses with elderly customers, those that sell convenience-type goods and those with busiest periods falling between the clearway operational hours are the most affected by the initiative.

The Roads and Traffic Authority report also concluded that:

The overall feeling appears to be that the clearway is there to benefit tourists and not people from Bondi who can't park to do their groceries during the summer anymore.

The clearway costs thousands of dollars in lost revenue for local businesses, and also causes the loss of seasonal casual jobs. The decision to reintroduce the clearway demonstrates that the Keneally Labor Government is out of touch with the needs of local businesses. It also highlights the disregard the Government has for the views of local residents and its failure to develop long-term solutions. One business owner told the Roads and Traffic Authority survey:

It is a little unnecessary as it is a short-term solution to a long-term problem.

Parking capacity in the residential side streets near Bondi Road is already at 95 per cent. The Roads and Traffic Authority report on the initial clearway trial acknowledged a "build-up of activity in back streets which causes congestion there". By forcing visitors to the Bondi Road shopping precinct to try to find parking on side streets, the clearway's impact will once again be felt directly by surrounding residents. Having to park further away from their homes will inconvenience numerous locals this summer, and the issue will be particularly difficult for elderly residents to cope with. As part of its response to the 2008-09 trial, the Roads and Traffic Authority suggested that Waverley Council should compensate for the loss of parking by adjusting the parking arrangements in nearby side streets. This amounted to replacing unrestricted weekend parking zones with restricted parking conditions in order to encourage the kind of turnover necessary to provide parking for commercial activity.



It should be noted that, despite the report of the Roads and Traffic Authority referring to spaces being relocated to residential side streets, no new spaces were created by this proposal. Residents and their visitors were simply being subjected to further inconvenience. Many local residents, as well as local businesses, are opposed to the clearway. I have already begun tabling petitions against the clearway introduction that have been signed not just by shop owners and their customers but more particularly by residents in side streets near the Bondi Road shopping precinct. These people face another summer of overcrowding and inconvenience, and the clearway poses a significant threat to the survival of their local shops.

As I said at the outset, so far more than 300 people have signed these petitions. One petitioner noted that his daughter, who visits regularly, has three children, one of whom has a disability. The difficulty caused to this family by the summer clearway is not a mere inconvenience; the impact on their quality of life caused by the lack of parking is very serious. The Bondi and Districts Chamber of Commerce has been one of the most strident opponents of the clearway, mounting a strong campaign in defence of local businesses. The board members of the chamber have facilitated meetings for me with local business owners, so I know firsthand the terrible cost the clearway has had on the shopping strip. The local Labor member has also spoken out publicly against the clearway but has been unable to secure a change in policy from his Government.

The Labor member for Coogee has described the clearway as "nonsensical" and "half baked", and commented in the other place that "the only difference is a couple of minutes saved from point to point in bus journeys, with no increase in the number of bus journeys". I could not have put it better. His lobbying efforts, however, have been completely ineffectual. He has been ignored by a succession of his ministerial colleagues, as well as by the Roads and Traffic Authority. Clearly, he is not delivering for the people of Coogee on this issue. Late last year Mr Pearce explained his failure to have the clearway scrapped by saying that the Roads and Traffic Authority and the State Transit Authority are "unbelievably difficult to shift once they have made their decision". This was an extraordinary admission, and it spoke volumes about the way the State has been run under New South Wales Labor.

Ministers should be responding to the concerns that local members are raising about the Roads and Traffic Authority and the State Transit Authority on issues such as this in relation to the clearway on Bondi Road. Just a couple of months ago, however, in another part of Sydney, the new roads Minister, David Borger, demonstrated that the Government can successfully shift the Roads and Traffic Authority bureaucracy when it has the political will or, perhaps more to the point, when the member has the clout.

Minister Borger suspended and then scrapped plans for a clearway along a section of the Princes Highway at Heathcote that had been vehemently opposed by local business owners and the local Labor member. The clearway was to have come into effect on 18 June and apply during peak periods in between certain hours on weekends during the summer months. In the face of local opposition, however, Minister Borger dumped the clearway plans and said, "The New South Wales Government is not in the business of sending local shop owners broke". The Heathcote experience clearly demonstrates that the member for Coogee has not been able to deliver for his community with his own Labor colleagues. There are alternatives to the clearway.

The final part of this motion calls on the Government to work with Waverley Council and the local community to deliver lasting solutions to the traffic congestion in the area, ones that do not have such a detrimental effect on local residents and local businesses. The introduction of the trial clearway in the summer of 2008-09 came as quite a shock to Waverley Council as it was in the middle of developing alternative solutions with the RTA. While the council was engaging in that process in good faith the RTA clearly regarded the discussions as nothing more than a pretence.

According to the member for Coogee, the Roads and Traffic Authority had wanted a clearway on Bondi Road for many years. Clearly the RTA was never interested in seriously considering alternatives. The chamber of commerce and local business owners have also made numerous suggestions as to how the problem could be addressed in the long term and it is distressing to them that the Government has not been prepared to properly explore or trial these alternatives before blundering ahead with the clearway. I thank Councillor Bruce Notley-Smith, who has been meeting with residents and businesses owners in and around Bondi Road and who has been a strong advocate for them on this issue. His strength of advocacy on this matter is in sharp contrast to his opponent.

Unlike Labor's empty consultation charades, the Liberals and The Nationals believe in working closely with communities to deliver lasting solutions to transport and traffic management needs. We need solutions that enhance local amenity for residents and support businesses. The summer clearway on Bondi Road is not the appropriate response to the issues facing the local area. It is extremely damaging to local businesses at a critical time for their peak trade and is disruptive for local residents. The Government needs to scrap the clearway on Bondi Road as it did on the Princes Highway at Heathcote, listen to the local community rather than bureaucrats at the RTA and develop an alternative approach. I commend the motion to the House.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [3.33 p.m.]: The Government does not support this motion. During the summer months it is no secret that many people wish to visit the beautiful and world-class Bondi Beach. People travel from all over Sydney and the world to visit this iconic destination, soaking up some of the wonderful weather, sights and sounds that Australia has to offer. As we know, moving heavy volumes of people can result in traffic congestion and cause excessive delays to all beachgoers. Prior to the implementation of the clearway, visitors to Bondi Beach faced consistent lengthy delays and congestion while attempting to leave the vicinity. During summer, traffic generally increases as more people visit Bondi Beach.

These high traffic volumes and significant delays are predominantly experienced on the weekends and in the afternoon, generally as a result of people leaving the beach. This resulted in the late running of many bus services. As the services between the beach and the railway interchange are loop services the delays affect other timetabled services, with some services even being cancelled. It should be noted that buses move more people to Bondi Beach than all other modes of travel combined. A single bus can replace up to 40 private vehicles on the road network. That is why the New South Wales Government acted. The clearway installation on Bondi Road was implemented to enhance the effective operation of public transport along this corridor, and it has.

The New South Wales Government considers the introduction of the Bondi Road summer clearway to be a successful example of promoting public transport—but no issue is beyond review and ongoing assessment. The Government recognises that local businesses are affected by numerous influences. For the Opposition to suggest that parking restrictions, generally for eight hours a week, have resulted in a 90 per cent reduction in business is clearly unlikely. The Waverley Local Traffic Committee recommended the introduction of the clearway and the proposed parking solutions as early as 2005. The recommendation of the Local Traffic Committee was not adopted by the council. However, the clearway was implemented on a trial basis in 2008. I note the Hon. Don Harwin adjusted that date by leave at the commencement of this debate. The clearway was subsequently made permanent last year.

The Government still supports both the continued implementation of the clearway and the proposed additional parking in local streets that council should progress. It is cognisant of the impact on shopkeepers, and despite the inaccuracies of what the Opposition has said, this issue has been strenuously argued by the member for Coogee, Paul Pearce. It is the Government's present position that entirely removing the clearway will result in a return to the extreme levels of congestion that were previously experienced. The Government is looking at means of adjusting the operation of the clearway and will provide the community with the result of this examination in the near future.

**Mr DAVID SHOEBRIDGE** [3.35 p.m.]: On behalf of the Greens I support this motion, although I will not pick up all the adjectives used by the Hon. Don Harwin about various local personalities in the area. On the face of it, the clearway may appear to be a rational response to increased traffic over summer. With summer comes an increased interest in, and visitor numbers to, the beach, a good many of whom arrive by private motor vehicle. Therefore, one would think that opening up the clearway is a rational response but unfortunately it does not address the real constraints facing people who wish to park at the beach. Not everyone can drive their car and park at a single location in summer.

The real constraints that motorists face are not necessarily on the 500 metres of Bondi Road, but there is simply nowhere to park that volume of traffic at either Bondi Junction or down at the beach. There is also substantial congestion on local roads when the traffic reaches Bondi Beach. If you are unable to navigate the local roads at the beach or find a park at the beach, what on earth could be the purpose of opening up four lanes of traffic that will simply produce four lanes of gridlock to replace the previously existing two lanes of gridlock? That is all the summer clearway does. Instead of sitting and enjoying two lanes of gridlock heading to and from the beach on a summer's afternoon, motorists are faced with four lanes of gridlock.

**The Hon. Catherine Cusack:** This is quintessential Greens logic!

**Mr DAVID SHOEBRIDGE:** The answer to our transport solutions in these critical parts of the city cannot be just to increase the size of our roads. The ultimate solution, despite the somewhat unintellectual interjections coming from across the Chamber, is not to increase roads willy-nilly throughout these congested parts of the city. The only real long-term solution to traffic congestion and travel congestion facing the people of Sydney who want to go to the beach on a hot summer's afternoon must be improved public transport. For the Government to suggest that simply sitting in four lanes of congested traffic will be a solution to a long-running transport problem between Bondi Junction and the beach in particular fails to address reality. Some real investment in public transport, for example a light rail link, is required. We had a light rail link from the city through Bondi Junction and down to the beach.

Surely in the past 15 years this Government could have found some way to do what was managed to be done 100 years ago and have a light rail link down to the beach that could be delivered, one would have thought, with relatively modest costs and provide great benefit to the community. We need larger investment in bus transport down to the beach. North-south linkages in the eastern suburbs are sadly missing. Bondi Road is an east-west corridor between the beach and Bondi Junction. The only way anyone can get to the beach by bus is on the west-east corridor through Bondi Junction. If there were greater north-south linkages in the eastern suburbs that link adjoining beaches and the eastern suburbs to Bondi Beach, then much of that east-west congestion could be resolved.

More creative thought must be put into this. One of the obvious missing public transport links in the eastern suburbs is connecting the Rose Bay ferry wharf with Bondi Beach. It is a very short journey—five minutes. If you took a public bus from Bondi Beach to the ferry wharf and connected with a regular ferry link between Rose Bay wharf and Circular Quay, the journey time could be less than half an hour. Instead, people are facing journey times that can sometimes be an hour or so, once you take into account the congestion to Bondi Junction and then the congestion to the city. We need more creative thinking about delivering public transport solutions rather than just increasing the number of roads.

What is the impact of the clearway on local businesses? It kills local businesses. The Hon. Don Harwin spoke about its impact on businesses, and that impact is real. These are small, local businesses; these are businesses that employ local residents, local people, that as a general rule return the profits to local store owners and shop owners. A lively public street such as Bondi Road delivers a lively public sense of place where residents can shop at their local shops and can park at their local shops if that is what they need to do to get their purchases home. That creates a sense of community and a sense of place. The clearway, by killing off the local shops, drives the consumer dollar and those purchasers straight up to Westfield at Bondi Junction. That is all it does. It transfers the shopping dollars that would otherwise be spent in the local community, normally to the benefit of the local community and a lively vibrant public street, into a large, private, sanitised Westfield that is just at the top of the hill. It produces a poor social outcome; it produces a poor economic outcome; and, not only that, it does not fix what the Government says it aims to fix, which is the inevitable gridlock that will continue to be on Bondi Road until more effective public transport is delivered. I commend the motion.

**The Hon. DON HARWIN** [3.42 p.m.], in reply: I thank all members for their contributions. I say to the Hon. Penny Sharpe that I did not suggest that it was a uniform 90 per cent, as her remarks would suggest. In fact, I made it quite clear that a range of decreases was reported from 5 to 90 per cent, most commonly 20 per cent, and an average of 31 per cent. They were my actual words on that. I am sure the member for Coogee has been strenuous, but what matters is the result, and the result is that not this weekend but next weekend, the first weekend of summer, the clearway will start again. It is a disaster for the community of Bondi and I implore honourable members to give this motion their support.

**Question—That the motion of the Hon. Don Harwin be agreed to—put and resolved in the affirmative.**

**Motion agreed to.**

#### **COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION**

#### **Reports: Review of the 2008-2009 Annual Report of the Inspector of the Independent Commission Against Corruption and Review of the 2008-2009 Annual Report of the Independent Commission Against Corruption**

**Reverend the Hon. Fred Nile** tabled the following reports:

- (1) Report No 11/54, entitled "Review of the 2008-2009 Annual report of the Inspector of the Independent Commission Against Corruption: Incorporating transcript of evidence, questions on notice and minutes of proceedings", dated November 2010.
- (2) Report No 12/54, entitled "Review of the 2008-2009 Annual report of the Independent Commission Against Corruption: Incorporating transcript of evidence, questions on notice and minutes of proceedings", dated November 2010.

**Ordered to be printed on motion by Reverend the Hon. Fred Nile.**

**Reverend the Hon. FRED NILE** [3.43 p.m.]: I move:

That the House take note of the reports.

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

## **STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2) 2010**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [3.44 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

### **Leave granted.**

The *Statute Law (Miscellaneous Provisions) Bill (No 2) 2010* continues the established statute law revision program that is recognised as a cost-effective and efficient method for dealing with amendments of the kind included in the bill.

The form of the bill is similar to that of previous bills in the statute law revision program.

Schedule 1 contains policy changes of a minor and non-controversial nature that is considered too inconsequential to warrant the introduction of a separate amending bill. That schedule contains amendments to 30 Acts and three Regulations. I will mention some of the amendments to give Honourable Members an indication of the kind of amendments that are included in the schedule.

Schedule 1 makes 3 amendments to various items of legislation that were requested by the New South Wales Ombudsman to assist the transition of the Child Death Review Team from the Commission for Children and Young People to the Ombudsman.

Amendments to legislation in the portfolio of the Minister for Youth will enable the Convenor of the Child Death Review Team to determine the remuneration and allowances to which expert advisers appointed by the Convenor are entitled and will repeal an uncommenced amendment that may unnecessarily limit the capacity of the Convenor to provide certain confidential information about child deaths to the Ombudsman.

The *Community Services (Complaints, Reviews and Monitoring) Act 1993* is also amended to return the basis of reporting of the Ombudsman's work and activities under the Act in relation to child deaths, to calendar years rather than financial years.

Schedule 1 amends the *Motor Vehicles Taxation Act 1988* to simplify the circumstances in which a pensioner will be exempt from the need to pay tax on the registration of a motor vehicle. The amendments broaden the classes of pensioners eligible for an exemption and simplify or remove various requirements relating to proof of eligibility.

The co-operatives legislation is amended by schedule 1 to insert savings and transitional provisions and make minor consequential amendments required to implement the national personal property securities scheme that is due to commence next year.

Amendments are also made by schedule 1 to the strata schemes legislation. These will enable easements and covenants to be created over lots in a strata scheme on registration of a strata plan of consolidation, rather than just on registration of the original plan for a strata scheme or a strata plan of subdivision.

The *Heritage Act 1977* is amended by schedule 1 to enable regulations to provide for a scheme for the maintenance of moveable objects that are listed on the State Heritage Register and of buildings or works that are listed on that Register as ruins, as neither of these are accommodated by the Act's current scheme for the maintenance and repair of listed items.

Schedule 1 also amends the *Conveyancing Act 1919* to extend the circumstances in which a court may determine the amount payable under a mortgage and arrange for its discharge on the application of the person entitled to redeem the mortgaged land. These will now include the circumstance where the mortgagee is deceased and is either without a personal representative or unlikely to have a personal representative or it is uncertain who the personal representative is.

Schedule 1 makes a number of amendments to the *Independent Commission Against Corruption Act 1988* to implement various recommendations of the Joint Parliamentary Committee on the Independent Commission Against Corruption.

These include requiring a public authority, within 3 months of receiving a copy of a recommendation by the Commission to take action to reduce the likelihood of corrupt conduct occurring, to inform the Commission of whether it proposes to implement any plan of action in response to the recommendation and, if so, of the plan. A public authority that notifies the Commission of a plan of action must then inform the Commission of any progress it makes in implementing the plan, on a 12-monthly basis.

These amendments also increase the term of office of an Assistant Commissioner of the Commission from 5 years to 7 years, and increase the maximum period for which a person may hold office as an Assistant Commissioner from terms totalling not more than 5 years to terms totalling not more than 7 years.

Amendments made to the Adoption Act 2000 by schedule 1 will enable a principal officer of an accredited adoption service provider to delegate to appropriately qualified employees of the service provider or of an affiliated foster care service, the principal officer's function under the Act of preparing reports about adoptions. This is consistent with the current power of the Director-General to delegate his or her function under the Act of preparing such reports.

Delegation is also the subject of a schedule 1 amendment to the *Public Sector Employment and Management Act 2002*. Currently, the State Contracts Control Board may delegate its functions under the Act to an authorised person, being a member or subcommittee of the Board, a member of staff of a Division of the Government Service, a statutory body or officer or any other person or body approved by the Minister. The proposed amendment will allow such a delegate to subdelegate a delegated function to another authorised person if authorised by the terms of the Board's delegation to do so.

Amendments to the *Community Relations Commission and Principles of Multiculturalism Act 2000* will expand the number of Commissioners from 11 to 15. This amendment is proposed to ensure that the membership of the Commission is representative of a broader range of cultural groups. The requirement for a quorum will also be amended so that Commissioners granted leave by the Commission will not be included in the 'majority' of members required for a quorum. All Commissioners apart from the Chairperson are part-time, and on occasion are unable to attend meetings due to commitments of their other, full-time employment. As a result, the Commission has experienced difficulties reaching a quorum at times. The amendment will allow for greater flexibility in the making of resolutions by the Commission.

The last schedule 1 matter I will mention, are amendments to the *Plant Diseases Act 1924*. These will extend the definition of "disease" in the Act to include any bacterium, fungus or viroid that causes an abnormal or unhealthy condition in plants and will enable the Governor to declare, by proclamation, any such bacterium, fungus or viroid to be a disease for the purposes of the Act.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are those arising out of the enactment or repeal of other legislation, those correcting numbering and those updating terminology.

Schedule 3 contains amendments that relate to the official notification of the making of certain statutory instruments on the New South Wales legislation website maintained by the Parliamentary Counsel.

Schedule 4 repeals a number of Acts and instruments and provisions of Acts that are redundant or of no practical utility, including those that contain only amendments that have commenced. The repeals extend to the *Residential Parks Amendment (Statutory Review) Act 2005* (which contains only formal provisions and uncommenced amendments that have been superseded by proposed national reforms).

The schedule also repeals a number of Acts whose existing provisions are consolidated in the *National Parks and Wildlife Act 1974* without any change to their effect.

The Acts and instruments that were amended by the amending Acts or provisions being repealed are up-to-date and available electronically on the legislation database maintained by the Parliamentary Counsel's Office.

The bill continues to provide (for abundant caution) a power for the Governor, by proclamation, to revoke the repeal of any Act or instrument repealed by the bill and restore its operation, and by amendment to the *Interpretation Act 1987* extends the operation of this provision to repeals by future Acts or instruments that provide for its application.

Schedule 5 contains general savings, transitional and other provisions. These include provisions dealing with the effect of amendments on amending provisions, and savings clauses for the repealed Acts.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned or at the end of the schedule concerned.

If any amendment causes concern or requires clarification, it should be brought to the Government's attention. If necessary, we will arrange for a briefing to provide additional information on the matters raised. If any particular matter of concern cannot be resolved following a briefing and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill.

I commend the bill to the House.

**The Hon. DON HARWIN** [3.45 p.m.]: I have had the job of leading for the Opposition on many Statute Law (Miscellaneous Provisions) bills over the years—

**The Hon. Christine Robertson:** And we always enjoy it.

**The Hon. DON HARWIN:** I thank the Hon. Christine Robertson for her very kind interjection. This bill deals with minor amendments, amendments by way of statute law revision, online notification of the making of statutory instruments and the repeal of certain redundant sections, but I say by way of editorial comment that the Opposition has not been entirely happy with the way it has been handled on this occasion—and I have to say that that is not usually the case, so this is largely an exception rather than the rule.

To give the Opposition a copy of a bill that amends 33 Acts and then expect it to be debated the same day in the Legislative Assembly, as it then was, is really, in my view, quite wrong and not within the spirit of the statute law revision process. Obviously the Opposition would, after it has received a copy of the bill, want to

refer it to all of the shadow Ministers who have some responsibility for the portfolios that cover those 33 Acts and get comments, review them and report them to the House. Yesterday, that process was impossible. I quote the member for Epping briefly:

As the saying goes, the devil is in the detail. It is close to impossible to have proper regard to the detail under these conditions. The real losers here are the people of New South Wales, who hopefully will make the right choice in March next year. The people rely on us, as an Opposition, to provide the checks and balances on government and the process of law making. What has happened here today thwarts this completely.

They were the comments of the member for Epping yesterday and I think, frankly, they were more than justified. In the interim, I have not been advised by any of our shadow Ministers that there are any matters that they need me to raise during this debate, so I can indicate to the House that the Opposition will not oppose the bill. But I suggest to whoever forms the government after March that the statute law bill should, in my view, be dealt with at the beginning of a session, not at the end of a session, and there is no reason why it has to be caught up in the end-of-year rush. Whoever forms the Government next year might think about that. With those few remarks, I commend the bill to the House.

**Dr JOHN KAYE** [3.48 p.m.]: I will speak briefly to the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2010. In particular I refer to part 10, paragraph 1.18 on page 30, which amends section 16A of the Independent Pricing and Regulatory Tribunal Act 1992. Section 16A of the Act is that provision within the Act that governs the Independent Pricing and Regulatory Tribunal [IPART] that enables a portfolio Minister to direct IPART to include a specific project that is within the licence of an agency in the pricing for that agency. To make that more concrete—and pardon the pun—in 2007 the then Minister for Water, Nathan Rees, issued a section 16A directive to IPART in respect of Tillegra Dam.

Once a section 16A directive has been issued, IPART has no choice but to include the cost of that project in its pricing algorithm and force the community to pay for that piece of infrastructure whether it is needed or not. IPART is asked to do the impossible: it is asked to create an efficient price for a piece of infrastructure whether the infrastructure is needed or not. Of course, where there is no section 16A directive IPART will decide whether the infrastructure is needed and in many cases will say, "We do not want this infrastructure. It is not efficient and it is not needed. It is not an economically efficient investment on behalf of the community and the clients of the instrumentality, and therefore we will not include it in the rate base. We will not include it in the amount of money being paid by consumers."

That is not what happened with Tillegra Dam. Those who read the IPART determination on Tillegra will understand the lengths to which IPART had to go. I have a lot of respect for the economists at IPART. They do an exceptionally good job under, in this case and some other cases, particularly difficult circumstances to create the closest thing they can to an efficient pricing regime for infrastructure that should not have been approved in the first place. When you read the IPART report on Hunter Water pricing and see the lengths to which IPART had to go, it is clear that it was very cranky with the Government and the then Minister for Water, as they should have been, for inflicting this unnecessary and expensive piece of infrastructure onto the Hunter and them. They found it almost impossible to find a way of pricing it. So impossible was it that IPART did something I have never seen it do before: it pushed the cost of paying for it off into the future. The initial price rises were on average about \$30 per household, rising at some unspecified period—probably about 2030—to \$300 or \$400 per household. At that point, if there is not the population growth that was projected, the amount will be even greater.

Those are the consequences of a section 16A directive when it is made unwisely. Indeed, in the case of Tillegra it is very clear that it was made extremely unwisely, with long-term consequences. The proposed amendment to section 16A provides that a directive can only be given to the tribunal after, first, the portfolio Minister—in the case of Tillegra it is the Minister for Water—has consulted the tribunal on the proposed direction. At least it forces the portfolio Minister to listen to IPART. There is some tiny hope that the Minister will see sense. Maybe if we re-ran history and Nathan Rees had had the opportunity to hear from IPART and it had said, "Listen, mate, this is really crazy. We're going to have to do double backflips with pikes to make this one work; don't do it", he would have gone back to his Cabinet colleagues and said, "Let's think again on it."

The second condition imposed by this amendment is that the Minister administering this Act, who is the Premier, must have approved the direction. I am not sure that would have made a lot of difference in the case of Tillegra. The then Premier, Morris Iemma, was a devotee of Tillegra, for whatever reasons, and it might not have worked. It is possible that the provision requiring the portfolio Minister to consult the tribunal might have injected a bit of independent economic common sense into the equation. To that extent this amendment is highly

supportable. The Greens still have grave concerns about the way section 16A has been used. There is a valid role for section 16A directives. There is no question that there are situations in which it is appropriate to step outside the normal sense of economic efficiency to construct infrastructure, for reasons that ought to be fully justified and for which there should be a full business case.

It is interesting to note that in the case of Tillegra, for the second year running, the Auditor-General has pinged Hunter Water for failing to produce a business case, in the sense of a justification for the dam. The Tillegra farce will play out one way or another and I think there are many people in this Chamber, on all sides, who have reached the conclusion that they hope it plays out by Tillegra never being built. I have enough faith in the political process and in the common sense of everybody—

**The Hon. Catherine Cusack:** And in the Liberal Party, John.

**Dr JOHN KAYE:** That is a slight contradiction. I have enough faith to think the dam will not be built. What is extremely important is that we learn from the mistakes that have been made. Even if Tillegra is cancelled we have wasted four years when we should have been talking about taking the Lower Hunter to the next level of sustainability so we can take even more stress off the Lower Hunter wetlands. Instead of just saving them from the catastrophe of Tillegra we could talk about bringing them back to life. That lesson needs to be learnt. It is important we look at the role that section 16A played in the Tillegra decision and the way it was used. There is a strong case for yet more amendments to section 16A to address situations that will inevitably arise in the future. That being said, the Greens do not oppose the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2010.

**Reverend the Hon. FRED NILE** [3.55 p.m.]: The Christian Democratic Party supports the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2010, which makes minor amendments to a number of bills. I note that on page 3 of the bill a number of recommendations from the parliamentary Committee on the Independent Commission Against Corruption [ICAC] have been introduced. They are not controversial matters but they will assist the ICAC in carrying out its role. I am also pleased to see on page 4 of the bill the exemption from paying tax on the registration of a motor vehicle under the Motor Vehicle Taxation Act 1988 or a reduction by some other amount approved by the Roads and Traffic Authority [RTA] for members or former members of the Defence Force who receive a pension. It applies to a person whose entitlement arises under the Veterans' Entitlements Act or due to any injury or disease. That is a positive matter. It may appear to be a minor matter but it is very important to those individuals. It also extends that exemption to war widows and removes the requirement to hold a driver's licence or otherwise satisfy the RTA of the eligibility to hold a licence before obtaining a pensioner exemption. I am pleased Minister Borger has included those matters in the bill. I support the bill.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [3.57 p.m.]: I thank members for their contributions to this debate. The bill continues the statute law revision program, which goes back to 1984. This is an efficient mechanism for making minor amendments to legislation, and has become an important convention of the Parliament. Many of the amendments in the bill are minor technical changes to legislation, covering changes in style or repealing spent legislation. Other amendments are minor policy changes that would not otherwise warrant their own bill. As is the convention, any changes that are objected to are removed so they can be dealt with in separate legislation. I commend the bill to the House.

**Question—That this bill be now read a second time—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

**Leave granted to proceed to the third reading of the bill forthwith.**

### **Third Reading**

**Motion by the Hon. Penny Sharpe agreed to:**

That this bill be now read a third time.

**Bill read a third time and returned to the Legislative Assembly without amendment.**

**CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2010****Second Reading**

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [3.59 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

**Leave granted.**

The Children and Young Persons (Care and Protection) Amendment Bill 2010 will amend the *Children and Young Persons (Care and Protection) Act 1998* to improve the regulatory framework for voluntary out-of-home care and clarify provisions that support general casework and court practice.

The bill will also facilitate probity checking of those people who control, operate and/or manage a children's service.

Some of the amendments included in the bill relate to provisions of the Care Act which were introduced to implement recommendations of the Special Commission of Inquiry into Child Protection Services undertaken by Justice Wood.

All would agree that enacting Justice Wood's recommendations was a herculean task. Agencies involved in child protection have now had an opportunity to work with the post Wood inquiry amendments—and it has become clear that some clarification is required to ensure that child protection practice truly reflects the intentions of Justice Wood.

I will now outline the amendments in detail.

**Voluntary out-of-home care**

I turn first to voluntary out-of-home care.

Voluntary out-of-home care is out-of-home care that is arranged by a parent where there are no child protection concerns requiring Community Services' intervention.

The bill makes a number of amendments to improve the protections afforded to children and young people in voluntary out-of-home care. These changes are important not least because many of these children have disabilities, and so are particularly vulnerable.

**Defining voluntary care (section 135C)**

Clause 9 provides for a new section 135C that amends the definition of voluntary out-of-home care so that it applies to out-of-home care arranged by a parent of a child or young person, unless that care is provided by an individual acting in a private capacity, such as a family friend or relative.

This means a child will benefit from the regulatory regime which governs voluntary out-of-home care when an organisation or body is involved in providing or arranging that care, unless the care arrangement is exempt from the out-of-home care regime under the Act or regulations—for example, where care is provided by a boarding school, children's service or hospital. These arrangements are subject to other regulatory regimes.

The Act currently only applies to care arranged between a parent and a designated agency or an agency registered by the Children's Guardian. The new definition will apply more broadly.

The amendment at clause 9 of the bill defines voluntary out-of-home care with reference to the nature of the care provided, rather than the accreditation or registration status of the care provider, ensuring that the definition extends to children in the care of organisations that are operating unlawfully.

To support this amendment, the bill also includes new offence provisions which make it an offence for unaccredited or unregistered organisations to provide or arrange voluntary care so that any organisation which is operating unlawfully can be dealt with.

**Registering agencies that only arrange voluntary care (section 156)**

Clause 10 of the bill amends section 156 of the Care Act to enable the Children's Guardian to register those agencies that arrange voluntary out-of-home care. Currently only those agencies which provide voluntary out-of-home care are required to register.

There are a number of agencies that broker voluntary care services, conduct assessments of the care needs of children and young people and their families, and manage the intake of children and young people into the voluntary care system.

This amendment ensures such agencies must register with the Children's Guardian and are subject to the Children's Guardian's statutory procedures for voluntary out-of-home care intake, assessment, interagency coordination and case planning.



**Time spent in voluntary care (section 156A (1) and (2))**

The Government has obtained legal advice that the Act is unclear as to the calculation of the time a child or young person is permitted to spend in voluntary care before the designated agency supervision and case planning requirements must be met.

The provisions of the Act currently count some periods as months and others as days and require the days in voluntary care to be calculated consecutively. If a child returns to their parents for any length of time, however short, then the time frames for supervision and case planning are effectively reset. The current drafting undermines the intention of the reform, which was to ensure that children do not spend excessive amounts of time in care without appropriate supervision and case planning.

Clause 12 of the bill inserts new sub-sections 156A (1) and (2) to address this concern.

The amendment ensures that the total number of days a child or young person spends in voluntary care during any 12-month period is considered in setting both supervision and case planning time frames.

**Children's Guardian supervision of voluntary care (section 156A (1))**

The new section 156A (1) also enables the Children's Guardian to directly supervise longer term voluntary care arrangements.

Ageing, Disability and Home Care will provide such supervision for children and young people with disabilities, where a registered agency chooses not to contract with a designated non-Government agency to take on that role.

However, there is no other Government agency that can provide a supervision safety net for children and young people in longer term voluntary care who do not have disabilities. This amendment will ensure that these children and young people have guaranteed access to care supervision by an appropriately qualified body.

**Designated agency or Children's Guardian to ensure preparation of a case plan (section 156A (2))**

Moreover, section 156A (2) will require a designated agency or the Children's Guardian to ensure that a case plan is prepared where they supervise care, rather than requiring them to prepare the plan, as is currently the case.

This will ensure necessary flexibility in arranging case management services and enable the agency that provides the greatest amount of care for the child to play a proper role in case planning.

A designated agency or the Children's Guardian must participate in case planning and endorse any case plan, rather than take over all aspects of the planning process. The Children's Guardian's statutory procedures provide the framework for agencies involved in the care of children to work together in case planning.

**Mandatory reporting arrangements (section 156A (3))**

The Act currently regards a child to be at risk of significant harm where there is any breach of the time frames for care supervision and completion of the case plan.

However, there will be some cases where a technical breach is unavoidable—for example, where a child or young person enters a new care arrangement after the 180 day mark, where it will inevitably take some time for the new agency to complete a new or adapt a pre-existing case plan.

The technical breaches caused by a change in the child's care arrangements should not result in a mandatory report to the Child Protection Helpline. This will cause unnecessary distress to parents, discourage agencies from taking on children and young people where a critical time frame is imminent or has passed, and create unnecessary work for Helpline staff.

New section 156A (3) allows the Children's Guardian to filter out technical breaches, with only substantive breaches to be passed on as mandatory reports. The Children's Guardian will operate in a manner similar to a Child Wellbeing Unit, with the Director General determining the classes of breach that must be reported to the Helpline.

**Making organisations accountable for registering (section 1568 and repeal of section 172A)**

The Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 introduced section 172A of the Act, which made it an offence for parents to enter into a voluntary out-of-home care arrangement with a non-designated agency that had not registered with the Children's Guardian.

The Government did not proclaim section 172A, as the Children's Guardian and carer and child welfare organisations all strongly argued that the Act should regulate the organisations that arrange or provide voluntary care, not parents.

As a temporary measure, the Government introduced clause 400 of the Children and Young Persons (Care and Protection) Regulation 2000, which established an offence for non-designated or unregistered agencies that provide or arrange voluntary care.

Clause 12 of the bill incorporates a strengthened offence provision into the new section 1568 and increases the maximum penalty for unlawfully providing or arranging care to \$22,000, consistent with the penalty regime for organisations that unlawfully arrange statutory or supported care.

The standard service agreements of New South Wales and Commonwealth agencies that fund or arrange voluntary care in New South Wales are also being amended to ensure organisations that operate unlawfully are ineligible for Government funding.

**Physical restraint of a child or young person (section 158)**

Items [13] to [16] of the bill amend the Act to ensure that all voluntary out-of-home carers are protected from criminal or civil prosecution for physically restraining a child or young person to prevent them from seriously injuring themselves or others.

This immunity currently applies only to parents and authorised carers who provide statutory or supported care. People who provide voluntary care should be entitled to the same protections.

**Children's Guardian oversight of voluntary care (section 181 and section 185)**

The Children's Guardian has raised concerns about whether her office has the power to monitor the manner in which voluntary care agencies comply with their legal obligations.

Clause 20 of the bill amends section 181 of the Act to put this matter beyond doubt. Further, clause 21 amends section 185 to ensure that the Children's Guardian can access voluntary out-of-home care agency information about the safety, welfare and wellbeing of children and young people in voluntary care.

I now turn to those of the proposed amendments which relate to general matters and court procedures.

**Improving and Clarifying Procedures of the Court*****Calculation of 72 Hour Time Frame (section 45)***

Justice Wood increased the period within which an emergency care application must be submitted to the courts after the removal of a child or young person from 24 to 72 hours.

This was to ensure that the evidence put before the Court in an application was as complete as possible so that the best decision can be made by the court.

Other benefits which flow from this amendment include:

- Parents or those with parental responsibility have a more complete picture of the reasons for taking the child into care.
- The amendment discourages rushed decision making; and
- It allows more time for parents to be located, served and for them to arrange legal representation, which should in turn limit the frequency of adjourning matters.

However, there has been some uncertainty about the application of the time frame, and accordingly this bill will clarify that the 72-hour time frame refers to three working days.

Items [6] and [7] of the bill ensure that the time frame is interpreted and applied consistently by both the Local Court and the Children's Court.

I am particularly cognisant that public holidays may result in an unreasonably long delay between the removal of a child or young person and an application being filed with the Children's Court. This is most likely to occur during the Christmas and Easter holiday period.

The bill addresses this issue by requiring the director general to file an application no later than five days after a child has been taken into care even in these periods of extended public holidays such as Christmas and Easter. Naturally if the fifth day is not a working day the application will have to be made on the next working day.

**Child protection reports to be admissible in proceedings under Family Law Act 1975, before the Supreme Court, Administrative Decisions Tribunal and Victims Compensation Tribunal (section 29)**

The bill introduces two important new law reforms which will improve the interface between the child protection jurisdiction and other Courts and Tribunals.

Item [1] of the bill will enable child protection reports to be admissible in 'child welfare proceedings' before other Courts and Tribunals such as the Family Court, the Supreme Court, Administrative Decisions Tribunal, Victim's Compensation Tribunal and the Coroner's Court.

Allowing these reports to be considered by courts in cases involving children will provide important contextual information, to enable the courts to better determine what is in the best interests of a child or young person and to make fairer decisions

The amendment includes an important proviso—that child protection reports will only be admissible in legal proceedings, provided that the identity of the reporter who makes the risk of harm report is not disclosed. The continued protection of the reporter will not put in jeopardy people's willingness to report children and young persons at risk of significant harm

**Definition of Serious Offence (section 29)**

Items [2] to [4] of the bill will amend section 29 (6) to include a definition of 'serious offence'.

Section 29 protects the identity of those who make reports about a child or young person whom they believe to be at risk of significant harm.

Currently, under section 29 (4A) Community Services may disclose to police the identity of a person who makes such a report, if the identity of the reporter or information which may identify the person is required in connection with an investigation of a serious offence alleged to have been committed against a child or young person

However, the Act is currently silent on what constitutes a 'serious offence'.

The insertion of a definition will help to clarify for both Community Services and for law enforcement agencies, the types of offences that constitute a 'serious offence' under the Act and justify the limited lifting of the protection of anonymity.

The amendment will ensure that the provision is applied consistently and that reporters' identities are not disclosed unnecessarily.

The amendment will instil confidence in Community Services and the Police when these requests are made.

The definition contained in the bill includes 'serious indictable offences' as defined in the New South Wales Crimes Act and 'reportable conduct' as defined in the Commission for Children and Young People Act 1998.

'Serious indictable offences' are those indictable offences punishable by imprisonment for life or for a term of five years or more, for example murder, kidnapping and sexual assault.

'Reportable conduct' includes a range of serious offences against children and young people such as:

- sex and child pornography offences
- offences or misconduct involving child abuse material
- child-related personal violence offences such as intentionally wounding a child
- voyeurism and related offences
- any assault, ill-treatment or neglect of a child, and
- any behaviour that causes psychological harm to a child.

#### **Allocating PR to a person other than the parent of a child**

Section 38, sets out the process for registering a care plan which is developed through alternative dispute resolution, and with the consent of all parties.

It provides that where such a plan involves allocation of parental responsibility or aspects of parental responsibility to someone other than a parent of the child, this must be by way of an order of the Court.

It also provides that the Children's Court may make other orders to support the agreed care plan. There is currently some confusion about the technical requirements where the Court makes orders to support a care plan.

Clause [5] of the bill amends section 38 to make clear that where the Court makes orders to reallocate parental responsibility or to support a care plan registered under section 38:

- a care application is not required; and
- that the court is not required to be satisfied that the child is in need of care and protection;

The court must however be satisfied that:

- the proposed plan will not contravene the principles of the Act"
- the parties understand the provisions of the plan and have freely entered into it; and
- in the case of persons other than the Director-General that they have received independent legal advice.

The proposed amendment, reflects the approach currently taken by the court and will clarify the requirements and align the Act with current practice.

#### **Power to take photographs (section 241)**

Clause 23 of the bill seeks to clarify that the power to take photographs, film, video, audio and other recordings when a Community Services officer or a police officer enters or inspects a premise as provided by section 241 of the Care Act, also applies when a Community Services officer or a police officer enters a premise to remove a child or young person they believe is in need of care and protection.

This power is very important in gathering the best evidence to allow the court to make a proper decision about what should happen to the child or young person.

The proposed amendment will clarify that the Director General's delegated officer or a police officer is authorised to take photographs, films or other recordings when they enter premises to remove a child whom they suspect on reasonable grounds, is in need of care and protection.

There is little doubt that this was the intention of this provision, but currently section 241 may be read as limiting that power to situations where a police officer or another authorised person enters premises for the purpose of inspecting those premises for compliance with standards set for children's services only.

The proposed amendment will ensure that this important evidence gathering tool is also available when a child is removed in circumstances where the Director General or the police suspect on reasonable grounds that the child is in need of care and protection.

#### **Reviewable decisions (Section 245)**

Clause 24 of the bill seeks to prevent forum shopping between the Children's Court and the Administrative Decisions Tribunal on the reviewability of permanency plans for children or young persons.

The amendment makes clear that the adequacy of a permanency plan to support long-term care orders is a matter solely for the Children's Court, removing the possibility of seeking an additional review of a permanency plan by the Administrative Decisions Tribunal.

The decision in *PR v Department of Community Services* highlighted a potential for direct conflict between the jurisdictions in respect to intervening and determining the adequacy of a permanency plan.

The intention of the amendment is to circumvent any further conflict or confusion by making clear that a permanency plan, including whether a plan adequately addresses the permanency planning for a child is a matter only for judicial consideration by the Children's Court in making an order to re-allocate parental responsibility.

Clause 25 of the bill will amend section 2451 of the Care Act, to include the Family Court as a prescribed Commonwealth body. This will exclude the Family Court from the information exchange scheme provided for under chapter 16A of the Act.

Chapter 16A is predominantly aimed at the exchange of information between State bodies. The omission of the Family Court from this section which includes inter alia the Federal Court and the Federal Magistrates Court is an oversight in the Care Act. The proposed amendment of this section to include the Family Court will correct this oversight.

The exchange of information between Community Services and the Family Court will continue under section 248, a process which has been agreed by the Family Court and Community Services.

#### **Financial assistance—out-of-home care**

There is currently some confusion over the eligibility of certain carers for financial assistance under section 161 of the Care Act.

Clause 17 of the bill will clarify that carers of children and young people, who have parental responsibility pursuant to an order of the Children's Court and also those who are providing care under an Emergency Care and Protection Order are eligible for financial assistance.

#### **Children's Services Amendments**

Finally I turn to clause 22 of the bill, which relates to children's services and probity checking.

This amendment is aimed at enabling the Director General to undertake probity checks on

- a person involved in the control and management of a licensee or proposed licensee;
- a person in the control and management of the majority shareholder corporation of a licensee or proposed licensee or
- a person who is or is proposed to be an authorised supervisor for a children's service.

The Special Commission of Inquiry recommendation to amend the *Commission for Children and Young People Act 1998 (CCYP Act)* to require background checks for children's services licensees and authorised supervisors of children's services had the unintended consequence of removing the broad probity checking regulation-making power in the Care Act for Community Services.

This amendment will address this drafting error by restoring the probity checking regulation-making power. Such probity checks will capture an applicant's entire criminal record and allow consideration of the applicant's previous compliance with any child-related legislation (for example to include any formal actions taken under the *Children and Young Persons (Care and Protection) Act 1998* and the *Commission for Children and Young People Act 1998*).

Previous compliance with the Children's Services Regulation 2004 will also be considered, including any decision to refuse an approval under the licensing scheme.

#### **Consultation**

I thank all of those who provided input into the development and drafting of this bill. Consultation occurred across government agencies and with the sector, particularly in relation to clarifying the interpretation of the time frames under section 45.

The amendments to the voluntary out-of-home care regime have been recommended by the Children's Guardian, which has regulatory oversight of the voluntary out-of-home care sector.

I would also like to extend the Government's thanks to National Disability Services NSW, the Association of Children's Welfare Agencies, Carers NSW and the Federal departments of Health and Ageing and Families, Housing, Community Services and

Indigenous Affairs, which have all contributed to the voluntary out-of-home care reforms in this bill.

Family Advocacy and People with Disability also support these reforms and are working with the Children's Guardian to ensure the Guardian's oversight systems effectively promote the rights and best interests of children and young people with disabilities and their families.

In conclusion, the bill clarifies some very significant powers under the *Children and Young Persons (Care and Protection) Act 1998* and will, I believe, allow for more consistent interpretation and application of the relevant provisions. This will of course make the task of the courts and child protection practitioners clearer. But most importantly, it will ensure the legislation more effectively achieves its primary objective—that is the protection of children and young people in New South Wales.

I commend the bill to the House.

**The Hon. ROBYN PARKER** [3.59 p.m.]: In speaking on behalf of the Liberal-Nationals Coalition on the Children and Young Persons (Care and Protection) Amendment Bill 2010 I state at the outset that the Opposition does not oppose the bill, which will tidy up a number of provisions and reinforce existing provisions in the Act. This legislation was introduced as a result of recommendations by the Wood inquiry and the Government's complex response to the recommendations of that inquiry. The bill will tidy up those issues which, over time, created uncertainty or confusion. The bill deals with a number of issues but, primarily, voluntary out-of-home care when such care is provided for more than 90 days in the course of a year. That does not relate to 90 consecutive days, which in the past has been used as a way of getting around the intent of the original legislation.

Voluntary out-of-home care is available to children with disabilities whose parents might require respite care. If children require care for more than 90 days—not for a weekend or for a few days here or there—those sorts of arrangements must be regulated. Appropriate arrangements must be put in place to protect children in care. The provisions in this bill will not apply to children who are removed by statute; rather, they will apply when custodians, usually parents, voluntarily relinquish the care of their children for certain periods. More formal and ongoing arrangements will have obvious implications for the wellbeing and safety of children and they must be protected from abuse and neglect at all times. The Minister, in her agreement in principle speech, said:

The bill makes a number of amendments to improve the protections afforded to children and young people in voluntary out-of-home care. These changes are important not least because many of these children have disabilities, and so are particularly vulnerable.

I am sure all members share that concern and would want to ensure that this bill provides more protection for children in care. These provisions are being strengthened because the Children's Guardian raised some concerns and the Government acted to address them. The Minister, in her agreement in principle speech, also said:

The Act currently only applies to care arranged between a parent and designated agency or an agency registered by the Children's Guardian. The new definition will apply more broadly.

The amendment at clause 9 of the bill defines out-of-home care with reference to the nature of care provided rather than to the accreditation or the registration status of the care provider, ensuring that the definition extends to children in the care of organisations that currently are operating unlawfully. The bill includes provisions to make it an offence for unaccredited or unregistered organisations to provide or arrange voluntary care so that any organisation that is operating unlawfully can be dealt with. That was the intent of the original bill. This legislation will clarify that intention and make it more explicit. I am sure that all members and, in particular, parents of children with a disability who seek respite care from time to time, welcome those provisions.

I welcome the change at schedule 2.3, which repeals an uncommenced amendment that penalises a parent if a child is placed with an unaccredited agency. It is my understanding that the bill gives responsibility for voluntary care explicitly to the Children's Guardian—something that the Children's Guardian requested. As the bill was introduced fairly quickly I have not had a lot of time to examine it in detail. I note that the exception to this is out-of-home care provided by the Department of Community Services, which is not accredited. Despite this, the inclusion of respite care should give greater comfort to parents and result in the delivery of better standards. The bill will give accredited organisations the right to restrain a child when necessary for the safety of the child or for the safety of others in line with the rights of other out-of-home care providers.

Schedule 1 [17] makes it clear that financial assistance will be available to carers of children or young people who have a primary responsibility for them. Foster carers are entitled to financial assistance but the bill

clarifies that entitlement explicitly for those providing emergency care, which may be for only a few days or a few weeks duration. Nevertheless, a financial cost attaches to the provision of such care. Other provisions in this bill will be welcomed by adults who have left the foster care system. Items [18] and [19] of schedule 1 entitle an adult who has been in out-of-home care while he or she was a child or young person to free access to his or her personal information held by certain bodies or persons. These people should no longer have to pay for access to their files; they should be given free access to their files and information which will give them peace of mind. If they have been traumatised by their out-of-home care they might be reassured by such information which might also elucidate their circumstances.

This bill will enable the Children's Guardian to share information with others and to seek information from others. That is all part of recognising that, for these children, the best care can be assured only if there is a coordinated response and a sharing of information. Schedule 1 [22] expands the current regulation-making powers relating to probity checks—another good improvement. Schedule 1 [24] provides that decisions relating to the making and implementation of permanency plans for children and young people are not decisions reviewable by the Administrative Decisions Tribunal. However, I do not know whether or not the Administrative Decisions Tribunal can still act to remove children. Members have become increasingly aware of the connections between the Family Court and the Children's Court and the way in which cases go between those two courts.

Provisions in this legislation include the Family Court of Australia as a Commonwealth agency for the purposes of exchange of information and coordination of services, which is a welcome inclusion. Many members would be aware of the complexity of arrangements relating to traumatic and complex cases and would welcome anything that coordinates information exchange.

In conclusion, the Liberal-National Opposition does not oppose the bill. The bill clarifies a number of points and provides certainty for those who care for children and young people, many of whom are in vulnerable circumstances. It is good that this bill has been introduced. It would have been better if we had had more notice of it; nevertheless, it is here and it will tighten up many anomalies in some complex legislation. Therefore, the Opposition does not oppose the bill.

**The Hon. IAN COHEN** [4.10 p.m.]: On behalf of the Greens I contribute to the debate on the Children and Young Persons (Care and Protection) Amendment Bill 2010. The Greens do not oppose the bill; however, we would have preferred to have had more time to examine it and seek feedback from relevant stakeholders. Care and protection of children requires consideration of some complex and challenging decisions. Members take great care in examining these issues and generally prefer time to consider their full implications. The removal of a child from their paternal parents and into the care of the State is a significant power exercised by the State. Politicians should always be given sufficient time to consider such legislation. In that other place the bill was characterised as housekeeping and refinement of the Wood inquiry reform passed by this Parliament last year with no serious policy implications. While that is generally true, I would have to say that some small matters require discussion. I shall talk only to these specific points of the bill.

Clause 1 allows reports made to the director general, including reports of significant risk of harm or prenatal reports made under part 2 of the Act, to be admissible in a broader range of court proceedings. Overall, this amendment is a positive improvement for proceedings involving issues related to care and protection of children and young people, and determining the best interests of the child. Including the Victim's Compensation Tribunal is an important amendment, especially in light of the Ombudsman's recent review into supporting children and young people in statutory care who have been victims of crime. Unfortunately, this amendment bill has not taken up the Ombudsman's invitation to review whether section 78 of the Children and Young Persons (Care and Protection) Act requires amendment to ensure that care plans consider the issue of victims' compensation claims. Clause 5 allows the Children's Court to make any such order without the need for a care application and without the need to be satisfied of the existence of any grounds under section 71 if the order does not contravene the principles of the Act, the parties understand and freely entered into it, and the party other than the director general has received independent advice about the provisions of the order.

The Greens have supported the increasing use of alternative dispute resolution in the Children's Court, subject to the implementation of key safeguards to address potential power imbalances. Clauses 6 and 7 extend the period within which a care application must be made after the emergency removal of a child. Currently, under section 45 of the Act the director general must make a care application in the Children's Court no later than 72 hours after the removal or assumption of care responsibility. The proposed amendment seeks to exclude weekends and public holidays in the calculation of that 72-hour requirement. While I understand the pressure

that strict compliance with the 72-hour requirement may place on the Department of Community Services, we need also to be cognisant of the emotional toll on parents who have had children removed from their care and want their day in court as soon as possible. A limit of four working days for the emergency care application to be made would be better as it would more equitably balance the interests of the child and the parents.

Clause 9 aims to clarify the definition of voluntary out-of-home care, thereby opening up the regulatory regime governing voluntary out-of-home care to a greater number of children. The Minister in the other place made reference to the trend that many children in voluntary out-of-home care have disabilities. We should not overlook the underlying problem that the Department of Ageing, Disability and Home Care has a tendency, in some situations, to provide assistance for families in crisis. They wait for months on end for services, including respite care and equipment, but eventually are placed in a terrible position, in which no parent should be, where they hand their child over to the care of the State or find voluntary out-of-home care arrangements.

Clause 12 seeks to place quantitative restrictions on the number of days a young person or child is in voluntary out-of-home care unless the care is provided and supervised by a designated agency or the Children's Guardian. I note that the amendment in proposed section 156A allows the Children's Guardian to determine when a child or young person, who remains in voluntary out-of-home care contrary to the section, is taken to be at significant risk of harm. This may reduce in an artificial way the number of mandatory reports that the Department of Community Services records each year. The Minister has advised that section 156A (3) is to allow the Children's Guardian to filter out technical breaches in accordance with director general guidelines. Unsatisfactory voluntary out-of-home care arrangements should lead to a mandatory report. I do not believe this section is necessary and I do not support the Children's Guardian having this power.

Clause 17 clarifies that carers of children and young people with parental responsibility pursuant to an order of the Children's Court and also those who provide care under an emergency care and protection order are eligible for financial assistance. Some concern has been expressed to me about the impact of this in kinship care arrangements that do not have orders supporting care. This particularly impacts on grandparent and Aboriginal kinship carers who might have reservations about the intervention of the State in informal family arrangements. On the other hand, it will encourage regulatory engagement and additional benefits for that child in giving kinship carers financial support. This amendment is the right solution, but it will not be without some short-term difficulties. Clauses 18 and 19 clarify that an adult who has been in out-of-home care as a child or young person has an entitlement to access personal information for free. It would have been beneficial to specify a time frame for the return of personal information to that adult while making these changes.

Clause 24 removes the ability of the Administrative Decisions Tribunal to review decisions relating to the preparation of permanency plans and the enforcement of plans subject to an order of the Children's Court. Initially I was concerned about this provision. I certainly do not want to remove rights of appeal in relation to administrative decisions made about care and protection of children and young people. However, the question is whether the court is really reviewing administrative decisions as opposed to reviewing a decision of a specialist jurisdiction court. In that sense I am not particularly concerned about proposed section 245 (1B) (b) as it prevents the Administrative Decisions Tribunal reviewing a decision of the court pertaining to enforcement of a permanency plan. The Children's Court should have the ability to reconsider issues with enforcement of a permanency plan. However, what happens when the Children's Court has not made final orders?

One issue is that there may be parties not privy to or involved in the permanency plan, such as foster carers, who may seek to challenge the administrative decisions behind the preparation of a permanency plan. For example, the 2009 case *PR v Department of Community Services* involved a grandparent challenging the decision of the director general on an approved foster carer. Alternatively, a child's advocate may seek to challenge the bureaucratic decision-making process behind the drafting or formulating of a permanency plan. This advocate may use the Children's Court to address these issues before final orders are made by the court. In this way we can appreciate the proposition that there is overlapping jurisdiction of the Children's Court and the Administrative Decisions Tribunal. Overall, the bill represents some sensible housekeeping and refinement of the Care and Protection Act. My staff had an incredible burden placed on them: they were expected to do an adequate job in the circumstances. It is not appropriate to rush this type of legislation. The Greens do not oppose the bill.

**Reverend the Hon. Dr GORDON MOYES** [4.18 p.m.]: On behalf of Family First I contribute to the debate on the Children and Young Persons (Care and Protection) Amendment Bill 2010. Every time the Hon. Ian Cohen speaks on children and young persons he usually does a good job in defining the issues. He and his staff have prepared and presented well. Much of what he said I have been removing from my speech so that

we do not go over the same ground. I thank him for that. Even though Family First also had only a short time in which to assess this amending bill we will not oppose it. The object of the bill is to amend the Children and Young Persons (Care and Protection) Act 1998, which is referred to as the principal Act, as follows:

- (a) to make further provision in respect of voluntary out-of-home care,
- (b) to enable child protection reports to be admissible in certain proceedings,
- (c) to clarify that financial assistance is available to certain carers,
- (d) to extend the regulation-making power in respect of probity checks on persons involved in the provision of children's services,
- (e) to provide that certain decisions about permanency plans for children and young persons are not reviewable by the Administrative Decisions Tribunal,
- (f) to clarify the power to take photographs and other recordings during the removal of a child or young person from any premises or place,
- (g) to provide that the Director-General has 3 working days (and a maximum of 5 days) in which to file an application in the Children's Court following an emergency removal or assumption of care responsibility,
- (h) to make other minor and consequential amendments.

I will not speak at length on this bill. I take the bill at face value. It appears to be straightforward. It aims to tie up loose ends and cut red tape relating to the care and protection of children and young persons. I will pay particular attention to two aspects of the bill—child protection reports being admissible in certain proceedings and the extension of regulation-making powers in respect of probity checks on persons involved in the provision of children's services. I will confine my remarks to those aspects of the bill.

The House may recall my recent speech on the Children and Young Persons (Care and Protection) Amendment (Children's Services) Bill 2010 in which I cited two outstanding researchers, Bromfield and Holzer, regarding their examination in 2008 of similarities and differences in child protection services throughout Australia. When I was head of Wesley Mission and Wesley Dalmar Children's Services and Family Care we constantly experienced problems in running children's programs in out-of-home care for approximately 4,500 children each year. The problems related to interstate issues with the children or their parents or the care of children under different jurisdictions. That is because the legislation in each jurisdiction differed considerably in accordance with local needs. However, we had no disagreement with legislation in all States and Territories that had similar guiding principles in several areas, such as a child's best interest, early intervention, culturally specific responses particularly for people of non-English speaking backgrounds and indigenous people, the participation of children and young persons as far as possible in decision-making, out of home care, after care, and permanency planning and stability of care. I believe Bromfield and Holzer summed it up very well when they stated in their report:

Arguably, prioritising the "best interests" principle within the context of other significant principles such as the least intrusive intervention and the rights of a child's natural parents and family lies at the heart of child protection; that is, determining when it is necessary to pursue one approach over another.

Schedule 1 to the bill will enable reports made in relation to a child or young person to the director general, or to a person who has the power or responsibility to protect the child or the young person, admissible in court proceedings. As the House is no doubt aware, current mandatory reporters include people in positions of responsibility having to deal with children in Ageing, Disability and Home Care, Housing NSW, Juvenile Justice in the Department of Human Services, doctors and primary care givers in NSW Health, the NSW Police Force, and the Department of Education and Training. Additional categories cover counsellors and clergy. Therefore, anyone with direct responsibility to provide services such as health care, welfare, education, children's services, residential services or law enforcement must report risk of significant harm to children and young persons.

In the past anyone who had reasonable grounds to suspect a child or young person was at risk of harm and had concerns about the safety, welfare or wellbeing of the child or young person was able to make a report to the Child Protection Helpline, to the police or to other agencies. But members may recall that in January this year we passed legislative amendments that raised the mandatory reporting threshold from "risk of harm" to "risk of significant harm". With the introduction of this bill, people with reporting responsibilities will be able to have their reports admissible in certain court proceedings under the Commonwealth Family Law Act 1975, and in relation to Supreme Court, Coroner's Court, Administrative Decisions Tribunal, Victims Compensation



Tribunal and Guardianship Tribunal matters. Changes made last January also allowed a law enforcement agency to have access to the identity of the reporter in connection with the investigation of a serious offence against a child or young person. That is a very serious issue.

While that overrides legislative protection, new safeguards were introduced to protect whoever reports a child who is at risk of significant harm: the request must come from a senior law enforcement officer and the reporter must be informed that their identity is to be released, unless informing them of disclosure will prejudice the investigation. This bill aims to make clear that the disclosure of the identity of a person who makes a report is not prevented if it is disclosed in connection with the investigation of a serious indictable offence alleged to have been committed against a child or young person. Although this may inadvertently discourage some people from reporting that a child is at risk of significant harm, believing they may be named in the process, I do not believe that will prevent enforcement agencies and courts from further investigating all aspects of a case or limit them to anonymous evidence. I support the adoption of that approach.

Probity checks, like working with children checks, are investigations into an applicant's background. Typically, the investigation will cover the candidate's work history, academic and professional qualifications, reference checking, criminal history, eligibility to work in Australia, credit history and personal details, such as current address. I have no problem with that provision at all, although from a practical point of view of employers of large numbers of staff who are involved in the care and oversight of children the whole process takes much longer time than is available. Usually, when organisations need adequate staff levels to care for children who are in, for example, out-of-home care, the need is fairly urgent: the children are there and they have to be cared for day by day. If a staff member has to be replaced because of illness or death in the staff member's family or for some other related reason the time that elapses while an investigation of an applicant's background is underway presents a real difficulty. It takes a very long time, and when the needs of the child are so pressing organisations appoint people to positions of trust, even though they do so at some risk.

In late March this year a number of employment categories were required to commence background checks in relation to children's services. They include people who manage and/or control prescribed children's services such as child care, foster care, and out-of-home care services et cetera, including an authorised supervisor of a prescribed children's service, a child wellbeing unit assessment officer, the principal officer of an accredited adoption service, contractors whose work involves direct unsupervised contact with children, and high-risk volunteers, such as those who are involved in collecting children from school or taking children on camping trips et cetera. The bill aims to extend the regulation-making power to enable regulations to be made in respect of probity checks on persons involved in the provision of children's services, therefore allowing a more streamlined approach to probity checks. I for one would greatly welcome streamlining and a reduction in the time that is taken to provide adequate probity checks in relation to the important work of people who will be involved in working with children.

As mentioned previously, I do not intend to speak at length on this bill because some of the issues have already been addressed by previous speakers. Based on my experience, at face value the amending provisions appear to be aimed at promoting the best interests of the child. Any bill that aims to better protect our children and young persons should be commended. I know that members of Family First unanimously support me in commending this bill to the House.

**Reverend the Hon. FRED NILE** [4.29 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Children and Young Persons (Care and Protection) Amendment Bill 2010, which makes a number of miscellaneous amendments to clarify and make more workable the operation of the Children and Young Persons (Care and Protection) Act 1998. The bill will facilitate probity checks for persons who control, operate and/or manage a children's service. Some of the amendments included in the bill relate to provisions of the Act that were introduced to implement recommendations of the Special Commission of Inquiry into Child Protection Services in New South Wales undertaken by Justice Wood.

The bill clarifies that voluntary out of home care is out of home care that is arranged by a parent when there are no child protection concerns requiring Community Services intervention. The bill makes a number of amendments to improve the protections afforded to children and young people in voluntary out of home care, and I fully support those amendments. Currently the Act applies only to care arranged between a parent and a designated agency or an agency registered by the Children's Guardian. The bill provides a new definition that will apply more broadly to define "voluntary out of home care" with reference to the nature of the care provided, rather than the accreditation or registration status of the care provider.

The bill enables the Children's Guardian to directly supervise longer-term voluntary care arrangements. Ageing, Disability and Home Care will provide such supervision for children and young people with disabilities when a registered agency chooses not to contract with a designated non-government agency to take on that role. Another amendment, which we support, provides for the Children's Guardian to filter out technical breaches relating to a new care arrangement that goes beyond the 180-day mark and so on. That means that only substantive breaches will be passed on as mandatory reports. Under the mandatory reporting procedure there has been a flood of reports, many of which related to technical breaches. Those technical breaches overloaded the system and prevented the department from dealing with more serious cases; serious cases were getting buried in the huge pile of reports.

I have always urged the Government to separate technical or minor matters from serious matters so that departmental officers can focus on cases that require urgent intervention and action. The bill amends the Act to ensure that all voluntary out of home carers are protected from criminal or civil prosecution for physically restraining a child or young person to prevent them from seriously injuring themselves or others. This area has become complicated because persons involved with the care of children and young people are not sure whether they can touch them or handle them because of the danger of being accused of child abuse. However, on occasions it is necessary to physically restrain a child from injuring themselves or hurting others, and provision must be made for that. Voluntary out of home carers need to be protected from criminal or civil prosecution. The bill contains a number of amendments to court procedures.

Finally, I am pleased that the bill clarifies what constitutes a serious offence. The current Act is silent on that matter. The insertion of a definition will help to clarify for Community Services and law enforcement agencies the types of offences that constitute a serious offence under the Act and justify the limited lifting of protection and immunity. The amendment will ensure that the provision is applied consistently and that identities of those who report are not disclosed unnecessarily. It will instil confidence in Community Services and the police when these requests are known.

The bill clarifies that serious indictable offences are those punishable by imprisonment for life or for a term of five years or more—for example, murder, kidnapping and sexual assault. Reportable conduct includes a range of serious offences against children and young people, such as sex and child pornography offences. I am pleased that those areas of abuse have been included in the bill. That is important. I believe that children are abused during the production of child pornography—and that is quite apart from the effect that child pornography has on adults who become affected by and obsessed with such material. The amendment also includes offences for misconduct involving child abuse material; child-related personal violence offences, such as intentionally wounding a child; voyeurism and related offences; any assault, ill-treatment or neglect of a child; and any behaviour that causes psychological harm to a child. It is important that all serious matters are reported.

All of us have a deep concern for the welfare of children. In this regard I always remember the words of Jesus Christ, who said that if any person harms a child, it is better for that person to have a millstone put around his neck and to drown in the deep blue sea—I understand what was implied by that—than to fall into the hands of the living God. So we have to act on earth in that role; to protect children in society. The Christian Democratic Party supports the bill.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [4.36 p.m.], in reply: I thank honourable members for their contributions to the debate. The bill clearly shows that the Government is committed to ensuring the safety of children and young people in New South Wales. The bill includes a number of legislative amendments to clarify and to make more workable the operation of the Children and Young Persons (Care and Protection) Act 1998, which is the legislation that underpins the work of Community Services NSW. These amendments will fine-tune changes brought about through the recommendations of the Special Commission of Inquiry into Child Protection Services in New South Wales and will ensure that the implementation of the recommendations of the special commission of inquiry are effective in keeping children and young people safe. Other amendments will strengthen casework practice, clarify court procedures and expand the regulation-making powers with respect to Children's Services.

Turning first to recommendations arising out of the special commission of inquiry, I point out that one of the most significant changes to child protection and out of home care services in New South Wales is the new scheme regarding the provision of voluntary out of home care. The amendments contained in this bill will make clear the oversight role of the Children's Guardian in ensuring the safety of children and young people in voluntary out of home care placements and will clarify the operation of this new scheme.

In respect of the voluntary out of home care scheme, some of the key amendments contained in this bill include making clear the definitions used in respect of voluntary out of home care; clarifying that the statutory time frames are to be calculated as cumulative days in a 12-month period and not a single continuous period; strengthening the penalty regime; enabling the Children's Guardian to register organisations providing voluntary out of home care and having sufficient power to monitor those agencies; requiring the Children's Guardian to determine which breaches of statutory time frames must be reported to Community Services; and extending the provisions that apply in respect of the physical restraint of a child or young person in statutory and support out-of-home care to voluntary out-of-home care.

Another recommendation of the special commission of inquiry included the requirement that Community Services apply to the Children's Court no later than 72 hours after a child or young person has been removed or assumed into care. This bill clarifies that the 72-hour time frame refers to working days and that in periods of extended holidays, such as Christmas and Easter, the application will be filed within five days or on the first working day thereafter. The bill also includes other amendments aimed at improving general casework practice and court procedures.

These amendments include: removing the prohibition on the admissibility of child protection reports in proceedings under the Commonwealth Family Law Act 1975, Supreme Court, Coroner's Court, Administrative Decisions Tribunal, Victims Compensation Tribunal and Guardianship Tribunal matters; clarifying that the disclosure of the person's identity who makes a report about a child or young person is not unlawful if it is disclosed in connection with the investigation of a serious indictable offence or reportable conduct alleged to have been committed or done against a child or young person; making clear that the Administrative Appeals Tribunal does not have jurisdiction to review and make findings as to whether a permanency plan has been appropriately and adequately made—this jurisdiction lies with the Children's Court; clarifying those circumstances where the Children's Court may make an order to give effect to a care plan without the need for a care application; clarifying that a person authorised under the Care Act or regulations or by search warrant issued under the Care Act has the power to take photographs and other recordings during the removal of a child or young person from a premise or place; and ensuring that an adult who was in care as a child or young person is able to access their records free of charge.

With regard to the regulation of children's services, the bill extends the regulation-making power to enable regulations to be made in respect of probity checks on persons involved in the provision of children's services. The bill clearly demonstrates the Government's commitment to ensuring that the important measures aimed at strengthening the child protection system in New South Wales, and which arose from the Special Commission of Inquiry, are built on. In particular, the amendments to improve the protections afforded to children and young people in voluntary out-of-home care are welcomed because many of those children have disabilities and so are particularly vulnerable. The other amendments contained in the bill are aimed at clarifying and improving the workability of the legislation, which underpins the important child protection work undertaken by community services and also reflects this Government's continued commitment to improving child protection systems in New South Wales.

The Hon. Ian Cohen spoke about proposed section 45 and the 72-hour provision. I am advised that the new provision will benefit parents because it will allow for parents to be located and will allow time for parents to seek and obtain legal aid and for their lawyer to properly understand the case. The Hon. Ian Cohen referred also to proposed section 78, which deals with victims compensation. Amendment of section 78 of the Act to provide for consideration of victim's compensation during care proceeds is unnecessary. Community Services has amended its care proceedings forms to require victims' compensation issues to be considered. Further, the Children's Guardian and Ombudsman have agreed that the Children's Guardian's case file audit program will monitor whether victims compensation matters are being appropriately considered.

The Hon. Ian Cohen referred also to proposed section 156A (3). This provision was recommended by the Children's Guardian and supported by all stakeholders. Currently a change in a care arrangement may automatically trigger a breach of a timeframe for care supervision or having a current case plan. Technical breaches of that kind should not result in children being brought into contact with the child protection system. This serves no purpose and will unnecessarily distress parents and children and may discourage care providers from accepting children when a statutory timeframe is approaching or has passed. The Children's Guardian, who is responsible for promoting the best interests of children in care, will ensure all substantive breaches are reported to the Child Protection Help Line as mandatory reports. I commend the bill to the House.

**Question—That this bill be now read a second time—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

**Leave granted to proceed to the third reading of the bill forthwith.**

### **Third Reading**

**Motion by the Hon. Michael Veitch agreed to:**

That this bill be now read a third time.

**Bill read a third time and returned to the Legislative Assembly without amendment.**

## **PARLIAMENTARY ELECTORATES AND ELECTIONS FURTHER AMENDMENT BILL 2010**

### **Second Reading**

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [4.45 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated into *Hansard*.

**Leave granted.**

Many people in New South Wales who are blind or are vision impaired currently do not have the opportunity to cast a secret vote at a State election. They have no choice but to enlist the help of another person to fill out their ballot paper and place it in the ballot box.

By amending the *Parliamentary Electorates and Elections Act*, this bill will allow these vision-impaired electors to vote in secret, using a computer or telephone at a private location such as their home. As a result, these voters will gain new levels of independence and empowerment as participants in our democratic processes.

This new technology assisted voting system for New South Wales is called iVote.

iVote is an Australian first. The Government is pioneering the use of new communications technology to make elections more democratic and accessible.

This bill provides for the iVote system to be in place for the State General Election in March next year.

iVote will not only assist vision-impaired electors. Others may use iVote next year, including electors with other disabilities or who live in remote parts of the State.

Once the performance of iVote has been reviewed after the 2011 election, there is the possibility it will be made available to even more electors including those who are interstate or overseas and unable to easily attend a polling place.

The introduction of the iVote system under this bill follows an investigation into the feasibility of technology assisted voting by the Electoral Commissioner, recommended in the report on the 2007 State General Election by the Joint Standing Committee on Electoral Matters.

The Electoral Commissioner's iVote Report was tabled in Parliament in September this year.

In preparing the iVote Report, the Electoral Commissioner canvassed organisations representing people who are vision-impaired or have other disabilities.

The Electoral Commissioner's investigation initially had concentrated on using personal computers connected to the Internet for iVoting. An important message from the blind and vision-impaired community is that members strongly prefer a telephone-based system to register their secret ballot. This led to a broadening of the design of the iVote system during the feasibility study.

However, the iVote Report also found that the online voting option is preferred by a majority of electors with other disabilities or who are geographically isolated.

As a consequence, the Electoral Commissioner recommends that both online and telephone voting be supported in the iVote system for the 2011 State General Election.

In the iVote Report, the Electoral Commissioner estimated that if iVoting were adopted for the coming election, around ten thousand electors would vote using the system.

Of these ten thousand people, approximately 70 per cent would be vision-impaired electors and 25 per cent would be expected to be people with other disabilities. Approximately five per cent would be able bodied people living in remote parts of New South Wales.

To ensure that the iVote system could cope with this level of demand, the Electoral Commissioner recommends that the design capacity of the iVote system for the 2011 election would be for fifteen thousand electors.

The Government has carefully considered the findings of the iVote Report.

We are pleased to support its recommendations—and have allocated resources to implement technology assisted voting by telephone and internet for the coming election.

As well as providing for the establishment of iVoting at New South Wales elections, the bill will make a number of amendments to clarify certain administrative processes under the Act which have been requested by the Electoral Commissioner.

The bill will also amend the *Government Information (Public Access) Act* to protect sensitive information kept for administration of elections, including software programs and codes for the iVote system.

Each of the elements of the bill is addressed in a separate schedule, beginning with technology assisted voting at schedule 1.

Schedule 1 of the bill will add a new division to the Act that provides for technology assisted voting, which will be known to electors as iVoting.

The Electoral Commissioner is granted powers to approve procedures to enable 'eligible electors' to use the iVote system.

The Electoral Commissioner may determine an eligible elector from a number of categories of voters.

The first category is a person whose vision impairment, physical incapacity or low level of literacy prevents them from otherwise voting without assistance.

The next category is a person with a disability within the meaning of the *Anti-Discrimination Act 1977* and who, because of the disability, has difficulty voting at a polling place or is unable to vote without assistance. Voters eligible under this category may include people with disabilities concerning physical control or fine motor skills, sensory impairment such as deafness or an inability to speak and intellectual or social skills impairment that may make it difficult to interact with polling place staff.

The third category is a person who lives in a remote location in New South Wales and has greater difficulty in attending a polling booth. To qualify for consideration as an eligible elector, the elector's residence must be twenty kilometres or more from a polling place.

This category has been included to provide a benefit to voters in rural and remote locations. However, it will also provide a valuable insight into how well iVoting works in the wider community—which will provide useful information when consideration is given to expanding its availability in the future.

It is important to note that an elector from any of the categories I have just outlined will not have an automatic right to use iVoting. The Electoral Commissioner must approve each class of eligible electors from amongst the categories.

Furthermore, a class of electors from any of the categories may be excluded from technology assisted voting by Regulation. This is to provide the flexibility to ensure that access to the iVote system is provided in a way that is equitable and efficient.

In anticipation of a wider roll out of iVoting, a fourth category of 'eligible electors' has been included in the bill. That is, voters who are interstate or overseas at the time of an election. However, it is appropriate that the implementation of the iVote system is staged and this provision for electors outside the State will not commence until March 2012 and the category will require a Regulation to become operative.

A report by the Electoral Commissioner after the 2011 election into the performance of the iVote system will inform any future decision on iVoting for people outside New South Wales. This report is required under the provisions of the bill.

Technology assisted voting requires the operation of a complex information technology platform by, or on behalf of, the Electoral Commission as part of the crucial function of conducting elections for the New South Wales Parliament. Accordingly, the Electoral Commissioner requires a degree of flexibility in determining and approving procedures for iVoting.

However, constitutional integrity of the electoral system requires that any such flexibility is limited by reference in the bill to principles of accuracy, accountability and transparency.

The bill will provide that procedures approved by the Electoral Commissioner must include provisions for iVoter registration, a record of an iVote having been made, secrecy of the iVote and production of the iVote ballot paper for counting with other votes.

Further, the bill will require an independent audit of the technology assisted voting system both before and after each general election to ensure that it properly reflects the votes cast and that it is secure. This will allow tests of the iVote system software to ensure that it is accurate, and that the secrecy of votes is protected, with the system resistant to hackers and any other malicious tampering.

As a further measure to guard the integrity of the system, the bill contains an offence provision for any person who destroys or interferes with the technology used by the Electoral Commissioner in connection with technology assisted voting. The maximum penalties for breach are 100 penalty units, 3 years' imprisonment, or both. These penalties are equivalent to those under the Act concerning bribery and intimidation.

Finally, Governments must be prepared for an unforeseen failure of technology and have in place contingency plans. The iVote system is no exception. In the event of an emergency or catastrophic technical failure of the technology assisted voting platform, there are provisions for iVoting to be withdrawn as a form of voting for an election. This may occur either by the making of a Regulation or by determination of the Electoral Commissioner.

In addition to establishing iVoting, the bill will also make a number of amendments regarding the conduct of elections under the Act, many of which were requested by the Electoral Commissioner. These are set out in schedule 2 of the bill. The changes predominantly arise as a result of the introduction of the automatic enrolment in New South Wales or are being made for consistency with changes made by the Commonwealth to its procedures.

The bill amends the Act to provide that the Electoral Commissioner is not required to vote in New South Wales Parliamentary elections. This provision is to enhance the impartiality of the office of the Electoral Commissioner.

Currently, the Act makes returning officers ineligible to vote at any Legislative Assembly election. The bill will amend the Act to provide that the returning officer for an electoral district will be ineligible to vote only at a Legislative Assembly election for the district for which they are returning officer.

Certain decisions by the Electoral Commissioner are required to be published in the Gazette. The bill will amend the Act to require that these decisions will be published on the website of the Electoral Commissioner. These decisions include notice of appointment or termination of a returning officer and the appointment or abolition of a polling place.

Young people continue to be under-enrolled and the Commonwealth recently has reduced the provisional enrolment age from 17 years to 16 years to address this. The bill will make the New South Wales provisional enrolment age consistent with Commonwealth arrangements. Despite being provisionally enrolled, a person may not vote at an election until they are 18 years old.

The bill will amend the Act to remove the 'three-month rule'. This rule currently provides for the disqualification of an elector who has not lived within the district where she or he is enrolled at some time during the three months prior to the election. The rule may currently be applied when a voter attends a polling place to vote and is asked about their place of residence by an election official. The test is impractical and no longer justifiable given the recent Smart Roll automatic enrolment amendments that have modernised the enrolment record practices of the Electoral Commission. Similar provisions in Commonwealth and Victorian legislation have been removed.

Commonwealth electoral rolls may be updated by electors online. The bill amends the Act, therefore, to allow for the Electoral Commissioner to enrol a person in New South Wales based on the Commonwealth roll information without first having to notify the person.

The bill amends the Act to allow the Electoral Commissioner to conduct an electronic draw as an alternative to the manual process for determining the order of candidates for the Legislative Council ballot.

The bill will remove inconsistencies in the Act between processes available for people to vote provisionally inside their home electoral district and for those provisionally voting outside their home electorate. It includes enabling an elector to cast certain provisional votes when voting at a declared institution outside the elector's district.

The bill will amend the Act to enable the Electoral Commissioner to determine whether provisional enrolment voting will be available at overseas and interstate pre-polling places for an election. Such provisional enrolment voting was provided under the recent *Automatic Enrolment Act 2009* amendments to the Act. However, there may be limited demand for provisional enrolment voting overseas. Therefore, the cost of training staff at international missions may not be justified. Accordingly, the amendment will provide the Electoral Commissioner with the discretion to make provisional enrolment voting available at specific places outside New South Wales.

Finally, schedule 2 of the bill provides that directions for ballot papers are simplified. This will enhance the integrity of the election process by minimising the potential for informal voting. The Electoral Commissioner advises that, in 2007, the proportion of informal votes for eleven electoral districts was greater than 4 per cent and that lack of familiarity with English was a factor in the level of informal voting.

As I have mentioned, schedule 3 of this bill will amend the *Government Information (Public Access) Act* to protect sensitive information kept for the administration of elections, including software programs and codes for the iVote system.

The bill will amend the *Government Information (Public Access) Act 2009* to provide for a conclusive presumption of overriding public interest against disclosure in relation to certain provisions in the Act, specifically those concerning secrecy relating to technology assisted voting, the violation of secrecy by electoral officers and the disclosure of votes from Antarctica.

Finally, there is a miscellaneous amendment to the *Government Information (Public Access) Act* to also provide that the investigative and prosecuting functions of the Electoral Funding Authority are 'excluded information'.

This is consistent with the exclusions that already apply to other investigative and prosecutorial agencies, including the Director of Public Prosecutions, the Independent Commission Against Corruption, the office of the Auditor-General, the office of the Ombudsman and the office of the Information Commissioner.

This bill is an important reform that supports the principle of a secret ballot. Before arriving at this legislation, lots of work was done looking at options to accommodate voters with all kinds of different needs, and consulting with groups representing the stakeholders. This bill is the culmination of that work and provides an important step forward in our democracy.

I commend the bill to the House.

**The Hon. DON HARWIN** [4.45 p.m.]: I lead for the Opposition on the Parliamentary Electorates and Elections Further Amendment Bill 2010 and state at the outset that the Opposition will not be opposing the bill although I foreshadow that we will move an amendment to it in Committee. The principal object of the bill is to amend the Act to enable certain people to cast a vote in elections for the New South Wales Parliament by telephone or over the Internet. These new means by which to cast a vote will be open to four categories of persons—although the Act at the moment limits that to only three—at the general election next March. The categories are: people who require assistance to vote as a result of impaired vision, physical incapacitation or literacy; people who require assistance to attend a polling place or find it difficult to vote at a polling place as a result of a physical disability; people whose place of abode is more than 20 kilometres via the nearest practicable route from a polling place; and any elector who will not be in New South Wales during the hours of polling on election day.

The New South Wales Electoral Commission believes that as many as 400,000 voters, not including those who will be interstate or overseas, will be eligible to exercise the option to cast a vote by telephone or over the Internet. The commission estimates that as many as 15,000 of those electors will choose to cast their votes in that manner given the opportunity next March. Under the proposed legislation the Electoral Commissioner is empowered to approve the procedures by which such technology assisted remote voting can occur. The bill sets numerous criteria regarding the security and integrity of the procedures that must be met before the commissioner can grant approval. I hope there will be consultation by the commissioner of registered political parties and other interested persons as that will obviously be a matter of great interest. I remind the House of some of the circumstances that prefigure the introduction of this proposed legislation that are worth bearing in mind.

Technology assisted remote voting has been trialled in various forms in several jurisdictions and was considered by our Parliament's Joint Standing Committee on Electoral Matters during its inquiry into the conduct of the 2007 State election. Currently, blind or vision-impaired individuals do not have the opportunity to cast a secret ballot. May I say that the representatives of the vision-impaired who gave evidence to the committee were some of the most powerful witnesses I have ever seen before a parliamentary committee in the almost 12 years that I have been a member of this place. And as the Hon. Michael Veitch has just said to me, all they want to do is participate in an activity that we all regard as a part of everyday life—the ability to cast a vote.

Currently also many physically disabled voters have difficulty accessing a polling place. Numerous electors in remote parts of the State also face problems obtaining and returning postal ballots within the prescribed deadlines. The New South Wales Electoral Commissioner, Colin Barry, has endorsed the view that technology assisted remote voting is a viable means of enfranchising electors living with a disability in locations remote from polling places, interstate or overseas.

Mr Barry told the Joint Standing Committee on Electoral Matters inquiry into the 2007 New South Wales election that electronic voting involving stand-alone kiosks like ATMs, or e-voting, which was trialled during the 2006 Victorian State election, was a very expensive option, especially when one is requiring people with a vision impairment to go to a specific location and use such equipment. Further, the e-voting approach clearly does not address the problems encountered by electors living in remote areas, nor voters who are interstate or overseas on polling day. However, with regard to electronic voting involving the Internet—or iVoting as it is commonly referred to now—which was trialled by the Australian Electoral Commission at the 2007 Federal election involving defence force personnel, Mr Barry told the inquiry that the system worked very well and was a very cheap option compared with electronic voting at kiosks. He noted that Internet voting, unlike electronic voting in kiosks, services people in the remote parts of the State as well as people with vision impairment.

The New South Wales Electoral Commission has indicated that the cost of the implementation of iVoting for the election next March has been estimated at approximately \$3.2 million, as proposed by this bill, and that translates to as much as \$320 on a cost-per-vote basis on the take-up rate estimate. Obviously, the marginal costs will continue to fall as the take-up increases and the system is utilised for subsequent polls. The electoral commission has done its job—the associated tendering process is already over, acquisition of technology has already occurred and money allocated has already been spent. However, this Government's part in the process, which has been as simple as bringing forward this enabling legislation, bizarrely comes after all those things have taken place.

The Opposition particularly welcomes the introduction of iVoting as an option for people in remote locations. Quite a generous definition of "remote" has been provided in proposed section 120AB (1) (c): it will

apply to any elector who is 20 kilometres by nearest practical route from a polling place on polling day. In part, this provision has addressed an issue that was raised with the Joint Standing Committee on Electoral Matters by Antony Green, among others, on two occasions relating to problems with the timing of the issue of writs. Currently the Act provides that the writs shall be issued within four clear days after the publication in the *Government Gazette* of the proclamation dissolving the Assembly or after the Assembly has been allowed to expire by the effluxion of time. This provision is an outdated remnant of the arrangements that have applied prior to the switch to fixed parliamentary terms. The lack of certainty as to when the Government will issue the writs causes difficulty for the electoral office and can restrict the time available for electors to cast postal votes. In any case, the ridiculously short time frames also compound that problem. iVoting is one solution for those adversely affected by the difficulties that the Act presents, although a review of that particular part of the Act would be certainly worthwhile.

While the implementation of iVoting is the principal focus of the bill, it contains numerous other amendments to the principal Act as well as to the Government Information (Public Access) Act 2009. Some of these amendments are consequential upon the introduction of technology assisted remote voting, and the remainder are largely sensible changes to which the Opposition does not object. Some of them will finetune earlier changes that were made in terms of automatic enrolment that clearly were overlooked at the time. These changes include, for example, amendments consistent with the Commonwealth Electoral Act regarding the provisional enrolment of persons who have attained 16 years of age; amendments to the eligibility status and requirements to vote pertaining to the Electoral Commissioner and electoral district returning officers; and amendments concerning the ability of electors to cast certain provisional pre-poll votes when voting at a pre-poll voting place outside the elector's district. The Opposition is proposing an amendment to proposed section 120AB (4); we do not see any valid reason for delaying the extension of iVoting to interstate and overseas voting. I will have more to say on that in Committee. I again indicate that we will not be opposing the bill, which I commend to the House.

**Dr JOHN KAYE** [4.55 p.m.]: I give the Greens support to the Parliamentary Electorates and Elections Further Amendment Bill 2010 and congratulate the Joint Standing Committee on Electoral Matters on having been one of the driving forces behind what is a very important social justice measure for people who are vision-impaired, incapacitated or otherwise disabled, people who have low literacy levels, as well as people who live in remote parts of New South Wales and may be outside of New South Wales—even overseas—on polling day. They will all have access to that fundamental right, which is to vote, even though their attendance at a polling booth may not be appropriate or may indeed be impossible.

The legislation introduces Internet voting, or iVoting as it is now called, and does so in a way that provides adequate protections for security to vote and to avoid rorting of the vote. The Electoral Commissioner, Mr Barry, has made it very clear that he is comfortable with the process and that he is ready for it to be used in 2011 election. That is important, because we have been advised that about 15,000 electors can use this iVoting system or the so-called technology assisted voting [TAV] system at the election next March. The Greens support the legislation because it will facilitate voting for people who would otherwise find it very difficult to do vote.

However, we have one concern with the way in which the legislation has been worded. We are not concerned about the intent of the legislation, but rather with some of its wording. Consequently, for the sake of abundant caution, in Committee we will suggest a rewording of one clause to make it absolutely clear what we understand, and indeed believe, was to be its intention. Our objective is to avoid the extension of iVoting to other categories of voters without the approval of Parliament. We are not opposed to iVoting—we think it is an important measure and probably has a very strong future—but it needs to be taken step by step. In that regard, we think it is important that the present Parliament or a subsequent Parliament has the capacity to examine how it operated in the 2011 election before its use is extended to other voters.

The Greens support also a number of other smaller provisions in the bill, including simplifying directions on the ballot paper; reducing the provisional enrolment age from 17 to 16 years, which is really a consequent amendment on other changes to the way people are enrolled; and publishing electoral information, including polling places and pre-polling places, on the electoral commission's website rather than in the *Government Gazette*. That is a sensible move. If it were possible, we would also like to have published the number of gates that will be open at each polling booth. For those of us—and I suspect that is all of us in this Chamber—who have been involved in organising polling booths, one of the really painful things is not knowing how many gates will be open at a polling booth. It is something that really only political parties and independents care about, but it is something that facilitates the voting process, and we would be keen to see published better data relating to the number of open polling booth gates.



The bill also abolishes the three-month rule, which provides for the disqualification of electors who have not lived within the district where they are enrolled at some time during the three-month period prior to the election. The Greens support the legislation.

**The Hon. JENNIFER GARDINER** [4.59 p.m.]: The Nationals and Liberals welcome the main provisions in the Parliamentary Electorates and Elections Further Amendment Bill 2010, which will enable persons with impaired vision or with certain other disabilities and persons who may have difficulty voting by reason of location to vote by telephone or by means of a computer link to the internet. Bringing remote voters who have long been disenfranchised—

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

**The House continued to sit.**

### **SPECIAL ADJOURNMENT**

**Motion by the Hon. Michael Veitch agreed to:**

That this House at its rising today do adjourn until Tuesday 30 November 2010 at 2.30 p.m.

### **PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT AMENDMENT BILL 2010**

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

**Motion by the Hon. Michael Veitch 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.**

### **PARLIAMENTARY ELECTORATES AND ELECTIONS FURTHER AMENDMENT BILL 2010**

#### **Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. JENNIFER GARDINER** [5.02 p.m.]: Bringing remote voters who have long been disenfranchised into our democratic electoral process is long overdue and has been a particular campaign of mine, especially as a member of the Joint Standing Committee on Electoral Matters. In many New South Wales State elections, even with the best will in the world, many voters in the more remote parts of the State have found it very difficult or impossible to cast a vote. That is because of the short window of opportunity between the close of nominations set out in the statute, before which ballot papers cannot be produced, and the deadline for the return of postal votes combined with the fact that mail contractors, usually contracted to Australia Post, do not provide the frequency of postal deliveries and collections that are part of the daily routine of districts in more closely settled parts of the State.

In election after election there has been evidence of electors in electorates like those currently described as Murray-Darling and Barwon, in particular, being disenfranchised by virtue of their location. The overview of the bill says it will enable persons with impaired vision or with certain other disabilities, and persons who may have difficulty voting by reason of location to vote by telephone or by means of a computer link to the internet. The bill restricts the reference to difficulties by reason of location for the purposes of the 2011 elections to those whose real place of living is not within 20 kilometres of a polling place by the nearest practicable route. We welcome that provision but as my colleague the Hon. Don Harwin has mentioned, we believe it should be extended to interstate voters and those further beyond the bounds of New South Wales.

This has been a long time coming and I extend my thanks to the Electoral Commissioner, Mr Colin Barry, who, having served the people of Victoria in the capacity of electoral commissioner and modernised that State's electoral laws, on coming to New South Wales got to grips with the vastness of this State compared to

the compactness of the southern State. In its first inquiry and report the Joint Standing Committee on Electoral Matters examined the administration of the 2003 State election and, at my initiative, paid some attention to this matter. Indeed, in its submission, the then State Electoral Office commented that postal voters in remote areas of rural New South Wales faced a number of difficulties in the tight time frame for a general election and the mail delivery service. The State Electoral Office noted:

In some rural locations mail is not delivered on a daily basis ... in some locations a three day per week delivery is provided. Bearing in mind the eight working day time frame to receive a postal vote application and issue postal voting material, it is possible that some electors will miss out on receiving their postal voting material before election day. In other cases electors who have posted their postal declaration envelope back to the RO [returning officer] will find that it is received after the cut off date for inclusion in the scrutiny (fourth day after election day) as a result of the mail service in rural NSW.

No doubt that State Electoral Office report was based on wrong advice from Australia Post because during the inquiry into the 2003 election Mr Barry told the electoral matters committee that he had had a discussion with a senior executive from Australia Post not long after the Dubbo by-election, which was a very close result, and Mr Barry asked him about the frequency of mail services in rural New South Wales. He said, "I raised with him the issue that you just raised where in some places it is only one day and he told me, 'That's not correct.' There were no places in New South Wales that had such a low mail service." The Nationals knew that information was wrong and that that had been the case for years. In its report, the Joint Standing Committee on Electoral Matters reported to this House:

Despite the SEO's acknowledgement of the problems facing rural postal voters in remote areas of NSW there appears to be little pro-active thinking by the SEO on ways to ensure that rural postal voters can actually have a vote that counts. Rather, the SEO see that the problem is the mail service provided to rural NSW as its submission stated: "The SEO have no way of addressing the mail delivery service in rural NSW provided by Australia Post."

That committee report stated:

The problems facing rural postal voters who live in remote areas of the State is of major concern to The Nationals who commented in evidence before the Committee that voting is a fundamental right and that the SEO should actively seek to improve the current situation.

It then quotes a passage of evidence in which I questioned the then State Director of the NSW Nationals, Mr Scott McFarlane, about The Nationals submission. I mentioned that just after the State election The Nationals candidate for Murray-Darling had done a radio interview that prompted a number of calls from listeners, emails and verbal reports from electors who said that even though they were on the general register of postal voters—a tool that was introduced years ago to try to speed up at least one part of the postal voting process for remote voters whereby they would be issued automatically with a postal vote ballot paper instead of having to write away for one—they did not get their postal voting material until one or two days before polling day and some of them got them on the Monday after the election. Because the postal deliveries did not coincide with that time frame they did not have sufficient time to fill in their ballot papers, get the envelope witnessed and return them by post.

Unfortunately, in that election there also seemed to be some conflicting advice on the SEO website that may have caused confusion as to the number of days electors had in which to ensure their vote was counted. Some voters indicated they were so keen to get their votes in that they drove up to 100 kilometres to post their ballot papers at the closest post office. There were others who said they had never received their voting papers. There was some discussion with the Electoral Commissioner about streamlining processes pertaining to the general register of postal voters, including the centralised issuing of postal votes, and that was where the matter rested. After the most recent election—2007—the Joint Standing Committee on Electoral Matters conducted a further inquiry into the administration of that election and I again pursued the disenfranchisement of remote electors.

Access to the democratic process by those electors with a disability was also examined and the committee recommended that the qualification for a postal vote certificate and postal ballot paper include those electors with a disability. This bill takes the matter further in addressing barriers to the disabled from fully participating in elections, and that is a welcome advance. The committee also recommended:

That the New South Wales Electoral Commission examine ways to allow vision impaired electors to cast a secret ballot, for example, through the use of e-voting and i-voting.

With respect to the use of new technologies to reduce or eliminate barriers to full participation in the electoral process, the Joint Standing Committee on Electoral Matters recommended:

That the Committee request a reference in the life of the Fifty-fourth Parliament—

that is, the Parliament that has almost ended—

to further comprehensively review the Parliamentary Electorates and Elections Act, including future options for voting using new technologies.

I moved that motion, which at the time was seconded by the Hon. Amanda Fazio, our current President. As I said, the Fifty-fourth Parliament is drawing to a close, the Government did not give the Joint Standing Committee on Electoral Matters that reference, but we are still debating this bill.

**The Hon. Don Harwin:** But we did have other things to do.

**The Hon. JENNIFER GARDINER:** We did have other things to do. It is true that we got on with doing some other things. In its report on the 2007 State election, the Electoral Commission proposed a number of improvements in the State's electoral laws, including "offer i-voting to both electors in rural and remote New South Wales and those with a disability who register with the New South Wales Electoral Commission prior to the election". In its report the Electoral Commission noted that it had followed closely the e-Voting trials in Victoria in 2006 and it was to monitor the e-Voting trials for the Federal election in 2007. The report noted:

The Commission is considering its position in relation to e-Voting but that no trial could proceed without legislative support.

In its report on the 2007 election the Electoral Commission also recognised that postal voting in remote areas remained a concern for the community, candidates and political parties. The Electoral Commissioner gave evidence to the committee and said that the problem arose due to the short election campaign and infrequent mail services in remote areas. He said:

The biggest challenge in the postal voting process is in areas of regional and rural New South Wales. Some parts of the State only receive a mail delivery once a week.

What had previously been submitted by The Nationals was now being acknowledged as having been correct in the first place. Mr Barry then said:

Consequently, bearing in mind that there is only a two-week period in which a person can get a postal vote, if a person leaves it late in making an application and they miss the mail going to the returning officer, effectively they are going to miss getting their ballot papers in the end. It is a very tight window for those people.

The Joint Standing Committee on Electoral Matters noted:

Supplying postal vote ballot papers cannot occur until after nominations have closed and ballots are drawn and printed, which is finalised two weeks before election day. Consequently, electors who applied for a postal vote after 12 March 2007 may not have received and/or returned their vote by the statutory deadline for inclusion in the count.

The Nationals again raised this issue in its submission to the inquiry into the 2007 election. The Electoral Commission attempted, via a mail-out, to improve the take-up opportunity for remote postal voters to be listed on the general register of postal voters, but the response was, as Mr Barry put it, disappointing. He said:

Consequently, we are back to the situation where the returning officer has to first of all get the application and turn them round on the same day. But with one mail delivery each way regrettably those people miss out on a vote.

The report of the Joint Standing Committee on Electoral Matters notes:

The Electoral Commission reported that 22 per cent of voters issued with a postal voting certificate and a postal voting ballot, and 16 per cent of registered general postal voters did not return their ballots for the 2007 NSW election. There were also a number of postal ballot and postal vote applications that were received after the relevant deadlines and therefore were not admitted to the count.

The Joint Standing Committee on Electoral Matters concluded, amongst other things:

Two other measures which may also improve the voting options of rural and remote electors are i-voting and mobile pre-poll voting.

Internet or i-voting enables electors, whether they are remote electors, electors with a disability, or some other category of electors, to cast a secure secret ballot online. Electors would register as an Internet voter, be sent their ballot papers over the Internet, log onto a secure website and then do their voting online.

It should be noted that the report of the Joint Standing Committee on Electoral Matters summarised various trials conducted in the United Kingdom, the Commonwealth jurisdiction in Australia, and with members of the

Australian Defence Force. On 25 November 2009—a year ago today—this House debated the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Bill, which followed the work of the Joint Standing Committee on Electoral Matters on voter enrolment. It provided for smart enrolment. As suggested by Mr Barry, it also provided for centralising of postal vote processing—one means of speeding up the process for remote voters. During the second reading debate on that bill I took the opportunity to say this:

I am disappointed that a trial of electronic voting for remote voters will not be up and running by the 2011 election.

At a recent hearing relating to local government elections the Electoral Commissioner informed the Joint Standing Committee on Electoral Matters that the trial would not be available. As the Hon. Don Harwin said:

The bill empowers the Electoral Commissioner to make provisions for voting in Antarctica by electronic means. If new electronic voting processes can be made available for the very small number of voters in Antarctica that development could be studied by the Joint Standing Committee on Electoral Matters in its review of the 2011 election and, if found to be effective, extended to voters in remote areas of New South Wales. It does not make sense that electronic voting can be extended to a small number of voters who live in freezing conditions in the Antarctica but not to electors who live on the mainland of New South Wales, usually in warmer climes, such as those in the Murray-Darling and Barwon electorates. I do not see the logic in Antarctica voters being able to trial electronic voting and people in New South Wales being deprived of that opportunity.

As stated in the report of the Joint Standing Committee on Electoral Matters on the 2007 election:

The Nationals, in their submission to the inquiry, gave strong support to the idea of electors being given the opportunity to cast their vote online.

The submission read:

The Nationals are of the view that most of the problems of access and equity for voters in regional, rural and remote communities could be solved by Internet online voting.

The committee report states:

The Nationals see i-voting as one way of overcoming barriers to voting that the tyranny of distance and infrequent postal services pose for remote electors. In the Nationals view, the level of access to computers and the Internet should be sufficient in remote areas for the introduction of i-voting to enhance the capacity of remote electors to cast a vote. In the Nationals view then, i-voting would enfranchise remote electors by giving them an additional means of voting alongside postal voting and attending a polling place.

That report recommended that there be further examination of new technologies for voting purposes by the Joint Standing Committee on Electoral Matters by way of a reference. As I said, that reference did not arrive, but this bill did. Throughout the various stages of this debate in which we are developing iVoting for this State there has been a deserved focus on security and privacy attaching to any such voting tool. I note that there are provisions in the bill for pre-poll auditing and for the introduction of iVoting. Of course, we will monitor those matters closely. Obviously all electors must be able to have confidence in the use of new technologies for voting purposes.

In conclusion, I commend the Electoral Commissioner, Mr Barry, and his staff for their proactive approach in proposing ways to modernise and streamline the Parliamentary Electorates and Elections Act. Many of their suggestions, which are contained in successive Electoral Commission reports on the conduct of the last two elections, and which are also contained in reports of the Joint Standing Committee on Electoral Matters, have been implemented. This bill goes further to implement them. It was always obvious that the Electoral Commissioner, Mr Barry, was concerned that there were barriers to any voters exercising their democratic right to participate fully in our democratic processes. He was sympathetic to considering suggestions as to ways in which such barriers could be overcome, be they due to location, disability or vision impairment, including the use of new technology. I deeply appreciate, as do other members of The Nationals, that action is now being taken to try to eliminate this location barrier. I thank my colleague on the Joint Standing Committee on Electoral Matters, the Hon. Don Harwin, who was always supportive in this campaign. The issue was triggered after years of frustration and anger, in particular, in the Western Division of the State as the barrier to participation by remote voters in the electoral system. From The Nationals point of view, this is a momentous piece of legislation. I look forward to its being implemented in time for the March election.

**Reverend the Hon. FRED NILE** [5.18 p.m.]: On behalf of the Christian Democratic Party I support the Parliamentary Electorates and Elections Further Amendment Bill 2010, which will amend the Parliamentary Electorates and Elections Act 1912 to allow voting by telephone or computer for vision-impaired, incapacitated and other disabled people, voters with low literacy levels and voters in remote parts of New South Wales by

using a technology assisted voting [TAV] system. This technology assisted voting system was developed by the Electoral Commissioner, and we thank him for this initiative following his investigation into the feasibility of voting by internet or telephone for vision-impaired electors. He found that such a system was possible and this bill will enable it to operate. The TAV system, as it is known, will operate by telephone and internet-linked computers typically from an elector's home.

The design capacity for the TAV system for the 2011 election is 15,000 electors. The Electoral Commissioner estimates that for next year's election approximately 10,000 electors, comprising 70 per cent vision impaired, 25 per cent disabled and 5 per cent able-bodied electors in remote areas in New South Wales, will use the system. I assume the Electoral Commissioner will be able to establish the eligibility of these electors. I imagine that when applying to use this system electors will indicate the disability that renders them eligible. This will ensure that only genuine applicants will use the system, otherwise it would become impractical if people were able to use it just for convenience. I am pleased to support the legislation.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [5.20 p.m.], in reply: I thank all members for their contributions to this debate. The Parliamentary Electorates and Elections Further Amendment Bill is an important reform and an Australian first. I notice that the Hon. Trevor Khan is nodding. As members noted, this bill is a comprehensive response to the Electoral Commissioner's investigation earlier this year into options for technology assisted voting for electors with a disability. This bill is a great enhancement to the democratic process in New South Wales. Further, the bill makes a number of other small but useful refinements to New South Wales electoral law that were requested by the Electoral Commissioner. These other changes mainly ensure that our electoral processes are consistent with Commonwealth processes and reflect the introduction of automatic enrolment in New South Wales. The bill is yet another demonstration of this Government's commitment to modernising electoral law and to increasing the opportunities for participation in the democratic processes of this State for all people, including people with disabilities. I commend the bill to the House.

**Question—That this bill be now read a second time—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 and 2 agreed to.**

**Dr JOHN KAYE** [5.23 p.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

- No. 1 Page 3, schedule 1, proposed section 120AB (1), lines 17-19. Omit "eligibility requirements (and any additional eligibility requirements under subsection (2))". Insert instead "eligibility requirements for technology assisted voting (and any additional requirements imposed on those eligibility requirements under subsection (2))".
- No. 2 Page 3, schedule 1, proposed section 120AB (2), lines 32-35. Omit all words on those lines. Insert instead:
  - (2) The Electoral Commissioner may, by order published on the NSW legislation website, impose additional requirements on any of the eligibility requirements for technology assisted voting.

These amendments do not change the intent of the legislation in any way. The amendments make clear one important feature. Section 120AB defines the meaning of "eligible voters", that is, voters eligible to access iVoting. Subsection (1) of proposed section 120AB outlines four categories of voters who would be eligible. Subsection (2) states:

- (2) The Electoral Commissioner may, by order published on the NSW legislation website, set additional requirements for electors or any class of electors to be eligible for technology assisted voting.

Our concern was that subsection (2) could be interpreted to say that the Electoral Commissioner could, by just simply publishing the order on the New South Wales legislation website, broaden or create new classes of electors to whom technology assisted voting would be available. While we do not oppose technology assisted voting, we believe the process towards a broader application of this kind of voting is something the Parliament should adopt cautiously. We should test what we have, make sure it works, and if the proposal is to broaden the system, the legislation should return to the Parliament. In order to avoid that interpretation, the Greens have developed new wording for subsection (1) and rewording for subsection (2). We believe the amendments make

it abundantly clear that the subsection (2) provisions are purely to restrict people who have access to technology assisted voting. We believe that was the original intention of the legislation. In the name of abundant caution, we commend the amendments to the Committee.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [5.26 p.m.]: The Government supports the Greens amendments.

**The Hon. DON HARWIN** [5.26 p.m.]: Dr John Kaye and I have had discussions during the day about this matter. The Opposition will support the amendments, for this particular reason: there is a place for delegated legislation and a place for giving responsibility to an official to deal with matters by way of regulation. However, it is never appropriate for an official to decide a matter as serious as which class of elector is entitled to exercise their vote in a particular way and using a particular technology. That sort of decision should always be a matter for Parliament. Dr John Kaye has gone through some of the discussions that took place with the Government during the day about interpretation. Nevertheless, I agree with him. For the sake of abundant caution, it is desirable that these amendments be passed.

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

**Greens amendments Nos 1 and 2 agreed to.**

**The Hon. DON HARWIN** [5.28 p.m.]: I move Liberal Party amendment No. 1:

No. 1 Page 4, schedule 1, lines 3-5. Omit all words on those lines.

The effect of this amendment will omit all words on lines 3 to 5 in subsection (4) of proposed section 120AB. This amendment relates to the right to access technology assisted voting by electors who will not be within New South Wales on polling day. That includes in particular people who are holidaying interstate or overseas and those whose employment requires them to be interstate or overseas.

As new section 120AB (4) indicates, the bill intends technology assisted voting to be available to those categories of electors from 26 March 2012. When Opposition members read that new subsection we were puzzled as to why there would be a 12-month delay for those particular categories of voters. Earlier in my speech I examined statistics showing how many voters will be entitled under the bill to be able to access technology assisted voting. Under the bill as proposed, the Electoral Commission estimates that there will be 400,000 people who will be able to access this form of voting. It is not as though the addition of categories of voters who will be overseas or interstate on polling day will greatly increase the number of voters during an election; it will not.

There simply will not be a large number of people in addition to the 400,000 who the commission estimates will be able to access this form of voting. The amendment will not cause a cost blowout and, as my colleague the Hon. Jennifer Gardiner pointed out earlier, it will be technologically feasible. It is already the case that the legislation would allow, for example, voters on a different continent such as Antarctica to vote by iVoting. The bill will merely add additional categories. It is already the case that people who are not on mainland Australia on voting day will be able to utilise iVoting.

The Opposition has not seen any good reason why provisions enabling electors who are overseas or interstate to utilise iVoting cannot commence operation as soon as the legislation is passed. I spoke on three occasions to the Electoral Commissioner, Colin Barry, about implementation of this provision. I sought an assurance that if the Opposition's amendment is passed, the Electoral Commission will be able to implement it by 26 March 2011 without any inconvenience whatsoever. I received an assurance from the Electoral Commissioner that the provision can be implemented. He explicitly told me that he has no objection to my stating on the record during this debate that it is possible. I have outlined the bases upon which the Opposition has moved the amendment. I hope members will support the amendment. I commend the amendment to the Committee.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [5.33 p.m.]: The Government supports the principle of providing online and telephone voting to electors who are outside New South Wales on polling day. We acknowledge the wider potential of that form of voting, and that is clear from the provisions of the bill in its

current form. I remind the Committee that the purpose of the iVote report was to consider the feasibility of an online system to provide a secret vote at State elections for people who are vision impaired or who have other disabilities.

The Government will not oppose the Coalition's amendment; however, I will state some of our concerns for the record. Rolling out iVoting one step at a time is the prudent course. It gives us the opportunity at each step of the process to ensure that the new system is working and that no votes are placed at risk. The Electoral Commission's iVote report, which was tabled in Parliament in September and which provides the architecture for the iVote system, made recommendations for Internet and telephone voting in relation only to voters with disabilities and electors in remote parts of New South Wales. The iVote report made no recommendations or reference to using iVoting for people who are outside the State during next year's election.

The Government has carefully weighed the risk management issues, which is why the bill presented to Parliament is adopting a staged approach to the introduction of iVoting. The first stage will enable electors in New South Wales, principally those with disabilities such as vision impairment, to access iVoting next year. The second stage will give voters who are outside the State access to iVoting from 2012 on. However, as I stated earlier, the Government will not oppose the Liberal Party's amendment.

**Dr JOHN KAYE** [5.35 p.m.]: The Greens have listened with great attention to remarks made by both the Opposition Whip and the Parliamentary Secretary. We endorse some of the concerns outlined by the Government. Nonetheless, we are deeply persuaded by the remarks made by the Opposition Whip, and we will not oppose the amendment.

**Question—That Opposition amendment No. 1 be agreed to—put and resolved in the affirmative.**

**Opposition amendment No. 1 agreed to.**

**Schedule 1 as amended agreed to.**

**Schedules 2 and 3 agreed to.**

**Title agreed to.**

**Bill reported from Committee with amendments.**

### **Adoption of Report**

**Motion by the Hon. Michael Veitch agreed to:**

That the report be adopted.

**Report adopted.**

### **Third Reading**

**Motion by the Hon. Michael Veitch agreed to:**

That this bill be now read a third time.

**Bill read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendments.**

### **TABLING OF PAPERS**

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

- (1) Annual Reports (Departments) Act 1985—Report of Department of Service, Technology and Administration and controlled entities for the year ended 30 June 2010.
- (2) Annual Reports (Statutory Bodies) Act 1984—Reports for the year ended 30 June 2010:

Centennial Park and Moore Park Trust  
Greyhound Racing New South Wales  
Illawarra Venues Authority  
NSW Architects Registration Board

Parramatta Park Trust  
State Records Authority of New South Wales  
Teacher Housing Authority of New South Wales

- (3) Harness Racing Act 2009—Report of Harness Racing New South Wales for the year ended 30 June 2010.

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

## ADJOURNMENT

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [5.37 p.m.]: I move:

That this House do now adjourn.

## EUTHANASIA

**Ms CATE FAEHRMANN** [5.37 p.m.]: It appears that there will not be an opportunity to debate in this Parliament my Rights of the Terminally Ill Bill 2010. It is a great shame that this House will not have the opportunity to debate the bill because there is overwhelming public support for voluntary euthanasia laws and the right of all of us to make our own decisions at the end of our lives. I take this opportunity, in my final adjournment speech for this session, to state for the record some of my experiences over the past three months in campaigning on this important social policy issue. I commence by congratulating my colleague the Hon. Ian Cohen on his work in first introducing a voluntary euthanasia bill in 2001. It is the basis for legislation that my office has been working on. In what is Ian's last fortnight in this House I acknowledge his work in this area and his courage in pursuing the issue throughout his career in Parliament.

The Rights of the Terminally Ill Bill 2010 sought to confer on individuals who suffer from a terminal illness the right under certain circumstances to request assistance to end their lives with dignity. Since I gave notice of the bill I have had the opportunity to meet many people with tragic personal stories. I will take a minute to relate one of those stories to the House. Gideon Cordover's father contracted motor neurone disease. Gideon's father had watched his own father die the terrible death of motor neurone disease. Gideon's father was adamant that he would not put his family through the same thing. Gideon's father ended up obtaining a lethal dose and passed away with his family beside him. Essentially, he took his own life with the use of the lethal dose. It was a tragic circumstance and a story that moved me deeply. As a result of this experience Gideon is now an active campaigner for voluntary euthanasia.

I thank all those people who have contacted my office to share their experiences and views on voluntary euthanasia. I respect that there are many strongly held views in the community. I congratulate those individuals involved in the Dying with Dignity organisation on their resilience in keeping this campaign in the public consciousness. Notwithstanding my comments above, during the past two months it has been disappointing to see the way that some individuals and groups have engaged in debate on this issue. I single out Reverend the Hon. Fred Nile for special mention. Shortly after I gave notice of the bill an anti voluntary euthanasia poster appeared on his office door depicting a grim reaper standing over an elderly couple. The grim reaper has emblazoned on his chest the Greens logo. The absurdity of such an image should be plain for all to see. This type of campaign is not only illogical; it is driven by an irrational, hysterical fear of a non-existent threat.

It seems to me that rigid ideology drives the position of some in this debate, rather than a willingness to consider, debate and talk through public policy outcomes. A significant focus has been paid to experiences in other countries in relation to voluntary euthanasia. Often it seems that statistics have been cherry picked, including a statistic in one petition that has been tabled in the Parliament over some weeks. It seems that these statistics have been cherry picked, taken out of context and spread around in a way to create fear and uncertainty. It is true that the voluntary euthanasia laws in the Netherlands are the most liberal in the world. While I have not been long in this place, I am comfortable that members of this House can come together to make laws in the interests of the New South Wales community with appropriate safeguards and provisions. We should not be scared of making our own laws even if other jurisdictions have chosen to do it slightly differently. But it is that idea that goes to the heart of the anti voluntary euthanasia campaign. It is based on a philosophy that the views of one group in society should be imposed on all.

The law I have proposed will not allow involuntary euthanasia. It will not put pressure on anyone to take the steps that the law would allow. It will allow individuals to make their own choice. We rarely get to



make laws that give people their own choice. Too often we are forced to regulate and restrict. I look forward to bringing forward a voluntary euthanasia bill in the next Parliament. This issue continues to have widespread public support, and it continues to have the public support that is building across the country. Parliaments around the country remain well behind public expectations. I note that the South Australia Parliament recently debated voluntary euthanasia, which was narrowly defeated. However, I am sure that each time we debate voluntary euthanasia we will have more support. I am looking forward to bringing my bill into the next Parliament and ensuring that New South Wales citizens have the right to die with dignity.

### **BANK PROFITEERING**

**The Hon. SHAOQUETT MOSELMANE** [5.42 p.m.]: Fury, anger and outrage are just some of the words heard in the streets as mums and dads, struggling families and small businesses sweat over cost of living and bank rate hikes. The banks' willingness to slug customers already battling cost of living pressures with extra fees and charges and higher interest rates over and above Reserve Bank rate increases shows a lack of social conscience on the part of our captains of industry. In particular, it shows how banks, without fear or concern, have caused a deep sense of suspicion and resentment in all Australians who had willingly accepted the Federal Government's underwriting of bank guarantees to help not only the shareholders but also the multimillion dollar greedy banking executives over the global financial crisis.

Is it any wonder the big four banks and their banking executives are seen as greedy and harbouring a more take, less give mentality? The top four banks have made at least \$21 billion this year. While there is nothing wrong with making profits, hundreds of thousands of Australians have suffered as a consequence of the banks' unashamed profiteering behaviour. Over the past few decades there has been a real and unchecked concentration of banking sector power, reducing competition and increasing the price control power of the big four. The major banks' combined market share has risen from 60 per cent to more than 80 per cent from 2007 to 2009. With such market power comes a growing sense of impunity.

Today the big banks are uncontrollably powerful. The Chief Executive of the Australian Bankers Association, Steven Munchenberg, views any move to contain such existing anti-competitive arrangements as interfering with market forces. In the eyes of the ANZ Chief Executive, Mr Mick Smith, anyone who interferes should take lessons from Hugo Chávez. As far as I am concerned, at least Hugo Chávez has a social conscience, if nothing else. If we have forgotten, Mr Munchenberg reminds us that banks will not bow to what he called bullying by government. And if too much pressure is applied to the banks then the banks will take their money and send it to more profitable fields. It seems that all people can do is let off some steam.

Some though, such as the United Retail Federation—which represents thousands of small businesses across the country—see what is happening in the banking sector as "nothing short of a national crisis and economic terrorism striking at the heart of the national economy". The national President of the United Retail Federation, Scott Driscoll, even called for a "popular revolution against the banks". So what has the Federal Coalition called for to address this problem? In part, it has called for an increase in competition, which would be achieved through restrictive measures by the Federal Government's deposit guarantee to smaller lenders. According to the Federal Coalition, the Government should use levers to control bank interest rate increases, cut red tape and establish a new bank inquiry, amongst other measures.

Other solutions proposed by the Government and others include empowering regulators with all the powers they need to make the system more competitive, consider introducing a super profits tax, which 59 per cent of Australians would support, cap ATM fees, and give the Australian Competition and Consumer Commission the power to investigate collusive price signalling by banks. The financial industry regulator, the Australian Prudential Regulation Authority [APRA], should be encouraged to investigate whether the major banks are taking unnecessary risks. A fifth major competitor in the home loan field should be created. No matter how loud and angry the people of Australia yell and scream, the reality is that there is sufficient power in the hands of the four banks and their bankers and shareholders to challenge any government and make a mockery of any effective attempt to limit their control of the market.

The beast is out there and it is uncontrollable. The global financial crisis showed the banks that the Government would always prop them up because they are too central to the economy to be allowed to fall. And the banks know it. In my view privatisation and deregulation are the root cause of our suffering today. All we can do is lament the sale of the Commonwealth Bank and the State Bank, vent our outrage, let off some steam and support our Government, the toothless tiger that it is, and shadow box with the big banks and bank bosses who are profiteering for their shareholders and fattening their wallets.

## PARLIAMENTARY COMMITTEES

**The Hon. GREG PEARCE** [5.47 p.m.]: As we approach the end of the Fifty-fourth Parliament I want to reflect on the exceptionally important role that committees play in this Parliament. When I entered the Parliament just over a decade ago one of the first tasks I was given was to be a member of the committee that inquired into policing and drugs in Cabramatta.

**The Hon. Rick Colless:** Was I here then?

**The Hon. GREG PEARCE:** Yes. Members will recall that at the time Cabramatta was a community under siege from drugs and crime, heroin was openly sold on both platforms of the train station and in the town square, there were fortified drug houses and the community was in despair. The committee initially expected to report within a few months. However, in fact it pursued the issues on behalf of the community for some two years, and it was in no small part a catalyst for change in that community. Ultimately there was a whole-of-government response, which today sees a vibrant, multicultural, energetic Cabramatta and first-class representatives such as the Liberal candidate Dai Le.

I also had the good fortune to serve on the committee on Redfern-Waterloo after the riots in Redfern. Subsequently, again focusing the spotlight on the problems in that troubled community, we saw a significant response from the Government to the problems in Redfern-Waterloo. The current Premier would do well to revisit the evidence and recommendations of that committee in her role as Minister for Redfern Waterloo.

Many other committees have investigated economic issues, such as the committee on the Millennium trains and the Cross City Tunnel and the Lane Cove Tunnel, social issues, legal issues and the range of government services. Each year the estimates committees direct focus, attention and accountability on the Government. I have also participated in a number of special inquiries into mini-budgets brought down by this Labor Government. All of those committees operate because we have dedicated committee and Hansard staff, together with all of the other parliamentary staff who provide administrative and other support. I thank all of those people for the valuable contribution they make to the performance of the New South Wales Parliament and Government.

Perhaps the most extraordinary committee was the committee of inquiry into the McGurk murder. Although the committee only sat for a short time, the explosive nature of the matters being investigated was in my view unprecedented. The fact that one of the witnesses has since been charged with the murder is an extraordinary matter. However, the committee also saw the worst of the disease which has become known as New South Wales Labor in the appearance and carrying on of Mr Graham Richardson. Over the past 15 years the people of New South Wales have become numb to the nepotism and mates' deals and thuggery of New South Wales Labor, and Mr Richardson really exhibited exactly all of that.

The connections with unsavoury characters and crime figures have now reached an extraordinary level within the inner workings of New South Wales Labor. After all, it was Michael McGurk who offered New South Wales Labor's leadership \$30 million for the acquisition of the Currawong workers cottages. His offer was trumped by developers with even closer business and social links with the Labor leaders responsible for those workers' assets. Ron Medich also procured donations of hundreds of thousands of dollars to Labor at the request of Labor's powerbrokers. The business and social links between these people and others in the web of dealings over Currawong and other Labor dealings keep leading back to John Robertson, Eric Roozendaal, Mark Arbib and Karl Bitar. There are very serious questions still to be answered about their dealings and the relationships between those people.

## CHILD PROTECTION

**The Hon. IAN COHEN** [5.52 p.m.]: It is two years since the Hon. James Wood, AO, QC, handed down his findings from the Special Commission of Inquiry into Child Protection in New South Wales. The New South Wales Governor commissioned Justice Wood to conduct an inquiry to determine what changes within the child protection system would be required to cope with future levels of demand. Justice Wood found that the child protection system in New South Wales consists of more than the Department of Community Services. NSW Health and the departments of Education and Training, Juvenile Justice, Ageing, Disability and Home Care, Housing New South Wales and the police are all involved with practical assistance and reporting risk of harm to vulnerable children.

Non-government organisations are also vital to the system, providing universal, secondary and targeted tertiary services to children, young people and their families. They aim to minimise the risk of abuse and neglect as well as supporting those children and young people who have been harmed, some of whom will have been removed from their families and placed in out-of-home care. The challenge facing all child protection services in New South Wales is sufficiently resourcing prevention and early intervention services to reduce the numbers of children and young people who require State intervention to keep them safe.

Once children and young people are reported as being at risk of harm some will need the attention of the State, including removal from their families. Others can be assisted to remain supported at home. Children and young people who cannot live at home require well-matched carers who are financially, emotionally and practically supported by the system, as well as State assistance to access medical, dental and other treatment when needed. And they need to be listened to and participate in decisions affecting them. Recommendation 16.2 of Justice Wood's report makes it clear that over the three to five years from the release of the report there should be a gradual transition in the provision of out-of-home care for children and young people from the current model where the Department of Community Services retains care and control of the majority of children and young people, with parental responsibility being with the Minister, to non-government organisations [NGOs] that currently care for 36 per cent of all children in out-of-home care.

Under the new model the Department of Community Services would delegate parental responsibility and transfer case management, placement and casework services to a non-government organisation, while retaining residual powers, subject to consultation with the Children's Guardian. At an early stage the Department of Community Services should progressively transfer long-term kinship or relative carers to non-government organisations to allow for training and ongoing support for these carers. The Department of Community Services should begin to reduce its role in the recruitment of foster carers and transfer current long-term foster carers to non-government organisations. The not-for-profit foster care and residential care service providers have formed a coalition to assist with the implementation of the revised care system in New South Wales. So far this group, the Coalition for Children in Care, tells me they have seen very little progress towards the implementation of Justice Wood's recommendations in the area of out-of-home care.

Three major reviews of out-of-home care over the past 20 years—Usher, Fitzgerald and Wood—have each recommended that children would be better served by placement with non-government organisations, but so far no real plan for achieving this outcome has been seen. Non-government organisations already work with 36 per cent of children and young people in foster care and residential care and have a demonstrated record in providing quality care, stability and achieving permanency. It needs to be recognised that change requires investment and in the short term this will mean additional cost. However, restoration, adoption and improved work with families should lead to long-term savings to the Government.

But two years on from the final Wood report Community Services does not appear to have a transition or implementation plan for the changeover of foster care to non-government organisations. Community Services, along with New South Wales Treasury and the Premier's Department, has undertaken cost modelling, through the Boston Consulting Group, that I am told did not engage with non-government organisation agencies, does not recognise essential differences between Community Services and non-government organisation agencies, including quality of care, and seeks to drive policy via the costs of care rather than the needs of children in care. My suggestion is that the Government heed the recommendations of Justice Wood, immediately prepare a timetable, a transition plan and a cross-agency working group facilitated at the highest level of government to implement Justice Wood's findings for the betterment of all children who are in care and those who may come into care in the future.

#### **LIBERAL PARTY CANDIDATE FOR WOLLONDILLY**

**The Hon. LYNDIA VOLTZ** [5.56 p.m.]: A while ago the *Sunday Telegraph* ran a story on the batch of Liberal candidates Barry O'Farrell is taking to the next election. But who are these people? One of them is the Liberal candidate for Wollondilly, Campbelltown Councillor Jai Rowell. Now it has not been an easy road for young Rowell, just 32 and a very experienced hack for his tender years. Rowell, a protégé of south western Sydney right-wing Liberal numbers man Hon. Charlie Lynn, was employed by Mosman resident and previous Federal Liberal member for Macarthur, Pat Farmer, a man rarely seen or heard of in his western Sydney electorate.

But for Rowell just getting a clear run to Parliament has been hard work. At first he ran for the State seat of Macquarie Fields in 2003, admittedly a difficult gig. Needless to say, he did not trouble the judges. He

must have been confident in 2007 when he secured, courtesy of Charlie Lynn's numbers, pre-selection for Wollondilly. But then Labor stole a march and popular local Mayor Phil Costa was elected. To add insult to injury, then Liberal leader Peter Debnam reopened preselection and out went Jai. Did Peter Debnam know something the rest of us did not? Well perhaps he did, for Jai Rowell does indeed have a past.

Back when he was an even younger man at the end of 1996 Rowell won the presidency of the Campbelltown Students Association, the student union at the then Macarthur Campus of the University of Western Sydney. Now lest you get the wrong idea, Rowell was no student radical, and the association was no hot bed of militancy. But it did offer its own opportunities. Toward the end of January 1997, after the summer break and in one of his first acts as President, Rowell sacked the association's administrative officer/secretary and, yes, he replaced her with his mum.

The woman he sacked was not a political appointee; indeed she was not a member of any political party. She was a working class woman in her late 30s who lived in south-western Sydney, and this was a job she could do with regular hours, close to home. It helped pay the mortgage and send her children to school. She was, however, a union member, and while her union was not able to win her re-employment there was a significant payout that cost the CSA dearly. And, of course, Rowell's mum now had a job.

The next year, when Rowell stood aside from the presidency, he retained his place on the student council, along with his close mate—yes, the Libs have mates too—James La Hood. They were the power behind the throne. And what did La Hood do? No prizes for guessing, but in the latter part of 1998 he got the manager of the association sacked and replaced by, no, not his mum but his dad! No, this is not a fairytale, indeed more like a nightmare for the Campbelltown Students Association staff and students. The position of manager was very useful for Mr La Hood senior, as the main work of the manager of the association was running the student cafe and canteen, and the La Hoods ran a providoring business—a seamless connection no doubt. The sacked manager, also a working class person from south-western Sydney, also not a political appointee or a member of any political party, was, like his former colleague, a union member.

He was also just a few short years from retirement, and the loss of his job may have done irreparable damage to his retirement plans. This time the union took his case to the New South Wales Industrial Relations Commission for unfair dismissal and won his reinstatement. While the merits of the case were obvious and his reinstatement an act of fairness, it was made possible by the disgust of the student body at Campbelltown, which, in an election a short time after the dismissal of the manager, voted out Rowell, La Hood and their Liberal mates. The manager was on full pay for three months until the expiry of the term of the Rowell gang and the manager returned to his job on 1 January 1999. It also came out that, on departure from her position, Mr Rowell's mother was given a "gift" by the Campbelltown Students Association of a top-of-the-range washing machine and each of the committee members of the Campbelltown Students Association had a very generous suit allowance of many hundreds of dollars. I wonder if Mr Rowell still has his?

There are some serious questions that arise for Mr O'Farrell from this. How can he now support the Liberal candidate for Wollondilly, who has a demonstrated history of naked self-interest and lack of fairness? No wonder the Liberals have been keen to get rid of unfair dismissal laws for organisations employing fewer than 15 people, as the Campbelltown Students Association did. If it had not been for the State law under which the manager was employed, his unfair and outrageous dismissal would have stood and his retirement would have been ruined. One can always argue different ideas in Parliament, but the first thing one needs is people of good character to argue them. If history has anything to do with it, Mr Rowell fails the character test.

#### WHITE RIBBON DAY

**The Hon. ROBYN PARKER** [6.01 p.m.]: I wish to speak in this debate not just as a woman but also as someone who has very deep concern about the prevalence of violence against women in our communities and throughout the world. Today we recognise White Ribbon Day and, through it, the countless women who are subjected to unspeakable violent abuse. Violence against women is one of the most cowardly, abhorrent and, unfortunately, frequently committed crimes in Australia today. It occurs regardless of a woman's age, marital status, ethnicity or religion. In Australia, the statistics are horrifying. A staggering one in three women will at some point be subjected to assault or abuse. This year more than one million Australian women will have suffered from some form of domestic violence in their relationship. Of these, more than 600,000 say they live every day with the fear of abuse. The estimated cost of domestic violence to the economy is around \$3 billion each year.

In Aboriginal communities the rate is not just sickening, it is completely unacceptable. According to the New South Wales Bureau of Crime Statistics and Research, Aboriginal women report experiencing domestic violence at six times the New South Wales average and they are three times more likely to be sexually assaulted. Aboriginal women are also up to 30 times more likely than non-indigenous women to be hospitalised as a result of assault. Globally, violence against women remains one of the most prominent and widespread violations of human rights. Up to six out of every ten women in the world are reported to experience physical violence at one point in their life. Violence against women remains one of the largest causes of death of women in the world today.

White Ribbon Day was founded by a group of Canadian men in 1991 in the wake of one man's massacre of 14 women in Montreal the previous year. The intention was simple: to change attitudes and behaviours that support or excuse violence against women. Almost 20 years later, men and women from every corner of the world have heeded their call and proclaimed their support for the elimination of violence against women. Today hundreds of thousands of Australian men and women will wear a white ribbon as a sign of their commitment to breaking the cycle of violence against women. Through the seemingly small act of wearing a ribbon today a message will be sent to the women amongst us who are or have been victims of abuse that they are not alone. Through this small gesture men and women across Australia acknowledge that we, as a society, can no longer stand by and be complicit through our inaction.

For the past 18 years I have been a proud member of UNIFEM, the United Nations Development Fund for Women, which works on several fronts to interrupt the cycle of violence against women with an overall objective of linking violence to the source that feeds it: gender inequality. The United Nations Development Fund for Women combats violence against women through a combination of advocacy campaigns and close partnerships with governments, women's groups and other branches of the United Nations system. This is backed by the United Nations Millennium Development Goals, and in particular goal No. 3, which calls for the eradication of violence against women.

While these international efforts must be applauded, unless we strive to make a difference within the communities in which we live those efforts will be in vain. In Maitland, where I live, there has been a concerted effort by a number of people in the local community to deal with the threat of violence against women in the lower Hunter region. For the past 32 years in Maitland, Carrie's Place Women's and Children's Services Incorporated has provided support and services for women and children in the region. While it was initially established as a refuge for women and children escaping domestic violence, it has evolved in an attempt to fulfil its vision that all women and children should be able to live free from the threat of violence and the terror of domestic abuse. That is encapsulated in its motto: Everyone has the right to feel safe all the time. Under the guidance of manager Jan McDonald, Carrie's Place runs a holistic program that empowers women with and without dependent children from domestic and family violence backgrounds. It has been extremely successful.

Another Maitland-based program that I would like to acknowledge is Maitland Men Against Domestic Violence. Made up of councillors, police, local business and community groups, its aim is educating and influencing men on why violence is not acceptable, and that, given the high statistics for domestic violence in the lower Hunter, is of incredible importance. Despite campaigns such as White Ribbon Day and the work of groups such as UNIFEM, Carrie's Place and Maitland Men Against Domestic Violence, reported incidents of violence against women have increased by about 50 per cent in the last decade. In some areas of New South Wales domestic violence incidents account for up to 60 per cent of all police call-outs. We still have a long way to go. I would like to share with the House some words of Nelson Mandela that I believe highlight the need for collective action. Mr Mandela said:

Safety and security don't just happen: they are the result of collective consensus and public investment. We must address the roots of violence. Only then will we transform the past century's legacy from a crushing burden into a cautionary lesson.

While Mr Mandela was not specifically referring to violence against women, the fight against systematic abuse requires the same solution: collective consensus and public investment. White Ribbon Day was established to urge men to speak out against violence against women. This must happen every day. We, as a nation, must change the culture that sees one million Australian women abused each year. Women will continue to suffer until we stand as one and reject violence against women in any form, at any time.

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

**Motion agreed to.**

**The House adjourned at 6.06 p.m. until Tuesday 30 November 2010 at 2.30 p.m.**

---