

# LEGISLATIVE COUNCIL

Thursday 2 June 2011

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

**The President** read the Prayers.

## BUSINESS OF THE HOUSE

### Postponement of Business

**Government Business Orders of the Day No. 1 postponed on motion by the Hon. Michael Gallacher.**

## BUSINESS OF THE HOUSE

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

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [9.35 a.m.]: I move:

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

**Question put.**

**The House divided.**

### Ayes, 20

Mr Blair  
Mr Borsak  
Mr Brown  
Mr Clarke  
Ms Cusack  
Ms Ficarra  
Mr Gallacher

Mr Gay  
Mr Green  
Mr Khan  
Mr Lynn  
Mr MacDonald  
Mrs Maclaren-Jones  
Mr Mason-Cox

Mrs Mitchell  
Reverend Nile  
Mrs Pavey  
Mr Pearce  
*Tellers,*  
Mr Colless  
Dr Phelps

### Noes, 17

Ms Barham  
Mr Buckingham  
Ms Cotsis  
Mr Donnelly  
Ms Faehrmann  
Mr Foley

Dr Kaye  
Mr Kelly  
Mr Primrose  
Mr Roozendaal  
Mr Searle  
Mr Secord

Mr Shoebridge  
Mr Veitch  
Ms Westwood  
*Tellers,*  
Ms Fazio  
Ms Voltz

### Pairs

Mr Ajaka  
Miss Gardiner

Mr Moselmane  
Ms Sharpe

**Question resolved in the affirmative.**

**Motion agreed to.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Precedence of Business**

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [9.43 a.m.]: I move:

That Government Business take precedence of General Business this day.

**Dr JOHN KAYE** [9.43 a.m.]: This is a move by the Government to ram through legislation. The only purpose of this motion is to enable the Government to ram through legislation—legislation that the Coalition did not take to the election.

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

**Dr JOHN KAYE**: That legislation was opposed by the majority of people of New South Wales. This legislation has been sprung on the people of New South Wales. It mimics the WorkChoices legislation, which was thrown out not just by the people of New South Wales but by the people of Australia. The motion is an attempt to take away our right to deal with private members' business. It is a shoddy attempt by the Government to impose on the people of New South Wales a highly draconian industrial relations system—an industrial relations system that undermines the independence of the judiciary. The Minister put no argument as to why its industrial relations legislation needs to be dealt with now. The Minister just moved for suspension, presuming that he has the numbers. He did not attempt to argue why it is urgent that the legislation be dealt with now, why it cannot wait, and why the House cannot deal with private members' business. He just assumes he has the numbers and moves that Government business take precedence of private members' business, without arguing why it is important that the legislation be dealt with today.

We can only presume that the reason the Government wants to get this legislation through the House today is that it does not want to give the union movement time to build up a head of steam. Government members know full well that if it does not get this legislation through today, they are goners. They know full well that the court of public opinion will try them and will find them guilty of trying to undermine the very thing that makes industrial relations work, that makes workplaces safe, that makes workplaces function in this State—and that is an independent umpire. They know full well they have to get the legislation through today, because if they do not, they will be completely done for in the court of public opinion. They know full well they cannot afford to have the argument stretch out, because they are going backwards on industrial relations. In the same way that the Howard Government destroyed itself over an attack on organised labour, Government members here are concerned that that is what their legislation will do to them.

No argument was put forward by the Government that it should be allowed to bring on Government business on a day private members should be dealing with their business. I am committed to bringing on my bill about eggs—an important bill that will protect consumers. I note that Government members laugh—they do not care about free range farmers. The Government is too busy trying to destroy unions to give a toss that what is going on is affecting the businesses of free range farmers. Duncan Gay does not care about free range farmers—never has. Duncan Gay, the absolute mouthpiece of the egg corporation, does not want to—

**The Hon. Duncan Gay**: Point of order—

**The PRESIDENT**: Order! I call the Hon. Matthew Mason-Cox to order for the first time.

**The Hon. Duncan Gay**: Mr President, as you know, I am a remarkably tolerant person, but I take offence at being described as the mouthpiece of the egg corporation—there is no egg corporation.

**The PRESIDENT**: Order! The Minister regards those words as offensive and requires them to be withdrawn. Will the honourable member withdraw them?

**Dr JOHN KAYE**: I will withdraw the words, Mr President.

**The PRESIDENT**: Order! The member may continue.

**Dr JOHN KAYE**: The Deputy Leader of the Government in the House is quite correct: there is no egg corporation. It is the Australian Egg Corporation Limited, the AECL. If I have offended the Minister by associating him with an outdated organisation, then I apologise, because I certainly would not try to associate

him, an outdated agrarian, with a socialist organisation. I absolutely stand by my original statement. We have important private members' business to deal with: a debate about the way consumers of free range eggs are being misled, and misled on a regular basis; a debate about how it is that free range eggs farmers are being done in the eye by the large egg corporations that are getting their eggs out there labelled as free range when they are not.

This matter is important because with every day that goes past we lose the opportunity to clean up the egg industry in this State. Every day that goes past, more consumers are misled and free range farmers find it more and more difficult to survive in a non-functional market. No argument has been put forward by the Government to in any way justify bringing on its legislation. No argument was put on urgency. When the legislation was brought on yesterday, in Government speeches there was not even a hint that there was any urgency about it. The only element of urgency that there could possibly be about this is one case that is before the Industrial Relations Commission at the moment, and that involves police.

[*Interruption*]

The Minister responsible is nodding his head. I take the interjection to mean that the urgency with respect to this Government legislation is about doing the police in the eye. It is about making sure that the police who are currently before the Industrial Relations Commission do not get a fair hearing. It is also about doing over teachers, harbour workers, nurses, prison wardens—

**The Hon. Matthew Mason-Cox:** Save it for the second reading.

**Dr JOHN KAYE:** I have been asked to save this for the second reading, but this is about whether this legislation should be brought on today and it is about whether there should be a suspension of standing orders. It is very clear that there should not be a suspension of standing orders, given that no argument has been put forward for a suspension. If this House works on the basis of rational argument, why should we suspend standing orders based on some rumours in the media? The Government was not even reported in the media; it was all done by backgrounding the media. All we know is what we read in the media and that the Government has some sense of urgency.

**The Hon. Greg Pearce:** We left it open for debate.

**Dr JOHN KAYE:** You did not give an argument for it. How can we get on with a debate—

**The Hon. Duncan Gay:** Give us a chance. Let the debate come on.

**Dr JOHN KAYE:** You had your chance. The Leader of the Government in the House moved the motion and he lost his opportunity to put forward a reason why this should happen. Without knowing that reason we can only guess what the Government's motives are. We presume it is about the police; we presume it is about doing the police in the eye and denying them the right to have an independent arbitrator; denying them the right to have access to—

**The Hon. Duncan Gay:** Point of order: Dr John Kaye has well and truly transgressed into the area of debate on the second reading of the bill. This debate should be about whether this matter is urgent and whether it should be brought on, not about the relative merits of the debate. Dr John Kaye is quite at liberty to make his spurious comments once we get back into debate on the second reading of the bill. We are not currently at that stage.

**The Hon. Peter Primrose:** To the point of order: I note that the Hon. Duncan Gay makes reference to urgency. This is not a motion about urgency and therefore all the precedents relating to urgency do not apply. This is purely a procedural motion as to whether one particular matter is more important than another. Surely the issues relating to the substance of the matters that were to be considered today should be put before this House. Therefore, Dr John Kaye is perfectly at liberty to argue that all the matters that the Government wishes to take off the *Notice Paper* for consideration today should be matters that are considered. How else can this House adequately consider whether one matter is more important than another?

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

**Mr David Shoebridge:** To the point of order: Dr John Kaye is well within his rights to speak about the merits of his private member's bill, which he was attempting to elucidate—despite the aggressive objections

from the Government—in relation to free-range eggs. We are yet to find out why there is an urgency to deal with Government business ahead of the business of other members of this House, which has been scheduled for a long time in private members' business. It indicates the continuing arrogance of this Government. The Government thinks it has stitched up a deal and it thinks that by having stitched up a deal it can ignore standing and sessional orders without explanation to either this House or the people of New South Wales. Government members are seeking to shut down debate and shut down the appropriate order of precedence.

**The PRESIDENT:** Order! The motion before the House is: That Government Business take precedence of General Business this day. Members should ensure that their comments are strictly relevant to that motion.

**Dr JOHN KAYE:** To your ruling: Let us have a look at what items are in the Order of Precedence.

**The PRESIDENT:** Order! Is Dr John Kaye canvassing my ruling?

**Dr JOHN KAYE:** No, of course I was not canvassing your ruling. In light of it I was saying that the Government is asking us to abandon debate on some very important issues. The first item in the Order of Precedence today is Mr Borsak's motion that leave be given to bring in a bill for an Act to amend the Firearms Act 1996 and the Firearms Regulation 2006 to make further provision with respect to the regulation and control of firearms; and for other purposes. I do not know what that legislation is about—

**The Hon. Helen Westwood:** It should be debated.

**Dr JOHN KAYE:** It should be debated. Clearly this is a matter that is aggravating the Shooters and Fishers Party. There is obviously something wrong with the Firearms Act 1996 that makes the members of the Shooters and Fishers Party feel that they need to bring in legislation. I am absolutely sure that my colleague Mr David Shoebridge—

**The Hon. Duncan Gay:** You are supporting them, are you?

**Dr JOHN KAYE:** I acknowledge the interjection. I do not know what the bill is about. The Government is trying to shut down private members' business and get its Government business on instead. Why it is doing that, we will never know.

**The Hon. Duncan Gay:** It is an ambush.

**Dr JOHN KAYE:** I never said it was an ambush.

**The Hon. Duncan Gay:** Because you cannot.

**Dr JOHN KAYE:** It is not. I never said it was. I cannot say it is a pot of green tea either because it is not a pot of green tea. What I am saying is that we do not know yet what is in this bill that Mr Borsak wants to introduce to amend the Firearms Act 1996, and we will not know what is in it if the Government motion gets up.

**The Hon. Charlie Lynn:** You don't care what's in it.

**Dr JOHN KAYE:** Of course we care what is in it. A debate about firearms is very important. As Mr David Shoebridge and my other Greens colleague will clearly demonstrate, if and when this legislation is brought on, there will be much to be debated about firearms. There are clearly two separate views in this Chamber about what the future of firearms should be. They are important views that should be aired. They are views that are very important to the Shooters and Fishers Party—to Mr Borsak and his colleague Mr Brown. They are views that should be aired and debated. That is the proper purpose of private members' business.

The second item in the Order of Precedence, which this motion will knock off, relates to a bill for an Act to define and regulate the labelling of free-range eggs—another very important matter that I have already canvassed so I will not delay the House further by going back over what I previously said other than to make it absolutely clear that there has been consultation with representatives of the free-range egg industry and they are very keen to see this debate take place. As the Deputy Leader of the Government will understand, the industry is very keen for a debate to take place on egg labelling.

The third issue is a very important motion by Mr Donnelly that notes that 9 to 15 May is National Volunteer Week and that the theme for National Volunteer Week 2011 is "Inspiring the Volunteer in You". That is a very important issue. Both the current Government and the previous Government identified the importance of volunteering, and both governments have had many things to say about volunteering.

**The Hon. Mick Veitch:** Matthew wants to talk on it. He's got his speech ready.

**Dr JOHN KAYE:** It has been pointed out by Mr Veitch that Mr Mason-Cox has a speech ready on volunteering. Clearly, in his heart, Mr Mason-Cox will not support this suspension of standing orders, because he desperately wants to talk about volunteering, as does Ms Barham, who has a long history of working with volunteer organisations and is very keen to make a very important contribution. I then come to the fourth item in the Order of Precedence. My colleague Mr Shoebridge seeks leave to bring in a bill for an Act—

**The Hon. Duncan Gay:** Point of order: I draw your attention to the standing order that refers to tedious repetition. Dr John Kaye is reading his way through today's *Notice Paper*. The *Notice Paper* has already been published. Dr John Kaye has read up to the fourth item. He is not adding anything to the debate. Dr John Kaye should come back and address the issue of why Government business should take precedence.

**The Hon. Greg Donnelly:** To the point of order: The point of order should not be upheld. The honourable member is entitled to put his case to the House, and he can do that in the way he wishes. The Deputy Leader says he is being repetitious.

**The Hon. Duncan Gay:** He is.

**The Hon. Greg Donnelly:** He is not; he is not repeating himself. Given the time that the Deputy Leader has been in this place he well knows that the honourable member's contribution would be repetitious only if he were to read the *Notice Paper* again and again.

**The Hon. Duncan Gay:** That is what he is doing.

**The Hon. Greg Donnelly:** The Deputy Leader is not listening. The honourable member is dealing with each item on the *Notice Paper* and that is probably the most valuable thing he can do to explain to the House why Government Business should not take precedence today. In my contribution to the debate on this motion I will address the fact that this time is normally set aside for Private Members' Business. We are debating the critical issue of whether this entire day should be set aside for Government Business at the Government's whim. It is important that each member be afforded the opportunity to articulate fully his or her case with regard to why the motion should or should not be supported. The reality—

**The PRESIDENT:** Order! The Deputy Leader of the Government has taken a point of order in relation to the contribution being made by Dr John Kaye. Strictly speaking, Dr John Kaye is in order. However, I point out to him that if he continues to talk too much about the *Notice Paper* in the way he is doing, he will fall foul of the standing orders.

**Dr JOHN KAYE:** Thank you, Mr President. I appreciate your ruling. It is not my intention to read the *Notice Paper* but to talk about the items on it. I feel the urge to do this because I want members to know what we will miss if this motion is supported. That is the substance of my contribution. Mr Shoebridge has given notice of important legislation amending the Local Government Act to provide for a minimum of three councillors per ward and thereby to restore democracy to local government. That is truly urgent given what is happening not only in the Illawarra but also in Ku-ring-gai, Botany and—

**Mr David Shoebridge:** And in the Premier's backyard.

**Dr JOHN KAYE:** Yes, and that may be another reason the Government has moved this motion. It does not want the embarrassment of the Premier's backyard being exposed by Mr David Shoebridge's bill. Ms Sophie Cotsis has given notice of a motion dealing with the International Workers' Memorial Day. Her giving notice of that motion on 4 May was prescient given what has happened with the occupational health and safety legislation and that if the Government's motion is successful we will presumably be talking about the right of workers to organise.

My colleague Ms Cate Faehrmann has also given notice of a very important piece of legislation amending the Threatened Species Conservation Act 1995 to ensure that people who undertake species impact

statements or other ecological assessments or surveys are truly independent. The Greens believe that that is an extremely important piece of legislation because time and again we have been done over by consultants in the pay of developers and other proponents. Ms Penny Sharpe has also given notice of an extremely important motion dealing with cardiovascular disease and heart disease. There are many more important motions on the *Notice Paper*, but they will not see the light of day because the Government wants to bring on its union-killer legislation. That legislation will undermine the right of the Industrial Relations Commission to operate independently and the right of unions and employees to have a fair hearing. As members might be able to tell, The Greens do not support this motion.

**The Hon. GREG DONNELLY** [10.03 a.m.]: As so ably articulated by the Hon. Peter Primrose, this debate is specifically about whether we should deal with Government Business today rather than what we all expected; that is, Private Members' Business.

**The Hon. Duncan Gay**: Point of order: The honourable member is misleading the House. We told crossbench members and members of the Opposition yesterday that we would bring on Government Business instead of Private Members' Business. The member is misleading the House by saying that he found out only this morning.

**The PRESIDENT**: Order! That is not a point of order.

**The Hon. Amanda Fazio**: You should have got a call to order.

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

**The Hon. Amanda Fazio**: That would be right.

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

**The Hon. GREG DONNELLY**: It is going to be a long day.

**The Hon. Duncan Gay**: We can be here all night.

**The Hon. GREG DONNELLY**: It might be a few days, and that is fine by us. This is a very specific debate about whether Government Business should take precedence today. I draw the attention of the House to the inaugural speeches made recently by a number of members. I will not go through them one at a time, but most, if not all, new members opposite talked about the great honour they felt at being elected to represent their constituency. In doing that, they welcomed the opportunity that that afforded them to raise in this place important matters affecting their constituency. They said that they would be looking for opportunities to raise important matters that they believe affect their constituency directly or the State more broadly. Of course, that has been facilitated in this House for many decades by members moving private members' motions. That procedure allows members to ventilate important matters publicly and openly and other members, whether they agree or disagree, can participate in the debate. Private members' motions typically take two forms. I will use my motion, which is item No. 3 on the *Notice Paper*—

**The Hon. Catherine Cusack**: Point of order: Mr President, I ask that you advise the honourable member to confine himself to the motion before the House. He is giving us a very tedious speech about how this process operates. The House already has that information. The motion before us is very specific and I ask that the member be instructed to direct his remarks to it.

**The PRESIDENT**: Order! The member should confine himself to the motion that Government Business take precedence of General Business this day.

**The Hon. GREG DONNELLY**: That is what I was endeavouring to do by differentiating between Private Members' Business—

**The Hon. Catherine Cusack**: Point of order: Mr President, the member is canvassing your ruling.

**The PRESIDENT**: Order! I have made my ruling. It is not necessary for the Hon. Greg Donnelly to add anything.

**The Hon. GREG DONNELLY:** I withdraw. As I was saying, private members' motions typically fall into two categories. My motion, which is item No. 3 on the *Notice Paper*, is an example of one category. Motions like this express a point of view or an opinion and provide an opportunity to discuss a matter that an honourable member believes is important to the community and that should be addressed.

**The Hon. Catherine Cusack:** Point of order: This is a procedural motion and I ask that the member be directed to return the motion before the House.

**Dr John Kaye:** To the point of order—

**The PRESIDENT:** Order! The member must confine his remarks to the motion that Government Business take precedence of General Business this day. There is no need for him to give the House a lengthy rendition of how the standing orders work.

**The Hon. GREG DONNELLY:** I was not giving a rendition about the standing orders.

**The PRESIDENT:** Order! The member should not canvass my ruling.

**The Hon. GREG DONNELLY:** If I cannot talk about Private Members' Business and the nature of it and compare it to what Minister Duncan Gay is trying to do, I do not know how far we can go.

[*Interruption*]

If you are trying to shut me down—

**The PRESIDENT:** Order! Is the member referring to me?

**The Hon. GREG DONNELLY:** No, certainly not.

**The PRESIDENT:** Order! The member will continue his remarks. The Hon. Catherine Cusack will come to order.

**The Hon. GREG DONNELLY:** As I was explaining, the role of Private Members' Business is quite different from other items of business that come before the House. I explained that Private Members' Business falls into two categories. Can I then go to this issue of Private Members' Business day? These days in the sitting week are devoted to Private Members' Business. The question the House has to determine, which is the substance of this debate, is what the Government is trying to do and what it wishes to bring forward. Should it take precedence over and wipe out Private Members' Business this week? In effect, that is what this debate is about and what I am addressing in this contribution.

As Dr John Kaye has properly and clearly articulated, there are a number of items in the Private Members' Business list inside the order of precedence. A number of matters have been put into the list by members of my party, the Labor Party, and by members of the crossbenches. Private members' day is the opportunity each week for private members to make their contributions. At the moment Government members do not have any items in the private members' list but let us assume for a moment that they did. The Government is trying to deny its own members the opportunity to ventilate important private members' matters. It is paradoxical that every one of its members in their inaugural speeches talked about coming before the House, representing their constituents and raising matters in the public domain, yet the effect of what the Government is trying to do today is to deny its members that very opportunity. That is at the heart of this debate. Private Members' Business is cherished as a time each week for this House to deal with private members' matters.

As Dr John Kaye said, the Government, without putting a position or an argument to assert its position, has said simply that Government Business should take precedence. At the very least some effort should have been made to present reasons to support the Government's case. Shortly, 41 members of this House—with you, Mr President, it is 42—will have to vote on whether the Government's motion should be supported. But members of this House do not know the Government's intentions and do not know what they are being asked to vote on. We can speculate; we can read the papers; we can get on the internet, we can do all sorts of things but we do not know what is behind the Government's intention.

It seems to me to be pretty rich that this Government talks about, and certainly did during the election campaign, transparency, openness with the New South Wales community and having an open door—I have heard all these phrases used by Minister Gay—but those things now seem to have been thrown out the window. We are only in the fourth week of sitting in the new Parliament and the Government, without any argument, without a scintilla of a case, seeks to suspend standing orders to deal with something but we not know what. The people of New South Wales do not know. I would have thought the 41 participating members in this House, and you, Mr President, have a fundamental right to know the basis of the Government's claim that its business should take precedence over Private Members' Business.

It is not that the Government has not made out its case; it has not even presented a case. We cannot defeat its case, because one has not been presented. We are left arguing a proposal that it seeks to do something. Why will the Government not put the case on the table? Why does the Government not explain to the people of New South Wales or to its own backbench why it wants to remove a procedure only four weeks old that provides opportunities for members on the backbench to bring before the House private members' items on behalf of their constituents. The leadership here is leading backbench members up the garden path. This is private members' day. The Government has not presented a case and the motion should be rejected.

**The Hon. ROBERT BROWN** [10.16 a.m.]: I need not remind the House that yesterday evening when the Government sought leave to continue with Government Business, leave was denied on the voices, and the voices came from that corner of the House opposite me. On many occasions during the last Parliament the former Government sought to do the same thing. Labor was in government then and I rarely sought to deny it the opportunity, as a government, to get on with its business. Dr John Kaye spoke about bringing on Government Business and said that the court of public opinion would frown upon this sort of activity. To my knowledge, the court of public opinion last sat on 26 March this year and will sit again on the last Saturday in March 2015. I do not believe this is anything more than the Opposition and The Greens seeking to deny the Government bringing on Government Business, whatever it might have been. Perhaps they should have taken the opportunity last night.

**Mr DAVID SHOEBRIDGE** [10.17 a.m.]: The Government has been given every opportunity but it has not given one scintilla of a reason why we should suspend standing orders. Government members are not seeking the call. They sit mute; they get the Shooters and Fishers Party to protect them and run their argument for them. The reason would appear to be that the Shooters and Fishers Party is keen to protect whatever grubby backroom deal it has done in the past 24 hours so it can get its contra for being the patsies of the Government. At least the Shooters and Fishers Party and the Christian Democrats had the decency to take a stand and try to support their grubby backroom deal, to support whatever contra deal they have been offered—

**The Hon. Catherine Cusack:** Point of order: I refer you to a ruling of former President Johnson:

To suggest that a motion has been moved in an ambush style when in fact standing orders were complied with is a reflection on the integrity of the House.

**The PRESIDENT:** I ask the member to cite the page number.

**The Hon. Catherine Cusack:** It is page 97. Mr David Shoebridge is reflecting on the integrity of the House.

**Dr John Kaye:** To the point of order: First, Mr David Shoebridge has not referred to "ambush". I listened to his speech very carefully, as I always do, and there was no reference whatsoever to the word "ambush".

**The Hon. Duncan Gay:** We heard that you watch him.

**Dr John Kaye:** I learn a lot from him.

**The Hon. Greg Pearce:** We are watching very closely.

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

**Dr John Kaye:** Secondly, the suggestion that what Mr David Shoebridge is doing would bring the House into disrepute is simply incorrect. Mr David Shoebridge was identifying that which has been identified in



the newspaper this morning: that a deal has been cut between the Coalition, the Shooters and Fishers Party and the Christian Democratic Party in order to push through the industrial relations legislation. It is entirely relevant to this debate for Mr David Shoebridge to speculate what the nature of that deal might be and to ask how that will affect the result of the suspension of standing orders, if indeed it goes ahead.

**Mr DAVID SHOEBRIDGE:** To the point of order: I simply never mentioned an ambush. It is point three in my speaking notes, and I have not got to that yet.

**The PRESIDENT:** Order! There is no point of order. However, I remind all members not to reflect on the integrity of the House during debate.

**Mr DAVID SHOEBRIDGE:** At least the Shooters and Fishers Party—the kill-anything party—as well as the Christian Democratic Party—

**The Hon. Duncan Gay:** Point of order: That comment is totally unnecessary.

**The PRESIDENT:** Order! There is no point of order. Mr David Shoebridge may continue.

**Mr DAVID SHOEBRIDGE:** As I was saying, at least the Shooters and Fishers Party, as well as the Christian Democratic Party, are going to have the courage to support the deal, to at least run the argument about this procedural motion so they can get their goodies from the Coalition in a couple of weeks or a couple of months. What is the deal?

**The Hon. Duncan Gay:** Point of order: Mr David Shoebridge is implying improper motives in the House. That is not acceptable.

**Mr DAVID SHOEBRIDGE:** To the point of order: I am simply seeking for the Government and the crossbenchers to expose what their motives are. In the absence of their identifying what their motives are, the simple fact that there has been a history of the conservative crossbenchers doing contra deals on legislation is relevant to the debate—

**The PRESIDENT:** Order! I have heard enough on the point of order. Did the Deputy Leader of the Government take offence?

**The Hon. Duncan Gay:** I did.

**The PRESIDENT:** Order! The Deputy Leader of the Government has taken offence. Will Mr David Shoebridge withdraw his comment?

**Mr DAVID SHOEBRIDGE:** Yes, I withdraw.

**The Hon. Marie Ficarra:** Well say it!

**The PRESIDENT:** Order! The Chair requires no assistance from the Hon. Marie Ficarra.

**Mr DAVID SHOEBRIDGE:** The issue before the House is: Why have this debate today? It would appear that the Government wants to have the debate today because it is scared of some fragile deal falling apart under the court of public opinion over the next week. The Hon. Robert Brown said that the court of public opinion had sat on 26 March to make a decision on this. But that court of public opinion was not told about the ugly plans of the Coalition Government to strip down public sector wages. The court of public opinion was not told that it was the plan of this Coalition to give the Hon. Greg Pearce absolute fiat over public sector wages and to remove the independent umpire—

**The Hon. Duncan Gay:** Point of order: Mr David Shoebridge is now way out of order. He has diverged completely from the motion before the House.

**The Hon. Peter Primrose:** To the point of order: I have listened carefully to the debate. Many speakers in the debate have been interrupted by frivolous points of order taken by the Deputy Leader. He is simply wasting the time of the House.

**The PRESIDENT:** Order! Mr David Shoebridge was not being strictly relevant to the issue of why Government Business should take precedence of General Business. I ask him not to traverse too far into the subject of the second reading debate on the bill, which is on the *Notice Paper*. I ask him to confine his remarks to precedence.

**Mr DAVID SHOEBRIDGE:** The question is: Why have this debate today? That is really the substance of this debate. Why are we having this business forced upon the House today? Less than 24 hours ago the Premier of this State—the new Premier, the one who came in with trumpets blaring, saying there would be transparency, openness and a place for public debate—said there would be a full and frank public debate upon the bill the Government is trying to seek to drive through this place.

**The Hon. Duncan Gay:** What are we trying to have, you are trying to stop.

**Mr DAVID SHOEBRIDGE:** I said, a full and frank public debate—a debate between parliamentarians and the general public. Less than 24 hours after the Premier made that commitment, he has obviously directed the team here, his Ministers in this House, to shove the legislation through. That promise to the people of New South Wales lasted less than 24 hours. Some 16,000 people signed a petition seeking to have a broad public debate about the intent of this Government to strip down public sector wages, yet within 24 hours of making a promise to have that debate the Government now seeks to shove the legislation through the only House in the Parliament where there is a scintilla of a chance of having a genuine debate.

This is the only House where there can be a genuine debate. Within 24 hours of the Government making a promise to have a discussion with the public and then bring the legislation before the House, it is trying to ram the legislation through. Why is the Government trying to ram it through? Because the Government wants to be sure to limit the amount of public scrutiny and the amount of public embarrassment, and simply try to force this legislation—with whatever baubles the Government has thrown to the conservative crossbenchers—through the Parliament without further ado.

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [10.26 a.m.]: Several speakers on the other side of the House have asked: Why have the debate today?

**The Hon. Tony Kelly:** Point of order: Mr President, the Deputy Leader of the Government has been given the call. He moved this motion. Does that mean he is now closing the debate, preventing other speakers from contributing?

**The PRESIDENT:** Order! Was the Deputy Leader of the Government seeking to make an explanation under Standing Order 89?

**The Hon. DUNCAN GAY:** I could have been. Yes, I was.

**The PRESIDENT:** Order! I apologise to the House for not asking the Deputy Leader of the Government in advance whether that is what he was seeking to do.

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [10.27 a.m.] (Standing Order 89): In the spirit of doing the right thing, as we do, I will seek to make a comment under Standing Order 89. Mr David Shoebridge and several speakers from the united coalition of Opposition, The Greens and Labor, have asked: Why have the debate today? If they were honest, they would know why we want to have the debate today: it is because they have been playing tricks.

**The Hon. Lynda Voltz:** Point of order: I refer to Standing Order 89, which states:

A member who has spoken on a question may only speak a second time to explain a matter on which the member has been misquoted or misunderstood. The member may not introduce any new matter.

**The Hon. Amanda Fazio:** To the point of order: For a member of this House to use the opportunity to try to explain themselves when they believe they have been misinterpreted in a debate, it is necessary for them to have given a speech in the first place. The Deputy Leader of the Government formally moved the motion, but he did not speak to the motion at that time. Therefore, the provision under which he is attempting to speak now is not appropriate. His opportunity to speak further in the debate comes when he has a right of reply. I urge you to uphold the point of order of the Hon. Lynda Voltz and direct the Deputy Leader of the Government to cease speaking.

**The Hon. Duncan Gay:** To the point of order: I was not seeking to clarify a speech that I did not make; I was seeking to clarify a statement and/or request from another member.

**The PRESIDENT:** Order! The member who moved the motion is permitted to make a contribution under Standing Order 89. However, he must confine himself strictly to those items where he feels he has been misunderstood. He may not introduce new matter.

**The Hon. Amanda Fazio:** Point of order: My point order is that the Deputy Leader of the Government is not allowed to introduce any new matter, given the fact that he has said nothing apart from moving the matter formally at the outset, and he has no right to speak at this stage of the debate. His only right to speak occurs when he has his right of reply at the conclusion of the debate.

**The PRESIDENT:** Order! There is no point of order. The Hon. Amanda Fazio is canvassing my ruling. The Deputy Leader of the Government has the call.

**The Hon. DUNCAN GAY:** The question was asked: Why today? The reason it is today is not that the Government is putting an ambush in place. We spoke to the crossbench and the Opposition yesterday and indicated that we would need to go today. The Government would have liked this bill to have been dealt with earlier this week. The reason it was not in earlier this week—

**The Hon. Eric Roozendaal:** Point of order: Mr President, in view of your previous ruling—I have reread Standing Order 89—the Minister is now producing a new matter in trying to explain that he had discussions to try to shift this legislation to earlier in the week. That is new matter. That is strictly prohibited by Standing Order 89 and is subject to the ruling the President has previously made.

**The PRESIDENT:** Order! The Deputy Leader of the Government should confine himself solely to matters on which he has been misunderstood.

**The Hon. DUNCAN GAY:** The misunderstanding by the members opposite that the Government has deliberately taken this day out of spite is simply not correct. The Government has had to take this day because the Opposition has played games with the House. Instead of moving—

**The Hon. Eric Roozendaal:** Point of order: In view of Standing Order 89 and the President's previous ruling, the Minister is yet again introducing new matter. He is now raising the conduct of the Opposition. He has not raised that previously. That is new matter and again he is in breach of the President's ruling.

**The PRESIDENT:** Order! The issue that the Deputy Leader of the Government refers to was raised earlier in the debate by other members. Therefore, the Deputy Leader of the Government is in order.

**The Hon. DUNCAN GAY:** The fact is we are here today because the Opposition has been playing games. The normal rule in this House is that the adjournment is moved for five calendar days. They deliberately moved it five sitting days, which took it until yesterday. That is why we were not able to finish yesterday, and it has to move until today. It is all their own work and they can bleat about democracy, they can bleat all they like, but they have been hoist on their own petard for playing tricks with this House.

**The Hon. Amanda Fazio:** Point of order: I refer to the President's previous rulings on this matter. The matters now being raised by the Deputy Leader of the Government are clearly flouting the rulings. I ask the President to bring the Deputy Leader of the Government back to his explanation—on whatever, I do not know.

**The PRESIDENT:** Order! Standing Order 89 does require the Deputy Leader of the Government to confine his remarks to matters on which has been misunderstood. Has the Minister completed his remarks?

**The Hon. DUNCAN GAY:** Yes, I have.

**The Hon. LYNDIA VOLTZ** [10.35 a.m.]: I am quite surprised by the explanation just given by the Hon. Duncan Gay.

**The PRESIDENT:** Order! I call the Hon. Matthew Mason-Cox to order for the second time.

**The Hon. LYNDIA VOLTZ:** As members are aware, the Opposition Whip was sick yesterday and not here. At the conclusion of question time yesterday and after the vote had been taken on the bill that was before

the House I asked the Leader of the Government, the Government Whip and the Deputy Government Whip what bill would be brought on next. I was informed that the next bill to be brought on was the courts bill. We were not told that the next bill to be brought on was the wages bill. In fact the only reason they knew the wages bill was coming over was because Dr John Kaye happened to be walking past at the time and informed us, "No, hang on. Duncan has just told us that they are going to bring on the wages bill." This has no precedence: the Government was not bringing it on, the Government Whip was not aware of it, the Leader of the Government was not aware of it, the Deputy Government Whip was not aware of it—

**Mr David Shoebridge:** They thought they were going to do court security.

**The Hon. LYNDIA VOLTZ:** Yes, they told us they were going to do court security. They said, "No, no, we are not bringing that bill on, Linda. That is not coming on." Here is a lesson for new members. There are actually members in this Chamber that have never been through a Private Members' Business day. The Hon. Walt Secord has never sat through one. The Hon. Adam Searle has not sat through one. Why? Because last Friday the Government was far too busy ripping up the occupational health and safety conditions of workers to have Private Members' Business day. This is not about Private Members' Business day.

**Dr John Kaye:** This is beat-up unions day.

**The Hon. LYNDIA VOLTZ:** This is about Government beat-up unions day. That is what it is all about. Here is a lesson for the new members in the Chamber. Walt Secord might be interested in this as a procedure. What do you do when you have a bad story running? What do you do when you have solar bonus schemes all over the place and you are being beaten up in the media? What you do is put out another bad story. And what you do if you are a Coalition Government is pick a fight with the unions.

**The Hon. Duncan Gay:** Point of order: The comments of the Hon. Lynda Voltz, entertaining, delightful and intriguing as they may be, are way outside the leave of the standing orders. Her comments have nothing to do with the issue before the House.

**The PRESIDENT:** Order! The Hon. Lynda Voltz will confine her remarks to the question before the House, which is that Government Business take precedence of General Business this day.

**The Hon. LYNDIA VOLTZ:** I do not think this bill takes precedence. Today I have a motion listed under Private Members' Business on National Reconciliation Day. Members of this Chamber will be aware that last Thursday was Sorry Day. National Reconciliation Day is an important day in this country. It is important that we continue to move forward and close the gap—but I will not go into the substance of the debate. The motions listed are important and they are entitled to be debated on private members' day. It is not a day for the Government to start pulling in legislation that as late as yesterday afternoon it had no idea was going to be brought on. The Government was not going to bring this legislation on. But something has changed and suddenly the Minister has come up with the idea that the legislation will be brought on.

We wasted a huge amount of time on the libraries bill. There is no reason to rush this legislation through. In the past when these types of bills have come before the House—I go back to the 1995 legislation—there was significant consultation with the community. A consultative process was undertaken that established a working party of peak industrial organisations to discuss reform proposals. That working party met on 11 occasions from April to November of that year. If the Government is serious about bringing industrial relations legislation into this House, and was serious about having a clear and transparent process those are the sorts of things that should be done.

**Dr John Kaye:** What about my egg bill? Isn't that important?

**The Hon. LYNDIA VOLTZ:** I will get to your egg bill in a minute. The Coalition did not go to the last election telling the electorate that it would introduce a WorkChoices-style legislation and cut the pay and conditions of the New South Wales public sector workers or undermine the New South Wales Industrial Relations Commission.

**The Hon. Duncan Gay:** Point of order: The Hon. Lynda Voltz once again has moved into areas that should be raised in a second reading contribution. If the honourable member allows us to debate the bill she can raise those points in her contribution.

**The Hon. Greg Donnelly:** To the point of order: The Minister for Roads and Ports would recognise that all members who have participated in this debate have put their case forward in a way that they believe is most effective in presenting it to the House.

**The Hon. Duncan Gay:** But it's wrong.

**The Hon. Greg Donnelly:** The Minister says it is wrong because he does not agree. The Hon. Lynda Voltz is making her case in a logical and cogent way and in a manner that we can all understand. It is completely inappropriate for the Minister to try to shut her down.

**The PRESIDENT:** Order! The Hon. Lynda Voltz should confine her comments strictly to the motion before the House, which is that Government Business take precedence of General Business this day.

**The Hon. LYNDIA VOLTZ:** I have stated my case about transparency in Government legislation and why Government business should not take precedence. The Chamber today should be acknowledging National Reconciliation Day. It is an important day for the Aboriginal people and for our community. The egg bill is another important matter that should be dealt with. The egg industry is an important industry that has often been overlooked by parliaments throughout the country. The public reaction to the claims of abuse in an Indonesian slaughterhouse shows the shifting concerns in the community and the demand for governments to act on the protection of animals. However, I will confine my remarks to the motion and not debate those issues.

**The Hon. JEREMY BUCKINGHAM** [10.41 a.m.]: I am most concerned that the Government has moved this motion. I entered this place committed to conciliation and working with the Government, wherever possible. There is discussion in today's media about totalitarian plans.

**The Hon. Robert Brown:** Were they talking about The Greens in Canberra?

**The Hon. JEREMY BUCKINGHAM:** No.

**The PRESIDENT:** Order! The Hon. Jeremy Buckingham will be heard in silence.

**The Hon. JEREMY BUCKINGHAM:** The reference was to scientists but also to the dangers of any totalitarianism.

**The Hon. Duncan Gay:** Point of order: I am reticent to take a point of order on a new member but his contribution has absolutely nothing to do with the motion before the House. His contribution relates to a matter that was before the House yesterday.

**The PRESIDENT:** Order! I have the gist of the point of order. The Hon. Jeremy Buckingham should confine his comments to the motion that Government Business take precedence of General Business this day.

**The Hon. JEREMY BUCKINGHAM:** In relation to the motion that Government business should take precedence of general business, one of the criticisms of the previous Government was that it did not act in a consultative way.

**The Hon. Robert Brown:** It did with The Greens.

**The Hon. JEREMY BUCKINGHAM:** I am saying it was one of our principal criticisms. The Government should consider the maxim that the reward of patience is patience. I refer to a motion I have on the *Notice Paper*, item No. 49 of Private Members' Business.

**The Hon. Duncan Gay:** We would not have got to that, with the best will in the world.

**The Hon. JEREMY BUCKINGHAM:** But the Government's motion for Government business to take precedence does not show goodwill. In fact, as I said earlier, it shows a totalitarian plan. I have been constructively engaged in discussions with Government members about the coal seam gas industry, which is of enormous concern to communities across New South Wales. I have been flooded with emails and letters and community groups are forming on a daily basis in relation to this issue. My motion, item No. 49, states, "That this House notes that there is a coal seam gas rush occurring in New South Wales." It continues for a number of paragraphs. I will not bore the House with it.

**The Hon. Greg Pearce:** Except you already have.

**The Hon. JEREMY BUCKINGHAM:** It will be of enormous interest to the House when we debate it. The key point is that my motion relates to a pressing issue right now for communities across New South Wales. The Government should address it and other pressing matters. I was at Austinmer beach last weekend, where thousands of people were gathered demanding immediate action on this issue. Residents of Camden have contacted me about this matter. The Minerals Council contacted me yesterday about its concerns. Today's paper states that the Minerals Council is concerned about being compared to the coal seam gas industry and being tarred with the same brush. It is a very important issue. The Government should show goodwill and not ram its legislation through the House. A new Government acting in this way sends a poor message to the community and to me as a new member that it disregards issues that I and a huge number of people in the community consider important.

**The Hon. AMANDA FAZIO** [10.46 a.m.]: I oppose the Government's proposition that the House not deal with Private Members' Business today. I draw attention to the way the Government deals with business in this House. Although the House now sits four days a week rather than three as we previously did, the Government still cannot manage its legislative timetable. That is not because it has such important matters to bring before the House. The Government has wasted a great deal of the House's time. In particular, I have read the debates in *Hansard* on the Library Amendment Bill. They were an indulgence on the part of Government members. Libraries are very important to our community but we do not need to know the favourite childhood reading material of every member of the Government backbench.

The House lost a private member's day last week and the Government has had no discussion about when matters listed for that day will be dealt with. The Government has the numbers in this House only with the support of the crossbenches. The crossbenches have the right to have their matters ventilated on private members' day. Two weeks in a row the Government has proposed that the House not deal with Private Members' Business—not because we are nearing the end of a session and it has to get through legislation that has banked up. This is only the fourth week of the parliamentary sittings. The reason is that the Government cannot manage its legislative timetable. It has been given directions by the Premier to get the industrial relations legislation through the House today.

The Government says it is important legislation, but we know that Government members have been told by their leader, the Premier, that if they do not get the industrial relations legislation through the House today we will sit all night and through to tomorrow morning. The Government has moved this motion not because it is the end of a session but because it wants to get through an embarrassing piece of legislation. It has no right to deal with that legislation today, because it is Private Members' Day. It has an embarrassing and red-hot piece of legislation—on which there has been no consultation and no genuine public debate—and it wants it done and dusted and out of the way as quickly as it can. It is doing that because it knows that if it can get through the most draconian pieces of its legislation in the first sitting of Parliament it might have a hope in hell of being re-elected in four years time.

The way the Government is acting at the moment and the way it is treating democracy with such scant regard, there is no way it will have an easy walk back in. If I were a Government backbencher in the other place I would be looking at my margin. After the Government rams through this piece of legislation, with no public debate and no consultation with the unions, the Government will not have to worry about managing all the members it did not expect to win seats because those members will not have a hope in heaven of winning their seats in the future.

**The Hon. Duncan Gay:** Point of order: I know how excitable the honourable member is, but the latter part of her contribution has nothing to do with the motion. Her hectoring of the Government on what is happening or is not happening that will affect the seats of members in the other place has nothing to do with the matter before the House.

**The Hon. Greg Donnelly:** Point of order—

**The PRESIDENT:** Order! I do not need to hear the point of order of the Hon. Greg Donnelly. The Hon. Amanda Fazio has been in order for most of her remarks. However, I remind her that the motion before the House is that Government Business take precedence of General Business this day.

**The Hon. AMANDA FAZIO:** As I was saying, I believe there is no valid reason for Private Members' Business not to proceed today. Crossbench and Opposition members constitute more than 50 per cent of the

membership of this Chamber. We are allocated one day of four to deal with private members matters—matters that not only crossbench and Opposition members but also Government backbenchers can bring forward. For two weeks in a row the Government proposes that this Chamber not deal with Private Members' Business. The Government has not told us why its bill is so important. It is not as if something will happen tomorrow that will make its bill redundant if it does not get through today. The only thing, which has been alluded to by other members, that the Government's motion could relate to is the police wages case that is being heard at the moment before the Industrial Relations Commission.

There is no valid reason for this motion—none! The lack of Government members speaking to the motion to say why they believe this bill is so important is very, very telling. There are on the notice paper plenty of important private members' items inside the order of precedence that this Chamber should be dealing with today. There is no valid legal, constitutional or any other reason—apart from grubby political imperatives on behalf of the Government—for bringing forward and having this Government bill debated today. Quite frankly, it can wait till the next sitting week. As I have said, Opposition and crossbench members constitute more than 50 per cent of the membership of this Chamber, yet the Government seeks to deprive Opposition and crossbench members of any time, last week or this week, to bring on their business. That is a disgrace. It goes to the heart of the question whether the Government takes seriously the role of the Legislative Council as a House of review—a House that is elected on the basis of proportional representation.

What is the point of electing members on the basis of proportional representation if the Government just declares that all of the time of the Chamber is to be Government business time? That is not right. Today we have to stand up for our rights. It does not matter whether the wages bill is something that Government members have sold their souls for; as Opposition and crossbench members we have to stand up and tell the Government it cannot keep taking our Private Members' Business days off us, particularly at the beginning of a session and particularly—

**The Hon. Greg Pearce:** All right, Amanda. We will sit an extra week and you can have the whole week for Private Members' Business. Would you like that?

**The Hon. AMANDA FAZIO:** I note the threat of the Minister.

**The Hon. Greg Donnelly:** Point of order: I, like all members of this House—except perhaps the Hon. Greg Pearce—am trying to listen carefully to the contribution of the Hon. Amanda Fazio. However, the Minister continues to interrupt—

**The PRESIDENT:** Order! I have heard enough on the point of order. Members will listen to the Hon. Amanda Fazio in silence. Members will extend to the member the same courtesy that was extended to other members who contributed to the debate.

**The Hon. AMANDA FAZIO:** I was saying that the Government does not have the right to take up every minute of business of this Chamber. We have always had one day a week of Private Members' Business. If we were to be fair dinkum we would say that, given that we are sitting an extra day, we probably should have a little more than one day.

**The Hon. Greg Pearce:** Would you like more than one day?

**The Hon. AMANDA FAZIO:** So the Hon. Greg Pearce—

**The PRESIDENT:** Order! The Hon. Greg Pearce will come to order. I call the Hon. Greg Pearce to order for the second time.

**The Hon. AMANDA FAZIO:** Under the previous Government, when Private Members' Business was to be taken away, for whatever reason, why that was to happen was usually discussed with crossbench and Opposition members. Then it would be negotiated when that lost day would be given back. Private members' days did not just evaporate; opportunities were provided later. We have had none of that from this Government. It just wants to run the agenda of this Chamber 100 per cent, ignoring everybody else. That it has 19 of 42 seats does not mean it has 100 per cent of business time, and it is about time the Government realised that. I urge all crossbench members to stand up for their constituents—the people who put them here—and demand that this Chamber deal with Private Members' Business on the days on which it is scheduled, and not allow this railroading of democracy in this House by this lot on the Government side who have shown by their actions to date that they do not care at all about the conventions of this place.

**The Hon. TONY KELLY** (Leader of the Opposition) [10.55 a.m.]: I will make a couple of points and reiterate some made by other members as well. When we were in government we certainly did occasionally take away Private Members' Business time.

**Dr John Kaye:** By negotiation.

**The Hon. TONY KELLY:** But that was by negotiation. I would have a discussion with crossbenchers in advance. It was always by negotiation. I always gave the guarantee that they would get that time back. It was always at the end of session that my Government took away their time, when we were trying to get Government business through. The deal was always that their time would be returned to them at the beginning of the next session. If this Government were fair dinkum and observed those conventions, when it was padding out the early weeks of this session it would have allocated a couple of extra private members days then and taken them back now. But, no, it has taken away private members' time just to force through two pieces of its legislation. What have been those two lots of legislation? Both lots of legislation, last week and this week, will trash workers' rights. This motion is a grubby attempt to get that Government legislation through.

I had two items of Private Members' Business on the business paper, both to do with St Vincent de Paul. I had a discussion with the Leader of the Government in this place about not seeking to deal with those matters formally so that they could be debated. But I lost faith in the Government delivering on Private Members' Business in the normal fashion. I chose instead to put those matters through formally early this week because I had lost faith in the Government to allow time to deal properly with Private Members' Business and observe the conventions of this Chamber. Finally, I note that the Hon. Lynda Voltz asked, "Why did the Government move to bring this legislation on?" That reminded me of Jeff Kennett, who years ago sought to cover up some bad news about solar panels. He put out a press release—

**The Hon. Duncan Gay:** What has this—

**The Hon. TONY KELLY:** It is interesting, will only take a second, and the Minister will love it.

**The Hon. Duncan Gay:** All right. I will give you the benefit of the doubt.

**The Hon. TONY KELLY:** Jeff Kennett put out a press release saying, "I'm going to have all the taxis in Melbourne the one colour, and they're going to be pink." There was great furore for about a week, and Kennett backed down. He said, "Look, I still want to have all the taxis the same colour, but they're going to be yellow." He went to the party room after and was pilloried by somebody in his party, who said, "What a silly thing to do! And after a week you capitulated anyway." Kennett held up a press release saying "300 country schools to close", and said to the member, "Did you see that?" He said, "No." Kennett said, "I put that out the same day."

**The Hon. JAN BARHAM** [10.57 a.m.]: I speak on this matter as a new member who is trying to understand the functioning of this place and what is going on in the new world that we live in. I am disappointed that Government business would take precedence of Private Members' Business today. I was very much looking forward to private members day. So many important matters are listed on the business paper. I have received representations from people who are looking forward to debate on those important matters. One is Dr John Kaye's bill regarding free range-eggs. Many people in my part of the world are concerned about this matter.

**The PRESIDENT:** Order! Members will listen to the Hon. Jan Barham in silence. They will extend to her the same courtesy that was extended to other members who contributed to the debate.

**The Hon. JAN BARHAM:** In my part of the world we are very strong on sustainable farming and on organic, biodynamic and free-range issues. The livelihoods of hard-working farmers are being undermined by lack of regulation of the free-range egg industry, and they very much look forward to the debate on Dr John Kaye's bill. I want to raise another item that is of great importance to me and many in the State, that is, the motion of the Hon. Lynda Voltz about reconciliation.

National Reconciliation Week is this week. If we do not speak about it today it will be recorded that this House did not acknowledge it in a timely manner. In addition, the rest of the country recognised Sorry Day. I am a new member of this place and I fully accept the changed environment that we are living in—we have a new Government and there is a new relationship between it, the crossbenchers and their power. However, I did



not expect that private members' day would be lost. I wonder whether new Government members fully understand what is going on, that we will lose private members' day and that so much time is being given over to Government business.

**The Hon. Duncan Gay:** None yet.

**The Hon. JAN BARHAM:** We have had some Government business today. I am a huge supporter of libraries and I have been a campaigner for libraries in my area for many years. I found it surprising to learn so much about some members' childhoods and their experiences with their first book and their first librarians. I heard members recount the many wonderful buildings across our State—the old School of Arts, the mechanics institutes and all those buildings where members first wandered in and picked up their first book. It was fascinating and wonderful to hear about the importance of those early days, but that debate was during Government business and I was waiting to hear Private Members' Business.

The other matter that is of great concern is the haste with which this legislation is being dealt. I have received calls and emails from members of the community who are very concerned. I am sure it is not the intent of the Government to create fear in so many people of this State. We live in a democracy and fear is not what this Parliament should be invoking in the people of New South Wales. All those public sector workers who have not been consulted are hearing about how their livelihoods are at risk. We should not feel proud of that.

Those workers should at least have the right to be consulted and heard, and not to be in fear for their futures from today onwards. Those people should be cared for because they care for us, and they should be respected because they respect all of us. They look after our children, they look after our society and they do the jobs that are most needed in society. Now they are fearful that they are going to lose some of their rights and some of their wages, and they have not been consulted. It does not create a healthy relationship with democracy in New South Wales when a new Government comes in and is willing to take away the right to private members' day and the right of people to be properly consulted.

For the second week in a row we will not have Private Members' Business day. Without wishing to offend my colleague Dr John Kaye—free-range eggs are important—I would like the opportunity to debate the motion of the Hon. Lynda Voltz in relation to National Reconciliation Week. The Hon. Lynda Voltz and I had a conversation the other day about the importance of having a debate on National Reconciliation Week because the House did not acknowledge Sorry Day last week.

**The PRESIDENT:** Order! There is far too much audible conversation on the Government back bench.

**The Hon. JAN BARHAM:** The Hon. Lynda Voltz and I both said that it would be important that on this day this week we have a debate on her motion about National Reconciliation Week and make reference to Sorry Day, which we missed acknowledging last week. We should feel ashamed of ourselves for not acknowledging Sorry Day. I regret that I did not put an item on the *Notice Paper* to acknowledge that it was Sorry Day last week.

**The Hon. Scot MacDonald:** It is still Reconciliation Week.

**The Hon. JAN BARHAM:** There is a difference. There are special days to acknowledge things, and we have a lot to do to make up for lost time and lost lives. Sorry Day was last week and we did not recognise it. Today, for my community and for the Aboriginal people across this State, I wanted to stand here in a responsible and respectful way to speak on National Reconciliation Week. I wanted to pay my respects to Aboriginal people and acknowledge that last week we did not acknowledge Sorry Day. I am disappointed that I have not heard an explanation as to why the industrial relations legislation has to take precedence. Is it because of the current police wages case? Is it, as some people are saying, because the regulation is already in place to take away rights from police?

This week we heard about the importance of police, and I certainly agree. My grandfather was a police sergeant, my uncle was a policeman his whole working life and my cousin is a policeman. But today the Government is attempting to get rid of private members' day to deal with legislation that will affect public sector workers—the other people in our society who do so much. I cannot support the Government taking away private members' day and disregarding the important business that is on the agenda and has been on the agenda this week and last week. After six hours of debate on the Library Amendment Bill, after all the talk about the

importance of police and other public sector workers, the Government has introduced a bill that is putting fear into the people of New South Wales. People who work in the public sector will open the newspapers and find that their lives are going to change and they did not know about it.

**The Hon. Duncan Gay:** Are you nearly finished?

**The Hon. JAN BARHAM:** Am I nearly finished? I could probably go on for days and days about this. Having waited for so long to be in this Chamber—

**The Hon. Marie Ficarra:** We've got the whole weekend. Go for it.

**The Hon. JAN BARHAM:** Yes, we have the whole weekend. For the second week in a row the Government has got control of business and can do anything it likes. It is taking away an important day when the motion of the Hon. Lynda Voltz in relation to National Reconciliation Week could have been debated. I will feel embarrassed when I walk out of this place, whether it is tomorrow morning or Sunday morning, and know that we have not dealt with that matter. I will feel ashamed, and I imagine everyone else will too.

Free-range eggs are important for my community and every country community in the State. I would like to know whether other new members could enlighten me as to what I am misunderstanding or what is not clear to me about why we have to give up another private members' day to allow the Government to bring on business that has not yet been properly discussed in the public domain, that is creating fear in the community and that seems to be a response to the police wages case. I am disappointed and I cannot support the motion.

**The Hon. PETER PRIMROSE** [11.07 a.m.]: I briefly wish to associate myself with the concerns expressed by members who wish private members' day to proceed. I had sincerely hoped that a debate would take place today, in which one side would put a position and others would respond and then we would have a proper debate, which is what a House of review is about. Instead, it has been an exercise in cryptography. The Deputy Leader of the Government moved a motion and made a few cryptic comments when he took points of order, many of which you, Mr President, quite correctly ruled out of order. Then the Deputy Leader of the Government gave an explanation, but at no point has he put the case for the motion.

None of the other trenchant supporters on the other side of the House—who have been quite happy to interject throughout the debate—has been prepared to stand up and say why they support the position of the Deputy Leader of the Government. I can understand that, because the Deputy Leader of the Government himself has not stood up and put his case. He will stand up now in his right of reply and then he will put his case. He will shut off the debate and no-one will have the opportunity to respond to his position. He will stand up and give a range of reasons, and I look forward to hearing them, because I cannot believe he would simply stand up and say, "The Government has said this. We are the Government and that is why we believe this should happen."

I look forward to his presenting a cogent, reasoned argument. However, unfortunately he will also be denying us the opportunity to have a proper debate on what I believe is a very important motion. I look forward to the Hon. Duncan Gay's eventual contribution in reply, but I regret that I will not be able to respond to the points he makes because the standing orders will not allow it.

**Reverend the Hon. FRED NILE** [11.10 a.m.]: I will make a couple of comments for the benefit of new members. Members have said that the time for debating Private Members' Business will be reduced because of this motion. No private members' time will be lost. A very strict record is kept by the Clerks to ensure that honourable members have the hours allocated for Private Members' Business available to them. Every hour listed will still be available to members to deal with Private Members' Business. That has been the usual procedure, particularly over the past 16 years under the Labor Government.

On a number of occasions days set aside for Private Members' Business were taken over for debate on Government business because legislation had to be dealt with urgently, and that was done with the support of crossbench members. Time for debate on Private Members' Business is not lost. I believe the Government has the right to proceed with debate on major legislation. Yesterday we began debate on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 and the Government wants to continue that debate today, so members all know what we are talking about. We should proceed with Government business.

**The Hon. CATE FAEHRMANN** [11.12 a.m.]: I oppose this attempt by the Government to shut down debate on Private Members' Business today. I am particularly disturbed that the Government has given no

reasons for the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 to take precedence over Private Members' Business. Crossbench members and Opposition members give a great deal of thought to the Private Members' Business they want to debate, including the items now on the *Notice Paper*. I note the point made by Reverend the Hon. Fred Nile that the Private Members' Business time we lose today may perhaps be returned to us at some in the future.

**Reverend the Hon. Fred Nile:** Not "perhaps"; it will be.

**The Hon. CATE FAEHRMANN:** I take that point. However, this Government continues to put off Private Members' Business. As members have already pointed out, this is the second time that has been done in the four weeks that we have been sitting. The Government has attempted to defer debate on Private Members' Business on two out of four occasions on which it should have been debated. That sends the message that Private Members' Business can be deferred and that it is not urgent or necessary. I have given notice of the introduction of a very important piece of legislation dealing with accreditation of ecological consultants who undertake environmental impact and assessment studies of some of the biggest developments in this State, including coalmines.

The concern is that some ecological consultants undertaking these assessments might not be taking into account the best interests of the environment but, rather, those of the developer. This is an urgent situation. I am regularly contacted by concerned members of the community and consultants who tell me that, as we speak, some dodgy operators are doing field surveys, assessing fauna and flora, and preparing reports for their clients, whether they be coal companies or property developers, that may not be truthful.

**Dr John Kaye:** It is perverse incentive.

**The Hon. CATE FAEHRMANN:** Yes, it is.

**The Hon. Duncan Gay:** Point of order: Once I again, I am reluctant to take a point of order on a new member. However, the member is straying into the second reading stage of the debate on a bill that she intends to introduce in this House rather than addressing the motion before the House.

**The PRESIDENT:** Order! Once again, I encourage the member to confine her remarks to the motion before the House, which is that Government Business take precedence of General Business this day.

**The Hon. CATE FAEHRMANN:** I was talking about the urgency of my private members' motion and the order of precedence. I am very keen for this bill to be debated. I was disappointed last week when Private Members' Business was deferred and I am disturbed that it is happening yet again this week. We have our suspicions about the reasons for this motion. Of course, we have not heard those reasons from Government members. We do not get much time to debate Private Members' Business in this House. We have only about three hours of genuine debate each week about these very important bills. I am concerned that in three or four weeks another Private Members' Business day will be deferred and that we will not be able to make up that time.

Members have important items on the *Notice Paper*. Reverend the Hon. Fred Nile alone has about 15 items that he wants to debate. We must be able to debate Private Members' Business today. The Hon. Amanda Fazio emphasised the importance of Private Members' Business and said that we should not be expected to give it up. If that does happen, the Government should have a very good reason. Most members know why the Government wants to ram through the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill: it wants to escape public scrutiny. It also wants to escape the severe public outcry that will result from its being rammed through tonight. That is clearly what it is trying to do.

**The Hon. LUKE FOLEY** (Deputy Leader of the Opposition) [11.17 a.m.]: I concur with the opposition expressed by numerous members of the House to the motion moved by the Hon. Duncan Gay. There is no pressing need for this House to deal with the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 today. Not one member of the Government has put the case in support of this House suspending debate on Private Members' Business to bring on that debate today. Government members who were so articulate when I entered this place last year in pointing out the shortcomings of the former Government have become Trappist monks today and cannot or will not put the case in support of knocking over Private Members' Business to debate this bill. Why must it be passed today? I ask members opposite to give us just one reason. We have not heard one.

**The Hon. Duncan Gay:** You have had one.

**The Hon. LUKE FOLEY:** Not one member of the Government has given us a reason to support this motion.

**The Hon. Duncan Gay:** You have one, so sit down!

**The Hon. LUKE FOLEY:** I will sit down when I am ready. The Leader of the House moved a motion without speaking a single sentence in support of it. As numerous members have said, Private Members' Business conventionally takes place on one day of the week. The Leader of the Opposition put very well the way in which that was dealt with when he was Leader of the House. He acknowledged there were times when a particular item of Government business was so pressing that the Government felt it necessary to suspend Private Members' Business to bring on that Government business.

However, he pointed out that it was done through consultation with the various parties represented in this House, that it was done almost always towards the end of a session, not in the first weeks of the session, and that when it was done there was generous provision for that time to be given back to private members. The Leader of the Opposition put it well. As shadow Minister for the Environment I take particular interest in various items of private member's business on the *Notice Paper*.

**The Hon. Duncan Gay:** You are shadow Minister for the Environment?

**The Hon. LUKE FOLEY:** Yes, I am shadow Minister for the Environment. I am also shadow Minister for Energy. I am also shadow Special Minister of State. There are a great many items of Private Members' Business on the *Notice Paper* that I take keen interest in and that I believe are more pressing than the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011. There are numerous items of Private Members' Business that warrant more immediate attention than the particular item of Government business that the Leader of the House seeks to bring on for debate.

The Hon. Robert Brown draws my attention to item 63 on the *Notice Paper*. He has taken advantage of his rights as a private member to give notice of his bringing in a bill for an Act to amend the Game and Feral Animal Control Act 2002 to make further provision with respect to the management and regulation of the hunting of game, and for other purposes—that is, the Game and Feral Animal Control Amendment Bill. I know that is a matter that the Hon. Robert Brown feels strongly about. As shadow Minister, I have a particular interest in some of the matters canvassed by the Hon. Robert Brown in that bill. Today it is more pressing for the House to debate that or to debate the honourable member's marine park moratorium legislation than to consider the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011.

**The PRESIDENT:** Order! Members who have contributed to the debate have been heard in silence. Members will extend the same courtesy to the Hon. Luke Foley.

**The Hon. LUKE FOLEY:** The Premier promised higher standards. He gave the other place and the people of New South Wales lecture after lecture about his commitment, about his party's commitment, about the Coalition's commitment to higher standards of government. I have read umpteen contributions from the Premier in the other place about the standards of parliamentary debate and parliamentary process that prevailed under the former Government. Mr O'Farrell, with a level of unctuousness and piousness, lectured us ad nauseam about how his Government would bring in higher standards of accountability, higher standards of parliamentary propriety, if he were elected on 26 March.

Yet what do we find? In the fourth sitting week of the Fifty-fifth Parliament all of that rhetoric has been tossed out the window so the Government can ram through the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 in a single day. Four weeks into the Parliament and all the commitments that Mr O'Farrell so piously gave prior to the election have been thrown out and this Government's legislative program has entered the realm of farce. It took 16 sitting days for all the pious gestures and solemn vows of Mr O'Farrell in recent years about higher standards of parliamentary process under the Liberal-Nationals Government to be forgotten.

The Hon. Greg Donnelly reminds me that earlier this week we spent an entire day, a day devoted to Government business, dealing with the Library Amendment Bill. Government speaker after speaker told us about the first book they read as a kid. This is a mob that had 16 years to prepare for government, that purports

to have an action plan to make New South Wales number one again, and in the fourth week of sitting of a four-year Parliament—the Fifty-fifth Parliament—it is reduced to trotting out more than a dozen speakers to tell us about the first book they read in preschool. Two days later the Government has the hide to tell us that Private Members' Business can be hit out of the park, can be hit for six, because it needs a day to deal with urgent Government business.

If it were so urgent one would think that after 16 years of preparing for government, after the Transition to Government Task Force it had operating over the summer, it would have its affairs in order so that in the first sitting weeks Government business days could deal with the Government's legislative priorities. It is just grossly hypocritical in the extreme for the Government to tell us with a straight face that it must remove private member's day in the fourth week of sitting of the Fifty-fifth Parliament after inflicting on us Government backbencher after Government backbencher to tell us about the books they read in the sandpit. It has some hide to do that less than 48 hours after what it inflicted on us on Tuesday. We do not accept it.

The Liberals and The Nationals have not learnt the lesson of the 2004 Federal election. After the election the Senate ceased to operate as a House of review and became a rubber stamp. The Labor Party might have suffered a crushing defeat on 26 March—we might be down, but we are not out. If Government members think we are going to let this House become a rubber stamp they have another think coming. We will act as a House of review. We will talk to the crossbenchers in their many guises about this House acting properly and fulfilling its functions as a House of review.

What we will not do, I can assure you, is be the lazy, bludging outfit that the Liberals and The Nationals were for 16 years in opposition, which only served to prolong their stay in opposition. We will be a combative and fighting Opposition. We will hold this Government to account. We will ensure that this House fulfils its constitutional duties to act as a House of review and we will not start in the first months of the new Parliament by allowing the Government to ram through legislation that strips workers of their entitlements. The Liberal Party and The Nationals have not learnt the lesson they should have learned when John Howard's Government was defeated in 2007.

The House of review became a rubberstamp: that was the act that terminated the Howard Government. What I see when I look across the Chamber are Government members conducting themselves with arrogance, with a swagger. I remind them that pride comes before a fall. The sort of display we saw in question time yesterday, where the Deputy Leader of the Government acted so sneeringly and dismissively towards the Hon. Shaoquett Moselmane—

**The Hon. Duncan Gay:** Point of order: As amusing as this contribution is in its stupidity, the Hon. Luke Foley is breaching the standing orders because he is not addressing the motion before the House. He is delivering a personal diatribe.

**The Hon. Greg Donnelly:** To the point of order: The Deputy Leader described the contribution of a member of this House as "stupidity". He cannot have it both ways.

**The PRESIDENT:** Order! While the contribution of the Hon. Luke Foley has largely been in order, I remind him—as I have had to remind a number of members in this debate—that he should confine his remarks to the motion before the House, which is that Government Business take precedence of General Business this day.

**The Hon. LUKE FOLEY:** Thank you, Mr President. I will return to the matter that you rightly point out is the subject of the debate at hand—that is, whether Private Members' Business or Government Business ought to take precedence today. As I have said, the Government has not put the case as to why Private Members' Business ought to be taken away from honourable members today.

**Dr John Kaye:** Where are the Government speakers on this matter?

**The Hon. LUKE FOLEY:** I acknowledge the interjection of Dr John Kaye. I point out to him that there simply have not been Government speakers putting the case as to why Government Business, and this particular bill, the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011, ought to take precedence today, rather than any other day. The Government has removed the right of members of this House to debate the very many items of Private Members' Business on the *Notice Paper*. The Government has not made the case as to why Government Business ought to have precedence today.

Reverend the Hon. Fred Nile and the Hon. Robert Brown have had the decency to put to the House their views as to why the motion moved by the Deputy Leader of the Government ought to be supported. I acknowledge the contributions they have made. However, I believe that neither of those gentlemen put an argument as to why this particular legislation has to be dealt with today. We know what is really going on here. This is an attempt to ram through a piece of punitive legislation before the community wakes up to what is going on. I do not believe that is good enough. I believe it certainly flies in the face of the numerous commitments given by Mr O'Farrell and senior members of the Liberal Party and The Nationals prior to the election—commitments that went to the issues of how the Parliament would work, higher standards of governance and workplace rights.

If the House carries the motion moved by the Deputy Leader of the Government and proceeds to ram this legislation through today, without widespread community discussion and debate on it, I believe that that will be a breach of the very many commitments that were given by the Premier and senior members of the Government prior to the election, and indeed have been given since the election. On 4 May, the day after you, Mr President, were elected as President of this House, I recall the Premier and the Leader of the House in the other place, the Hon. Brad Hazzard, making commitments—indeed, I have read them in *Hansard*—about the way the Fifty-fifth Parliament would operate under this Government. All sorts of commitments were made at that time. I urge honourable members to read the *Hansard* record of 4 May and look at what the Premier and Brad Hazzard said on that day.

The Premier and the Leader of the House in the other place were critical of the way the former Government conducted the business of Government legislation. That is their right; indeed, I thought they made some persuasive points. But they certainly did not indicate that within the first month of the sitting of the Fifty-fifth Parliament their envoys would come into this Chamber and seek to strip honourable members of their right to debate Private Members' Business in order to ram through a piece of punitive Government legislation that they do not want to have circulated throughout the community before it is rammed through. In fact, what they promised was the opposite. All their rhetoric was about higher standards, better standards, and the fact that urgency would only be sought in that first week, to get the momentum of both Houses up to speed. Indeed, the Premier and the Leader of the House in the other place gave undertakings that under this Government they would not use urgency as a regular device to progress Government legislation.

I oppose the motion moved by the Deputy Leader of the Government. I note that no member of the Government has risen to his or her feet to support the motion moved by the Deputy Leader of the Government. The Government has not made the case as to why Government Business ought to have precedence today. We know what this is about. This is a manoeuvre by the Government to ram through a piece of punitive legislation that strips away rights that hundreds of thousands of people employed in the New South Wales public service enjoy today. Labor will fight tooth and nail against attempts by conservative governments to strip away the rights of working people. We certainly will not sit here and stomach a manoeuvre from a Government whose Premier put his hand on his heart and promised higher standards of parliamentary conduct. I oppose the motion.

**The PRESIDENT:** I call the Deputy Leader of the Government in reply.

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [11.38 a.m.], in reply: Thank you, Mr President. We have just heard an impassioned—

**The Hon. Penny Sharpe:** Mr President—

**The PRESIDENT:** Order! Before I called the Deputy Leader of the Government to commence his reply, I deliberately waited to see whether another member would seek the call, as I did before the Hon. Luke Foley sought the call. The Deputy Leader of the Government has commenced his reply.

**The Hon. DUNCAN GAY:** She was too late.

**The Hon. Rick Colless:** Oh, let her speak.

**The Hon. DUNCAN GAY:** No. Thank you, Mr President. We have stepped back a couple of times on this. We have just heard an impassioned speech by the Deputy Leader of the Opposition—

**The Hon. Mick Veitch:** Churchillian.

**The Hon. DUNCAN GAY:** —Churchillian in its delivery, to protect the rights of members to have their motions as listed on the *Notice Paper* debated. The Hon. Luke Foley described the Government as lazy and bludging, saying we stopped the rights of private members to have their bills debated. Having heard such a great

contribution from this man, I thought I would check the *Notice Paper* to see what matters of great public importance he has and how many of them are on the list. I was disappointed to find that there was not one! This great defender of Private Members' Business has not taken the trouble to put one of his motions on the *Notice Paper*. The bloke is a fraud and a hypocrite!

**The Hon. Greg Donnelly:** Point of order: The honourable member has been around the block a few times as a member of this House and well knows that it is unparliamentary to attack another member of this House, or a member of the other House. I ask the honourable member to withdraw his unparliamentary comments.

**The PRESIDENT:** Order! The member made remarks about another member that were unparliamentary. I direct the member to withdraw those remarks.

**The Hon. DUNCAN GAY:** I certainly withdraw remarks that are seen to be unparliamentary.

**The Hon. Greg Donnelly:** Unconditionally?

**The Hon. DUNCAN GAY:** Unconditionally, of course.

**The Hon. Luke Foley:** My Irish relatives would take great exception to me being referred to as Churchillian.

**The Hon. DUNCAN GAY:** I will have to let that one stand. But does that not highlight the hypocrisy of this debate? We have spent the past two hours defending something the Opposition allegedly strongly believes in, yet the Hon. Luke Foley has not even put a motion on the books. It is a fraud, as are members opposite. We are here today because they have been hoist on their own petard. They have been playing politics; playing funny games and have been caught out. To the great credit of crossbench members, not one of them has said the Government has sought to ambush because, quite properly, they could not—the Government spoke to them yesterday. The Government spoke to the crossbench yesterday and again today about the right to private members' day. We share the concerns raised by members—perhaps not the concerns of the Deputy Leader of the Opposition, who has been caught out on this one—that we need to replace the private members' days that have been lost. The Government regrets that it had to do it this way but had the Opposition not played games with this Parliament we would not have been forced into this situation. I commend the motion to the House.

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

**The House divided.**

**Ayes, 21**

Mr Ajaka	Mr Gay	Reverend Nile
Mr Blair	Mr Green	Mrs Pavey
Mr Borsak	Mr Khan	Mr Pearce
Mr Brown	Mr Lynn	
Mr Clarke	Mr MacDonald	
Ms Cusack	Mrs Maclaren-Jones	<i>Tellers,</i>
Ms Ficarra	Mr Mason-Cox	Mr Colless
Miss Gardiner	Mrs Mitchell	Dr Phelps

**Noes, 18**

Ms Barham	Mr Kelly	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Westwood
Ms Cotsis	Mr Roozendaal	
Mr Donnelly	Mr Searle	
Ms Faehrmann	Mr Secord	<i>Tellers,</i>
Mr Foley	Ms Sharpe	Ms Fazio
Dr Kaye	Mr Shoebridge	Ms Voltz

**Pair**

Mr Gallacher                      Mr Moselmane

**Question resolved in the affirmative.**

**Motion agreed to.**

## PRIVATE MEMBERS' BUSINESS

### Personal Explanation

**The Hon. LUKE FOLEY**, by leave: I wish to make a personal explanation. During the debate the Deputy Leader of the House misled the House by alleging that I had not placed any item of Private Members' Business on the *Notice Paper*. I remind the House that in the first week of sittings I placed on the *Notice Paper* item No. 52, relating to a call for papers, and that motion was carried.

## BUSINESS OF THE HOUSE

### Postponement of Business

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [11.50 a.m.]: I move:

That Government Business Notices of Motions Nos 1 to 3 be postponed until a later hour of the sitting.

**Question put.**

**The House divided.**

### Ayes, 21

Mr Ajaka	Miss Gardiner	Mrs Mitchell
Mr Blair	Mr Gay	Reverend Nile
Mr Borsak	Mr Green	Mr Pearce
Mr Brown	Mr Khan	
Mr Clarke	Mr Lynn	
Ms Cusack	Mr MacDonald	<i>Tellers,</i>
Ms Ficarra	Mrs Maclaren-Jones	Mr Colless
Mr Gallacher	Mr Mason-Cox	Dr Phelps

### Noes, 18

Ms Barham	Mr Kelly	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Westwood
Ms Cotsis	Mr Roozendaal	
Mr Donnelly	Mr Searle	
Ms Faehrmann	Mr Secord	<i>Tellers,</i>
Mr Foley	Ms Sharpe	Ms Fazio
Dr Kaye	Mr Shoebridge	Ms Voltz

### Pair

Mrs Pavey

Mr Moselmane

**Question resolved in the affirmative.**

**Motion agreed to.**

## BUSINESS OF THE HOUSE

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

**The Hon. LYNDIA VOLTZ** [11.58 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 69 outside the Order of Precedence, relating to National Reconciliation Week, be called on forthwith.

This motion should be dealt with urgently. The motion relates to National Reconciliation Week, which takes place this week, and National Sorry Day, which took place last Thursday. This Chamber has had no opportunity to acknowledge National Reconciliation Week or National Sorry Day.



**The Hon. Scot MacDonald:** Point of order: That is incorrect; I spoke on Reconciliation Week on Tuesday.

**The PRESIDENT:** Order! That is not a point of order. The Hon. Scot MacDonald will resume his seat.

**The Hon. LYNDIA VOLTZ:** This matter is more urgent than any other matter to come before the House, because it will be an indictment of this House if it fails to acknowledge National Reconciliation Week and National Sorry Day, which are important events for the people of New South Wales, particularly the Aboriginal people of New South Wales. Reconciliation Week acknowledges native title ownership of this land, and Sorry Day acknowledges the "Bringing them Home" report and the hurt that the people involved have been through. National Sorry Day acknowledges the apology of the Commonwealth Government to the Aboriginal people on behalf of the people of Australia.

It is very important that the New South Wales Parliament acknowledge Reconciliation Week and Sorry Day—more urgent than the industrial relations bill; that can wait. The debate I wish to bring on is more important, I believe, than the free-range eggs bill that Dr John Kaye has on the *Notice Paper*—important as that matter may be. Reconciliation Week should not pass without being acknowledged by this House. The reality is that if we do not do that today, and the House sets that debate down for another week, National Reconciliation Week is gone. I cannot recall when this House has not acknowledged Sorry Day or Reconciliation Day.

**The Hon. Scot MacDonald:** Reconciliation Week, not day.

**The Hon. LYNDIA VOLTZ:** I acknowledge the interjection of the Hon. Scot MacDonald. He is right: it is Reconciliation Week and Sorry Day. It is important that we do not allow those events to pass unnoticed. They are not insignificant. This House has acknowledgments of country and reconciliation, and their importance, but I can assure members that these events have huge significance for the Aboriginal community. It is important that the elected representatives in this Parliament can put forward views in relation to reconciliation. In fact, the theme of Reconciliation Week is "Let's Talk Together". Such a debate in this Chamber, on this day, during this week, goes to the heart of Reconciliation Week. This matter is more urgent than any other matter on the *Notice Paper*, and this Chamber should be considering Reconciliation Week and Sorry Day. It should allow members of this Parliament to acknowledge past injustices suffered by the Aboriginal people of New South Wales.

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [12.02 p.m.]: The Government opposes urgency in this case. It is an important topic. Frankly, it should not be taken tritely. Nor is it one that should be used politically. This House has just had a two-hour debate on the motion that Government business take precedence today. During that debate the issue raised by the Hon. Lynda Voltz was mentioned on a number of occasions. The House has made a firm decision to proceed with Government business. Sadly, the member is seeking to use this important week, which should be recognised appropriately, as a political tool to try to stop Government business. The Government opposes urgency.

**The Hon. JAN BARHAM** [12.03 p.m.]: I support the motion moved by the Hon. Lynda Voltz. I am so pleased that the member has moved to bring this matter on ahead of Government business so that we do not lose private members' day. I do not think the Minister understands the importance of the motion moved by the Hon. Lynda Voltz and the need for this House to debate Reconciliation Week. If we do not debate Reconciliation Week this Fifty-fifth Parliament, in its first month, will be unable to show its respect with contributions to a proper debate. Notwithstanding what is said by members in adjournment speeches and so on, the motion is about allowing this House to have a proper debate about Reconciliation Week, to show that we afford Aboriginal people the respect that they deserve.

As I have said and as the Hon. Lynda Voltz has just said, Sorry Day occurred last week and we did not have any recognition of that in a formal way in this House. As a new member, I am a little shocked that the House does not automatically do these things. We have a responsibility to show respect to Aboriginal people. We missed doing so on Sorry Day. I feel so sad about it that I will go back to my community with a sad heart for having missed that opportunity. As I have said, our missing of that opportunity was to be overcome by debating today, on Private Members' Business day, the motion moved by the Hon. Lynda Voltz regarding Reconciliation Week. Do members realise that if today passes without that debate, we have missed it?

Are we all to go back to our communities and say, "Sorry, the Fifty-fifth Parliament did not think it was sufficiently important to recognise Sorry Day, or to allow a debate on Reconciliation Week during Reconciliation Week"? That says we will let it pass and we will have the debate another time. Is that a message that we want to send? Is that the level of respect we have for the people of New South Wales—not only Aboriginal people but other people? They look to this Parliament for guidance about how to pay due respect,

about good governance and respect for all the people in New South Wales, to show that it is important that we address the wrongs of the past, that we acknowledge that we have a big job to do in closing the gap and bringing the lives of Aboriginal people up to an acceptable standard in the twenty-first century.

New South Wales needs to hear the message that this Parliament regards Reconciliation Week as important and gives it the respect that it deserves by at least acknowledging that it is urgent that the House debate this matter today, because tomorrow is the last day of Reconciliation Week. If I leave here today without this matter being debated—without this Chamber, at the beginning of the four years of the Fifty-fifth Parliament, demonstrating it is worthwhile allowing members on both sides to discuss this important matter in Reconciliation Week—it will be with a heavy heart that I go home this weekend and think about what this Parliament represents.

**Dr JOHN KAYE** [12.07 p.m.]: This matter is urgent and should be debated, for the reasons outlined by the previous two speakers. I take members to paragraph (b) of the motion:

(b) the theme for Reconciliation Week is "Let's Talk Recognition".

Those words alone impose on this Chamber an absolute obligation to debate this motion today—the last possible day for talking recognition, as it says in paragraph (b), while it is still Reconciliation Week. Not to talk recognition would be not just to have failed in our duty but to have insulted Aboriginal people throughout New South Wales. That would say to them that we are not prepared to set aside time—maybe half an hour, maybe an hour, maybe two hours—to recognise what has happened over the past 220 years.

The absolute urgency of this motion of course is that we are in Reconciliation Week. We are in the middle of the week in which the Aboriginal citizens of this State are acknowledged and recognised, when the rest of the people of the State—whether in schools, universities or TAFE colleges around the State—are talking recognition. By not according this matter urgency, by failing to bring the motion on now and give a number of speakers the opportunity to speak to the motion, we are denying the State the benefits of a Parliament that would set aside some time to talk about recognition. The urgency of the motion is the 220 years of Aboriginal history—a history that we failed in our duty as non-Aboriginal Australians to reconcile with the first citizens of New South Wales.

That urgency becomes absolutely crucial during National Reconciliation Week. Not giving these issues the ventilation they deserve is of grave concern. The Hon. Jan Barham said she would leave here with a heavy heart if we did not have the opportunity to talk about this today. I am convinced that there is a very strong sentiment within this House that supports this sort of motion.

**The Hon. Eric Roozendaal:** Hear! Hear!

**Dr JOHN KAYE:** Thank you, Eric. But reconciliation cannot happen if it is just given a tick. Reconciliation can happen only when we set aside time, and deliberately inconvenience ourselves to some extent, to talk about recognition and the past 220 years: what it means for Australians, what it means for the people of New South Wales and what it means for each and every community to be engaged in reconciliation.

This motion remains extremely urgent because today is the last day we can talk about National Reconciliation Week and honour our obligations to the Aboriginal people of this State. The larger those obligations are, the greater the urgency is for us to fulfil those obligations by debating this motion. It would be exceptionally small-minded of all of us to not support this motion. It would be small-minded to fail to recognise the history to which this motion relates and to fail to recognise the importance of this motion for the future of New South Wales and the healing that it offers. There can be nothing more urgent than to ensure that this House is a leader in the process of healing that National Reconciliation Week brings about.

We should not fail in our duty to be part of that healing. We should stand up for the Aboriginal people of this State and say to them proudly that we thoroughly believe that they are an important component of our society and that we will do everything we can to fulfil our obligations, particularly during this week of 27 May to 3 June, being National Reconciliation Week. This motion is indeed very urgent.

**The Hon. PENNY SHARPE** [12.12 p.m.]: I support the motion of the Hon. Lynda Voltz to bring on this motion for debate today. As other members have said, 27 May to 3 June is National Reconciliation Week. Since I became a member of this place the tradition in this House has been to take this motion seriously and to have full debate. Members have been able to put on the record how important reconciliation is to them and to their communities and the need for the process to be continued while we continue to deal with the issues of justice for our Indigenous people across New South Wales.

This matter is urgent because yesterday, without notice, the Government sought leave to cancel Private Members' Business. The Government was not given that leave. After a lengthy debate this morning the Government managed to cobble together the numbers to move on to Government business. We on this side of the House, who think that the issue of reconciliation is very important, have no recourse other than to bring this motion forward and to say that we want to discuss reconciliation. We want to fulfil the theme of National Reconciliation Week, which is "Let's talk Recognition".

I refer to the comments of the Hon. Jan Barham: We can walk away today or at the end of this week without having discussed National Reconciliation Week. We will have to front Aboriginal communities—not only Aboriginal communities but also non-Indigenous communities—who take the reconciliation cause very seriously and who had hoped that we would have a serious discussion and again place on the record in a bipartisan way the importance of continuing the reconciliation process through New South Wales. Today is our only opportunity to have that discussion, which is why it remains an urgent matter.

Private members' day does not exist for the Government or for the Premier; private members' day exists so that all members of this House have an opportunity to debate issues that they bring forward on behalf of the people of New South Wales. There was a long list of matters to be discussed on private members' day today: the Hon. Robert Borsak's Firearms Legislation Amendment Bill, Dr John Kaye's free-range eggs bill, National Volunteer Week and councillors and wards in local councils. Not everyone on this side of the House would have agreed with those items—in fact, three out of those four items I would not necessarily have supported. However, Private Members' Business is important because it is how the Legislative Council plays its role.

**The PRESIDENT:** I acknowledge in the public gallery the staff of Randwick City Council, guests of the member for Maroubra—a former mayor. No doubt they have also been in the other place to listen to the inaugural speech of another former mayor, the member for Coogee, which he gave in the last half hour.

**The Hon. PENNY SHARPE:** We welcome the people from Randwick City Council and hope that they do not get caught up in the New South Wales WorkChoices bill. I return to the matter at hand. Traditionally, this House has always debated National Reconciliation Week. This Chamber has always taken reconciliation seriously and many people, no matter what their point of view, have debated the matter. It is a disgrace that the Government will not allow National Reconciliation Week to be debated when today is the last opportunity to do so. I urge members, and particularly members on the crossbenches, to exercise their right to support this urgency motion and to allow us to debate and discuss National Reconciliation Week as it is happening so that we do not have to go back to our communities and tell them that we did not talk about reconciliation this week because the Government chose to ram through Wisconsin-style legislation.

**The Hon. GREG DONNELLY** [12.17 p.m.]: I make a contribution to this debate on the urgency of the motion brought by the Hon. Lynda Voltz in relation to National Reconciliation Week. Members of this House have served on important committees, in particular, the Standing Committee on Social Issues, which spent a great deal of time and effort looking at the issue of Indigenous disadvantage. There can be no doubt whatsoever from the two reports produced by that committee—an interim report and a final report—that in New South Wales and all around Australia the original Australians, our Indigenous brothers and sisters, suffer great disadvantage.

It has been a tradition now for some time in Australia that during National Reconciliation Week we take the opportunity as a nation to reflect on issues concerning the Indigenous people of Australia and to look at not just their culture but their general welfare and wellbeing. Whatever issue one likes to think about, whether housing, education, health or employment—one can go on and on—on any measurement, Aboriginal men and women and Aboriginal young people and children in this State are disadvantaged. As I said, the Standing Committee on Social Issues, chaired by the Hon. Ian West—a person who felt very passionately about the cause of Indigenous people in this State—produced two reports that outlined these important matters in relation to Indigenous disadvantage.

If we, as a House of review, as the Legislative Council of New South Wales—the largest State in the Commonwealth—cannot take time to talk about National Reconciliation Week there is something wrong. One member suggested that it could be as little as half an hour. Members opposite are switching off because most of them do not care about Indigenous disadvantage.

**The PRESIDENT:** Order! There is too much audible conversation on the Government backbench.

**The Hon. GREG DONNELLY:** The Deputy Leader of the Government accused members on this side of the House of playing politics in this debate. I make the point that backbench members opposite are not standing up to their own party to ensure that we debate relevant issues during National Reconciliation Week.

**The Hon. Trevor Khan:** And you've been so good standing up and making a contribution!

**The Hon. GREG DONNELLY:** The Hon. Trevor Khan should make a contribution himself if he wants to. At the end of the day he and his party are trying to shut down this debate. This is a very important matter but members opposite have pressed the mute button and are saying nothing so that this Government can bring on debate on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 and ram it through the Parliament. Debate on Private Members' Business is an important time for this House to deal with issues that are important to us and to our constituents. This is not a rural and regional versus city issue but members of every party do represent people outside the metropolitan area. It is in those small villages and towns that Indigenous disadvantage is often manifested in the worst possible way. I know from my time as a member of the Standing Committee on Social Issues that some members opposite feel very strongly about Aboriginal disadvantage. I have spoken to Government members who also served on that committee about the serious issues confronting the Aboriginal people of this State. The recommendations in the committee's interim and final reports had unanimous support. *[Time expired.]*

**The Hon. MICK VEITCH** [12.23 p.m.]: I support the motion moved by the Hon. Linda Voltz. This private member's motion should be debated today because it is urgent. Debates in this place today have highlighted a number of issues that you, Mr President, raised when you were Opposition Whip with regard to the way in which Private Members' Business is conducted. The debate today has reinforced the need for a revamp of the procedure. A motion about National Reconciliation Week should be debated automatically; it should not have to fight its way through the chook lotto process. It should certainly have precedence in Private Members' Business. What has occurred today, as outrageous as it has been, has strongly reinforced the case that you made as Opposition Whip. We must review the conduct of Private Members' Business.

This motion should be debated today because this is the second last day of National Reconciliation Week. The Hon. Penny Sharpe said that when we leave this place sometime today, tomorrow, or whenever, we should be able to report back to our communities—particularly our rural and regional communities—on the debate we had about National Reconciliation Week. It would be a shame if we did not have the opportunity to have that debate. I am also concerned that the Hon. Walt Secord and the Hon. Adam Searle are yet to experience private members' day. We have not had one during their time in this place. I want them to be able to participate just once in a debate on Private Members' Business. It is an outstanding and important day for us all. Denying them that experience is a disgrace. This matter should be debated today and I encourage all members to support the motion moved by the Hon. Lynda Voltz.

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

**The House divided.**

**Ayes, 19**

Ms Barham	Mr Kelly	Mr Shoebridge
Mr Buckingham	Mr Moselmane	Mr Veitch
Ms Cotsis	Mr Primrose	Ms Westwood
Mr Donnelly	Mr Roozendaal	
Ms Faehrmann	Mr Searle	<i>Tellers,</i>
Mr Foley	Mr Secord	Ms Fazio
Dr Kaye	Ms Sharpe	Ms Voltz

**Noes, 22**

Mr Ajaka	Miss Gardiner	Mrs Mitchell
Mr Blair	Mr Gay	Reverend Nile
Mr Borsak	Mr Green	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Cusack	Mr MacDonald	<i>Tellers,</i>
Ms Ficarra	Mrs Maclaren-Jones	Mr Colless
Mr Gallacher	Mr Mason-Cox	Dr Phelps

**Question resolved in the negative.**

**Motion negatived.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Order of Business**

**The Hon. GREG PEARCE** (Minister for Finance and Services, and Minister for the Illawarra) [12.32 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Government Business Order of the Day No. 2, relating to the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011, be called on forthwith.

The House previously resolved to move to Government business today, and this motion will give effect to that.

**Dr JOHN KAYE** [12.33 p.m.]: I move:

That the motion be amended by deleting all words after "That" and inserting instead:

Standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 101 outside the Order of Precedence, relating to gaming machines, be called on forthwith.

The issue of gaming machines is far more urgent and far more important than the industrial relations reforms the Minister is attempting to bring on. In 2008-09 \$10.5 billion was spent on electronic gaming machines in clubs and hotels around Australia, and another \$1.4 billion was spent in casinos. In 2009 Australia had 197,820 electronic gaming machines. That is 13,294 more gaming machines than we had in 1999. Electronic gaming machines remain the dominant segment of the gambling market over the past decade in both expenditure and tax revenue.

This matter is urgent. Right now the New South Wales Government, along with other State and Territory governments, is trying to stop the pre-commitment technology that was so strongly recommended both by the Productivity Commission and by the 6 May 2011 finding of the Federal parliamentary Joint Select Committee on Gambling Reform. Both of those inquiries, one political and one independent, very clearly found that the only way to address the appalling toll of gambling—the tens of thousands of people whose lives, whose family's lives and whose communities are affected by gaming machines—was to bring on mandatory pre-commitment.

Despite the importance—and here comes the urgency of this motion—of controlling those problems and huge economic and social costs they impose on our community, the New South Wales Government is standing in the way of implementing mandatory pre-commitment. Yes, of course it will cause difficulties for clubs, but what would one prefer to do—impose a financial burden on clubs or continue to see the people of New South Wales afflicted by problem gambling, where families, households and communities are severely damaged by addiction to gambling?

This matter becomes urgent because the deadline on the pre-commitment implementation is rapidly approaching. It is extremely important that this House has the opportunity to debate this issue of huge social significance, an issue that no doubt will become a major cause for public debate. This House has an obligation to be a leader in that debate and to tell the O'Farrell Government that we want firm action on addiction to gambling. We want activities on addiction to gambling that are in accord with the science, the science as reported by both the Federal inquiry and the Productivity Commission report in February 2010. Both of those point directly to pre-commitment gambling technologies. It is urgent that those technologies be implemented because that will enable problem gamblers to control the amount of money they spend, to minimise the amount of damage they do to themselves, their families and their communities.

**The PRESIDENT:** Order! Is Dr John Kaye speaking to the amendment or to the substantive motion?

**Dr JOHN KAYE:** I am speaking to the amendment.

**The PRESIDENT:** In that case, pursuant to standing orders, I ask the Clerk to switch off the clock.

**Dr JOHN KAYE:** This matter is urgent. When we look at the impacts that the 97,065 electronic gaming machines in 2009 in clubs, casinos and hotels are having on the people of New South Wales and the massive increase that number represents from 1999, this matter becomes urgent. It is estimated that regular players in New South Wales spend between \$7,000 and \$8,000 per year. That is a substantial amount of money,

and that is the average. When one considers what that means for problem gamblers and addicted gamblers and the impact that will have on low-income households, it makes this matter a massively important issue, an issue we need to debate immediately.

In 2006-07 electronic gaming machines provided 67.8 per cent of the total \$1.65 billion in gambling tax revenue for New South Wales. It is not surprising, therefore, that State governments want to oppose the mandatory pre-commitment, because a major proportion of that amount is achieved from problem gamblers. The only way we can address this issue is for this House to have an honest and open debate about it. My motion invites the House to have an honest debate on pre-commitment gambling, an open and honest debate that says very clearly: Where do we stand? Are we prepared to stand up to the huge impact that gambling has on communities, households, individuals, people who are addicted to gambling, and people who have problematic gambling behaviours, or are we simply going to roll over and continue to allow clubs and pubs to reap a massive profit out of the unfortunate addictions of those individuals?

This is a complex issue that clearly divides opinions across the community. We acknowledge that. Indeed, that fact makes it even more urgent that this House debates the motion. Without beginning an evidence-based debate, it will be the loud voices of the pubs and clubs—the people who are making massive profits out of the gambling industry—that will dominate the debate. And they will win. Make no mistake: the urgency of this comes about because the loud voices of pubs and clubs will win in that debate and we will go backwards. We will lose this historic opportunity where we have a Federal Government, and probably a Federal Parliament, that is committed to mandatory pre-commitment and we have State governments that are opposed to it. We have an historic opportunity to make a huge step forward on the appalling toll that gambling has on individuals, particularly with regard to electronic gaming machines.

This motion is not a wowser motion. This motion speaks directly of the human tragedy, the human toll, and the impacts on individuals that the electronic gaming machine industry has in New South Wales. This motion is more urgent in New South Wales than it is anywhere else. It is more urgent here because we have more gaming machines per head of population than any other jurisdiction. It is important that this House has the opportunity to examine that data. My motion, motion No. 101 outside the Order of Precedence, will give this House an opportunity to discuss the issue and air the differing views about it. It is clear that the Government is opposed to mandatory pre-commitment. The Minister for Hospitality and Racing, Mr George Souris, and the Premier, Mr Barry O'Farrell, have made it very clear that they will do everything they can to frustrate the introduction of mandatory pre-commitment on gaming machines.

**The Hon. Mick Veitch:** George has made some unsavoury comments recently.

**Dr JOHN KAYE:** I will save that for later in my contribution. It is clear that there are divided opinions on this issue and that the Government is opposed to mandatory pre-commitment. Before go down the path of closing the door on this historic opportunity to begin to address the historical error that was made when electronic game machines were allowed to dominate the entertainment centres of pubs and clubs, we need to have debate on the issue and air the differing views about it.

Debate on this motion would allow me to draw the attention of the House to a number of matters—matters that are significant in respect of the facts and figures. I want to draw the attention of the House to the report of the findings of the 6 May 2011 Federal parliamentary Joint Select Committee on Gambling Reform—an extraordinarily important document—regarding the pre-commitment schemes referred to in the "Pokies First" report, and the design and implementation of a mandatory pre-commitment system for electronic gaming machines. I have a number of matters I wish to draw to the attention of the House to allow members to discuss this issue and thoroughly understand it.

I want to draw to the attention of the House matters that were raised by the Productivity Commission—not normally a body I sympathise with, but in this case a body that has done an extraordinarily good job of examining the impacts of poker machines. For the benefit of many members of this House, it is not just The Greens who are saying it is urgent that the House debate this issue. The Australian churches have launched a national gambling task force. The Australian Churches Gambling Forum is calling on all States and Territories to sign on to legislation that will ensure all gaming venues have mandatory pre-commitment technology in place by 2014.

It is the churches, in some instances, that deal with some of the worst aspects of gaming. They understand the impact that gaming machines have on their parishioners and on the communities in which their

parishioners live. It is the churches that say very clearly that we need to sign on to that legislation. So the urgency comes also from that call by the churches. While, on the one hand, we have the churches saying it is important for all States and Territories—and that includes New South Wales—to sign on to legislation that will ensure all gaming venues have mandatory pre-commitment technology in place by 2014, on the other hand, we have the Minister for Hospitality and Racing and the Premier saying loudly, "No, we are not going to sign it." However, the financial impact of that on clubs and pubs, and presumably also on the casino, will be too great.

This creates massive urgency for this House to have the opportunity to hear the arguments put forward by senior representatives from the Uniting Church, the Catholic Church, the Baptist Church, the Anglican Church and the Salvation Army, who deal with these matters on a regular basis. Those bodies, along with senior representatives of many church-based social services peak bodies, have called for mandatory pre-commitment. Many of the bodies in the Australian Churches Gambling Task Force have combined with the church-based social services peak bodies, the Uniting Church, the Catholic Church, the Baptist Church, the Anglican Church and the Salvation Army to form the Australian Churches Gambling Forum. This is not a fly-by-night operation; this is a serious, well-thought-out plan from the churches to ask us as a Parliament and to ask the O'Farrell Government to sign on to legislation for mandatory pre-commitment.

In the absence of this House debating this issue now, that will not happen. Only by having this debate now will the words of the churches on this issue be heard. If this amendment to the Minister's motion does not succeed, the churches will be shut out of the debate. If the churches are shut out of this debate—and they will be shut out of the debate if the amendment I have moved does not succeed, because by the time the Parliament next sits this issue will have travelled far further than we can bring it back—

**The Hon. Shaoquett Moselmane:** Many other religious institutions have voiced their concerns.

**Dr JOHN KAYE:** I acknowledge the interjection. I have in front of me a statement from Uniting Care Australia dated 22 March 2011. However, as the Hon. Shaoquett Moselmane has pointed out, many other non-Christian religious organisations have also raised grave concerns about what is happening in their community, and indeed across the entire community. This is not just about Christians, or Jews, or Muslims or atheists; this issue affects our entire society. If we do not have this debate now, the voices of the churches, the Muslim organisations, the Jewish organisations and indeed all the faith-based organisations will not be heard on this issue.

It would be a great shame to shut those organisations out of this debate, as well as many of the non faith based social service organisations—organisations such as the Council of Social Service of New South Wales—that are delivering these services directly to those who are affected by gambling. It would be selling out our duty and responsibility not only to those organisations and not only to the tens of thousands of people who are directly affected by this, but also to the entire community that is affected by electronic gaming machines. Gaming machines siphon in potential problem gamblers and turn them into substantial gamblers who simply cannot escape from their grips.

There may not be anybody in this Chamber who will understand the urgency of this motion because of his or her personal circumstances. But everybody in this Chamber will understand the urgency of this motion because of the circumstances of family members or people around them or people in their communities or their constituents. No matter how they feel about the current stand of the Government on pre-commitment technology, they will understand that having this debate is important. Without this debate we are undoubtedly headed down the path of not having it in this New South Wales Parliament in the context of what is happening federally.

This is the moment in the history of New South Wales when we can begin that debate. This is the small window of opportunity—the opening of the door to that debate. If my amendment is not accepted, if it fails to pass, then we will have shut out the 0.8 per cent of adults in New South Wales who are problem gamblers, the 1.6 per cent of people in New South Wales who are moderate-risk gamblers, the 2.1 per cent of people in New South Wales who are low-risk gamblers, and all the others in New South Wales who are at risk of falling into those categories.

In New South Wales 97,065 electronic gaming machines sit in our pubs, clubs and hotels every day, waiting to catch people. If we fail to amend the motion and we fail to debate the motion now, and move on to debate the industrial relations legislation, we might not get the opportunity in this form again. Yes, we will continue to fight for this issue. Yes, the churches and faith-based organisations, the Muslim organisations, the

Salvation Army, the Catholic Church, the Anglican Church, the Uniting Church and the Baptist Church will continue the campaign to protect those innocent people caught up in the web of gambling. Yes, they will continue to stand up for this issue and, yes, they will continue to campaign but the huge urgency about this amendment to the Government's motion is that we have the opportunity now.

I cannot impress upon members enough that to squander the opportunity to debate a piece of legislation that the community has not properly been consulted on, and which does not have community support, and which more or less mirrors the same legislation that pulled apart the Howard Government and was totally rejected by the people of Australia in the 2007 election—

**The Hon. Matthew Mason-Cox:** Point of order: My point of order relates to Standing Order No. 109 (4), which reads:

- (4) An amendment must be relevant to the question it is proposed to amend and must not be a direct negative of the question.

The motion moved by the Minister sought to bring on Government business. The amendment moved by the Dr John Kaye is a direct negative. I ask that the amendment be struck out. It is out of order.

**Mr David Shoebridge:** To the point of order: The honourable member has raised an important point of order. It goes to the heart of the capacity of this Chamber to control its business. Dr John Kaye's amendment is not a direct negative. It is a question of competing priorities as to the business of the House this afternoon. The question is one as to timing, not as to content. We are engaging in a perfectly valid debate as to what matter should be discussed next by this House. It is not, as suggested by the Hon. Matthew Mason-Cox, a direct negative: it is an alternative. That is the key distinction.

It would set a dangerous precedent if the Chair were to rule that an alternative to a motion is by definition a negative. It would be a dangerous precedent to the ongoing free flow of debate in this House. Under the standing orders an alternative motion has always been in order. If it was a genuine negative it would be that Government business does not proceed at any point this afternoon or that there be some alternative negative. But an alternative is quite distinct from a negative. If the Chair were to rule that the moving of an alternative motion is a negative, and therefore out of order, that would be one of the most significant rulings of the Chair. It would set a very dangerous precedent to the control of the business of this House.

**The Hon. Duncan Gay:** To the point of order: The amendment is a direct negative because the decision of the House was that Government business should take precedence. The amendment was to bring on a private members' motion. In that case it is a direct negative.

**Dr JOHN KAYE:** To the point of order: The Minister's motion was about what the House would do next. The Minister proposed one direction. My amendment proposed another direction, which is entirely appropriate for an amendment. The negative to the motion of the Minister is that we do nothing.

**The Hon. Duncan Gay:** But the House has made the decision.

**Dr JOHN KAYE:** The House makes the decision, but it is not bound by previous decisions. We can make another decision. The point of order is in respect of whether my amendment to the Minister's motion is a direct negative under Standing Order No. 109 (4). I cannot accept that substituting one piece of business for another is a direct negative of a motion that talks about what the House is going to do next.

**The Hon. Paul Green:** To the point of order: Being a new kid on the block, I would argue that Standing Order No. 109 (4) is about the question. It is about the content, not the priority or not the alternative. My understanding is that the question is that the motion of the Minister be agreed to. The minute the amendment changes the direction of that motion, it may be an alternative. It is out of order.

**Mr David Shoebridge:** Further to the point of order: When one construes Standing Order No. 109 (4) it is important that the words in that standing order be given some function. One of the key words in that standing order is a "direct" negative of the question. The phrase "direct negative" must have some work to do. Clearly, had Dr John Kaye said that Government business not proceed then that would be a direct negative. Putting up an alternative proposal cannot come within the constraints of the phrase "direct negative". Standing Order No. 109 (4) contains a very high test. I again emphasise that if the point of order is allowed, and if that



extraordinarily broad interpretation of Standing Order No. 109 (4) is made by the Chair, a dangerous precedent will be set, particularly given the very specific and narrow terms of that standing order. Standing Order 109 (4) requires a direct negative for the amendment to be out of order.

**The Hon. Greg Pearce:** To the point of order: The motion I moved required that the Government business order of the day be called on forthwith. The effect of the amendment is directly not to allow that matter to come on forthwith.

**Reverend the Hon. Fred Nile:** To the point of order: In support of the point of order taken by the Government, I remind members that the House has already voted that Government business take precedence now. The motion of the Hon. Greg Pearce was simply to facilitate that decision of the House. Dr John Kaye has moved an amendment as a device to overthrow the decision of the House that Government business take priority now.

**Dr JOHN KAYE:** Further to the point of order: In relation to the interesting contribution from Reverend the Hon. Fred Nile, it often occurs in this House that Government Business takes precedence and a member seeks to move contingent notice. At that point the status quo is overturned and we debate the suspension of standing and sessional orders. If the House agrees, we suspend standing and sessional orders. The member then moves contingent notice and if it is successful we debate a different item. The House often changes its decision. A previous decision of the House to debate Government Business is not locked in. I do not accept the argument put forward by Reverend the Hon. Fred Nile. As Mr David Shoebridge said, the word "direct" in the standing order is important. My motion is not a direct negative. A direct negative would be that we do not debate Government Business item No. 2. My motion says that the House debate a different item, which we claim is urgent.

**The Hon. Shaoquett Moselmane:** To the point of order: When this matter was raised by Dr John Kaye to go in another direction you, Mr President, consulted with the Clerk and the Clerk advised that it was in order. As a result, the clock was stopped. The matter has moved on. If the Government wanted to object they should have objected when it was first raised, not half an hour into the process.

**The Hon. Paul Green:** Further to the point of order: I accept the points raised by Dr John Kaye. In relation to the procedures of the House, if Dr John Kaye's motion is not ruled out of order, it would be a kneecapping precedence. If it is ruled in order, it would mean that members could take any bill in an alternative direction. The Minister's motion was strictly about content. Dr John Kaye's motion goes in an alternative direction and totally away from the Minister's original motion. If the motion to amend is ruled in order, it will set a dangerous precedent and members will be able to kneecap any motion moved in the House.

**Dr JOHN KAYE:** Further to the point of order: The argument raised by the Hon. Paul Green is not valid. This House has control of its own destiny, as it always should. He said that it was a case of kneecapping. It is not about kneecapping. It is about this House expressing the way it wants to proceed. It is about every member having the right to put forward a proposition and it is about this House making a decision on the proposition. That is the crucial issue. To not allow members that right would create a very dangerous precedent that this House cannot make decisions about the way in which it proceeds with business.

**The PRESIDENT:** Order! This is a very difficult matter. The rulings of previous Presidents do not provide extensive guidance on the issue which is the subject of the point of order. I have allowed a large number of members to make a contribution to the matter before making a ruling. Before doing so, I ask whether any other member wishes to contribute.

**Mr David Shoebridge:** Mr President—

**The PRESIDENT:** Order! With a new point.

**Mr David Shoebridge:** Point of order: I note the time. As we are dealing with a matter of great concern, I ask that the House consider adjourning for lunch. The President then will have time to consider this matter before making a ruling, which will set an important precedent.

**The Hon. Robert Brown:** To the point of order: I am not a lawyer but I tend to concur with the view of the Hon. Paul Green in relation to the wording of the amendment and the decision that you, Mr President, will make. The relevant part of Standing Order 109 states:

- (4) An amendment must be relevant to the question it is proposed to amend and must not be a direct negative of the question.

Mr David Shoebridge said that the amendment is not a direct negative. The only way to test that is to put the amendment motion to a vote. If the vote defeats the original question it will have had the effect of negating the question. However, I ask that the motion be ruled out of order.

**The Hon. Amanda Fazio:** To the point of order: The amendment motion is in order. The motion moved by the Minister was to suspend standing and sessional orders. The amendment motion did not say that standing and sessional orders should not be suspended. The subject matter of the suspension is the subject of the amendment. That is the crucial issue here. It is not a question of whether the proposal that the Minister has put up to be debated is different to the proposal put forward by Dr John Kaye. If the crux of the motion moved by the Minister is that standing and sessional orders be suspended, that is the matter we should focus upon. As I said, the amendment does not say that we do not suspend standing and sessional orders. The amendment says that standing and sessional orders be suspended for a different purpose to the purpose proposed by the Minister. I ask, Mr President, that you give weight to that in your consideration because that is the crux of the motion. If the amendment was that standing and sessional orders not be suspended, then I agree that would be a direct negative. But it is the subject matter of the suspension that is the subject of the amendment, not the fact that the Minister moved to suspend.

**The Hon. Peter Primrose:** To the point of order: Without taking up too much of the House's time, I add my support to the views put forward by the Hon. Amanda Fazio in relation to this matter. Since time immemorial, so long as I have been reading *Hansard* in this place and looking at the manner of form and practice in this place, in the other place and, indeed, in other parliaments, the moving of "that all words after 'that' be removed, withdrawn or deleted" and "other words be inserted" has been the manner of form and practice in this House, in the other place and in all Houses of Parliament. The telling point made by the Hon. Amanda Fazio is that it is not a direct negative. The House will not be deciding that standing and sessional orders be suspended, which is the substantive part of the motion. I would agree that if it said that standing and sessional orders not be suspended, then it would be out of order. It is simply saying, yes, that standing and sessional orders be suspended but that the House then proceeds to another matter.

**The PRESIDENT:** Order! The House has decided that Government Business should take precedence of General Business. I rule, however, in response to the matters raised by Reverend the Hon. Fred Nile, that subsequent to that decision it is in order for members to move motions to suspend standing and sessional orders to bring on other items of business.

A difficulty arises, however, as happened on this occasion when a member moves an amendment to a motion that seeks to suspend standing and sessional orders. Generally, the practice has been, should a member wish an alternative item of business be brought on, that the member suggest the alternative in debate and then, when the House has resolved by way of a vote the discussion on the particular question before it, seek to suspend standing and sessional orders to allow a motion to be moved to bring on the alternative item of business.

The concept of contingent notices of motions is even more complex. Indeed, a notice of motion has been placed on the *Notice Paper* requesting the House to refer the issue to the Procedure Committee for consideration. Despite the standing orders imposing a time limit of 30 minutes on debate on a motion seeking to suspend standing and/or sessional orders, they place no such limitation on debate on an amendment to such a motion. Clearly, it would not have been the intention of the House to restrict the time that members could take to debate a motion to suspend standing and/or sessional orders but to allow unlimited debate on a series of amendments to that motion.

Given that the amendment seeks to omit all words in the motion after "That", a number of members argued that, in accordance with Standing Order 109 (4), its effect would be to directly negative the question and it should, therefore, be ruled out of order. Any motion moved by way of contingent notice to suspend standing and sessional orders to allow a particular item of business to be debated, given that it is a procedural motion, should be read in its totality, as is clear from the form of the contingent notice for the precedence of an item of business. Accordingly, it is not possible to substitute the item of business that is the subject of the motion with an alternative item of business without directly negating the question. I uphold the point of order of the Hon. Matthew Mason-Cox and rule the amendment out of order.

Debate will proceed on whether standing and sessional orders should be suspended to allow the item of Government Business referred to in the Minister's motion to be moved forthwith. The clock will be reset to allow the time that was remaining for debate when the point of order was taken.

**Amendment of Dr John Kaye ruled out of order.**

**The Hon. PENNY SHARPE** [1.13 p.m.]: I oppose the motion. I do not believe that the contingent notice to bring this motion on is at all urgent. We have debated at length this morning what on the *Notice Paper* is urgent and what is not. I would argue that urgency to debate this motion has not been demonstrated. There is no reason that the bill needs to be rammed through today by the Government. There is absolutely no reason why a complex bill that would fundamentally change the nature of the relationship between public sector workers, the New South Wales Government and the Industrial Relations Commission needs to be dealt with and rammed through in this way.

There is no reason that a bill of this nature, with its level of complexity, should be accorded priority over everything else that is on the *Notice Paper*. Earlier today Opposition members tried to bring on what we consider to be a far more urgent and appropriate motion, that dealing with Reconciliation Week. I accept that at this point the House has decided that that is not an urgent matter. However, it is a matter of great shame that the House has not decided to talk about Reconciliation Week. It is a matter of great shame that the Government is trying to bring forward a bill that does not need to be debated today. Thousands of people are standing out the front of Parliament right now saying that they want to be talked to and consulted, that they want to be considered as part of what is happening with this bill. But the Government closes its eyes and simply says it will not listen—

**The Hon. Matthew Mason-Cox:** Point of order: The member, as she well knows, should be speaking to the urgency motion and not to the substantive aspects of the bill contemplated by the motion.

**The Hon. Greg Donnelly:** To the point of order: The Hon. Matthew Mason-Cox is dead wrong: that is precisely what the member is doing.

**The PRESIDENT:** Order! I do not uphold the point of order.

**The Hon. PENNY SHARPE:** This matter is not urgent. Let us be honest about what is happening with this bill. It is being rammed through the House, by an attempt to accord it priority, because the Government does not wish to have proper and full discussion on the bill. The Government is trying to rush the bill through so that it will not have to face the nurses, teachers, firefighters—the more than 400,000 public servants who work hard every day in this State. The Government is refusing to talk to public servants; it is refusing to consult. It is simply going forward—as every other Tory government always does—with an attempt to destroy the rights of workers in this State. This matter is not urgent. The bill requires further discussion and further debate, especially public debate. However, today the Government has chosen to cancel Private Members' Business and try to bring on its bill.

There are other matters on the business paper that are far more urgent. The Hon. Greg Donnelly has placed a matter on the *Notice Paper* relating to National Volunteer Week. The member has been waiting patiently for private members day to speak on the matter. That is more urgent than the priority given to the Government's bill today. There is also on the paper an item relating to the International Day of Mourning for Workers. That day was held on 28 April. Sometimes these motions become too quickly out of date. This is a matter that the Deputy Leader of the Government turned up to and had a view about.

**The Hon. Catherine Cusack:** Point of order: The House has voted to consider Government Business today. The honourable member is reflecting on a decision of the House. I submit she is out of order.

**The PRESIDENT:** Order! I remind members that, under the standing orders, they may not reflect upon a vote of the House.

**The Hon. PENNY SHARPE:** I believe that other matters on the *Notice Paper* are far more urgent. I believe the motion to deal with the International Day of Mourning for Workers, a workers memorial day—

**The Hon. Catherine Cusack:** Point of order: I submit that the member, by continuing to refer to the *Notice Paper* in this way, is reflecting on a decision of the House. I ask you, Mr President, to remind the member to refrain from making further such references and to deal with the substantive motion before the House.

**The PRESIDENT:** Order! I have made a ruling on that matter. The member is in order.

**The Hon. PENNY SHARPE:** In order, but out of time, Mr President. [*Time expired.*]

**The Hon. LYNDIA VOLTZ** [1.19 p.m.]: I also speak against urgency of the Government's industrial relations bill. Legislation should not be changed in haste. A clear and thorough process should be undertaken, including consultation in the public domain. This matter is not urgent as there should be more public debate and more consultation in the community on the proposed legislation. The Government has to ensure that when it goes down the track of changing legislation—particularly legislation such as this—it heeds the actions of previous governments that have taken the time to give due consideration to the real implications of such changes.

This matter is not urgent; the Government is just trying to avoid debate and consultation in the public domain. If it was an urgent matter, the Government would have flagged it during its election campaign. At no time has the Government raised this issue as an urgent matter. At no time has the Government stated that any of its savings measures that it outlined as part of its election commitments will not be met. At no time has the Government said that the savings measures that it outlined in its election commitment were wrong. At no time has the Government said that it cannot meet those commitments.

There is no urgency about this matter. There is nothing within the public domain that means that this matter cannot wait until the next sitting of Parliament when people have had a chance to look at the legislation; when the Government has had a chance to talk to industry groups, union representatives, workers, industrial lawyers and people who are expert in the area; and when the Government has had a chance to consult with the community. The Government is trying to avoid transparency and debate around the proposed legislation. The Government wants this House to bring on this legislation now so that there is no chance for the public to consider it. This matter is not more urgent than any other, and we could be dealing with a number of other matters today. There is no reason why this matter cannot be held over until another time.

The Minister has an opportunity to outline any fears he may have in regard to the Government's savings measures that it outlined as part of its election commitments and what the problem is with those commitments. At no time during the election campaign did the Government say that it would take away the rights of people with this legislation. This type of legislation needs patience and consultation. I am at a loss as to why the Government believes that that is not necessary with industrial relations legislation. History shows that not doing so leads to conflict within the community. The Government is bringing forward in this proposed legislation a process that has not been scrutinised by the community or by those who know how the industrial relations system works or have some expertise in the area. Without that consultation—and the Government may or may not be concerned about this—many potholes will be in the Government's path. A far more thorough process with more public consultation to allow people to talk to the Government about this legislation, its far-reaching impacts and what effect those impacts will have on the community, will result in a better outcome.

**The Hon. GREG DONNELLY** [1.23 p.m.]: I do not intend to make a long contribution to this debate but I want to refer to some particular aspects of the question of urgency. At the heart of this matter is whether urgency should be given to the bill that the Government wishes to bring before the House. The *Oxford Dictionary* defines the word "urgent" as "pressing, calling for immediate action or decision or attention". I draw attention to the word "immediate". No case has been made that this bill requires immediate attention. In fact, a reasonable person looking at how the bill has progressed would find that the opposite is the case. Given what is up for grabs here—and let us put aside points of view about whether or not the bill is a good bill, which will be ventilated at a later time—the issue affects a large number of citizens of this State who are referred to in the bill as public sector employees. I will not canvass the bill but I make the point that the definition of "public sector employee" in the bill is in two parts.

**The Hon. Matthew Mason-Cox:** Point of order: The Hon. Greg Donnelly is directly canvassing the bill and not the matter of urgency. I ask you to bring him back to the question of urgency.

**The PRESIDENT:** Order! I remind members that they must confine their remarks to the procedural motion, which is that standing and sessional orders be suspended to allow Government Business Notice of Motion No. 2 to be called on forthwith.

**The Hon. GREG DONNELLY:** Without specifically reading out the words in the bill, I make the point that people such as nurses, teachers and police officers in this State are clearly caught by it. The significant other group that is subject to some very serious reflection and consideration are employees in local government. If we aggregate the total number of employees in the local government area and direct employees of the State public service, it is clear that hundreds of thousands of citizens of this State will be affected by this debate. I do not have precise figures but I suspect that up to 400,000 people in this State have the potential to be affected by this bill.

Given that 400,000 people in this State are either affected directly or indirectly by this bill, one would think that there is a need to apply a precautionary principle when looking at its implications. The Opposition knows that we will have to face a debate with regard to this bill at some point in time—we are not ducking that—but we are saying that at the end of the day—

[*Interruption*]

Government members are laughing because they really do not care about the alternative view. That is the point. That is why members on this side of the House are standing so firm—because up to 400,000 citizens of this State are affected directly or indirectly by this bill and its implications. It is not just direct or indirect employees who will be affected; their children, their relatives, their grandparents will be affected. We are talking about hundreds of thousands of employees in this State and their families who will be affected by this legislation. That is why there needs to be very careful scrutiny of the bill and its implications. It is not good enough for the Government to come into this Chamber gung-ho, throw this bill on the table and say, "Cop it sweet. This is what we are going to do." The people of this State are entitled to be given an opportunity to look at the bill— [*Time expired.*]

**The Hon. SHAOQUETT MOSELMANE** [1.30 p.m.]: Debate on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 is not urgent. If it were, the Government would have mentioned it in its 100 Day Plan, and there is no mention of it in that document. If it were urgent and if the Government wanted voters to know about it on 26 March, it would have included it in the 100 Day Plan. Its omission suggests that it is not urgent. The Government is pushing this motion to deal with a bill that will affect 400,000 people. However, the people to whom I have spoken do not know how this legislation will directly affect their lives, their livelihoods and their families. It will have a profound effect on their decisions about where their children go to school and where they might go on family holidays because it will hit them in the hip pocket. Most of the 400,000 public servants in this State do not know what this legislation will do. Even some members opposite do not know what it will do and they are not prepared to find out and to inform their constituents.

For more than a century negotiation and consultation have been hallmarks of this country's industrial relations system. This Government wants to ram through this bill without any consultation with the unions or with the workers who will be affected by it. Mr President, like other members, you would have received emails from the Police Association, the Nurses Association and the Teachers Federation. Their members are important people who have a right to know what is going on.

**The Hon. Trevor Khan:** Point of order: The honourable member is clearly not speaking to urgency. Despite the fact that he is using the word "urgency" from time to time, he is embarking on a diatribe about the substance of the matter as opposed to the motion before the House.

**The Hon. Peter Primrose:** To the point of order: My understanding is that we are debating whether standing and sessional orders should be suspended as opposed to whether a matter is or is not urgent. Surely, whether one matter is relevant or more relevant than another matter should be taken into account?

**The PRESIDENT:** Order! I remind the Hon. Shaoquett Moselmane, as I have reminded other members, that the motion before the House is that standing and sessional orders be suspended to allow a motion to be moved forthwith that Government Business Notice of Motion No. 2 be called on forthwith. I ask him to confine his remarks to that motion.

**The Hon. SHAOQUETT MOSELMANE:** We are talking about the timing of debate on a bill that the Government wishes to deal with now. I am speaking to the issue of urgency. That goes to the heart of consultation. Governments must consult people and let them know what they intend to do. Governments are obliged to provide information on decisions they are about to make so that people can provide feedback and ensure that the right decisions are made. I cannot see anything in the legislation that is pressing or that demands immediate attention. That is why I ask members to reject the motion.

**The Hon. AMANDA FAZIO** [1.35 p.m.]: I oppose this motion. This matter is not urgent. We should have much more time to examine legislation that will have a dramatic impact not only on the livelihoods of State Government employees but also on the way in which the Industrial Relations Commission deals with them prior to a debate in this Chamber. If it were not for the action of the Hon. Sophie Cotsis in asking that this matter be deferred for five sitting days rather than five calendar days, this important matter would have been rushed through even more quickly.

We have a very proud history in Australia of using arbitration and conciliation to arrive at industrial settlements. This Government is trying to make massive changes to that system the likes of which have been seen only with WorkChoices, which was resoundingly rejected by the Australian people at a Federal election. The Government is trying to rush through this important legislation without providing time for adequate consultation and debate. This matter is too important to be dealt with in such a hurried manner. If this legislation is such an important part of the Government's platform, why was it not included in the five point contract that was direct mailed to every household in New South Wales? If it was so important to the Government, why was it not part of its manifesto during the election campaign? Clearly, the Government did not regard it as important then and I do not believe that this Chamber should regard it as important now.

This purely anti-worker, anti-union legislation has been thrown up by the Government to destroy any foothold the union movement has with public sector employees in New South Wales. The Government does not have a mandate to introduce this legislation, nor does it have a mandate to implement this policy change. It certainly does not have a mandate to debate it urgently. Quite simply, this sort of major change has never happened before without broad-ranging community and industrial consultation. That consultation has not occurred because this Government has nothing but contempt for working people and the trade unions that represent them.

The Government's insistence on bringing forward this legislation, wiping the *Notice Paper* clean of other matters and demanding that it be dealt with as a matter of urgency is outrageous. The Minister gave us no reason for its urgency. He has not told us what is so compelling that it must be dealt with today. There is nothing compelling other than a directive from Premier Barry O'Farrell, who is single-handedly managing everything that happens in every portfolio. He is directing everything; he is the master puppeteer controlling all the mute little mannequins opposite. They have nothing to say. They are summoned to the Premier's office, even during question time, to be given a slap on the wrist for the way they are mishandling their portfolios. Members opposite cannot on any ground claim that the legislation is urgent and that it must be dealt with today. That is simply not the case. No cogent reason for urgency has been offered. Any supposed deadline is a fiction created by Barry O'Farrell. He has a note for himself that reads, "By the end of week four destroy the union movement." There is no real reason that this legislation should be debated today. Members opposite have provided no justification for urgency.

Members opposite move these motions and crunch the numbers. They are devoid of any intellectual argument, dare I say because they have not been given one by their puppet master. They simply do what they are told to do. If Barry tells them to jump through hoops, they jump. This is a very important matter to the workers of New South Wales and that is why it should not be treated so frivolously. [*Time expired.*]

**The Hon. TONY KELLY** (Leader of the Opposition) [1.39 p.m.]: I reiterate the comments of my colleagues on this matter and the urgency of it. There is only one reason this legislation is urgent: The Government wants to ram the legislation through the House tonight, tomorrow night or on the weekend to ensure that the 400,000 workers in the New South Wales public service do not get a chance to have their views adequately heard. Already in only one hour we have seen half a dozen fire engines, buses and public servants from all different walks of life gather at the front of Parliament House, here in Macquarie Street. They are concerned about what the Government intends to do. For example, to suggest that public servants should have wage increases curtailed or dictated to by Cabinet in the future is ridiculous. It is most un-Australian. The bill is the worst legislation I have ever seen go through this House.

**The Hon. Duncan Gay:** Point of order: The Hon. Tony Kelly is straying into matters that should be raised during the second reading debate when the bill comes before the House. The matter before the House at present is not the member's second reading contribution, with the rhetoric and emotion he would like to put on the record.

**The Hon. TONY KELLY:** To the point of order: I am merely saying that the public servants of this State should be given time in which to put their case. That is why I do not believe this matter is urgent. The Government should give public servants the time to put their case so that the legislation can be properly debated.

**The PRESIDENT:** Order! The Leader of the Opposition was starting to stray into matters that should be canvassed during the second reading debate. I ask the member to confine his remarks to the terms of the procedural motion.

**The Hon. TONY KELLY:** Mr President, thank you, and I thank the Minister for Roads and Ports.

**The Hon. Matthew Mason-Cox:** Why don't you thank us all individually?

**The Hon. TONY KELLY:** The member has not yet taken a point of order. This matter is not urgent. The Government is hell-bent on pushing the legislation through the House. As I have circulated to members, we intend to move that the House refer the bill to a general purpose standing committee. [*Time expired.*]

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

**The House divided.**

**Ayes, 22**

Mr Ajaka	Miss Gardiner	Mrs Mitchell
Mr Blair	Mr Gay	Reverend Nile
Mr Borsak	Mr Green	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Cusack	Mr MacDonald	<i>Tellers,</i>
Ms Ficarra	Mrs Maclaren-Jones	Mr Colless
Mr Gallacher	Mr Mason-Cox	Dr Phelps

**Noes, 19**

Ms Barham	Mr Kelly	Mr Shoebridge
Mr Buckingham	Mr Moselmane	Mr Veitch
Ms Cotsis	Mr Primrose	Ms Westwood
Mr Donnelly	Mr Roozendaal	
Ms Faehrmann	Mr Searle	<i>Tellers,</i>
Mr Foley	Mr Secord	Ms Fazio
Dr Kaye	Ms Sharpe	Ms Voltz

**Question resolved in the affirmative.**

**Motion agreed to.**

**Order of Business**

**The Hon. GREG PEARCE** (Minister for Finance and Services, and Minister for the Illawarra) [1.50 p.m.]: I move:

That Government Business Order of the Day No. 2 be called on forthwith.

**Question put.**

**The House divided.**

**Ayes, 22**

Mr Ajaka	Miss Gardiner	Mrs Mitchell
Mr Blair	Mr Gay	Reverend Nile
Mr Borsak	Mr Green	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Cusack	Mr MacDonald	<i>Tellers,</i>
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Ms Faehrmann	Mr Searle	<i>Tellers,</i>
Mr Foley	Mr Secord	Ms Fazio
Dr Kaye	Ms Sharpe	Ms Voltz

**Question resolved in the affirmative.**

**Motion agreed to.**

**INDUSTRIAL RELATIONS AMENDMENT (PUBLIC SECTOR CONDITIONS OF EMPLOYMENT)  
BILL 2011**

**Second Reading**

**Debate resumed from 1 June 2011.**

**The Hon. SOPHIE COTSIS** [2.00 p.m.]: I would like to acknowledge the police in the gallery and thank them for the tremendous work they do for the community of New South Wales.

**The Hon. Duncan Gay:** Why didn't you support them yesterday?

**The Hon. SOPHIE COTSIS:** No, you go out there and confront the workers.

**The PRESIDENT:** Order! The Leader of the Government will come to order. The Hon. Sophie Cotsis will not shout.

**The Hon. Duncan Gay:** That's disgraceful.

**The Hon. SOPHIE COTSIS:** What's disgraceful? You go out there. And where is the Minister? The Minister and the police Minister should walk out the door now and go and address all the workers. Go and address the over 15,000 police—

**The Hon. Michael Gallacher:** Disgrace.

**The Hon. SOPHIE COTSIS:** I am not the disgrace. They have a case in the Industrial Relations Commission—

**The Hon. Duncan Gay:** Point of order: The convention of the House is to address the Chair rather than trade personal insults across the table.

**The PRESIDENT:** Order! I uphold the point of order. The Hon. Sophie Cotsis has the call.

**The Hon. SOPHIE COTSIS:** Thank you, Mr President. I will address my remarks through you. This is one of the most historic debates that we are going to have in 100 years. This is not a joke; this is serious. This is serious because the police have a case in the Industrial Relations Commission and this Government wants to move the goalposts. This is the most serious debate that we will have in 100 years and right in the middle of Industrial Relations Commission hearings the goalposts will move. The police, their wages and conditions will be cut. All they are seeking are consultations. They are seeking for you to speak to the police who are outside this Chamber, and they want an explanation.

Like many members, I have had phone calls and representations from distressed partners and spouses of these very good, hardworking employees of New South Wales. They are distressed. They are worried because this is happening. The thousands of representations that are coming to our offices and the phone calls that we are receiving are extraordinary. People are very worried. They are very worried because there is no certainty. As I indicated yesterday, there has been no consultation; there has not been a process. My colleagues and I have



acknowledged publicly that the Coalition won the election absolutely on 26 March. My colleague Luke Foley outlined that on election night. Coalition members talk to us about the margins in all the seats in all the rural and regional areas. Many of the people in those seats are public sector workers and they voted for the Coalition. I admit that. A couple of weeks ago when I was at the Industrial Relations Society conference and I was invited to speak along with the Minister I acknowledged that. But it is our duty to serve the people of New South Wales. It is our duty to listen to the people of New South Wales and it—

**The Hon. Robert Borsak:** That will make a change.

**The Hon. SOPHIE COTSIS:** I have acknowledged that. We have acknowledged that. You are not listening.

**The Hon. Duncan Gay:** I have been listening for two hours.

**The Hon. SOPHIE COTSIS:** You are going to listen all night and all day and throughout the weekend, absolutely, because this is the most important debate that we are going to have in over 100 years. You cannot ride roughshod. There are people out there; there are thousands of people—

**The Hon. Trevor Khan:** Point of order: The point has been made before—I believe it was made yesterday—but the Hon. Sophie Cotsis seems intent upon having an argument across the table. It is clear that she should be addressing her remarks through you, Madam Deputy-President, not directing her remarks at other members of the Chamber. She in fact induces the response that she gets. If she directs her attention to you she will be able to contain herself and appropriately conduct herself in the House.

**The Hon. Eric Roozendaal:** To the point of order: I have been listening intently. In fact I think the Hon. Sophie Cotsis is doing a terrific job in view of the rude and unruly interjections coming from the Government benches. The only thing I agree with the Hon. Trevor Khan upon is that I ask you as the Deputy-President here to call members into line and ensure that these interjections do not continue to occur to try to throw the Hon. Sophie Cotsis off her argument. She is giving a very passionate argument that she feels strongly about. That may not mean a lot to Government members because they clearly do not believe in a lot, which is why they want to rush this legislation through. Nevertheless, she should be allowed to be heard in silence.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardner):** Order! Members will direct their comments through the Chair. I remind members that interjections are disorderly at all times.

**The Hon. SOPHIE COTSIS:** I would like the people of New South Wales to know that currently the Police Association has a case before the Industrial Relations Commission. If this bill passes it will trash the case and the police will lose their voice. I would also like to outline other cases that are currently before the Industrial Relations Commission: prisoner officers, social workers, zookeepers, agronomists, teachers' aides, parole officers, and forestry workers. These are Government employees who work hard and who are decent people. They are the best Government employees in the world and their cases are currently before the Industrial Relations Commission, the independent umpire. All these workers want is a hearing on their work value and to be heard about what they go through during their day and during their night shift.

The workers include teachers' aides, parole officers, forestry workers, Department of Community Services caseworkers, agricultural research workers, scientists, librarians, valuers, analysts, police assistance line workers, and juvenile justice officers. Their wages and conditions are in danger because their cases are before the Industrial Relations Commission and now those cases will be trashed if this bill is passed. We have a duty and we have an obligation to stand up for each and every one of the 400,000 professional government employees of this State. We should be proud of those workers. We should be encouraging those workers. In the middle of their cases where they want an independent umpire to hear their work value their cases are being trashed.

Why? Because of this elusive mandate. The Liberals do not have a mandate. A mandate is gained after taking a policy platform to the people, to the electorate. I am passionate, and so are my colleagues, because the O'Farrell Government did not take this to the people. The people are very angry. Yesterday I heard the comment that it was just a few of them. No, every one of the 400,000 people involved is important because 400,000 families rely on the wages of these employees. What are we doing?

The other cases currently before the Industrial Relations Commission include workers under the health employees award that covers 30,000 government sector employees in New South Wales. The occupations covered involve doctors, radiologists, physiotherapists, pathologists, medical researchers, pharmacists in hospitals, occupational therapists, wards persons, cleaners, catering staff, clerical staff and the staff in stores. Nurses also currently have a case in the commission that seeks to increase night duty allowance to bring them in line with the other States. This is significant because, whether we are patients or parents taking kids to emergency departments and having to stay overnight, we know how important nightshift nurses are and how professional, caring and passionate they are—amazingly professional.

Let me share a personal story that I have not told many people. When my daughter, Cassandra, was about three months old she had a very high fever. We could not bring it down and naturally as parents we were worried. I tried Panadol. Three months is a dangerous age. I took her to the emergency department at the Children's Hospital at Randwick. It was not my first time but this was urgent. It was serious because when little babies at three months have a fever it is very dangerous—it can be fatal. Members can imagine the stress and worry, but the nurses and paediatricians on nightshift were amazingly professional. These are professional workers. They just jumped into action and were fantastic. We had to stay overnight. There is a deeper story, but everything was okay. It took her a while to recover. All those workers that I have outlined that are covered under the health employees award—the radiographers, the doctors, the paediatricians—were very professional and worked very fast to help, and they did that for all the kids in emergency. This is why they are so special and why we have to stand up for them. It is our duty to represent those 400,000 workers because their wages and conditions are in danger.

I refer to the permanent firefighters award. There are 3,500 permanent firefighters. They have two cases currently before the commission. The first relates to public holidays. The Public Holidays Award was amended last year and firefighters receive an all-up salary and no penalties. This application is to adjust firefighters' salaries to take into account changed public holiday entitlements for the rest of the workforce. The second case refers to the community first response officers. Six of the country retained brigades are responsible for first response medical service in their communities, a relatively new role not recognised in the existing pay and allowance structure. Leave was reserved in the 2008 award to address this and the Fire Brigade Employees Union has a current application before the commission for an allowance to recognise this new role. It is important that we debate this legislation and debate it for as long as we have to. What is important here is that every single one of those 400,000 government workers who are listening to this debate, who are outside, are talking to their families and communities, the communities in Campbelltown, Wollondilly, Camden and Parramatta—

**The Hon. Shaoquett Moselmane:** And in Rockdale.

**The Hon. SOPHIE COTSIS:** And in Rockdale, Bathurst, the Tweed, Port Macquarie and on the South Coast, in Kiama and in the Central West. They are talking because they want to know why this Government is pushing hard and trying to ram this legislation through. We will debate every word; we will debate every ramification, because this is too important to the people of New South Wales. This policy is not in the 100 Day Action Plan. The Government has the Public Service Commissioner, the Business Commissioner—it likes lots of these commissions and commissioners but it does not like the Industrial Relations Commission, which has been there for a hundred years.

These are the other occupations that will be affected by what this Government is trying to do. We have the parliamentary staff, our wonderful parliamentary staff, who assist this Parliament in getting its business organised and assisting all of us. I extend congratulations to and thank all our parliamentary staff. Thank you very much and congratulations for doing a wonderful job for the people of New South Wales. The administrative and clerical officers will be affected, the Aboriginal Housing Office staff, the Casino Control Authority casino inspectors, the correctional officers—

**The Hon. Matthew Mason-Cox:** Name them.

**The Hon. SOPHIE COTSIS:** Don't you worry, I will name every one of those 400,000 public sector workers. There are correctional officers, court officers, Department of Juvenile Justice detention centre workers—

**The Hon. Duncan Gay:** Point of order: My point of order relates to the standing order that deals with tiresome and tedious repetition. The Hon. Sophie Cotsis indicated that she intended to name every person and every group affected, and she has just started to do that. That is tiresome and repetitious, and it defeats the point of a second reading debate addressing issues in a bill.

**The Hon. Eric Roozendaal:** To the point of order: The Hon. Sophie Cotsis is going to the very heart of the issue before us by identifying the individual groups and workers in the public sector that will be directly impacted by this heinous legislation the Government is attempting to pass. It is appropriate that she explains this to the House. I am very interested to hear the individual public service groups that are affected by this legislation. It helps me to understand how bad this legislation is. It is entirely appropriate that the Hon. Sophie Cotsis carefully explains this to the House so every member of the House can understand the impact of this legislation—and we can hope that some members of the Government will realise how wrong this legislation is—hear what the Hon. Sophie Cotsis has to say and, hopefully, will oppose the legislation that is being put forward, legislation that will impact upon so many people's lives.

**The Hon. Matthew Mason-Cox:** To the point of order: Indeed, the Hon. Sophie Cotsis mentioned all of these classes of public servants yesterday in her contribution. Therefore, this is simply tedious repetition. I ask that you instruct the member to introduce new material or to resume her seat.

**The Hon. Shaoquett Moselmane:** To the point of order: I was in the Chamber all day yesterday and I did not hear some of the names of the unions and groups the Hon. Sophie Cotsis is now referring to. Therefore, there is no point of order. Members opposite are simply trying to obstruct the Hon. Sophie Cotsis telling the public what this heinous legislation does.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The Hon. Sophie Cotsis so far has not breached the standing orders. However, I remind her to pay attention to the standing orders. If she is tempted to simply read lists of names that might be a breach of the standing orders. She may proceed.

**The Hon. SOPHIE COTSIS:** Thank you, Madam Deputy-President. It might sound repetitive to the Hon. Duncan Gay but it is not. In all fairness, I have received thousands of representations from people who are extremely worried about their conditions and about the Industrial Relations Commission having its independence stripped away. I am reading onto the record all the employee occupations that will be affected by this legislation. I am explaining these occupations to the House, and I will continue to do so.

Workers who will be affected by the legislation also include Department of the Arts, Sport and Recreation program officers, Department of the Arts, Sport and Recreation services officers, exhibition project managers and officers at the Australian Museum, general assistants in schools, general managers, superintendents, managers of security and deputy superintendents of the Department of Corrective Services, greyhound racing employees of the Greyhound and Harness Racing Regulatory Authority, horticulture and trades staff of the Historic Houses Trust, Home Care Service of New South Wales administrative staff, interpreters and translators of the Community Relations Commission—we rely heavily on the interpreters and translators in New South Wales and they do a wonderful job—and Jenolan Caves Reserve Trust Division staff.

In addition, workers affected by the legislation also include legal officers of the Crown Solicitor's Office, staff of the Office of Legal Aid Commission, the Office of the Director of Public Prosecutions and the Parliamentary Counsel's Office, librarians, library assistants, library technicians and archivists, Lord Howe Island Board officers, Museum of Applied Arts and Sciences casual guide lecturers, Attorney General's Department Reporting Services Branch officers, Department of Ageing, Disability and Home Care workers, Department of Ageing, Disability and Home Care residential centre support services staff, Department of Commerce staff, Government Chief Information Office information and communication technology projects officers, Department of Community Services after-hours service staff, Department of Lands officers, Department of Lands graphic service operators, Department of Primary Industries domestic services officers, Department of Primary Industries fisheries staff, Department of Primary Industries Forests NSW—

**The Hon. Trevor Khan:** Point of order: I draw your attention to Standing Order 91 (4) and (5). In a general sense, I also raise Standing Order 94. Debate in this place should be about substance and informed debate, not simply reading lists. Whilst a member obviously is entitled to reasonable latitude with regard to the reading of books, extracts and the like, the Hon. Sophie Cotsis is simply engaged in a mindless reading of lists.

**The Hon. Eric Roozendaal:** To the point of order: The legislation we are debating directly impacts over 400,000 public sector workers. Rather than our pretending these are just faceless people, it is highly appropriate that the Hon. Sophie Cotsis attempts to explain to the House the individual groups of workers who are directly impacted by this legislation. The Hon. Sophie Cotsis is not breaching Standing Order 94, nor is she breaching Standing Order 91 (5). Indeed, she is explaining to the House the people who will be impacted by this legislation. It is appropriate, and I daresay necessary, that the House understand the full details of the impact of this legislation.

For the Hon. Trevor Khan to suggest that the Hon. Sophie Cotsis cannot explain the impact of this legislation and the people who will be affected by it is of concern. It goes against all notions of democracy, it goes against all notions of transparency, and it goes against any notion of truth and democracy within this House. That is why the Hon. Sophie Cotsis should be allowed to continue with the very important points she is making as she carefully outlines the individual working groups that are directly impacted by this legislation. I know the Government wants to cover this up, and to treat all public sector groups as one big group of faceless people. But they are real people. They are human beings with families, concerns and needs. They do not want their conditions and wages cut by this legislation.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I indicated that the Hon. Sophie Cotsis was not transgressing the standing orders. I believe that she now has done so by simply reading out a list. I remind members that the Hon. Duncan Gay, a former Deputy-President, ruled that members should not attempt to read onto the record comprehensive lists but instead should give a precis of a number of examples. The standing orders suggest that the Hon. Sophie Cotsis should make a statement about the comments or views of the individuals or organisations she is referring to, and the number of individuals or organisations, rather than simply list them. I urge the member to do that.

**The Hon. SOPHIE COTSIS:** Thank you, Madam Deputy-President. I was seeking to list all the great government employees we have. I take on board what you have just said. I believe it is very important that—

**The Hon. Trevor Khan:** Point of order: At this stage the Hon. Sophie Cotsis is cavilling with your ruling. Having been directed to the point, she should simply move on to the next matter rather than discussing the point that has already been ruled upon.

**The Hon. Eric Roozendaal:** To the point of order: The honourable member is not flouting the ruling of the Chair. She is attempting to explain the impact that this legislation will have directly on the workers in this State. I can understand how uncomfortable the Government is. I can particularly understand how guilty the Hon. Trevor Khan must feel about this legislation and how he would like to silence the Hon. Sophie Cotsis. But the Hon. Sophie Cotsis and the Labor Party are committed to the workers in this State. We will continue to defend the rights of the workers in this State, their conditions of employment and their wages.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I remind the Hon. Sophie Cotsis that she should not continue to read from the list and that she should abide by my ruling.

**The Hon. SOPHIE COTSIS:** Yesterday I was giving an historical overview of the past 100 years of industrial relations in New South Wales. I had reached 27 March 2006—

**The Hon. Catherine Cusack:** Point of order: If the member is referring to a document, I ask that she source the document.

**The PRESIDENT:** Order! I apologise to the Hon. Catherine Cusack but, as I was taking the Chair for question time, I did not hear the Hon. Sophie Cotsis.

**Pursuant to sessional orders business interrupted at 2.30 p.m. for questions.**

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

## QUESTIONS WITHOUT NOTICE

### PUBLIC SECTOR WAGES POLICY

**The Hon. TONY KELLY:** My question is directed to the Minister for Finance and Services. Given the conclusive findings of the Workplace Research Centre of the University of Sydney, which found that New South Wales public servants earn 8 per cent less than their private sector counterparts, will the Minister admit that the Government's claims of a wages blowout are simply a cover to remove the rights of public sector workers?

**The Hon. Duncan Gay:** Point of order: My point of order relates to anticipation of debate. A bill is currently before the House that addresses this particular issue.

**The PRESIDENT:** Order! I will allow the question.

**The Hon. GREG PEARCE:** I have not seen that research. It is dubious given the fine research the Government has from Treasury, which is the basis of this Government's action.

### **SPEED AND SAFETY CAMERAS**

**The Hon. RICK COLLESS:** My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on the revenue raised by New South Wales speed cameras over the past five years?

**The Hon. DUNCAN GAY:** Over the past five years Labor reaped almost \$350 million from fixed speed, mobile speed and safety cameras in New South Wales. State Labor was a speed camera junkie, addicted to the revenue generated by speeding fines. The level of Labor's addiction was frightening. For example, two speed cameras located on Cleveland Street at Moore Park have generated more than \$20 million in just five years—that is, \$4 million per speed camera per year at the one site.

**The Hon. Greg Donnelly:** Are you going to pull it down, Duncan?

**The Hon. DUNCAN GAY:** You wait. Showing typical arrogance, Labor simply ignored widespread public concern on speed cameras being used as cash cows. Incredibly the advice and concerns of respected motoring groups such as the NRMA were simply brushed aside in Labor's grab for cash. Unlike Labor, this Government has listened to and acted on public concern in this area. Immediately after the March election we requested the Auditor-General to audit every fixed, mobile and speed camera in the State. This was a key election promise we were determined to act on within the first 100 days of government, and we have.

Put simply, if the audit finds any cameras that do not provide a benefit to road safety, as the Premier said, we will rip them out. Speed cameras need to be properly used to improve road safety, not purely used to raise revenue. The New South Wales Auditor-General has received more than 1,700 online responses and more than 100 submissions on speed cameras from individuals and community organisations across the State. This represents a significant public response and clearly shows this issue is of great concern to the community. Yesterday the Auditor-General released the following statement:

Thank you to all those who responded to my survey on speed cameras and to the many organisations and individuals who took the time and effort to formally provide me with their views and research on speed cameras. I recognise that large number of people are concerned about speed cameras ....

The audit report due to be released next month will help the Government to ensure that speed cameras are in places where they improve road safety. The New South Wales Government is determined to improve road safety. For example, it has committed \$200 million to fix well-known black spots across the State and an extra \$13 million for school zone flashing lights.

**The Hon. Eric Roozendaal:** They are funded by speed cameras.

**The Hon. DUNCAN GAY:** Recently we signed up to the National Road Safety Strategy, which aims to reduce the annual number of deaths and serious injuries on our roads by 30 per cent by 2020. The New South Wales Government is committed to ensuring that speed cameras are improving road safety and not just revenue raising. Isn't it interesting that the only person on the other side to be critical of what I have just said is the former Treasurer? The fiscal fiend—

**The Hon. Eric Roozendaal:** Point of order: The Minister knows that New South Wales has the lowest road toll since World War II, but he fails to mention that in his answer. He should know that flashing school zone lights are funded from the revenue from speed cameras in those zones.

**The PRESIDENT:** Order! That is not a point of order.

### **WIND FARMS**

**The Hon. ROBERT BROWN:** I direct my question without notice to the Minister for Roads and Ports, representing the Minister for Resources and Energy. I refer to wind farms. Is the Minister aware that last year General Purpose Standing Committee No. 5 recommended:

That the Minister for Planning include a minimum setback distance of two kilometres between wind turbines and residences and neighbouring properties in the NSW Planning and Assessment Guidelines for Wind Farms.

Has the Federal member for Hume approached the Government to halt new wind farm developments in the electorate of Hume? As he has said, residents are upset about the way "wind turbine developers have been able to usurp the normal development application process". Will the Government facilitate community consultation with affected residents in line with pre-election commitments?

**The Hon. DUNCAN GAY:** I thank the member for that very good question.

**The Hon. Tony Kelly:** Is it closer to Albo than Alby?

**The Hon. DUNCAN GAY:** That is a good question as well, but I will answer the question of the honourable member first. There are those in the community who are critical of the honourable Alby—well he is not honourable—

*[Interruption]*

He has not got the title "honourable". He is Mr Alby Schultz and there are those in the community who are critical of him—I am not one of them. Why would one be critical of him? If he had time—I know he is a very busy man—to call in to see me or telephone me about these issues I would be very happy to receive him. But sadly so far he has not had time to do that. He has had time to speak to some journalists on the issue. I am sure that is where the honourable member saw the quote. To say I am a fan of wind farms would be a huge exaggeration. I live in a community that is divided on wind farms.

**The Hon. Greg Donnelly:** What is your position?

**The Hon. DUNCAN GAY:** I am against them. I have said that on many occasions in this House. I cannot see the justification for them in my community. That is not a Government policy; that is a private principle I have held for a long time. The view within my community on wind farms is split in half. Half of our community are huge supporters.

**The Hon. Jeremy Buckingham:** Eighty per cent support them.

**The Hon. DUNCAN GAY:** The Hon. Jeremy Buckingham knows everything. He has had the ouija board out, he has dragged the chook entrails across the floor, he has looked into the rock crystal and suddenly 80 per cent of people in Crookwell love wind farms.

**The Hon. Jeremy Buckingham:** The council took a poll just last week.

**The Hon. DUNCAN GAY:** They have been conducting a survey in their office. I was asked an important question. During the last Parliament an upper House inquiry tabled a unanimous report. That report has to be looked at carefully and the issues addressed. The Minister will make a decision and put it to Cabinet. The question asked of me contained a great amount of detail. I will refer the question to the Minister, the Hon. Katrina Hodgkinson, who is my local member at Crookwell. She is a fabulous local member and holds a view not dissimilar to my private view. As all members know, private views of the past may or may not change on corporate views. As I said, my local community is split on this issue. Sadly, it has caused divisions in our community.

**The Hon. Tony Kelly:** And Mandurah.

**The Hon. DUNCAN GAY:** And at Mandurah and Boorowa. These communities have been cohesive communities for years. Now families are against families, friends are against friends and decent people are against decent people. When I saw the people of St Peters objecting to the gas well—*[Time expired.]*

## TRADE UNION MOVEMENT

**The Hon. LUKE FOLEY:** My question without notice is directed to the Minister for Finance and Services. The Minister commented in 2006:

The Labor Party is really concerned about WorkChoices, because that has an adverse effect on the jobs of the greatest bunch of leeches in Australia: the unions.

How can the Minister negotiate with the trade union movement on behalf of the Government when he clearly has no regard for the legitimate role that free trade unions play in our society?

**The Hon. GREG PEARCE:** I am on the record on many occasions extolling the virtues of unions when they act in the interests of their members and the community as a whole. I have a very good relationship with the union movement in New South Wales. Some weeks ago after a memorial ceremony for deceased workers—

**The Hon. Greg Donnelly:** The AMA, the Law Society, the Bar Association.

**The Hon. GREG PEARCE:** Let us not get too carried away. I had a lovely chat with Mark Lennon for about 10 to 15 minutes in the street. We chatted about all sorts of things but he kept coming back to my title. He asked why I was not the Minister for industrial relations. Labor is all about titles and entitlements and what they can get out of it. I said to Mr Lennon that I had been given a ministry called Finance and Services because this Government is about responsible financial management and delivering the services to the people of New South Wales that they deserve and need. My role is to work with other Ministers in empowering the public service in New South Wales and giving the public service the tools they need to provide services to the people of New South Wales. I recognise the good work that our public servants do, and I do so on every occasion I can. A couple of nights ago I attended a State Archives function. No-one from the Opposition was there.

**The Hon. Tony Kelly:** You didn't invite me.

**The Hon. GREG PEARCE:** I did not do the invitations. I take back what I said, I am sure the Hon. Tony Kelly would have attended. Everyone I spoke to at the function said they were astonished that I was there. Apparently, Ministers of the previous Government did not bother to attend such functions.

**The Hon. Tony Kelly:** I did. I have been to two of their functions this year.

**The Hon. GREG PEARCE:** The Hon. Tony Kelly has been to two of their functions this year. Although I am busy at the moment, I go to every function I can and I show respect to the public servants of New South Wales.

**The Hon. Mick Veitch:** Why didn't you go and talk to them?

**The Hon. GREG PEARCE:** The Hon. Mick Veitch asks about talking to unions. I had a lovely meeting a couple of nights ago with a number of senior union officials. Mark Lennon was there. I will not go through the whole list. Every union official who wanted to come was invited. Representatives of police and nurses were there and various other unions. We had a very productive discussion. It was clear from the discussion that a number of those unions support what we are doing. Many of the public sector workers delivered on the promise they made to make savings. There is an equity issue here. Some public servants—  
[Time expired.]

## NSW POLICE LEGACY

**The Hon. CHARLIE LYNN:** My question without notice is addressed to the Minister for Police and Emergency Services. What support is available to families of deceased police officers?

**The Hon. MICHAEL GALLACHER:** All Australians have been shocked and saddened by the callous shooting of Detective Senior Constable Damian Leeding on the Gold Coast on 29 May 2011. This was a cruel and thoughtless act that has left his widow, his three-month-old daughter and two-year-old son in great need of emotional and material support. New South Wales has also had its experiences of police officers losing their lives as a result of the actions of offenders who have attacked police executing their duty to protect the community. We have lost 17 valuable police officers in New South Wales in this manner since 1970. The families of these officers, as well as of other deceased officers of the NSW Police Force, can find themselves in social and economic need after the loss of their loved ones. The NSW Police Legacy was created to address these needs.

The NSW Police Legacy is the only charitable organisation in New South Wales with the primary aim of caring for the partners and children of deceased police officers serving or who formerly served in the NSW Police Force. Since the NSW Police Legacy was established in 1987 it has been guided by its vision that no partner or child of a deceased serving or former police officer will ever feel forgotten or in need. Police Legacy provides emotional and financial support to the partners and children of deceased police officers and currently supports more than 1,300 family members. It cares for children as young as two and widows as old as

102. The NSW Police Legacy endeavours to be a model not-for-profit organisation committed to providing professional and compassionate support to the widows, widowers and dependent children of deceased New South Wales police officers. It is dedicated to its legatees and ensures that they remain a part of the wider police family.

NSW Police Legacy provides its legatees with emotional and financial support. Its work includes assisting with grief and trauma counselling, managing children's trust funds, and raising funds to provide a range of educational and social activities for its members. In this way, it enables the partners and children of deceased police officers to stay in touch and share their experiences with others who have suffered in similar ways. It helps by providing grief and trauma counselling, providing education and tertiary grants, organising functions to help family members keep in touch, managing trust funds, organising life education trips for young teens, and providing birthday and Christmas gifts for legatees under 16 and over 90.

This Government is grateful to NSW Police Legacy, and the helpers associated with it, for devoting themselves to the care and assistance of those left behind. I am aware that all of Police Legacy's funding is generously donated from New South Wales police salary deductions, public donations and fundraising activities, such as the annual Blue Ribbon Dinner, a fantastic evening. I would encourage members of the community and all members of this House to support the work of this compassionate organisation, which gives so generously to the widows, widowers and children of police officers who have given their all.

### AQUIFER INTERFERENCE REGULATION

**The Hon. JEREMY BUCKINGHAM:** My question without notice is directed to the Minister for Finance and Services, representing the Minister for Planning. In line with the announcement of the Minister for Planning on 21 May, has the Government developed the draft aquifer interference regulation? What industry groups or other stakeholders have contributed to the development of this draft or have been asked to comment on the draft? When will the regulation be open for public comment? When does the Government intend to bring the regulation into force?

**The Hon. GREG PEARCE:** I thank the honourable member for his question. Obviously, he does not expect me to announce Government policy, as that would be in breach of the standing orders. I will obtain an answer to the member's question. I thank him for providing me with a copy of *GasLand*, which I will watch with some interest.

### POLICE SALARIES

**The Hon. MICK VEITCH:** My question is to the Minister for Police and Emergency Services. I refer the Minister to his party's pre-election commitment to employ 550 additional police officers by 2014. Given that findings by the University of Sydney's Workplace Research Centre revealed that had his Government's wages policy been in place since 2000 New South Wales police officers "would be the worst paid in the country by a significant margin", how will the Minister be able to deliver on his policy?

**The Hon. MICHAEL GALLACHER:** Interesting, isn't it? First, I have not seen the report. Secondly, I would have thought this a quite interesting question given that what we are electing to do is adopt the former Government's wages policy.

**The Hon. Duncan Gay:** Their policy.

**The Hon. MICHAEL GALLACHER:** We are simply adopting the former Government's wages policy.

**The Hon. Tony Kelly:** Police would not have got 4 per cent under your policies.

**The Hon. MICHAEL GALLACHER:** Let me come back to that.

**The Hon. Eric Roozendaal:** Point of order: The Government's public sector wages policy is not the previous Government's policy.

**The PRESIDENT:** Order! The Hon. Eric Roozendaal knows that that is not a point of order. The Minister may continue.



**The Hon. Duncan Gay:** He hates to take credit for it.

**The Hon. MICHAEL GALLACHER:** He wants to take credit for being the architect of the previous Government's wages policy: 2.5 per cent, with anything above that being achieved through savings. The member is too humble and gracious to take all the credit for that policy. His Government did not give police new money with the additional 1.5 per cent; they simply re-allocated money from somewhere else in the Police budget on top of the 2.5 per cent that was adopted. So the question could easily have been asked of the Hon. Eric Roozendaal given that he was the architect of the policy.

**The Hon. Tony Kelly:** Point of order: I was police Minister at the time, and that is simply not true.

**The PRESIDENT:** Order! The Leader of the Opposition knows that that is not a point of order.

**The Hon. MICHAEL GALLACHER:** Another one of the design team standing up to take credit for the way they ripped people off; that was their whole approach to government in New South Wales. Quite simply, they just want to forget what happened in the past. They do not want to talk about anything that occurred prior to March this year.

**The Hon. Duncan Gay:** No—let's pretend.

**The Hon. MICHAEL GALLACHER:** Their approach is: let's pretend it didn't happen; they were the old guys, and we got rid of them; we've made sure that they're not here anymore. For the edification of the Hon. Mick Veitch, because he was only a backbencher then and probably did not get the same—

**The Hon. Duncan Gay:** I think he was a Parliamentary Secretary.

**The Hon. MICHAEL GALLACHER:** He was, too. The honourable member needs to go back and have a look at the previous Government's wages policy, reflect on that in terms of the claims made in the Sydney University study, and he might be able to come to some further conclusions in relation to his question.

#### WHITE-COLLAR CRIME

**The Hon. SHAOQUETT MOSELMANE:** My question is to the Minister for Police and Emergency Services, representing the Attorney General, and Minister for Justice. I refer the Minister to comments made by his Liberal colleague David Elliott, who said with reference to white-collar criminals, "A hefty 'pay or stay' policy would not only save taxpayers, but also act as a necessary deterrent factor, which is essential within our criminal law." Does the Minister support the proposal to allow criminals to pay their way out of prison?

**The Hon. MICHAEL GALLACHER:** I wish the member had asked me that question yesterday. He will get an excellent answer once the Attorney General prepares it for him. I will provide him with that answer in due course.

#### WORKPLACE HEALTH AND SAFETY

**The Hon. MELINDA PAVEY:** My question is directed to the Minister for Finance and Services. Will the Minister inform the House of the impact of the passing of the Work Health and Safety Bill 2011 for employees and employers? Will the Minister inform the House of any impact that amendments may have in the future on the New South Wales budget position?

**The Hon. GREG PEARCE:** I thank the honourable member for her very good question. I am happy to have heard yesterday evening that the Work Health and Safety Bill 2011 and the Occupational Health and Safety Amendment Bill 2011 were accepted with amendments in the other place and that they may already have been sent to the Governor for assent. There are considerable benefits that the people of New South Wales will see from the final assent and proclamation of both of those bills. More especially, there will be more benefits when all States pass the legislation, as Queensland did early this month or late last month, and as New South Wales has now done.

Once all States are in conformity, workers, unions and employers will know the laws wherever they go. Safe systems of work will not need to be adapted from State to State. I recall the letter that the Prime Minister sent to then Premier Keneally last year when the former State Government reneged on the Commonwealth

heads of Government arrangement for harmonisation of occupational health and safety laws—arrangements that had been signed off by the Government. Signatures of people such as then Minister Joe Tripodi were on that agreement. The Prime Minister said in her letter to the then Premier:

Inconsistent laws cause confusion and costs for business. It also causes inequitable safety standards across jurisdictions and industry sectors. Inconsistency also leads to duplication and inefficiencies for governments in the provision of policy, regulatory and support services. National model occupational health and safety laws will save businesses around \$179 million per annum and, importantly, improve safety for workers.

That was from the current Prime Minister—the current Labor Party Prime Minister, the current Labor-Greens coalition Prime Minister of this country. As to the other aspect of the honourable member's question, the National Partnership on the Seamless National Economy—again, a national agreement signed up by the former Labor Government of New South Wales—offers New South Wales up to \$144 million in reward payments for implementing reforms, including occupational health and safety harmonisation.

The Commonwealth, on advice from the Council of Australian Governments Reform Council, will consider these reward payments over two budgets—up to \$80 million in 2012-13 and up to another \$64 million in 2013-14. In order to qualify for these payments, New South Wales was required to enact the Commonwealth model occupational health and safety legislation and regulation by 2011. As I indicated in debate on those bills, we have some concerns as to whether the amendments that were made may place in jeopardy some or all of those payments. I assure honourable members that the Government and I will work as hard as we can to ensure that those payments are delivered for the people of New South Wales to ensure that we use them for infrastructure and service delivery and to ensure that we have a very safe working environment in New South Wales.

#### **NARRABRI COAL SEAM GAS DEVELOPMENT**

**The Hon. CATE FAEHRMANN:** My question without notice is directed to the Hon. Duncan Gay, representing the Minister for Primary Industries. My question relates to the Narrabri Coal Seam Gas Field Development proposal from Eastern Star Gas Ltd, which will include some drilling sites within the Pilliga East State Conservation Area.

**The Hon. Tony Kelly:** I have been there.

**The Hon. CATE FAEHRMANN:** Really? Has Eastern Star Gas Ltd submitted any application or sought permission for any kind of exploratory, test or pilot drilling within that State conservation Area? If so, have any of those been approved and has drilling of any kind taken place within the State conservation area?

**The Hon. DUNCAN GAY:** On a normal sitting day I have time to do my research and be ready for questions like that which come out of the blue from the Hon. Cate Faehrmann.

**The Hon. Greg Pearce:** Out of the green.

**The Hon. DUNCAN GAY:** Out of the green. Today I have been locked in the Chamber and have not had the chance to do my normal research. I was intrigued by the comments from the Leader of the Opposition, because I remember during the election campaign he pulled a stunt.

**The Hon. Tony Kelly:** Point of order: It was not a stunt; it was appreciated by the farmers up in the Gunnedah area. That is why they voted number one for me, number two for the Liberals and no Nationals vote.

**The PRESIDENT:** Order! The Hon. Tony Kelly knows that is not a point of order.

**The Hon. DUNCAN GAY:** Not out of his own pocket, not out of the pocket of Country Labor but out of the taxpayers' pocket he hired a helicopter—

**The Hon. Tony Kelly:** The Department of Planning did.

**The Hon. DUNCAN GAY:** The Department of Planning did—that is the taxpayer in any other guise. The taxpayer hired a helicopter so Tony could put out a press release.

**The Hon. Cate Faehrmann:** Point of order: The Minister knows that he must be generally relevant to the question. I am not sure how the Hon. Tony Kelly's flight across the Pilliga relates to the question I asked, which is whether drilling has taken place within the Pilliga State Conservation Area.

**The PRESIDENT:** Order! I uphold the point of order.

**The Hon. DUNCAN GAY:** Thank you, Mr President. Adhering to your ruling and your other rulings, I will be generally relevant to the question. I visited the site and met with constituents and people there. I drove to the area, sat down—the Hon. Sarah Mitchell and the Hon. Kevin Anderson were with me that day and we spoke to the people and addressed their concerns. We did not hire a helicopter to take the media and put out a press release, like the Hon. Tony Kelly, challenging me to adhere to our stated policy.

Our stated policy was that the pipeline should, wherever possible, go on government land. We already had that policy out there. But Tony the benevolent, at taxpayers' expense, hired a helicopter, put the television crew in the helicopter and put out a press release challenging me to adhere to our policy. The Opposition is worried about paying people, but that is what the former Labor Government did: it squandered taxpayers' money in New South Wales. The question is important and I will refer the detail to the Minister for Primary Industries for a proper and detailed answer.

### WATERWAYS SAFETY

**The Hon. CATHERINE CUSACK:** My question is directed to the Minister for Roads and Ports. In light of the recent bad weather will the Minister update the House on initiatives to improve safety on our waterways?

**The Hon. Mick Veitch:** Catherine always gets the call on time. The Hon. Eric Roozendaal should take his lead from Catherine.

**The Hon. DUNCAN GAY:** She is very good. It is a very good and sensible question. Unlike the Opposition, she has noticed the weather over the last week. We have seen extreme weather batter the New South Wales coastline. Torrential rain, gale force winds, large swells and dangerous waves have created a situation of heightened risk for people on our waterways. Tragically, over the past month, lives have been lost in rock fishing accidents and there have been several close calls where boats have either capsized or been swamped by large waves.

The Government is committed to reducing the number of people who drown in this State, not just while rock fishing but also on our beaches, when boating and in backyard pools. To this end, the Government has committed to implement a New South Wales water safety strategy, including the allocation of an extra \$4 million over four years for surf lifesaving clubs to enhance existing programs. In addition, an allocation of an additional \$8 million over four years will be used to fund intervention methods at black spots and support high-risk groups. This will be a whole-of-government partnership, including NSW Maritime, NSW Sport and Recreation and the Department of Primary Industries.

In separate boating incidents last weekend, two people thankfully survived their vessel capsizing on the bar crossing at Merimbula and three people survived a similar incident at the Ballina bar. In each case the occupants of these boats were thankfully saved by wearing lifejackets. Lifejackets are so important. There are many people still who are silly and do not wear lifejackets. The compulsory wearing of lifejackets for crossing coastal bars was introduced in 2003, and I am pleased to say that this move has been very effective in saving lives. Did the Hon. Tony Kelly bring that in?

**The Hon. Tony Kelly:** It wasn't me.

**The Hon. DUNCAN GAY:** It was a good move. All skippers should check the conditions before heading out onto the water, via an innovative network of live Web-based video cameras and the maritime alert system. There are 16 Webcams at coastal locations that stream real-time conditions via the NSW Maritime website. Weather forecasts for these locations are also available. The Maritime Alert system is delivered free online and it provides people with an alert for adverse conditions via email. There have been four maritime alerts in May for large swells and dangerous conditions.

I use this opportunity to remind boat users again to be safe and aware on our waterways during the winter season. High wind warnings have been issued today and rock fishers in particular should take care, with high swells and dangerous surf off the coast of New South Wales. As many members know, when I get a chance to have a break—which will probably be early next year—I like to do a bit of rock fishing, and I have made a pledge to myself that before I go rock fishing again I will get a vest. I urge everyone to forget about the macho stuff—put a vest on and let all come back alive.

### PAEDIATRIC MEDICAL EQUIPMENT

**The Hon. PAUL GREEN:** My question is directed to the Minister for Police and Emergency Services, representing the Minister for Health, and Minister for Medical Research. Given that six babies are born every day with heart problems, congenital heart disease is one of the major causes of death in infancy, and ultrasound machines such as the echocardiography scanner are used as a diagnostic tool to determine heart problems and to check heart function in children, over the next four years will the Government ensure that all children's hospitals in New South Wales are equipped with such up-to-date, lifesaving equipment? More specifically, what is the Government doing with regard to providing funding for the training of future paediatric specialists and other clinical staff in the use of this equipment?

**The Hon. MICHAEL GALLACHER:** I will refer the question to the Minister for Health for an answer as soon as possible.

### PUBLIC SECTOR WAGES POLICY

**The Hon. ERIC ROOZENDAAL:** I direct my question to the Minister for Finance and Services. Will the Minister commit to this House to write to the 15,000 signatories to a petition opposing this Government's public sector wages policy explaining the Government's plan to rip away their rights and to remove the Industrial Relations Commission as an independent umpire?

**The Hon. GREG PEARCE:** I assure the honourable member that the Government is happy to write to every public servant about measures which will improve the public service, service delivery and the budget position, which will reduce threats to the New South Wales budget and which will allow it to build infrastructure. A speech made on 11 November 2008 in this place reads:

And a staff freeze ensures it shall not grow by stealth. I also confirm the Government's wages policy to require public sector wage increases over 2.5 per cent to be met through productivity improvements that deliver cost savings.

This will produce a smaller, leaner but more efficient public sector.

Who was the speaker? It was the Hon. Eric Roozendaal presenting his mini-budget.

### FIRE AND RESCUE NSW ART COMPETITION

#### ABORIGINAL FIRE SAFETY PROGRAM

**The Hon. JENNIFER GARDINER:** My question is directed to the Minister for Police and Emergency Services. Will the Minister inform the House about Fire and Rescue NSW' recent art competition and new Aboriginal fire safety program?

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for her question and interest in this important community safety and engagement initiative. Yesterday a unique artwork was unveiled at Redfern fire station. The fire safety mural incorporates the artwork of four New South Wales schoolchildren. The project began as a local initiative undertaken by firefighters to increase community engagement and to promote fire safety messages in both the local Aboriginal community and the wider Redfern and Waterloo area. During Reconciliation Week 2010 Fire and Rescue NSW, with the assistance of the Department of Education and Training, launched a statewide art competition. The theme was "A Fire Safety Message" and 160 entries were received from Sydney, Newcastle, Wollongong, and as far afield as Jerilderie in the State's south-west. The artworks were displayed in the Redfern Community Centre during NAIDOC Week last year for public viewing prior to the judges deciding the winning entries.

The judging panel, comprising members of Indigenous organisations, local and State government agencies, Fire and Rescue NSW and local Gadigal elder and artist Charles Madden, chose four winners from the participating primary schools. Each winner was chosen because their artwork vibrantly communicated an important fire safety message. The winning artworks were converted into three-metre panels by artist Chico Monks. The unveiling of the mural formed part of the launch of Fire and Rescue's Aboriginal Fire Safety Campaign, which is aimed at reducing Aboriginal deaths and injuries from residential fires. This campaign, which was developed in consultation with Aboriginal organisations including the TAFE Eora Centre and the Aboriginal Housing Company, urges Aboriginal people to "protect your mob" by maintaining smoke alarms and

eliminating fire risks around the home. This program and the Redfern fire station mural highlight the important work fire and rescue officers do every day in educating communities about fire safety. I encourage members and the community to visit Redfern fire station to see the wonderful mural.

### CLIMATE CHANGE

**Dr JOHN KAYE:** I direct my question to the Minister for Roads and Ports, representing the Minister for Trade and Industry, being the Minister responsible for the Office of the Chief Scientist and the Chief Scientific Engineer. Will the Minister outline what steps the Government is taking to reassure the international science and engineering community that the Government does not share the views expressed in this Chamber on 30 May 2011 by the Government Whip about the motives of these important professions, the alleged corruption of research activity by government funding and the supposed widespread conspiracy being perpetrated by climate scientists and other scientists?

**The Hon. Luke Foley:** There is a nutter in every family.

**The Hon. DUNCAN GAY:** And you are the representative in your family. I was tempted to take a point of order about the question, but I am such a benevolent person—

**The Hon. Greg Donnelly:** Freewheel it, Duncan!

**The Hon. DUNCAN GAY:** I will with the aid of my notes. For 16 years we watched that lot over there with their colleagues The Greens plunge to such a point that the people of this State lost confidence in them.

**Dr John Kaye:** Point of order: My point of order relates to relevance. The Minister's response is not relevant. My question asked what steps the Government is taking to address a major issue. The Minister is embarking on a not very well directed attack on the Opposition and The Greens.

**The PRESIDENT:** Order! It is a little too early for me to rule on whether the Minister is not being relevant.

**The Hon. DUNCAN GAY:** I was simply making some preliminary comments and acknowledging the close working relationship between The Greens and the Labor Party. They are a coalition; they think alike. In fact on many issues today The Greens have been leading the Labor Party. When we talk about climate change issues we have to talk about members opposite as a collective. It would be unfair if when we talked about people and their actions on climate change we did not include the then Government and now Opposition. I am sure the honourable member would agree that that is necessary to put any comments made in this House in context.

**The Hon. Luke Foley:** The note says, "Just admit that Phelps is as mad as a cut snake."

**The PRESIDENT:** Order! I ask the Hon. Luke Foley to withdraw his statement, which is unparliamentary.

**The Hon. Luke Foley:** I withdraw.

**The Hon. DUNCAN GAY:** I will take the question on notice and provide an answer.

### WHITE-COLLAR CRIME

**The Hon. HELEN WESTWOOD:** My question is directed to the Minister for Police and Emergency Services. What will be the impact on police resources should white-collar criminals be allowed to buy their way out of prison, as proposed by his Liberal Party colleague David Elliott?

**The Hon. MICHAEL GALLACHER:** The member has asked a hypothetical question.

**The PRESIDENT:** Order! Is the Minister taking a point of order?

**The Hon. MICHAEL GALLACHER:** Yes.

**The PRESIDENT:** Order! Question time is for seeking information. For that reason the rules for questions are quite clear. Questions must not contain hypothetical matter. The question is not about government policy. I rule that it contains hypothetical matter.

### SPATIAL INFORMATION MAPPING SYSTEM

**The Hon. DAVID CLARKE:** My question is directed to the Minister for Finance and Services. Will the Minister inform the House of the New South Wales Government's emergency management technology featured at this week's CeBIT exhibition?

**The Hon. GREG PEARCE:** I thank the honourable member for his interest in this area. He is interested in many things and it is excellent that he can take time to be interested in this area as well. I take the opportunity to congratulate the New South Wales Government spatial information experts showcased at CeBIT this week. The Emergency Information Coordination Unit [EICU] is a division of the Department of Finance and Services. It was set up in 2002 to coordinate the spatial data required for responses by emergency services agencies in fire, floods, or other disasters and in counter-terrorism. Since that time the Emergency Information Coordination Unit has been central to the collaboration of local, State and Federal agencies and private organisations working towards this end. The unit has developed a leading-edge product called the spatial information mapping system—or SIMS.

The spatial information mapping system grew out of the need for very detailed information about places, people and events that is easy to access and act on in emergency situations. It includes information on electrical systems, water, transport, schools, hospitals and other locations which may be required during emergency events. It also provides the location of buildings and an estimate of how many people may be inside should there be an evacuation. For example, in a recent urgent situation the spatial information mapping system identified live high-voltage cables that were located at a site workers were about to excavate. The spatial information mapping system was nominated as a finalist in the project excellence category at the CeBIT awards, held last night at the Darling Harbour Convention Centre.

Honourable members might be aware that CeBIT is a leading information and communications technology business event with a focus on the Asia-Pacific region. It is an indication of the status of Australia, and New South Wales in particular, that CeBIT's Asia-Pacific event is held here in Sydney. I am very proud to announce that the spatial information mapping system took out the project excellence award last night. This is a reflection of the great work and dedication of the team at the Emergency Information Coordination Unit of the Department of Finance and Services, which developed the system in-house and I congratulate that team, as I congratulate all the hardworking public servants in New South Wales.

### CIGARETTE PACKAGING

**Reverend the Hon. FRED NILE:** I ask the Hon. Michael Gallacher, Leader of the House, representing the Premier, a question without notice. Is it a fact that the Federal Coalition has finally agreed to support the plain packaging of cigarettes in spite of strong opposition from the tobacco industry? What is the policy of the New South Wales Coalition Government on plain packaging of cigarettes? Will it cooperate with any future Federal legislation or introduce its own legislation to help reduce the harmful health results of cigarette smoking, especially as we acknowledge World No Tobacco Day?

**The Hon. MICHAEL GALLACHER:** As the Deputy Leader of the House again reminds me, and speaking in a Federal sense, we cannot support something until we have seen the legislation. Be that as it may, I will seek a suitable reply from the Premier and obtain an answer for the honourable member as quickly as I can.

### FAIR WORK AUSTRALIA NATIONAL WAGES REVIEW

**The Hon. GREG DONNELLY:** My question is directed to the Minister for Finance and Services. As the Minister would be aware, Fair Work Australia is handing down its 2010-11 national wages review decision tomorrow. Given that approximately a third of Australia's families live in New South Wales, why did the New South Wales Government not make a submission to the review?

**The Hon. GREG PEARCE:** I look forward to the decision tomorrow.

**The Hon. GREG DONNELLY:** I ask a supplementary question. Will the Minister elucidate his answer by explaining why the New South Wales Government could not be bothered to make a submission to this nationally important annual review?

**The Hon. GREG PEARCE:** I do not see how I could elucidate my answer.

## TAXATION POLICY

**The Hon. PETER PRIMROSE:** My question is to the Minister for Finance and Services. Now that the Minister has had time to familiarise himself with the proposal of Mr David Elliott, MP, for a staggered taxation rate, does he support it?

**The Hon. GREG PEARCE:** No, I still do not know the policy.

## BULLI HOSPITAL

**The Hon. PENNY SHARPE:** My question is to the Minister for the Illawarra. What upgrades and service improvements, if any, are planned for Bulli Hospital over the next 12 months? What upgrades and service improvements, if any, are planned for the emergency department of Bulli Hospital?

**The Hon. GREG PEARCE:** The member's question is one for the Minister for Health. I will take the question on notice and get an answer from the Minister for Health.

## INTEGRATED TRANSPORT AUTHORITY

**The Hon. GREG DONNELLY:** My question is directed to the Minister for Roads and Ports.

**The Hon. Greg Pearce:** Are you sick of me?

**The Hon. GREG DONNELLY:** Not yet. How does the Integrated Transport Authority differ from its predecessor, Transport NSW?

**The Hon. DUNCAN GAY:** I have had this answer sitting in my file for a couple weeks waiting for the opportunity to get one of our own to ask the question. I am aware of the time, so I will try to be precise. The key difference between this Government and the previous one is that we did not just change the name, we are doing something. We did not put out a glossy brochure, we did not have a computer-generated website that said what we were going to do; we put in place a 12-week program to do something. As promised at the March election, we are committed to providing a truly Integrated Transport Authority that will coordinate transport planning and services and ensure projects are built on time and on budget. Are you listening?

**The Hon. Greg Donnelly:** I am. I am taking notes.

**The Hon. DUNCAN GAY:** You should, because it is the way you will learn. The establishment of the authority will, for the first time, ensure planning and policy are fully integrated across all forms of transport, including road, rail, buses and ferries. Rather than working in silos, planning and policy experts from all transport agencies will work together. This means that operational agencies like the Roads and Traffic Authority, RailCorp, the State Transit Authority and Sydney Ferries will be free to focus solely on delivering reliable, safe and clean front-line transport services to customers.

The integrated transport system will be totally opposite to the ad hoc, piecemeal approach taken by successive Labor governments over the past 16 years. New South Wales Labor's culture of incompetence and cronyism resulted in—and it is important that I get these facts out because there are people in the House and in the gallery who would be pleased to hear them—the completion date of the Pacific Highway upgrade being delayed for more than a decade and half a million dollars spent on the Rozelle metro without a centimetre of rail laid. This is one of your greatest achievements, Eric.

**The Hon. Eric Roozendaal:** Point of order: I have a number of points of order—

**The PRESIDENT:** Order! The Hon. Eric Roozendaal should resist the temptation to play to the gallery. He should take one point of order.

**The Hon. Eric Roozendaal:** The standing orders allow me to have several points of order. First, I raise relevance. Secondly, if the Hon. Duncan Gay wants to make a substantive attack on members he knows he must do that by way of substantive motion and not by some snide comment. Thirdly, he should know that the reason the Pacific Highway was not completed is that the general secretary would not put up the Federal funding to allow our Government to do it.

**The PRESIDENT:** Order! The Minister will conclude his answer.

**The Hon. DUNCAN GAY:** The best of all was the \$300 million in Federal funding not utilised to advance the M4 East extension. Do members remember me talking in this Chamber about Albo the Good? Albo the Good provided this money to the New South Wales Labor Government, yet it frittered it away because it was not shovel already. The only thing that is shovel ready is the questions of members opposite in this House. *[Time expired.]*

### HERITAGE PRESERVATION

**The Hon. GREG PEARCE:** On 1 June 2011 Mr David Shoebridge asked me, in my capacity as representing the Minister for the Environment, a question about Newcastle Heritage preservation. The Minister for the Environment has provided the following response:

The Minister for the Environment has informed me that she is currently considering proposals for the broader Aboriginal Cultural Heritage Reform process. These were foreshadowed when legislation to improve the National Parks and Wildlife Act 1974 was passed in 2010.

Aboriginal cultural heritage protection is afforded through the provisions of both the Environmental Planning and Assessment Act 1979 and National Parks and Wildlife Act 1974.

The redevelopment of the Palais Royal site in Hunter Street Newcastle West, has been the subject of approvals under both the Environmental Planning and Assessment Act 1979 and the National Parks and Wildlife Act 1974.

In November 2005 Newcastle City Council issued a consent under the provisions of the Environmental Planning and Assessment Act 1979, for the redevelopment. This consent required further investigation of the Aboriginal cultural heritage values of the site and, as relevant, approvals under the provisions of the National Parks and Wildlife Act 1974.

Under the provisions of the National Parks and Wildlife Act 1974, approvals were issued in February 2005 and December 2006, to undertake preliminary research, by way of excavation, to determine Aboriginal cultural heritage values of the site. These approvals were issued following consultation with the then registered Aboriginal Groups.

Following the outcomes of the preliminary investigation further consultation was entered into with the registered Aboriginal group being the Awabakal Local Aboriginal Land Council. This consultation resulted in approval being issued in April 2009. The effect of the approval is to ensure that the Awabakal Local Aboriginal Land Council is actively involved in the management and preservation of their cultural heritage values including artefacts

Currently a working group is being established between representatives of the Awabakal Local Aboriginal Land Council and Newcastle City Council to maximise the conservation outcomes for the Aboriginal cultural heritage values including artefacts salvaged from the site.

### YOUNG FARMER INCENTIVE PROGRAMS

**The Hon. DUNCAN GAY:** On May 11 2011 the Hon. Robert Brown asked me, in my capacity as representing the Minister for Primary Industries, a question about young farmer incentive programs. The Minister for Primary Industries and Minister for Small Business has provided the following response.

Recent discussions have been held with the Chairperson, Chief Executive and General Manager of the New South Wales Rural Assistance Authority, to investigate options for a young farmers program following the conclusion of the pilot scheme, AgStart in 2009.

A working group has been established to consider a program that aims to:

- encourage transitions of farm businesses to young people including those without existing family farm interest;
- promote entrepreneurial mindsets and sound business practices with greater adaptation and innovation, agricultural intensity, investment and output; and
- address threats to agricultural productivity and the vitality of rural communities by way of younger generations.

It is envisaged that:

- by focusing on impediments faced by the younger rural community; and
- promoting opportunities to engage in new technologies and ideas to sustainably producing and developing new products and services in response to changing times and social demands

there will be a more innovative and viable rural and regional New South Wales.

Key stakeholders including the State Government, recognise the need to address the impediments young people face in identifying and developing their career interests in agriculture, and the role Government support can play in facilitating this development.



## MARINE PARKS

**The Hon. DUNCAN GAY:** On 9 May 2011 the Hon. Robert Borsak asked me, in my capacity as representing the Minister for Primary Industries and Minister for Small Business, a question about marine parks. The Minister for Primary Industries and Minister for Small Business has provided the following response:

The Commonwealth waters adjacent to NSW Wales are predominantly in the East marine bioregion. The Commonwealth Government has indicated that it will develop a draft marine bioregion plan and that this will go out for public consultation later this year. I can assure this House that the NSW Government will be making strong representations to the Commonwealth Government to ensure that the plans are balanced, that NSW fishers are treated fairly, and that impacts on the supply of fresh seafood are minimised.

## FOX AND WILD DOG BOUNTIES

**The Hon. DUNCAN GAY:** On 5 May 2011 the Hon. Robert Borsak asked me, in my capacity as representing the Minister for Primary Industries and Minister for Small Business, a question about fox and wild dog bounties. The Minister for Primary Industries and Minister for Small Business has provided the following response:

Yes, we are aware of it, and I concur that the fox is a serious pest in both urban and rural NSW.

However, the NSW Government is not considering a similar scheme, due to the deficiencies previously identified with this method of pest control. An evaluation of the 2002 Victorian fox bounty trial conducted by the Victorian Institute of Animal Science Vertebrate Pest Research Department found that; bounties had no effective impact on fox numbers; utilised valuable resources which could be better spent elsewhere, and had a number of serious inherent problems. The Victorian Department recommended that bounties not be continued.

## RURAL SUPPORT WORKERS

**The Hon. DUNCAN GAY:** On 10 May 2011 the Hon Robert Borsak asked me, in my capacity as representing the Minister for Primary Industries and Minister for Small Business, a question about rural support workers. The Minister for Primary Industries and Minister for Small Business has provided the following response:

On 13 April 2011, as the Minister for Primary Industries, I was pleased to announce that I was honouring the NSW Government's election commitment that the Rural Support Program would continue.

This Program provides support and assistance to rural communities and farm families recovering from the drought. While there has been a return to better seasonal conditions in most New South Wales regions in the later part of 2010, there is still a need to help rural communities and farm families during the drought recovery phase.

The Rural Support Program will continue throughout 2011/2012. Focus will be maintained on rural mental health, with the Rural Support Workers retaining linkages to other agencies and Government department programs to ensure that rural people have access to services.

The Rural Support Workers will, during this time, be initially engaged for a 12-month period. During this time the Program will be examined to look at how to better provide for the longer-term needs of the rural community. The ongoing tenure of the Rural Support Workers will be determined as part of the overall, further development of the Rural Support Program.

**Questions without notice concluded.**

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

**The House continued to sit.**

## BUSINESS OF THE HOUSE

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

**The Hon. GREG PEARCE** (Minister for Finance and Services, and Minister for the Illawarra)  
[3.30 p.m.]: I move:

That standing as sessional orders be suspended to allow a motion to be moved forthwith that Government Business Order of the Day No. 2 relating to the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 be called on forthwith.

This is the legislation we finally got to about half an hour before—

[*Interruption*]

You set the terms of engagement, fellas, so this is the way we are going to do it.

**The PRESIDENT:** Order! Members will resume their seats.

**Dr John Kaye:** Point of order: As I understood it, the Minister had the call to give answers to questions. He then went on to move a motion to suspend standing orders. In my time in this place—which is not as long as the Minister's—I have never seen that happen before.

**The PRESIDENT:** Order! I have the gist of the point of order. Pursuant to sessional orders, Government Business takes precedence after 3.30 p.m. on the fourth sitting day.

**The Hon. GREG PEARCE** (Minister for Finance and Services, and Minister for the Illawarra) [3.32 p.m.]: For the benefit of the House I will again move the motion:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Government Business Order of the Day No. 2 relating to the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 be called on forthwith.

**The Hon. Luke Foley:** His mum's flown in from Canada. You scum! You scum!

**The Hon. GREG PEARCE:** I hope—

**The Hon. Tony Kelly:** Point of order: This is the most disgusting exhibition I have ever seen in my life.

**The PRESIDENT:** Order! The Hon. Tony Kelly will state his point of order.

**The Hon. Tony Kelly:** My point of order is that normally a new member of this place is allowed the opportunity, at a predetermined time—without smart tactics by the Government to try to close down the debate, or at least keep the many guests of the new members waiting for hours in this place—to deliver his or her inaugural speech. This is the most disgusting exhibition I have ever seen in my life.

**The Hon. GREG PEARCE:** To the point of order: We want to allow the Hon. Walt Secord to deliver his inaugural speech. We look forward to hearing it. This is a procedural motion. If members opposite do not choose to speak on it for 30 minutes the Hon. Walt Secord can deliver his inaugural speech straightaway.

**The Hon. Luke Foley:** To the point of order: Every new member of this House who has delivered their inaugural speech in the last couple of weeks—the Hon. Dr Peter Phelps, the Hon. Niall Blair, the Hon. Sarah Mitchell, the Hon. Natasha Maclaren-Jones, the Hon. Jeremy Buckingham, the Hon. Jan Barham, the Hon. Adam Searle—has delivered it on the Address-in-Reply to the Governor's Speech. That is what the Hon. Walt Secord wishes to do. His mum has flown out from Canada to hear his inaugural speech, and this Government wants to shred all courtesies to a new member in its attempt to ram through legislation because it has lost control of the House in its first month in office. We are not going to cop it. The Government ought to extend the same courtesies to this new member as we extended to all the new members on the Government side of the House.

**The Hon. Duncan Gay:** To the point of order: It does not matter what bill a member speaks to in order to deliver his or her inaugural speech. The process of the House allows members—

**The Hon. Greg Donnelly:** You're an absolute ratbag.

**The Hon. Duncan Gay:** Keep calm. Wake up. The procedures of the House allow members to speak to any bill in order to deliver their inaugural speeches.

**The Hon. Greg Donnelly:** You are a ratbag, Duncan.

**The Hon. Duncan Gay:** The House has been sitting since 9.30 this morning and we are more than willing to allow the Hon. Walt Secord to deliver his inaugural speech as soon as the Hon. Greg Pearce has concluded his contribution. The Hon. Walt Secord will be the next speaker, and we stand by that.

**Dr John Kaye:** To the point of order: It has always been the process of this House, at least for as long as I have been a member of this place, that the matter before the House can be interrupted. What is clearly happening here is an attempt to silence the Hon. Sophie Cotsis. The Government knows full well that the Hon. Sophie Cotsis is in the middle of her speech. This is simply an attempt to put the new member of the Chamber in the utterly impossible position of having to either cut off the contribution of the Hon. Sophie Cotsis or keep the gallery waiting for up to two or three hours. It is appalling behaviour. Mr President, I ask you to find, on the basis of convention, that this is out of order.

**The Hon. Michael Gallacher:** To the point of order: In fairness, we have been very flexible during the course of the day.

**The Hon. Cate Faehrmann:** You have not.

**The Hon. Michael Gallacher:** Hang on. The fact is that other options in relation to debate could have been employed earlier during the course of the day. We have not done that. What we are seeking is the right we had this morning to proceed with Government business. Every attempt has been taken to obfuscate our ability to progress through on Government legislation that we in fact started yesterday. We are simply seeking to progress through that process.

Perhaps to assist, if members opposite will guarantee that once the inaugural speech of the Hon. Walt Secord has been delivered—on the Address-in-Reply to the Governor's Speech—we can immediately return to the Hon. Sophie Cotsis' contribution to the industrial relations bill we will be able to resolve both issues straightaway without any more of the obfuscation we have had during the course of the day.

**The Hon. Amanda Fazio:** To the point of order: I support the point of order. Just imagine the hue and cry we would be getting from the Hon. Duncan Gay and the Hon. Michael Gallacher if when we were in government we had tried to do something like this. We never would have done it. We have always extended every courtesy to a new member making their inaugural speech. We have never been tricky about these issues. We have never tried to use this sort of blackmail over inaugural speeches. I thought we had seen enough lies from this new Government, but this really takes the cake. Government members have no morals and no scruples. The simple fact is that the inaugural speech of the Hon. Walt Secord should be dealt with by way of address-in-reply to the Governor's Speech, the same as occurs with the inaugural speech of every other new member in this place—without our being held to blackmail by these shady characters opposite.

**The Hon. TONY KELLY** (Leader of the Opposition) [3.38 p.m.]: This is the most disgusting display I have heard in this House. But, under blackmail, we will give that guarantee that we will come back to the Hon. Sophie Cotsis' contribution.

**The Hon. GREG PEARCE** (Minister for Finance and Services, and Minister for the Illawarra) [3.39 p.m.]: I withdraw my motion.

**Motion, by leave, withdrawn.**

## **GOVERNOR'S SPEECH: ADDRESS-IN-REPLY**

### **Ninth Day's Debate**

**Debate resumed from 1 June 2011.**

**The Hon. WALT SECORD** [3.40 p.m.] (Inaugural Speech): I thank the House for its warm and historic welcome today. I acknowledge the traditional owners of the land on which we are gathered: the Gadigal people. I pay my respects to them, their elders past and present. Mr President, Australia has given me so many opportunities but none more humbling than to serve in the nation's oldest Parliament as a member of the Australian Labor Party. Honourable members will know me from my work with State and Federal Labor over many years, in both opposition and government. But there are many things about me that honourable members may not know: things about my background, my heritage and my personal story. I believe these things matter in public office so I would like to now share them with the Chamber and the people of New South Wales.

I was born in southern Ontario on Christmas Day 1964—four years after native peoples were given the vote in Canada. I grew up and attended school on the Mississaugas of the New Credit and Six Nations Indian

reserves. I spent the first 17 years of my life on an Indian reserve until I attended York University in Toronto. I graduated from that university with a Bachelor of Arts with honours degree. Growing up on an Indian reserve in the 1970s politicised me and made me finely and deeply attuned to injustice. I am the product of an interracial bicultural marriage. My father, also named Walter, is a full-blooded Mohawk-Ojibway status treaty Indian. He came from a family of 10 and was born on a kitchen table during World War II. His childhood was soaked with alcoholism, poverty, violence and illiteracy. My father served time as a juvenile offender. His incarceration was the first time in his life that he had three square meals a day. Thankfully, my father rose above the circumstances life had dealt him.

In his early twenties he gave up the grog and became a teetotaler. He is a Christian. He refuses to swear. He prefers to live modestly and relishes time with his grandchildren. He is a great man. He is a quiet, giant of a man. I get my height from my Mohawk grandmother, my size from my Ojibway side, and my fair complexion from my Anglo-Canadian mother. My mother, Brenda, is in the gallery today. She completed a 27-hour trip from Toronto to hear these words. It was her first time on an aeroplane. She is a remarkable woman and she binds our family together. She was born in the Yukon Territory in Canada's Arctic. She left school at year 10 and when she fell pregnant with me, at the age of 15 years, she was rejected by her father. Sadly, I did not meet my maternal grandfather until I was 19 years old. My mother, Brenda, needed to be strong willed to stand up to members of my father's tribe, who gave her problems because she was not a native. You could say, Mr President, that between poverty, youth and race, my parents had many factors pushing against a successful marriage but, I am proud to say, my parents are going to celebrate their forty-eighth wedding anniversary this December.

My parents are active in all aspects of cultural activity in my father's tribe. My mother now teaches sewing. She also runs a craft shop for tourists. She is an artisan in her own right. She prepares native regalia. She even makes burial outfits for traditional funerals, which is a tremendous honour. My parents have shown that love and commitment can overcome any barriers that others may seek to place in their way. They have shown that individuals can be proud of their heritage. Accordingly, when I was sworn into this Chamber I held both the *Bible* and a stock of sweet grass—my ancestors' religious sacrament—in recognition of my unique heritage.

Sadly, my mother currently spends most of her time tending to my father, who is very sick. He has lung cancer and diabetes, is battling cataracts and is on kidney dialysis—all of which are common to Canada's native peoples, as is the case with Indigenous Australians. I am deeply saddened that he is not here today to see and hear my speech. I know that he is deeply saddened that he and my mother must spend nights apart, for this has almost never occurred in the 48 years of their marriage. I am grateful to them both for their sacrifice and support.

There are three children in my family and we have all charted very different courses. My sister is a successful businesswoman. My much younger brother, Dan, is a budding native rights leader in Canada. Dan has just conducted a second annual Ojibway language camp and he conducts ceremonies for native prisoners in Canada's toughest prisons. Last year Dan missed out on a position in a tribal council election by two votes. But somehow I think one day he will lead the 1,800 strong Mississaugas of the New Credit First Nation. My father's tribe has come a long way since 1826, when it was on the brink of extinction. Back then only 226 members of the tribe had survived the smallpox, tuberculosis, cholera, violence and alcohol abuse that plagued their fellow tribesmen and women.

I am the first member of my father's family to complete high school, the first to go to university, and the first to fly in an aeroplane—my mother is now the second. In fact, in 1988 when I told an aunt that I was migrating to Australia she asked me if I was coming home on the weekends. I highlight these origins because they show my journey was possible because of access to education and equality of opportunity. These are two core Labor principles. If it were not for public education I would not be standing here today. Education was my way out of disadvantage, and it remains the great leveller in an unequal world. I share and embrace Cape York Aboriginal leader Noel Pearson's views on education: education is everything to Indigenous people. Noel Pearson said earlier this year on the ABC television program *Four Corners*:

At the end of the day if people ask me, what is your economic development strategy? I say the education at the end of the day.

I agree with his comments wholeheartedly. Similarly, I would not be in this Parliament without the egalitarian nature of Australia: the "fair go" that Labor holds high and Labor defends. For my parents' story and mine is one that shows how our lives need not be determined by circumstances and by allowing people to pursue their individual potential also means supporting them through education and fairness of opportunity. My background will continue to inform the perspective and judgement I will bring to my role as parliamentarian.

After a short stint as a youth employment public servant and a reporter at the *Toronto Star*—Canada's largest daily newspaper—I migrated to Australia in September 1988. I became a citizen in June 1992. Shortly after arriving in Sydney I got a job at the *Australian Jewish News*. I worked there for almost four years. They also gave me a go as one of their first non-Jewish reporters. I am pleased to say that fair go was rewarded when I won an Australian Human Rights Award for a series of articles I wrote for that publication. But my proudest time at the *Australian Jewish News* was defending myself against British revisionist David Irving, who took legal action against me for appropriately describing him in print as a Holocaust denier. Let me say, I make no apologies for doing that. Denying the Holocaust is not just offensive, it is evil.

I am pleased to say that I have maintained my strong association with the Jewish community and I count amongst my closest friends Mrs Josie Lacey. I met Josie when I worked at the *Australian Jewish News* when she came to talk about her anti-racism and interfaith work. Our friendship developed and I have spent countless Shabbat and Passover meals with Josie, her husband, Ian, and her family. She lives by the adage that you should "take care of the stranger who comes in your midst".

My links to the Jewish community predate my coming to Sydney and stretch back to the Indian reserve in Canada. I also owe a special debt of gratitude to a wonderful Jewish man, a mentor from my childhood. He is the late Godel Silber, a Holocaust survivor who became friends with my father when they worked together in scrap metal recycling. Mr Silber always saw the best in people and supported anyone who asked to help. He lived by the Hebrew phrase Tikkun Olam, repairing the world. A loose modern interpretation means that Jewish people are not only responsible for creating a model society for themselves but they are also responsible for the welfare of society at large.

Mr Silber was extremely observant and religious. He told me about Jewish dietary practices, the importance of Israel, the Holocaust and the need to fight racism and intolerance. Mr Silber was born outside Warsaw in June 1921 and was transported to Auschwitz in late 1942. He played a role in the carrying out of the famous bombing of Crematorium IV in October 1944. He was lucky to survive this, as other participants were hanged as examples. But he did survive and made his way to Canada after the liberation. Mr Silber saw something in me and insisted that I go to university. He reinforced one message to me over and over again: Get an education. He used to say in a sweet Yiddish accent, "Walt, be a good boy and study, study, study." I am proud to have known him.

Mr Silber also sparked my interest in the prevention of genocide. I will never be able to fathom the desire of one group to want to exterminate another race or faith. I have studied the Shoah, the Armenian genocide, Cambodia, Bosnia and Rwanda. Everything I have learned only reinforces my strong commitment to cross-cultural diversity and interfaith activities. I am also a strong and vocal supporter of Israel. I support a two-State solution. But I also believe that Israel has a right to defend herself within secure and safe borders. On that note, earlier this week I approached Leader of the Opposition, John Robertson, and obtained his approval to assume the Labor position on a reactivated New South Wales Parliamentary Friends of Israel.

One opportunity in Australia has led to another and over time I have come to work with such diverse leaders as Brian Langton, Bob Carr, Kevin Rudd, Eric Roozendaal, Justine Elliot and Kristina Keneally. Due to my heritage and the opportunities I have received, my areas of policy interest are obvious. They are Aboriginal affairs, education, aged care and health. I worked on the famous Kevin 07 campaign, as the communications director to Kevin Rudd, which brought an end to the Howard Government. The most rewarding time in Canberra was serving as chief of staff to the Minister for Ageing, Justine Elliot. It opened my eyes to the need for a comprehensive policy to respond to our ageing population.

Australians now have the longest life expectancy in the English-speaking world. With this great achievement come challenges but also opportunities for our nation's decision-makers. Within 40 years the number of people aged 65 and over will almost triple, from 2.8 million today to around 7.2 million in 2047, from 13 per cent to 25 per cent of the population. In aged care we worked tirelessly to improve quality and compliance in the nation's almost 2,900 nursing homes. I will always remember the outrage from aged care providers about the 7,000 unannounced visits that occurred under Justine Elliott's term.

But it was not all sad. I developed a deep admiration for the faith-based sector, the Baptist, Jewish, Anglican, Uniting and Catholic organisations that provided world-class facilities for people in their care. I also encountered people such as Bryan Lippman, who worked with homeless and alcoholic men needing aged care in Melbourne. They made my time in aged care rewarding. We also face the challenge of helping people remain independent in their homes by finding ways to expand home and community care. The best way to help an older person remain active is to help them remain in their home.

We also discovered that the Howard Government had neglected Indigenous Australia when it came to the elderly in remote Aboriginal communities. We set up a \$46 million Indigenous Aged Care Plan to lift standards and establish and improve overnight aged care in remote Northern Territory communities, such as Mutitjulu and Docker River. It was about finding a delicate balance between cultural sensitivity and ensuring the health and welfare of old and frail Indigenous people.

Members of this Chamber would also be aware that I worked for Premier Bob Carr for more than 10 years. I stand here proud to be associated with that legacy. Mr Carr was the first political leader in Australia to apologise to the Stolen Generation, and, I might add, against strong advice from the Cabinet Office. Adam nods. They warned that we would be flooded with claims. Well, that did not happen. Carr held his ground and delivered a historic apology. He introduced Australia's first medically supervised injecting room. Again, he prevailed with courage and strength of argument. He took up the cause of asbestos victims with then Australian Council of Trade Unions head Greg Combet and the late great Bernie Banton, forcing James Hardie to account. His achievements in literacy mean that a whole generation of New South Wales children had the best start in life—again, something close to my heart. Carr implemented the recommendations of the royal commission into police corruption and developed a national parks system, protecting almost 9 per cent of the State.

As for my most recent stint, I thoroughly enjoyed my time as chief of staff to Kristina Keneally. Kristina, you are an inspiration. No-one worked harder than you and I have never seen a campaigner like you. I know you are proudest of your achievements in disability services and Stronger Together 2, your environmental protections such as for the Riverina red gum forests, your electoral and political donation reforms, as well as your famous steak dinner with Kevin Rudd on the Central Coast before securing a historic agreement on national health reform.

A few more things about me: I am a staunch republican. I would like to see Australia become a republic. However, this would horrify my father, as his tribe is fiercely proud to be monarchist natives. They fought proudly with the British against the Americans during the United States War of Independence and again during the War of 1812 when the Americans tried to invade Canada. In fact, the monarchist streak is so strong in our community that we have a tradition where Queen Victoria's representative provides an annual gift of bread and cheese for our loyalty. Last weekend was the 114th annual Bread and Cheese Day on my parents' reserve.

I also fiercely oppose the death penalty. I am a nominal member of Reprieve Australia, an international anti-death penalty group based in Melbourne. In 2005 I served on the New South Wales Australian Labor Party [ALP] international foreign affairs committee. We actively campaigned for Australia to oppose the death penalty in the Asia-Pacific region. I believe the death penalty is abhorrent.

A few people I wish to thank. A special thankyou goes to Sam Dastyari, general secretary of the New South Wales ALP. About three years ago when I had a very difficult period in my life Sam showed up to my home unannounced. There was no business to be done; he simply knew I was hurting. He showed up with a pizza, we watched television and chatted late into the night. Sam, you have been a very good friend. Sam is now embarking on major reforms of the New South Wales branch of the Australian Labor Party. His proposed reforms are both courageous and necessary and I wholeheartedly support these measures.

I would also like to thank John Robertson, Chris Minns, Michael Lee, Tara Moriarty, Mark Lennon and Bernie Riordan for their support. I would also like to thank my girlfriend, Ruth Johnstone, an elegant farmer's daughter from Boggabri. Ruth has been patient while I have charted my course into this Chamber. My daughter Rachel: you are special to me, and as my only blood relative in Australia I realise that puts a lot of pressure on you. My good friend Wajiha Ahmed: I cherish our friendship and your guidance.

A few more to whom I say a special thank you: Kirk Fitis, Pat Garcia, Kate Iffland, Samantha Dawson, Maria Catanzariti, Sam Maresh, Timmy Gleeson, Jeremy Jones, Eric Roozendaal, Richard O'Neill, Bruce Hawker, Bevan Lisle, Rebecca Nicholson, Susan Bures, Cherie Burton, Tess McLennan-Allas, Craig Elliot, Patrick Muhlen-Schulte, Dr Richard Stanton and Jacquelynne Willcox. And, finally, Sabina Husic: you remind me of my younger sister, Lisa. Sabina, you were the youngest communications director to a Premier in this State, and you are destined for even bigger things.

Finally, it would be out of character if I did not state for the record that I will work tirelessly to help restore a Labor government in New South Wales. I will work with and for the union movement to protect workers' rights and entitlements, which are currently under threat. Conservative members of this Chamber know in their hearts that they did not level with the community about these plans. They know they did not have a

mandate for such radical changes. And they know that if the Premier had revealed his plan to give himself unprecedented power to strip the wages and conditions of more than 400,000 workers at the stroke of a pen, then the community would never have voted for such a plan.

In conclusion, as my story shows, my presence here today is thanks to education and egalitarianism, two great Labor values. It will be my honour to defend those values in this place and serve the hard-working families in New South Wales.

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

**INDUSTRIAL RELATIONS AMENDMENT (PUBLIC SECTOR CONDITIONS OF EMPLOYMENT)  
BILL 2011**

**Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. SOPHIE COTSIS** [4.07 p.m.]: With the indulgence of the House, I would like to congratulate the newest member of this House, the Hon. Walt Secord. I wish him all the best. His experience will make him a valuable asset to this place and its members, and a great contributor to the good of the people of New South Wales. I congratulate the member and his family. I hope that his mum, who has come all the way from Canada, enjoys her stay in Australia. I would note that this is the first time that she has left Canada, so I hope she is enjoying Australia.

I have some representations on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 that I would like to read onto the record. I have a letter from the Nurses Association, which has expressed a number of concerns with the bill. The association represents more than 40,000 nurses and midwives. I would like to assure the Nurses Association and the thousands of other government employees that they have the Labor Party's absolute support; we stand with them, shoulder to shoulder. I read from the letter of the Nurses Association:

Dear Ms Cotsis,

The NSW Nurses' Association is strongly opposed to the attempts by the NSW Government to remove the independence of the NSW Industrial Relations Commission (IRC) and seeks your support to stop any legislation that undermines or removes the independence of the NSW IRC.

There are various reasons why any such legislation is not in the public interest and it is also clear that the NSW Government does not have a mandate for such legislation and policies.

The NSW Government is trying to camouflage its attack on the NSW IRC's independence behind the previous government's so-called wages policy. However, its actions are nothing but an attack on the rights at work of more than 40,000 nurses and midwives, who work for State Government departments such as NSW Health and the Department of Family and Community Services, Ageing, Disability and Home Care.

The Government's legislation, currently before the parliament, cripples the NSW Industrial Relations Commission and its powers to determine and arbitrate disputes on wages and conditions for the State's nurses, midwives and all other State public sector workers.

**The Hon. Catherine Cusack:** Point of order: Mr President, I draw your attention to a ruling by former President Willis, dated 28 May 1997, in which he said:

It is proper for members to read onto the record letters or quotations. If they are lengthy and it takes a member more than 30 seconds to read, members should simply refer to the source and essence of the documents, and then seek leave to incorporate them in *Hansard*.

**The PRESIDENT:** Order! I refer the Hon. Sophie Cotsis to the ruling of President Willis, which is an appropriate ruling in the circumstances. If the member feels that she is falling foul of that ruling, she should consider taking that course of action.

**The Hon. SOPHIE COTSIS:** It is important we put on the record and emphasise that the NSW Nurses Association feels very strongly about what is happening to the conditions and wages of New South Wales

nurses. I have had a number of conversations with nurses, midwives and mental health nurses and they want us to be a voice for them in this Parliament. It is very important that I read extracts from the letter from the Nurses Association. It is a lengthy letter, and I understand what the Hon. Catherine Cusack says—

**The Hon. Catherine Cusack:** Point of order: Mr President, the Hon. Sophie Cotsis is canvassing your ruling. You made a very clear ruling on this matter. The member has cited information she believes is important, which is why there is provision to seek leave to incorporate it in *Hansard*. The appropriate course for the member to take in these circumstances is to seek leave to have the correspondence incorporated in *Hansard*. I am sure that my colleagues on the Government benches would be more than happy to grant leave for that to occur. There is no suggestion that the nurses will not be heard; this is simply the appropriate way of dealing with the matter.

**The PRESIDENT:** I apologise, but when the Hon. Sophie Cotsis referred to the document from which she was quoting I was seeking advice from the Clerk. What document is the member referring to?

**The Hon. SOPHIE COTSIS:** I am referring to a letter that I received from the NSW Nurses Association expressing concerns.

**The PRESIDENT:** Was it a letter sent to you personally?

**The Hon. SOPHIE COTSIS:** Yes.

**The Hon. Lynda Voltz:** To the point of order: The Hon. Sophie Cotsis merely stated that she was going to highlight some of the issues raised in the letter. At no point did she canvass your ruling. Members are entitled to highlight issues that are raised in letters sent to them. The Hon. Sophie Cotsis was not going to read the whole letter; she was merely highlighting issues that had been raised in that letter.

**The Hon. Greg Donnelly:** To the point of order: The NSW Nurses Association represents 55,000 nurses in this State. They are directly affected by the legislation.

**The Hon. Catherine Cusack:** Further to the point of order—

**The PRESIDENT:** Order! The Hon. Greg Donnelly was making a debating point, not taking a point of order. Does he wish to take a point of order?

**The Hon. Greg Donnelly:** I was about to say that I too have received the correspondence. The correspondence is just over two pages in length. Every paragraph deals with critical aspects of the bill before this House. I would have thought that as the Nurses Association is an organisation that has 55,000 members directly affected by the legislation that the shadow Minister should be able to quote at reasonable length from its letter, and that is precisely what she was doing. She is not seeking to quote the letter from start to finish; she is seeking to specifically deal with key elements of it.

**The Hon. Catherine Cusack:** Further to the point of order: Earlier in the debate the Hon. Sophie Cotsis indicated that she had a number of letters and she wanted to read those to the House. I listened not for 30 seconds but for a full one-and-a-half minutes before I took the point of order, in which I suggested a very reasonable alternative course for the member to take: to incorporate the full text of the letters into *Hansard*. The point of order is not about denying the debate. I did not leap up as soon as 30 seconds had passed when the Hon. Sophie Cotsis started reading the letter; I waited patiently. She has now indicated her intention to continue to read the letter, and that directly contradicts the ruling just made by the President.

**The Hon. Greg Donnelly:** Further to the point of order: The Hon. Catherine Cusack completely misrepresents the position of the shadow Minister. The Hon. Sophie Cotsis was highlighting the key elements of correspondence from the NSW Nurses Association. Every paragraph in the letter elicits key issues associated with the nurses directly affected by this legislation. She is perfectly entitled to deal with the key elements in this letter, which is barely two pages long. The Hon. Catherine Cusack is just trying to shut down the Hon. Sophie Cotsis.

**The Hon. Catherine Cusack:** Not at all.

**The PRESIDENT:** Order! I refer to a ruling of President Willis, dated 18 June 1996, in which he stated:

It is the practice and precedent of this House that members when quoting from a document should identify the document, precis its contents and quote selectively and briefly.



The Hon. Sophie Cotsis has identified the document. If she goes further than quoting selectively and briefly she could be ruled out of order.

**The Hon. SOPHIE COTSIS:** I have highlighted the key points. The letter states:

Disability nurses are also an ageing group and it is already very difficult to recruit registered and enrolled nurses into this area of nursing. A wages policy that takes no account of severe workforce shortages and the need to remain competitive, and lacks the flexibility to argue a different outcome to the employer's original offer, is destined to hurt some of the most vulnerable people in our society. It is no secret that without their expert care their clients are destined to suffer more complications and die earlier.

This is a very important point. We all know that our population is ageing, and that is a particular problem in some areas of the State. As a result, the demand for nurses trained in the care of our aged and disabled citizens is increasing. As the association states, if nurses caring for the disabled do not have a wages policy that includes annual leave loadings, long service leave, shift allowances or a substantial salary we will continue to have a shortage of people prepared to do that work.

Proposed section 146C will amend the Industrial Relations Act 1996 by providing that the commission must, when making or varying any award or order, give effect to any Government policy on employment conditions. What will nurses working in the disability sector involved in award negotiations be able to offset? We all know how important it is to recruit nurses involved in general nursing, but it is vital that we also recruit mental health and disability nurses. The Nurses Association has negotiated an award for its members, but there is an outstanding issue in the Industrial Relations Commission relating to night shift allowances.

Nurses are concerned that if this bill is passed, they will have to renegotiate their award in 2013 and they do not know what conditions will be on the table. Will their annual leave and long service leave entitlements, shift allowances and penalty rates be up for grabs? These are very important conditions. If this legislation is passed, the Government will be able to change any policy relating to conditions of employment for public sector employees, including nurses, by regulation. That is a major concern. I know that members opposite have also received correspondence from the Nurses Association and other employee organisations about this legislation. The New South Wales Nurses Association has a long history of using the New South Wales Industrial Relations Commission. That is why its members are very concerned about the impact of this legislation on its independence. [*Quorum called for.*]

[*The bells having been rung and a quorum having formed, business resumed.*]

The New South Wales Nurses Association ran a work value case many years ago in the Industrial Relations Commission. It was a great case and I followed it closely. The association stated:

... the NSWNA has a long history of using the NSW IRC in efforts to get wage justice for nurses and midwives—including using the work value and special case principles. Without these important cases being run, even under the previous Labor Government, the nurse shortage we continue to face would be far worse and the capacity to provide quality care in our public health system would be seriously compromised.

So, the association has expressed concern about the Industrial Relations Commission losing its independence. I referred to the case that the nurses ran in the Industrial Relations Commission, the case I followed. It was back in 1992. This was fantastic because the Industrial Relations Commission heard the work value of nurses and it made the decision that we were able to increase the number of nurses in the public hospital system. The New South Wales Industrial Relations Commission was able to address the growing nurse and midwife shortage, which was seriously inhibiting service delivery in many public hospitals and community health services through the special case that delivered pay rates that restored nursing and midwifery as financially attractive career options, especially for midwives as we have a shortage of midwives.

This bill will impact on recruiting midwives, particularly in remote and regional areas. If this bill goes through any policy can be affected, which will mean a wage cut through whatever regulation the Government puts up. I received correspondence also from the Police Association, as I am sure every other member did. The Police Association is concerned because the police case is currently before the Industrial Relations Commission. The association is very concerned. I know it has made representations to Government members and to the Minister and I know its members and their families concerned. The association has sent quite a lot of correspondence and is talking to members of this place. Proposed section 146C, which will provide for the commission to give effect to certain aspects of government policy, states in paragraph (1):

The Commission must, when making or varying any award or order, give effect to any policy on conditions of employment of public sector employees ...

"Any policy on conditions of employment" could mean cutting police annual leave from six weeks to four weeks. The Police Association is very concerned about that because it has fought hard for its members to have adequate annual leave provisions. Those of us who know police or have relatives who are police know how hard they work and what a tremendous job they do. They are the protectors of our community and we should not take this lightly. Their case is before the commission and this bill will throw out that case. The police are very concerned about the employee-related cost savings that the Government has referred to in its press releases. They are concerned about the Government reducing shift allowances. They have a particular roster system if they work on the night shift, and that could be affected.

The bill refers in proposed section 146C to "any policy on conditions of employment". Police are concerned about the meaning of "any policy". They are concerned about the elimination of maternity leave and carers leave. As a community we want to try to encourage more women to serve in the Police Force. Many women would like to have a career in the police. Providing a policy such as maternity leave is a great step forward, and the police have had that for a long time. I commend the police for being strong advocates for encouraging women to join the Police Force. Carers leave is also a big concern. Under certain awards one can use sick leave to care for a relative or a loved one and that is an important policy. This is all about workplace flexibility, encouraging good people to work in the New South Wales government sector.

My constant concern is about the phrase "any policy". We do not know what that means. It is important to reflect on what "any policy" might be, and, as I have indicated, the police are worried about that. It could mean taking away transfer entitlements or removing salary top-up for workers compensation. Police are very concerned about the wording "any policy on conditions of employment". The police are concerned also about the Industrial Relations Commission losing its independence. The Police Association had this to say:

The bill will change the role of the IRC from being an independent judicial body to implementing government policy. The bill provides that the IRC—

this is the concern that all public sector workers have—

must when making or varying any award or order, give effect to any policy on conditions of employment of public sector employees ... that is declared by the regulations ...

Does this affect the current police case before the Industrial Relations Commission? Yes, it does, because the law will apply retrospectively to any case before the Industrial Relations Commission. The police case currently in the Industrial Relations Commission was notified in December and lodged in April, a brief of evidence has been prepared and the hearing dates have been set.

The police claim that the legislation is not based on finding savings via employee-related costs. The police case asks the Industrial Relations Commission, the independent umpire, to value police work and consider evidence of productivity, efficiency, and improvements to policing over the last six years that have led to reductions in crime rates and road trauma. These are the lowest crime rates in 20 years, according to the Bureau of Crime Statistics and Research. This legislation is a huge concern for police. I know that all members have received correspondence regarding this issue.

I will quote from New South Wales industrial relations. I want to complete the historical context of the 100 years of industrial relations in New South Wales. On 14 November 2006 the High Court of Australia handed down its decision on a challenge by all State and Territory governments, upholding the constitutional validity of the previous Federal Government's WorkChoices laws. On 23 November 2006 the Legislative Council Standing Committee on Social Issues handed down its final report, finding that WorkChoices should be repealed. Failing that, the committee called on the New South Wales Government to take action to "ameliorate" its effects.

Importantly, in December 2006 the Industrial Relations (Child Employment) Act 2006 commenced to protect the employment and conditions of young people aged under 18 employed by constitutional corporations. The New South Wales Industrial Relations Commission commenced proceedings to set the principles for establishing whether such a child has suffered a net detriment as compared to the State award that would apply to the child's work. That is a very important Act.

In June 2007 legislation was introduced to State Parliament to ensure workplace entitlements for Sydney workers were protected during the Asia-Pacific Economic Cooperation [APEC] holiday. That was very important for Sydney. Members will recall that in that year Asia-Pacific Economic Cooperation was held here in Sydney. In

February 2008, just after the Rudd Government won the election in 2007, the Federal Government announced its intention to implement its Forward with Fairness industrial relations policy. In February the following year the Workplace Relations Amendment (Transition to Forward with Fairness) Bill was introduced in the Federal Parliament. The bill included amendments to the Workplace Relations Act 1996 to make a number of changes to the framework for workplace agreements, and to enable the process of award modernisation to commence.

In November 2008 the Deputy Prime Minister and workplace relations Minister, Julia Gillard, introduced the Fair Work Bill in the Federal Parliament. That was a huge reform for workers across Australia. On 1 July 2009 the Commonwealth Government's Fair Work Act 2009 commenced, repealing the Workplace Relations Act 1996. Components of the new Fair Work Act and the Fair Work Regulations were applied to all corporations and businesses in the national workplace relations system. These were significant changes to our industrial relations laws in the twenty-first century, particularly regarding the WorkChoices Act. It was a major reform for the working families of Australia. Changes that commenced on 1 July 2009 included new unfair dismissal laws. The Fair Work Act was negotiated in good faith with employer groups, industry groups, employee organisations and unions. From my understanding, there was a lengthy submission process, and many representations were made. The changes restored some fairness to workplace relations in Australia.

The changes also created new national agencies, Fair Work Australia and the Fair Work Ombudsman, which replaced the Australian Industrial Relations Commission, the Workplace Authority and the Workplace Ombudsman. The changes that commenced on 1 July 2009 also included new enterprise agreement options, good-faith bargaining requirements, and the transfer of business laws. In December 2009 the New South Wales Government announced that New South Wales would join the national industrial relations system from 1 January 2010, which meant that the Commonwealth's Fair Work Act 2009 would cover every private sector employer and employee in New South Wales. There are still private sector employees who have remained in the New South Wales system. On 1 January 2010 the final parts of the Fair Work Act commenced. This included the new modern award system and the 10 new national employment standards. On 1 July 2010, in many modern awards pay rates and some loading-penalty rates started to be phased in.

Last year, as a new member and along with some other members here, I took great pride when my party moved to rectify the portable long service leave arrangements for cleaners, with the support of the then Opposition. That was a long-awaited reform but I am very glad it got through. It was very important for the cleaners who had been working for private contractors for many years to be recognised and receive a condition of employment that many of us take for granted. The proposed reforms to the Industrial Relations Commission are an unprecedented attack on the commission. Never before has a government sought to so drastically reduce the ability of the independent umpire to resolve disputes between workers and employers. Proposed section 146C states:

The Commission must, when making or varying any award or order, give effect to any policy...

I emphasise the words "any policy". From 1 July a new regulation could be brought in that relates to any policy. We do not know what will happen because we do not have the details or the information. Yesterday many workers presented a petition to the Leader of the Opposition, John Robertson, at Parliament. There were 15,000 signatures on a petition that was collected in four days. As the new Government has indicated, these types of petitions will be debated. We will await that debate. The Leader of the Opposition, John Robertson, accepted the 15,000-signature petition opposing Premier O'Farrell's legislation to give the Government the power to slash wages and conditions for the 400,000 government employees. We hope the petition will trigger a debate in the other place. The 15,000 government employees and concerned community members who signed the petition called on the O'Farrell Government to scrap the industrial relations legislation.

The Government did not go to the election saying that it would amend the Industrial Relations Act to remove the independence of the Industrial Relations Commission. The Premier is giving himself the power to strip the wages and conditions of all public sector workers in New South Wales, saying, "It's okay. Trust me." This is not right at all. This is far-reaching legislation because it will immediately cut the wages and employment conditions of any public sector worker, if and when the bill is passed. I refer again to proposed section 146C where it states, "to give effect to any policy on conditions of employment". That could mean any condition of employment. This is the worry and concern that public sector workers have. All of this can happen without workers having access to an independent umpire.

Forcing the umpire to enforce the Government's employment conditions decisions removes independence from the negotiation process. Under these changes the Premier could decide from 1 July that the

Government's policy is to reduce annual leave entitlements for public sector workers and the independent umpire would be bound to enforce it. That is absolutely wrong. I have heard members on the other side say, "We're following your policy." No, this is very different. It amends legislation put in place by the former Government. The bill gives unprecedented power to politicians to cut workers' conditions, if it becomes part of Government policy, with no guarantee that there will be a wage increase or other benefits in return.

A major flaw in this legislation is that it takes power away from the Industrial Relations Commission. The bill means—this is very serious—that a future government with control of both Houses could pass any legislation regardless of how harsh or unfair it was. Public sector workers in New South Wales deserve an independent body to mediate in wage negotiations, not political parties. This legislation makes no mention of wages or wages policy. There is no requirement for the Government to pass on a wage increase above 2.5 per cent, even if conditions are lost as part of employee-related savings.

[*Interruption*]

I acknowledge the people in the gallery. Good on you. We will fight strongly for you. I want you to know we will fight strongly for you.

**The Hon. Matthew Mason-Cox:** Point of order: I ask that the member direct her comments through the Chair.

**The PRESIDENT:** Order! I uphold the point of order. The Hon. Sophie Cotsis has the call.

**The Hon. SOPHIE COTSIS:** We will fight very hard to ensure that the wages and conditions of the decent and hardworking men and women of the New South Wales public service are maintained. We will fight tooth and nail and for as long as it takes, because every government employee matters and every government employee requires details and an explanation of what this Government is doing. There are many concerned citizens, concerned families and concerned employees, and every one of them should be taken seriously. The bill states:

The Commission must, when making or varying any award or order, give effect to any policy on conditions of employment of public sector employees:

- (a) that is declared by the regulations to be an aspect of government policy...

That means the Government can act through regulations. As I indicated earlier, it goes against the grain of the fair go; it goes against the grain of what we believe in as a society—fair, just and equitable outcomes for the working people of this State. The Government has made statements about this industrial relations legislation in media releases but it has given no details. A report has been released which quashes some of those statements. There has been no draft exposure bill nor has a draft paper been circulated in the community. No-one knows what is going on. The Government is attempting to rubber stamp it. It will then be open slather for the Government to issue regulations to cut policies on the conditions of employment of public sector employees.

John Buchanan from the Workplace Research Centre has undertaken some research, which I now refer to. The question was asked in that research: Are New South Wales workers overpaid? A note on the wage rates for public sector teachers, senior constables and registered nurses at the top of their pay scales in Australian States and Territories 2010-11 was prepared to improve the factual basis on which the debate about the future of wage setting for New South Wales public sector workers occurs. This is done by comparing the rates paid to key categories of public sector workers at the top of their classifications. Importantly, this goes back to the bill about any policy on conditions of employment relating to public sector employees.

The Government has made proposals for dramatic changes for wage determination for New South Wales public sector workers. In the arguments as to why these changes are needed it is implied that New South Wales public sector workers have had disproportionate wage growth over the last decade. The data released by the New South Wales Treasury implies there has been a wages explosion for that group of workers. The research note assesses the assertion by reporting on how well typical New South Wales public sector workers at the top of their classifications are paid relative to their counterparts in other States. The method by which this research was undertaken was quite extensive and, as we know, a significant proportion of State Government outlays is expended on education, health and law and order.

To ascertain whether New South Wales workers in these sectors are overpaid, data on rates paid by representative job categories was collected from all States and Territories. The job categories were: public

school teachers at the top of their classifications, senior constables of police at the top of their classifications, registered nurses at the top of their classifications, and assistants in nursing at the top of their classifications. The data for New South Wales workers was then adjusted accordingly to a report on what workers in these job categories would have earned had the proposed New South Wales Government policy been in place since 2000, which involved comparing the rate prevailing today with what would have been had the 2.5 per cent maximum proposed by the Government been in place from 2000 to 2011.

Table 1 of the report shows a comparative pay structure between the States and Territories for teachers, senior constables of police, registered nurses and assistants in nursing. The table reveals that for people at the top of the classification structure in those key occupations New South Wales workers are paid pretty much the same as equivalent workers in other States. Teachers in New South Wales are the second best paid—that is, their pay is only 3.4 per cent higher than the average paid to equivalent teachers in other States and Territories. Our senior constables of police are the second best paid in Australia. However, their pay is only 4.3 per cent higher than the average paid in other States and the Northern Territory. Registered nurses in New South Wales are the second best paid after those in Queensland—but the spread referred to here is very limited. Importantly, the rate is only 4.3 per cent more than the Australian average across all other States and Territories. Assistants in nursing, which is an important profession—

**Mr David Shoebridge:** Aren't they all?

**The Hon. SOPHIE COTSIS:** Yes, they are all important but we have a shortage in assistants in nursing. Assistants in nursing are paid the lowest rate: 7.3 per cent below the Australian average. The table also reveals that when compared with workers in all other industries in New South Wales these iconic public sector workers are paid pretty close to average weekly earnings on a full-time ordinary hours basis annualised. Because average weekly earnings in New South Wales are amongst the highest in Australia, it is not surprising that the rates for New South Wales public sector workers are usually near the top. As noted, the top rate is not significantly better; it is marginally better than average. It is also important to remember that not all public sector workers are teachers, police officers or registered nurses on the top scales. That is why the occupations I spoke about earlier are important to what I am talking about now. For example, assistants in nursing receive approximately \$20 an hour and earn significantly less than State average weekly earnings. Currently that is just over 40 per cent less than the standard reference point for living standards. That is why Labor is fighting so hard against this bill.

Importantly, if the Government's proposed policy had been in place since 2000 the average teacher, senior constable and nurse employed at the top of the pay scales would be approximately \$15,000, \$9,000 and \$12,000 respectively worse off a year if they worked on a full-time basis. They would also be the poorest paid of any of the States, despite working in the State that has one of the highest costs of living. John Buchanan states in his conclusion that on the basis of comparing rates of iconic job classifications across States and Territories New South Wales workers are paid close to the Australian going rate of pay. For any policy on conditions of employment for public sector employees, if the changes provided in the industrial relations bill before the House had been in place since 2000, all things being equal, New South Wales teachers, police officers and nurses would be the worst paid in the country by a significant margin. If the legislation is passed it will mean that in 5 or 10 years time the occupations on the highest pay scale will be worse off, so imagine the plight of assistants in nursing. They too will be worse off, and that is shameful.

A well-researched document on weekly earnings data published by the Australian Bureau of Statistics shows that on average the gap in real wages from 1994 to 2011 between public sector and private sector workers was approximately 8 per cent. The figures fluctuate over the business cycle, but the bureau's analysis provides us with an important indicator of what can happen if the bill is passed. The public sector workers I have mentioned will be worse off as a result of this legislation. A simple analysis does not account for the observed differences between public and private sector workers in terms of characteristics such as qualification levels and experience, job characteristics, the type of workplace agreement, and the type of occupation and industry.

Using standard methods of gap decomposition established by Oaxaca-Blinder in 1973, we are able to gain richer insight into the determinants behind this wage gap. The analysis uses the "Australia at Work Survey", which is a five-year panel dataset that tracks the working lives of Australians. The pool sample includes 9,441 observations Australia-wide between 2007 and 2010. New South Wales accounts for 2,832 observations. The survey includes all the non-managerial employees who are working full time within that period. The survey uses weekly earnings data to provide a better comparison with other standard data sources. Longitudinal weights have been applied to the data to control attrition in the dataset. The survey provides very

important information that the community and all members of Parliament should understand because the bill before the House will give effect to any policy on conditions of employment of public sector employees and wages will go backwards.

A real wage gap in Australia between public and private sector weekly earnings of 9 per cent was observed between 2007 and 2010. More than 93 per cent of that gap is explained by differences in qualifications, experience and occupations between the sectors. The results for the public sector hourly earnings gap for Australian full-time and non-managerial employees indicate that the real wage gap between public and private sector employees was approximately 9 per cent between 2007 and 2010. More than 93 per cent of the gap was explained by observed factors between the two sectors. Predominantly, higher levels of qualifications, skilled occupations and experience were found in the public sector. Differences in qualifications accounted for almost two-fifths of that differential. A very important and interesting statistic is that 52 per cent of public sector workers hold a bachelor's degree or higher compared with 24 per cent of private sector workers. I commend our fantastic and very well-educated public sector workers.

**The Hon. Lynda Voltz:** They are highly valuable.

**The Hon. SOPHIE COTSIS:** I am sure we all agree that they are all highly valuable. The occupational structure is that another two-fifths of the gap is due to the difference in the proportion of professionals being 52 per cent in the public sector and 26 per cent in the private sector. Experience was also a key factor in explaining the wage gap. The average tenure among public sector employees was 10 years compared with 6 years in the private sector. A real wage gap between public sector and private sector weekly earnings of 8 per cent was observed in New South Wales. The differences in qualifications, experience and occupations between those sectors explains 7 per cent out of the 8 per cent gap.

In New South Wales the story is very similar. A real wage gap of 8 per cent was observed between 2007 and 2010. The majority of the gap, 7 per cent out of 8 per cent, was explained by observed differences. Again, predominantly the differences were the greater level of experience and qualifications and differences in occupational structures among New South Wales workers. In New South Wales 54 per cent of public sector workers hold a bachelor's degree or higher qualification, compared with 28 per cent in the private sector. New South Wales public sector workers, who are the subject of this bill, are also vastly more experienced on average than private sector workers, with average tenures of 10 years and six years respectively. Further, 52 per cent of public sector workers are professionals.

Narrowing the gap between public and private sector workers is the distribution of workers across different industries. About 30 per cent of private sector workers are found predominately in professional roles in industries such as information technology, financial services, technical services and real estate services. Only 4 per cent of public sector workers work in these industries. Longer weekly hours and a greater presence of self-reported individual contracts in the private sector also narrow the gap between public and private sector earnings. Between 2007 and 2010 in New South Wales the sector had no significant effect on earnings after controlling for a range of individual and employer level characteristics. In addition to the large number of individual and firm characteristics used in the earnings gap decomposition, the advanced analysis allowed for control for unobserved individual characteristics.

The report concluded that the wage gap between public and private sector workers in New South Wales, indeed across Australia, is attributable to observable measurable differences within the workforces. Key among these differences are the higher levels of experience and qualifications and the dominance of professionals among public sector workers. The report contains excellent research that is relevant to this bill. If this draconian amendment bill is passed, according to this research the public sector workers—decent, hardworking men and women in New South Wales—will go backwards in real wages. We have all seen research about the skills shortages in many industries. It is important that our public services, particularly those that deal with the community, are staffed by professional public servants who are remunerated accordingly and do not go backwards in real wages.

If this amendment bill is passed, public service wages will go backwards. Proposed section 146C of the amendment bill states that the Industrial Relations Commission must give effect to any policy on conditions of employment of public sector employees. This section means that at any time through regulation the Government can change the conditions of public sector workers, which will reduce their wages and conditions. According to the latest research, if the bill is passed, in 5 to 10 years our professional public servants will have fallen back in real wages. I suggest that the Government take into account this significant research, particularly given the

reported skills shortages. In relation to the Industrial Relations Commission, this amendment bill will remove the independent umpire. The ordinary working men and women of this State will be denied a fair go because they will not have access to fairness and justice.

A history of the Industrial Relations Commission of New South Wales, an institution with over 100 years of expertise and experience as an independent umpire, states that it began as the Court of Industrial Arbitration in 1902. I want to share with honourable members some facts from a chapter by Andrew Moore in a book called *Laying the Foundations of Industrial Justice*:

In April 1902 Henry Emanuel Cohen was appointed first President of the Court of Industrial Arbitration of NSW. The installation of no less than a distinguished Supreme Court judge showed how seriously arbitration's promoters viewed the project of stabilising relations between capital and labour. The aim was to create, as Cohen's Commonwealth contemporaries HB Higgins famously put it, "a new province for law and order" in industrial relations ...

The courts were, as the historian Andrew Frazer aptly suggests, "judicial bodies resplendent in full curial power and regalia. Their object was the meting out of industrial justice ... compulsory arbitration, enacted by parliament and administered by a court, was carrying on the cause of reason, justice and the law."

Andrew Moore goes on to talk about Henry Emanuel Cohen as the first appointed President of the Court of Industrial Arbitration of New South Wales. In public life Cohen had served several terms as the member for West Maitland in the New South Wales Legislative Assembly. Andrew Moore then states:

Between 1875 and 1877 he was Colonial Treasurer and Minister of Justice, 1883-85.

Above all he was a proud and energetic member of Sydney's Jewish community, President of the Great Synagogue 1885-86 and especially active in Jewish educational and charitable circles. As the *Jewish Herald* remarked of Cohen on 17 September 1897 ...

This meritocratic view of the world, that sense whereby if afforded a "fair go" in a "land of freedom", working people could advance their cause both individually and collectively, was a feature of Cohen's approach to his work with the Arbitration Court, though his commitment to arbitration was judicial long before it was ideological. The politician who appointed him, Attorney-General Wise, was much more politically committed. The principal architect and proponent of the scheme of industrial arbitration in NSW, Wise belonged to that select group of turn of the century middle class liberals that included Higgins, George Higinbotham, Alfred Deakin and South Australia's CC Kingston who sought to restore social harmony and minimise class conflict. Educated at Oxford University ... Wise was committed to practical social reform via the political process. He shared [a] belief that trade unions were a primary vehicle for advancing the material and intellectual interests of the working class. With a degree of intellectual acumen rarely seen in Macquarie Street, Wise had increasingly trespassed into ideological territory—

**The Hon. Catherine Cusack:** Point of order: My point of order is relevance. I ask that the member be drawn back to the bill.

**The Hon. Lynda Voltz:** To the point of order: The bill is a far-reaching and wide-ranging. The Hon. Sophie Cotsis is talking about the conditions of workers. Her comments are in line with the bill and she should be allowed to continue.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! There is no point of order.

**The Hon. SOPHIE COTSIS:** It is important that in light of this bill we outline the historical reflection of the spirit of independence of the Industrial Relations Commission. It is important to talk about that because if this bill is passed that spirit of independence will no longer exist. It is important that we debate this matter. Andrew Moore said:

With a degree of intellectual acumen rarely seen in Macquarie Street, Wise had increasingly trespassed into ideological territory where no modern non-Labor politician would dare tread. In October 1885 he addressed the Third Intercolonial Trades Union Congress advocating the emulation of "Boards of Industry" in England that comprised representatives of capital and labour as a way of reducing industrial friction ... In 1900-01 Wise steered the first compulsory arbitration legislation through NSW parliament.

That Attorney-General Wise chose Cohen to drive the quasi-judicial forum that was the apex of this enterprise, displayed great faith in the judge. Given that the legislation had stipulated the appointment of a Supreme Court judge, the choice of suitable personnel from that rarefied chamber was not vast. Most were members of a class and generation that had viewed the 1890s strikes and the rise of Labor with concern and indignation. Unlike his brother judges, Cohen was not born with a silver spoon in his mouth. Born on 1 December 1840 in Port Macquarie where his father, a former Sydney publican, was a newspaper proprietor ...

It is important to talk about the first President of the Industrial Relations Commission and to demonstrate the spirit of what he brought and where he came from in providing fairness and justice for ordinary workers by being the independent umpire. Andrew Moore also said:

For when Wise announced Cohen's appointment, the matter was celebrated in typical Sydney fashion—the group went on a harbour cruise. Cohen was unfazed by his newfound responsibilities, proclaiming that the court was "essentially a court of justice" that stood "on the same high plane as the ordinary courts of which all British people are proud"...

The administrative arrangements for the Arbitration Court had already been set in place. In 1901 the barrister John Holme was appointed interim chief clerk and George Addison, an assistant parliamentary draftsman in the Attorney-General's Department, was made temporary registrar of the Court. Addison had pushed the cause among employers and trade unions, inviting registration and drafting a set of model rules. By the time the roll closed for registration of lay members of the Court, 72 trade unions, 56 employers' associations and 33 separate companies had signed up.

The President was to be flanked and complemented by a single representative each of capital and labour, the assumption being that they would side with their kith and kin, leaving Cohen to exert a more independent ... influence. The Chamber of Manufactures made a strong case for their candidate, JP Wright, but instead WD Cruickshank, an engineer with experience as a labour arbitrator won the ballot to represent the employers. From the labour side Sam Smith was a distinguished representative. Born in Glasgow in December 1857, Smith first worked in a mine aged 11 and was later active in the Glasgow Railway and Seamen's Union. In Australia he helped found the Seamen's Union of which he was secretary from 1891 to 1902, also serving as the Labor member for Sydney-Pyrmont between 1898 and 1902. Sam Smith missed out on the celebratory ferry cruise. When Cohen, Cruickshank and Smith's were announced, Smith was in New Zealand studying that country's equally innovative arbitration arrangements.

The first substantive case began on 19 May 1902. It was in Newcastle, and ran for six days. It involved a dispute concerned with working conditions and the employment of non-union labour. The protagonists were the Newcastle Wharf Labourers Union and the Newcastle and Hunter River Steamship Company. They were elevated above other members of the court and were flanked by Smith and Cruickshank. A certain equity served as a reminder that three intellects, rather than one, were to consider the matters at hand. Beneath them were seated the court staff, at the bar table sat the legal representatives of the union and the employer—claimant and respondent, respectively.

The table itself was relatively free of paper. Apart from a few sheaves of paper, there was a solitary law report. Of course, there were no precedents to guide the court's deliberations, because this was the first time that it was sitting. The unions and the employers were putting their cases before the independents of the Industrial Relations Commission. Cohen and his colleagues were embarking upon uncharted waters. Cohen began, as he intended to proceed. The learned judge does not seem to have been particularly concerned by the revelations of the conditions of labour endured by Novocastrian wharf labourers. It was common for workers to be called out at any hour of the day or night to—

**The Hon. Catherine Cusack:** Point of order: For 10 minutes I have listened to the history given by the member. However, at not one point did she seek to make her comments relevant to a provision of the bill. She is now talking about wharves. The bill deals with industrial relations matters in the public sector. I ask that the member be required to confine her remarks to matters generally relevant to the bill. For 10 minutes the member has been talking about matters that occurred in the nineteenth century, but not once did the member attempt to connect what she was saying to an argument related to any provision of the bill.

**The Hon. Lynda Voltz:** To the point of order: The bill relates specifically to the powers of the Industrial Relations Commission, which has a long history. The bill is like other bills relating to the Industrial Relations Commission that have been put before this Chamber in the past. It is important that the history of the Industrial Relations Commission and industrial arbitration form part of the views—

**The Hon. Catherine Cusack:** I wish to take a point of order on the member's contribution to the point of order.

**The Hon. Lynda Voltz:** The Hon. Catherine Cusack cannot take a point of order on a point of order.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The Chair will hear one point of order at a time.

**The Hon. Lynda Voltz:** The history of industrial arbitration and the Industrial Relations Commission goes to the heart of this bill and the issues raised by the Opposition against this Government legislation. It is legislation of a type that we have seen before. The way it has been introduced is similar to the way in which such legislation has been introduced in the past. It is totally appropriate that the shadow Minister give some of the history of the Industrial Relations Commission and industrial arbitration in this State.

**The Hon. Trevor Khan:** To the point of order: There may be some merit in what was said by the Hon. Lynda Voltz, but it requires the application of a degree of intellectual rigour. That intellectual rigour is this. The history of an organisation can have some relevance to a debate such as this, but that needs to be linked somehow to the matter at hand. A simple diatribe of what somebody said on a boat does not quite achieve that,



in my submission. One needs to demonstrate how something that occurred in the past assists this Chamber in its deliberations on this bill. At the moment, all we have been hearing is a rambling diatribe on things that may have occurred in the past but which are of absolutely no assistance to anyone in the Chamber.

**The Hon. Lynda Voltz:** Further to the point of order: This Chamber has been lectured by members, such as the Government Whip, on the extent of history that we in this Chamber should have when considering matters. In fact, we in this Chamber have been told that we must have a good perspective on history. To go to matters at the heart of industrial arbitration, the Industrial Relations Commission and the labour movement and their origins is fundamental to the labour movement, and that is what the shadow Minister is doing.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I urge all members who speak on the bill to make their contributions generally relevant.

**The Hon. SOPHIE COTSIS:** It was for the benefit of the House and members that I was providing an historical perspective on the importance of the establishment of the Industrial Relations Commission in 1902. That is significant because it explains how the commission came to be an independent umpire in these industrial matters.

**The Hon. Catherine Cusack:** Explain the significance. You have not done that.

**The Hon. SOPHIE COTSIS:** I am coming to that point. The significance is that the amending bill that the Government has put forward seeks to remove the independence of the Industrial Relations Commission.

**The Hon. Catherine Cusack:** What has that got to do with a harbour cruise a hundred years ago?

**The Hon. SOPHIE COTSIS:** The member has not been listening to my explanation of how important that is.

**The Hon. Lynda Voltz:** Point of order: It is very difficult for the shadow Minister to continue her speech when she is constantly subjected to interjections. That will only slow down the process.

**Mr David Shoebridge:** To the point of order: I am interested to hear how the factual scenario referred to by the shadow Minister is relevant. We simply will not find out how it is relevant if we have continuing interjections. If the shadow Minister were allowed to draw these pieces together—as she has been doing so eloquently now for some four hours—then we could see the end of this debate.

**The Hon. Trevor Khan:** If she cannot do that in four hours, I doubt she could ever do it.

**Mr David Shoebridge:** To the interjection—

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Members will refrain from interjecting so that we can work our way through this debate as reasonably as possible.

**The Hon. SOPHIE COTSIS:** I would like to conclude—

[*Interruption*]

No, no. I would like to conclude on the establishment of the Industrial Relations Commission. I will not take up too much time of the House on this point. I went back to Cohen because Henry Emanuel Cohen was the first President of the Industrial Relations Commission, and it is important that we recognise, and let the community and the public know, how this independent umpire came about. I would now like to come forward to 1995, when Jeff Shaw was the Minister for Industrial Relations, and reflect on some of the points he made when speaking on the Industrial Relations Act.

This legislation will amend the Industrial Relations Act so it is a very serious matter that will sledgehammer the independence of the Industrial Relations Commission and any policy on conditions. Jeff Shaw had a working party and consultation process in 1995 and put out a commentary on the exposure draft of the Industrial Relations Bill 1995. That is the difference between what this Government does and what the late the Hon. Jeff Shaw did with industrial relations. Many comments were made about his bill.

This legislation that the Government wants to pass in a hurry will change policies on conditions of employment—for example, long service leave which is an important condition for employees in New South Wales. I will not read the Act but long service leave is a substantial condition, as well as annual leave, annual leave loading, maternity leave, and other conditions for employees that will be reduced if this amendment bill is passed. A paper based on a speech given to a symposium by the Hon. Justice Michael Walton in 2005 is of important and historical significance. Justice Walton made some very important points in relation to the implications of the Workplace Relations Amendment (WorkChoices) Act 2005.

**The Hon. Catherine Cusack:** It is Federal legislation.

**The Hon. SOPHIE COTSIS:** Yes, I understand, but will the Hon. Catherine Cusack listen to me? Justice Walton also talked about the New South Wales Industrial Relations Act and how that Act permits the commission to grapple with the full range of industrial issues and gives ample powers to resolve such issues. This has proven essential to the operation of an effective and practical dispute resolution system. He discussed it further in his paper. The WorkChoices legislation significantly reduces the powers of the Australian Industrial Relations Commission. The paper further refers to what WorkChoices did to the Australian Industrial Relations Act.

I am afraid that will happen to the New South Wales Industrial Relations Act with this amendment bill and that is why this matter is so important. Proposed Section 146C of the amendment bill is headed, "Commission to give effect to certain aspects of government policy on public sector employment". The commission's independence will be curbed under that section and that is why this paper is so important. I read the paper's analysis of WorkChoices and it sounds very similar to what this Government is doing with this amending legislation in New South Wales.

This is a very bad bill; it is wrong, and it is disgraceful that this Government has not provided an opportunity for any public sector employee to understand why it is changing this legislation. The community is wondering what is happening with this Government. The Government is arrogant and members of the Government walk around arrogantly. Many of the 400,000 public sector employees, some of whom are in Macquarie Street, are very concerned; they are worried about what will happen to real wages. The crux of the matter is that when those employees sit at their kitchen tables and work out their budgets, every single cent matters and is accounted for. This Government is trying to reduce real wages and to blunt conditions. This is a disgraceful piece of legislation that the Opposition will fight very strongly against. We will continue because every single government sector employee is worth standing up for.

All members of Parliament, regardless of political affiliation, know how hard public sector workers work. We know that they are decent and hardworking men and women of the New South Wales public service. This Government is trying to pass legislation through the back door that reduces public sector employees' wages and conditions. There are no details of regulations. There is no information. We have a blank cheque. This is worse than WorkChoices, and every time the Government produces a regulation what will it be? What is its policy? What policy of any award that is related to the New South Wales public service will affect the 400,000 employees who are very worried about their conditions of employment? Some people have asked whether I have to go into the history. At every point of time in the history of workplace relations in New South Wales working people have fought hard. In some cases they have gone for days and months without being paid because they believed in what they were fighting for. They fought hard for long service leave. The stonemasons fought hard for an eight-hour day.

The workers and employers of this State came together in 1902 to sit before the Industrial Relations Commission to put their case so that an independent umpire could assess the work value. We are talking about 2011—20 years after the Greiner Industrial Relations Act, which was a huge legalistic, complex document. According to *Hansard*, in 1995 many of the employer groups submitted to the Hon. Jeff Shaw when he was putting out his draft exposure bill that they wanted a simplistic and not a legalistic document. Everyone agrees with the parameters of a fair and just system.

I have not heard employers arguing that the legislation needs to be changed. It is our responsibility as members of this House, as representatives of the people of New South Wales, to serve the people of New South Wales with distinction and to stand shoulder to shoulder with the 400,000 public sector employees whose voice deserves to be heard in this Parliament. Every step of the way, for more than 100 years of industrial relations in New South Wales, working men and women of this State have fought long and hard for their working conditions.

In a former life I was a union representative with the Liquor, Hospitality and Miscellaneous Workers Union, which is now a united voice. As many members of this House know, I was a hospitality shift worker at Sydney airport when I joined the Liquor Trades Union. I later became an organiser with that private sector union. It was not a public sector union—

**The Hon. Catherine Cusack:** Explain the relevance.

**The Hon. SOPHIE COTSIS:** This is very important because I am talking about fighting for the conditions of working—

**The Hon. Catherine Cusack:** What is its relevance to the bill?

**The Hon. SOPHIE COTSIS:** It is relevant to the bill. I was not a union official with a public sector union; I was an official with a private sector union—the Liquor Trades Union—and during that time I learnt a lot about sitting down and listening to working people, to ordinary folk who live in suburbia, who mind their own business, take care of their families, relatives and neighbours, and who just want to do the right thing by society. They were some of the lowest paid workers in the State, and some were very unskilled. The majority were casual employees and women, and many came from non-English speaking backgrounds.

The relevance of this is that I understand how important negotiation is between employers, management and workers. In my very long period as a union representative I was proud to represent some of the lowest paid workers in our community, some of whom were single parents. I saw many situations about which one could not help being compassionate and empathetic. I learnt some very important lessons. In my time I did everything I could to ensure that proper processes were followed and that—

**The Hon. Dr Peter Phelps:** Point of order: My point of order relates to Standing Order 94 (1), which deals with continued irrelevance. Nothing in this bill would prevent any of the things that the Hon. Sophie Cotsis has mentioned from continuing on into the future. This material is irrelevant to the bill before the House.

**Mr David Shoebridge:** To the point of order: The key points of what the Hon. Sophie Cotsis has been speaking about are conditions and entitlements and how difficult it is to struggle for conditions and entitlements. That is clearly relevant to the bill because this bill allows for the removal of conditions and entitlements through regulation. Those on the other side of the House may try to deny that essential fact, but the bill allows conditions and entitlements to be removed by regulation. Therefore, the enormous struggle to get the existing conditions and entitlements must be relevant to the bill.

**The Hon. Catherine Cusack:** To the point of order: Mr David Shoebridge is making an argument concerning the bill. The Hon. Sophie Cotsis has spent a very lengthy period talking about a union that is not even a public sector union and a personal history that has no direct relationship with the matters contained in the bill. We appreciate all that, but we ask the Hon. Sophie Cotsis to draw out the relevance of what she is saying to the bill before the House. There has been a lot of talk about the spirit of the Act. The member first said "in conclusion" about 25 minutes ago, and that is why members are questioning whether these often broad statements are concluding statements. I ask that those pieces be drawn closer together so that members can understand the argument of the Hon. Sophie Cotsis against the bill before the House.

**The Hon. Lynda Voltz:** To the point of order: Whether one is in the private sector or the public sector, working conditions are vitally important. Fundamental to this bill is the role of the Industrial Relations Commission and whether it can arbitrate on conditions. Obviously people in the private sector have that right. Fundamental to this bill is the removal of that right for people in the public sector.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I remind the Hon. Sophie Cotsis that she should ensure that her remarks are generally relevant to the bill. She will draw her arguments together to that end.

**The Hon. SOPHIE COTSIS:** It is about the 100 years of hard-fought conditions of employment. I talk about my own experience because I wish to share with members some of my personal experiences. In my time in this place I will draw upon those experiences. It is very important after 100 years of employment conditions—

*[Interruption]*

**The Hon. Lynda Voltz:** Point of order: It is very difficult for the Hon. Sophie Cotsis to continue her speech when she is faced with constant interjections that make her lose her place. All that does is cause the member to repeat herself.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I ask members to allow the Hon. Sophie Cotsis to continue her contribution without interruption in order that she may bring her speech to its inevitably magnificent conclusion.

**The Hon. SOPHIE COTSIS:** In conclusion, it is wrong to introduce such significant legislation given that nothing was said about it in the election campaign nearly two months ago. There was no policy platform. There was no debate beforehand, a working party was not established, and no details were provided to the public.

**The Hon. John Ajaka:** Point of order: I have been patient thus far and not taken a point of order. However, I have run out of patience. My point of order is repetition. I have sat here patiently and listened to the same thing being repeated over and over and over again. I have heard the member say on at least six occasions that she was making a concluding remark, only for it to be repeated over and over again. This has all been said previously by the Hon. Sophie Cotsis on at least three occasions. I ask you to direct the member to be relevant and to cease repeating her comments over and over again.

**The Hon. Lynda Voltz:** To the point of order: Obviously in debate on such a complex issue speeches will be lengthy, and it is incumbent on the Hon. Sophie Cotsis to wrap up her contribution. She clearly said that she was concluding her remarks.

**Mr David Shoebridge:** To the point of order: When making a point of order about repetition it is out of order to use the phrase "to repeat over and over".

**The Hon. John Ajaka:** On the point of order: With due respect, Mr David Shoebridge knows that that is not a point of order. As I said earlier, if this was the first and only time that the Hon. Sophie Cotsis said that she was concluding her remarks, I would acknowledge that the Hon. Lynda Voltz is correct. However, this is the fifth or sixth time that the Hon. Sophie Cotsis has said that she is concluding her remarks, which she started at approximately 4.00 p.m. I simply ask that the Hon. Sophie Cotsis not be repetitious.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I ask the Hon. Sophie Cotsis to not be repetitious. Her remarks must be within the leave of the bill and generally relevant.

**The Hon. SOPHIE COTSIS:** It is wrong to introduce this legislation, which will drag our industrial relations system into chaos and create uncertainty for 400,000 families in New South Wales. It is wrong to draft such broad legislation that gives the Government a blank cheque. This bill is abhorrent to members who believe in procedural fairness and the need to prevent the unchecked arbitrary power of government. The Government's conduct towards industrial relations and the Industrial Relations Commission has been offensive, outrageous and disgraceful. It is offensive to the people who voted for Barry O'Farrell and his Government. Before the election the then Leader of the Opposition made great statements applauding the New South Wales public sector workers and about understanding the rising cost of living.

However, less than two months after the election he has produced this bill, which will attack the pay and conditions of 400,000 public sector employees. The people of New South Wales believe in a fair go. We want fairness and justice. This bill will destroy the right of 400,000 workers in this State to be properly heard and judged in a reasonable and fair way based on all the facts relating to wages and conditions. It will destroy fairness. The bill strikes at the heart of so much we should believe in. I call on members to join with the Opposition in opposing this bill. I move:

That the question be amended by omitting "now read a second time" and inserting instead:

"be referred to General Purpose Standing Committee No. 1 for inquiry and report, with particular reference to:

- (a) essential front-line services such as policing, education, health care and emergency services;
- (b) service delivery in rural and regional New South Wales;
- (c) the implications on the judiciary and on the principle of the separation of powers; and
- (d) any other adverse effects of the legislation."

**Mr DAVID SHOEBRIDGE** [6.17 p.m.]: I speak on behalf of The Greens about the Government's extraordinary attack, through this bill, on the ordinary pay and conditions of some 400,000 public sector workers in this State. I commend the rigour with which the Hon. Sophie Cotsis addressed the matter and the thoroughness with which she addressed the broad impacts of this bill. First, I refer to the amendment moved by the Hon. Sophie Cotsis to refer this matter to General Purpose Standing Committee No. 1. Surely a Government that thinks its legislation is worthy of public scrutiny, that has introduced a bill and can stand behind it in a public domain and defend its intent and the process that led to it being introduced—and given the fact that it failed during an election campaign that continued for the better part of six months to tell the people of New South Wales that it intended to make this fundamental attack; the Government has a healthy majority in the other place and can stifle debate—would support referring the bill to General Purpose Standing Committee No.1.

If the bill is referred to General Purpose Standing Committee No. 1, we will hear from those who will be directly impacted by the bill, from the stakeholders who should have been consulted before the Government introduced the bill, and from the public sector unions, which the Government has ignored and shunned to date. In particular, we could hear from those who deliver essential front-line services, including the police. When the Leader of the House was the shadow police Minister he repeatedly asked questions about the wages, conditions and entitlements of New South Wales police. He feigned concern about their wages and basic conditions. However, as soon as he got in the hot seat, as soon as he was in a position to improve police take-home pay and to enable them to run a case in the Industrial Relations Commission to improve their wages and conditions, he went from being the gamekeeper to the poacher.

Suddenly the Minister for Police is supporting a bill that will allow the Minister for Finance and Services, no doubt on an explicit direction from the Premier, to directly cut police wages and conditions. When the Minister for Police was in opposition he spoke in this House about police rights and entitlements. However, as soon as he was elected he said, "Thanks very much, people of New South Wales. I'll bank that election. Now I'll do what we always intended to do: open up the bottom drawer"—during the election campaign the Coalition denied it had a bottom drawer—"and pull out WorkChoices Mk II for New South Wales." WorkChoices Mk II, which was stamped by Barry O'Farrell, is being delivered by his foot soldiers in the upper House, particularly the Leader of the House, in utter contradiction of the position the Minister for Police adopted when in Opposition, that of supporting police rights and conditions.

Of course, the police would not be the only workers we would hear from in the course of a general purpose standing committee inquiry. The motion also calls for consideration of other essential front-line service providers such as the thousands of public sector teachers in this State whose wages and conditions are supported by a comprehensive State award that not only sets their rates of pay but also gives them a reasonable number of face-to-face teaching hours, ensures they have reasonable breaks, sick leave, carers leave, parental leave and so on. Each of those conditions has been hard won over decades—indeed, for more than a century. Each of those conditions will be vulnerable to the stroke of a ministerial pen. The Minister for Finance and Services will be able to enact a regulation stripping away those conditions, which were hard won over many years of struggle and collective action. They could be removed by the stroke of the Minister's pen under the guise of fiscal responsibility.

This is not about fiscal responsibility; it is a brutal ambush of the rights of New South Wales public sector workers. If it was such a good idea to give the Executive absolute power over public sector wages and conditions, why did the Government not come clean about it during the election campaign? If it was such a good idea to shove this bill through the upper House and then have it rubberstamped by the lower House, why did the Coalition not tell the people of New South Wales in the millions of dollars worth of advertising that it bombarded us with during the State election? Members opposite found time to attack the shambolic efforts of the previous Government—in fact, we all found time to do that. If it intended to be honest with the people of New South Wales, if it wanted a mandate for this kind of root-and-branch attack on such a core institution as the Industrial Relations Commission—that is clearly the intent of this bill—how could it not have found space in the millions of dollars of advertisements with which it tortured the people of New South Wales during the campaign to come clean and tell them about its intentions? Members opposite should have told us that they thought WorkChoices was too soft and too easy because it left workers with the right to approach an industrial umpire and seek a ruling. At least John Howard allowed them that right.

Apparently this Government believes that is too good for the working people of New South Wales; it wants to abolish that fundamental workers' right to have a dispute determined by an independent umpire. This Government wants to be able to hobble the Industrial Relations Commission before a case is even commenced.

It wants to win the case not by persuasion or by presenting evidence but by effectively cooking the books by regulation before a word is uttered to the so-called umpire that it is seeking to hobble. Of course, we should hear from the workers in the public education sector before this bill is passed. If this legislation is such a good idea, the Government should face the teachers of New South Wales before it is passed. Members opposite should eyeball the teachers before they take away their rights. If they had the courage of their convictions they would not do this in a midnight session in this place or without telling people. This legislation should be referred to General Purpose Standing Committee No. 1. The Government should invite people to make submissions and look them in the eye before it takes away their pay packets.

The same can be said for workers in the healthcare sector. Our nurses work day in and day out and when we fall ill, when we need treatment in our wonderful public hospitals, we can rely upon them to look after us. The nursing profession is one of the truly noble, selfless professions. Members opposite spoke about the selfless nature of those involved in the nursing profession in their inaugural speeches. We heard about how highly their skills are valued and how wonderfully compassionate they are and we were told that we must treasure and protect them. What is the first substantial thing that this Government is doing to those workers? It is pushing through legislation that will allow it to gut their wages and conditions. This Government believes it is too good for nurses to get a pay rise that matches inflation. Members opposite care so much for the nurses of this State that they want to be able to pitch their wages at less than inflation by regulation. What is this Government's first gift to those thousands of selfless men and women working to support them and the rest of the people of New South Wales? It is presenting them with a pay cut and a reduction in wages and conditions. They have been offered a 2.5 per cent wage increase, which is much less than the rate of inflation.

The Government has also put a further sting in the tail: It has reserved the right to cut wages and conditions at any time by regulation, whenever the Minister for Finance and Services feels like it. No doubt that will be whenever the Premier taps him on the shoulder and says he wants a bit of fiscal restraint. The Government has reserved to itself the right to cut nurses' parental leave entitlements at any time by regulation; it has reserved to itself the right to cut nurses' carers' leave at any time by regulation; and it has reserved to itself the right to remove nurses' basic entitlements such as meal breaks at any time by regulation without speaking to them before doing so.

If members opposite had the courage of their convictions, before they stripped away the rights and conditions of those great New South Wales public sector nurses, they would have invited them in and asked them their opinion. They should at least meet them face to face and ask them to put their case. The best way to do that is by referring this legislation to a general purpose standing committee. If that were to happen, this House would have the benefit of hearing directly from those people before the Government guts their wages and conditions. The same can be said about emergency services workers. They are on duty tonight looking after the people of New South Wales. As we speak, they are staffing fire stations and ambulance stations around New South Wales. They are doing their bit to serve the people of this State.

**The Hon. Melinda Pavey:** They certainly are.

**Mr DAVID SHOEBRIDGE:** Yes, and they are doing it selflessly. They probably assume that their elected representatives are looking after them and demonstrating some fairness and decency. They have put their trust in members to safeguard their wages and conditions. They could be assuming that their democratically elected representatives will not allow their wages and conditions to be stripped away by regulation. While those people are selflessly serving the State, the majority of their elected representatives in this Chamber are directly attacking their wages and conditions.

Elected representatives are sitting here stripping away the rights and entitlements of emergency services workers, stripping away their rights to a decent wage and reserving the right to remove their parental and carers' pay at any time. Reflect upon that for one moment. While the elected representatives in the Government are here conniving to strip away rights and conditions, those people are out there selflessly serving the State. They are selflessly doing what they can for the public interest while the majority here in the Government—and it looks like on the conservative crossbenches—are cooking up a plot to strip away their rights and conditions and remove their basic entitlements, and do it without even looking them in the eye.

Surely, before the Government takes that step—before the majority of members in this House take the step to strip away the rights and conditions of emergency services workers—they will at least have the decency and courage to look them in the eye, invite them to an open inquiry conducted by a standing committee and ask them what it means to get out there and put their lives on the line, day in and day out. It should then ask them

directly if they think it is fair that this Government can take away their collective rights with the stroke of a pen in the manner that is proposed in this legislation. If members had the courage of their convictions, they would support referral to the general purpose standing committee.

When thinking about public sector wages and the importance of having decent wages and conditions in the public sector, the place that it most strikes home is in rural and regional New South Wales. Quite often, in modest sized towns around New South Wales, it is the pay packets of the public sector workers—the nurses in the district hospital, the police in the police station, and those in the fire stations and in decentralised State government departments—that keep many regional and rural economies afloat. In inaugural speech after inaugural speech we heard about the importance of rural and regional New South Wales. We have heard this Government skiting repeatedly that it has a dozen Ministers from rural and regional New South Wales. What good is a dozen Ministers if the first major thing this Government does is strip the pay packets of workers in rural and regional New South Wales and tear down the conditions of those public sector workers who are often the backbone of the economies of small rural and regional towns? What good is having 12 Ministers if they simply get together en masse and do a job on the collective rights of public sector workers in rural and regional New South Wales?

Again, if they have the courage of their convictions—if any of the words in inaugural speeches about the importance of rural and regional New South Wales and about supporting rural and regional communities were meant genuinely—before they strip away the rights and conditions of those countless thousands of public sector workers in rural and regional New South Wales, surely the Government will invite them in, look them in the eye and say, "What do you think about this Government giving absolute power over your rights and conditions to just a finance Minister? What do you think about your decades' long rights and conditions gathered through struggle being up for grabs, up for removal, just through the stroke of a finance Minister's pen?"

It would seem the reason the Government does not want to ask that question and the reason the Government is uninterested in hearing from rural and regional New South Wales about the effects of this bill is that it knows what the answer will be. It knows that rural and regional New South Wales is already doing it tough and that this bill is going to gut a whole lot of rural and regional communities—tear the financial heart out of a series of them. But the Government is intent on ignoring the broad mass of people in New South Wales and forcing the bill through.

The other matter that would obviously benefit from referral to the general purpose standing committee is consideration of the implications of the bill for the judiciary and the principle of separation of powers in this State. Surely those opposite who purport to be conservatives, who purport to respect the basic institutions brought to this State from English legal traditions, those—and I see a number of them on the Government benches at the moment—who often speak broadly and proudly about being conservatives, about respecting institutions, about respecting things that have been brought to us from prior decades and centuries, before they attack a core institution, the Industrial Relations Commission, that has been in this State for more than a century, before they make such a radical attack—not a conservative attack—on a core government State institution, before they gave the Hon. Greg Pearce absolute power over the wages and conditions of public sector workers—

**The Hon. Greg Pearce:** Absolute rubbish.

**Mr DAVID SHOEBRIDGE:** I acknowledge the Minister's interjection. I assume he is talking about his bill. I assume that he is talking about the legislation that he has put before this House because it is a very fair summation of the bill—absolute rubbish! I endorse the words of the Minister and am grateful for his contribution to the debate. It has been about the only contribution we have heard from those opposite. There has been utter silence from the other side, no attempt to get a call from the chair to justify this attack on wages and conditions. They have been sitting there in mute silence—I apologise for the tautology—effectively refusing to justify the unjustifiable: this gross attack on public sector wages and conditions. You would think that those who purport to be conservatives would at least want some consideration of this gross attack upon the independence of an institution that served this State proudly for more than a century. If a conservative is worth his weight in whatever base metal or product they view themselves in—and they can choose their own base metal or product as far as I am concerned—

**The Hon. Matthew Mason-Cox:** Plutonium.

**Mr DAVID SHOEBRIDGE:** Some are salt, some are gold, some are deeply radioactive—I agree with the honourable member's interjection. Surely they would want to have a thorough review about whether it is

constitutional to make this fundamental attack—consider whether making what was the independent umpire the patsy of the Government makes good sense and whether effectively destroying the independence of the Industrial Relations Commission and making it nothing but the rubber stamp on the Government's wages and conditions for public sector workers—upon an institution of more than 100 years standing can in any way find a safe home in a conservative heart. That is most remarkable. It is a gross breach of their own principles of conservatism, and it is a gross attack upon a core institution of this State. Worse than that, it attacks the tradition of more than 500 years in the English common law system of separation of power—that there should be a separate executive to a parliament and a separate parliament to courts, and those three great institutions of state should be recognised as independent and vital pillars in any kind of pluralist liberal democracy. But what this Government wants to do is directly attack one of those pillars.

**The Hon. Dr Peter Phelps:** Are you suggesting we shut down the Independent Commission Against Corruption?

**Mr DAVID SHOEBRIDGE:** I note the interjection of the Hon. Dr Phelps about shutting down the Independent Commission Against Corruption, and I will respond. No, I am not suggesting that the Government shut down the Independent Commission Against Corruption. Indeed, it is necessary on occasions to vest some State institutions, such as the Industrial Relations Commission, with both an arbitral power and an investigative power, as well as a judicial power. That is a longstanding legal tradition in New South Wales.

Again, attacking that mix of investigative, arbitral and judicial powers found in the commission by seeking to take away the independence of the institution, by being directed not by its own members, not by its own presidents, not by its own justices and not by its own deputy presidents and commissioners but to have its determinations directed by the Hon. Greg Pearce—to have an outcome from what was previously an independent institution directed by a single member of the Executive—is a gross attack upon a century-old institution in this State. It is a gross attack on Conservative values and it is remarkable that those who tout themselves as Conservatives, who tout themselves as believing in the institutions of the State, can attack it in this way in the dark hours at the end of a parliamentary sitting week without having first gone to the people of New South Wales and telling them what the Government would do.

The last matter of referral to the Legislative Council standing committee is the hoary old "any other adverse effects of the legislation." It is no wonder that the Government does not want that matter referred to a standing committee, because it knows that this legislation has many adverse effects. It knows it will not only attack wages and conditions, it will attack rural economies. The Government knows it will attack the core institutions of the State and will be subject to heated criticism from the people of New South Wales if it allows the inquiry to go for a single day.

The purpose of the Government suspending standing orders to force this legislation through the upper House is to shut down the debate, because it is taking heat on this issue in the public domain. Members have heard the rallies outside today, organised at short notice. They are concerned that if the matter goes over for more than 24 hours the groundswell of opposition to this undemocratic attack on rights and conditions will grow. They are concerned they will continue to feel that heat from the general public of New South Wales who so recently put their trust in them and who so soon have found that trust grossly betrayed by the Government.

On behalf of The Greens I strongly support referral of this matter to the general purpose standing committee. I strongly support this House resolving to do that at the earliest possible opportunity, and I look forward in due course to some rational argument by the Government, apart from blunt self-interest to avoid criticism, as to why it will not support the reasonable call for the people of New South Wales to be given a chance to let their views on the bill be known through representations to that standing committee and why it is so urgent to shove this legislation through in the dark hours of tonight.

**The Hon. Matthew Mason-Cox:** Have you concluded?

**Mr DAVID SHOEBRIDGE:** I will not use that word; it got the previous speaker in all manner of hot water. If I could now turn briefly to the operative provisions of the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011. It is not an overly long bill. It is not one of enormous legal complexity but the individual provisions of the bill are worthy of close scrutiny, because it is a short bill with a nasty sting in it. It is a short bill with a vicious attack in it. It is in many ways like the Hon. Matthew Mason-Cox—short but brutal. The Act is named in clause 1, the Industrial Relations Amendment (Public Sector Conditions of Employment) Act 2011. It is a bit Orwellian calling it conditions of employment. If there was any



kind of truth in the bill, clause 1 should read, "This Act is the Industrial Relations Amendment (Attack on Public Sector Conditions of Employment) Act 2011." That is what it is. This is not about improving conditions. There is not even a pretence from the Government that this is about improving conditions.

One would think that having been given the trust of the people of New South Wales to look after the public sector for at least four years the Government would have an argument on how this bill improves the conditions of the public sector, how this bill will in some way advance industrial interests, the individual employment interests, of those public sector workers. But in not a single press release, in not a single speech, in not a single contribution from anyone on the Government side or from anyone in the Government in the other place has there been a single reference to how this bill could be used to improve the conditions of employment of a single public sector worker.

Indeed, it has been acknowledged from the start that this is not about improving conditions of public sector workers. It has been acknowledged from the start that this is not about giving public sector workers a single additional right or entitlement. It has been acknowledged from the start that this is an attack. At least the Government has the decency to admit it is an attack. At least it has the decency to admit that what it wants to do in its first set of regulations is cut wages. At least it admits it is going to put a cap of 2½ per cent in the initial round under the policy.

**The Hon. Greg Pearce:** It is the same cap that Labor applied in its policy. It is the same as Labor's policy.

**The Hon. Lynda Voltz:** But we had an independent arbitrator; that is the difference.

**The Hon. Greg Pearce:** It is the same as Labor's policy.

**The Hon. Lynda Voltz:** But what about the independent arbitrator?

**The Hon. Greg Pearce:** It is your policy.

**The Hon. Lynda Voltz:** It is not our policy because we had the IRC.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjections. Carry on.

**The Hon. Matthew Mason-Cox:** Exactly. This is a lot of carry-on—so get to your point and sit down.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjection of the Hon. Matthew Mason-Cox and I take offence at it. Directing a member from the floor of the House to sit down is unparliamentary. It denies the essential right to speak, and I ask the Chair to call the member to order for seeking to shut down the speaker.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I remind members that interjections are disorderly at all times.

**Mr DAVID SHOEBRIDGE:** The previous Government's wages policy was in many ways an attack on conditions and I acknowledge what the Minister says. It was designed to cap but at least the Government had the courage to take it to an independent arbiter. It argued its case before an independent arbiter and was willing to stand by the determinations of an independent umpire. That is exactly what the previous Government did. The previous Government had a policy of capping wages at 2½ per cent but then allowing for additional wage increases on a case-by-case basis if it could be proven there were efficiencies. Indeed, there were a number of sectors where there was not a requirement to prove efficiencies, and this is a matter that this Government has not come clean about—in particular, the police.

At no time were the police subject to an efficiency dividend in prior negotiations with the New South Wales Government. The previous awards for the police did not have a cap of 2.5 per cent and did not require the efficiency dividends that the Government says it will require of the current police. The Government has not been genuine in its debate on that matter. It has denied that industrial history and it now wants to impose a 2½ per cent wage cap on police. If any public sector union wants to go beyond the 2½ per cent under the current policy, as best we can understand it although it has not been the subject of any open discourse or regulation by the Minister, it has to wait 12 months and prove that its members have delivered some efficiency gains.

Then, after a 12-month wage freeze those workers may, if they are able to prove certain prerequisites to the commission—if the Government lets them 12 months down the line, because the Government could always issue a fresh regulation—be able to get some modest additional wage increase. That is a wage freeze by any other name: that is a direct wage freeze. Even if one accepts the Government's rhetoric that the public sector unions can seek an additional wage increase after 12 months of proving efficiency gains, that must, by any means, be a 12-month wage freeze, even on the Government's terms.

Of course, there is nothing to stop the Government issuing a fresh regulation six months down the track. The Government would then say, "We've found another mysterious \$4 billion black hole, and because of that we are going to have to get rid of those efficiency gains." The Minister would then issue a fresh regulation and wages would be cut again. Then, six months later, the Government may find another mysterious, mythical \$4 billion black hole—which we know did not exist, despite the Minister's best efforts to conjure it out of nothing—and we will see yet another regulation, with yet more cuts to wages and conditions. There is nothing in this bill to restrain the Government. Nothing in some deal the Government has done with the conservative crossbench will restrain this Government. The bill, if passed, will not be about conditions of employment; it will be about an attack on conditions of employment. Clause 1 of the bill ought properly be amended by the Government to reflect the true nature of the bill.

Clause 2 of the bill provides that the Act will commence on the date of assent. In other words, as soon as the bill passes through this Parliament the Government will enact the legislation, and that is when the blank cheque will be delivered to the Minister for Finance and Services. There will be no delay. The legislation will not commence on 1 July. If this Parliament makes the terrible mistake of passing this bill, as soon as it is passed it will become law and the rights and conditions of public sector workers will then be stripped away.

The operative provisions in the bill are to be found in schedule 1. Schedule 1 puts in place a number of amendments to one of the core pieces of industrial fairness on the statute books of New South Wales: the Industrial Relations Act 1996. Rather remarkably, item [1] of schedule 1 amends a definition in section 105 of the Industrial Relations Act. One may wonder why the Government would want to muck around with section 105 of the Industrial Relations Act. If one looks to section 105, one suddenly realises why that is. Section 105 is in a division called part 9, headed "Unfair Contracts". Part 9 in division 1 sets out some definitions. One of the key definitions in part 9 is the definition of a contract. The broad definition of a contract as set out in section 105 is as follows:

*contract* means any contract or arrangement, or any related condition or collateral arrangement, but does not include an industrial instrument.

We are talking about common law contracts ordinarily. We are talking about collateral agreements that attach to the side of a common law contract. In some cases we are talking about understandings between employers and employees that sometimes do not meet the legal threshold of a contract but amount to an arrangement whereby work is done in an industry. The amendment this Government wants is an amendment to the second definition of what an unfair contract means. Why would the Government want to amend the definition of "unfair contract"? Why would the Government be so concerned about what an unfair contract is? Why would it want to tinker with the definition of an unfair contract? One might well ask that question.

The reason is, it would appear, that the Government is deeply concerned that by issuing this policy, by being able to issue policies at will, attacking wages and conditions, it might be up for a number of breaches of part 9 and a number of actions by public sector workers alleging that what the Government is doing is imposing an unfair contract upon a worker in the public sector. The Government is so concerned about the root unfairness of this bill that it is even changing the definition of "unfair contract", because it knows and expects that what it will be doing will be unfair. The Government knows and expects that what it will be doing will be, to use the words of part 9, "unfair, harsh or unconscionable".

Surely, if this is such a great piece of legislation the Government should not be frightened of a public sector worker alleging that what the Government does under this policy, promulgated under this bill, is unfair, harsh or unconscionable. But the Government is so worried that a public sector worker will take it on, alleging that what it is doing is harsh, unfair or unconscionable, that it is amending the definition of "unfair contract". Even if a public sector worker proves he or she has an arrangement and that it is unfair, harsh or unconscionable, this Government will remove that public sector worker's right to bring an action for compensation under part 9.

The other definition of "unfair contract" that this Government seeks to opt out from under this legislation is a contract that is against the public interest. If this is such a great piece of legislation that is in the

public interest, the Government would not need to protect itself from an action by an individual worker alleging that what the Government has done through issuing the regulation in the policy is against the public interest. Surely the Government would feel able, through its well-resourced lawyers, to defend a claim brought by a worker that what was done under this policy was against the public interest—unless, of course, the Government had advice that what it is doing is well and truly open to challenge by an individual worker alleging that this attack upon his or her rights and conditions is against the public interest. That is what the Government is afraid of. It is afraid of having an independent court, here the Industrial Court, say that this legislation and the policies promulgated under it are against the public interest. The Government knows the legislation is likely to be held to be against the public interest.

Under the amendment in item [1] of schedule 1, the Government wants to make sure that no public sector worker can bring a claim against it alleging that that a worker's contract or arrangement with the Government is unfair because it provides a total remuneration that is less than a person performing the work would receive as an employee performing the work. If the Government thinks that this new wages policy will be fair, surely the Government should not be frightened that someone would allege, in an action brought under part 9, that the remuneration they receive by reason of this policy is less than a person performing the work would receive as an employee performing the work—unless the Government's intent is to leave open the ability to strip down the rights and entitlements of anyone who works under a contract, as opposed to a person who works as a direct employee.

The last action this Government seeks to hide and defend itself from is an action brought by a public sector worker alleging that what the Government has done through its policy is designed to, or does, avoid the provisions of the industrial instrument. In many ways, that is the key thing this legislation seeks to do. This legislation seeks to allow the Minister for Finance and Services to issue a policy and a regulation that will allow the Government to opt out of any provision in an industrial instrument that it does not like. Any wage increase that has been fairly bargained for but is above what the Government wants to give public sector workers in its munificence will be able to be stripped down by regulation. The Government knows that it is liable to an attack by a worker alleging that the contracts are unfair, and because of that the Government has inserted item [1] of schedule 1. Item [1] of schedule 1 inserts subsection (2) at the end of section 105. Proposed subsection (2) reads:

- (2) a contract is not an unfair contract for the purposes of this Part merely because of any provision in the contract that gives effect to a policy that is declared under section 146C.

To remove the legal jargon from that, the amendment seeks to say: "Okay, you may well be a public sector worker. You may well be able to run a case that you have a contract or arrangement with the State of New South Wales under part 9 and you may well be able to prove to the Industrial Court that you have an unfair contract."

A worker may be able to prove that the contract is unfair and/or harsh and/or unconscionable. A worker may be able to prove that the contract is against the public interest. A worker may well be able to prove that the contract was designed to or does avoid the entitlements of an award. They may well be able to prove that all of that lies in a regulation issued by the Minister, but because of this amendment those workers will not be able to bring a claim against the Government and will not be able to seek recompense for an unfair contract, because as the Government knows this policy will make contracts unfair. The Government knows that it will make contracts harsh, unconscionable or unjust and it has inserted new subsection (1) to make sure that no worker can make out that case and seek compensation.

The very first operative clause of the bill proves that this is intended to allow the Government to impose unfair contracts on workers in the public sector, to do it at will and by fiat of the Minister for Finance and Services and they want to be able to do it without any worker having any remedy by alleging it is unfair. What a gross dereliction of the public interest by this Government. Again, they never brought that policy to the public in the course of the election campaign. They never said to the people of New South Wales that they wanted to be able to write unfair contracts at will, yet that is the first operative clause of this bill, this attack on public sector conditions of employment.

Schedule 1 [2] of this amendment of the Industrial Relations Act 1996 is probably the meat and potatoes of the Bill, or as The Greens would say, the tofu and potatoes of the bill. It inserts after section 146B of the Act a new, insidious and nasty section 146C. That new section provides that the Industrial Relations Commission of New South Wales—which tonight at seven o'clock is an independent institution

but at seven o'clock tomorrow night may not be independent—is to give effect to certain aspects of government policy on public sector employment. That is how the new section is headed. New section 146C subsection (1) says:

The Commission must, when making or varying any award or order, give effect to any policy on conditions of employment of public sector employees:

- (a) that is declared by the regulations to be an aspect of government policy that is required to be given effect to by the Commission, and
- (b) that applies to the matter to which the award or order relates.

That means when the Minister signs the regulation and puts it on the books the Government just trots down to the commission and the commission has to make an award in those terms. Let us compare that to what happens now. When those in the public sector want to get some fair conditions from their employer, being the Crown or the Government of New South Wales, normally what happens is that logs of claims are exchanged between the two parties. The union will say, "We want 10 per cent", and the Government will say, "We'll give you nought." The union will say, "We want increased leave", and the Government will say, "We want to take it away." The union will say, "We want some additional parental entitlements", and the Government will say, "We don't believe people in this sector should be parents."

That is the normal exchange of logs of claims. Between the two of them they start making some compromises. It may be okay to be a parent. "We might give you a little additional parental leave but we want you to make some allowances in terms of flexibility of your hours of work." Normally there is that negotiation between two relatively equal parties. The union can always say, "If we don't get what we want we might want to take some modest degree of industrial action." The Government can say under the current law, "Well, if you take industrial action we can seek an order preventing that action under the Act." The union will then say, "If we can't agree through modest degrees of industrial action and we simply hit an impasse at least we can go to the independent umpire and we can each argue our case before the independent umpire."

The union can present its evidence and put its position before the commission. It can produce evidence to show why people in this sector are doing it tough and need some additional pay rises. It can put forward evidence about some concessions it is going to make, such as efficiency gains. The Government can put forward its evidence, including the state of the economy and the like. They can argue the toss and it can take many days to do justice. It can take many days of evidence and submissions but at the end under the current system the decision is ultimately made by an independent officer. It is made by a member of the commission who has tenure and is not subject to the whims of the Government. He can hear both sides of the argument and issue, in most cases, a balanced outcome. It is an outcome that fairly balances the needs of the Government against the needs of the employees represented through the union.

But this Government is unhappy with having to win its case in the Industrial Relations Commission. This Government thinks of all that untidiness in presenting evidence, having to justify its case through submissions, and having to persuade the independent umpire about the merits of its case. What a pain in the neck for this Government. What a restraint upon a new Government that just wants to be able to do whatever it likes whenever it likes through regulation. How annoyingly frustrating for this Government to have to win its argument on its merits before an industrial commission. The Government knows it has trouble winning with the current policy on its merits in any fair arbitral decision. So, it says, "Why don't we just win the case before we start it? Instead of having to go to all that trouble of convincing a commissioner or a judge about the merits of our case, why don't we just change the law and win the case by issuing a regulation that basically says to the commission, 'We win'?"

The Government issues a regulation that says, "We win. You are stuck with giving 2.5 per cent and no more. You are stuck with not giving any additional pay rise unless you meet these criteria for efficiencies, and we win because you can't give those pay rises for at least 12 months until you can prove it." That is a brilliant idea if you are a government. Why go to the trouble of winning the argument when under this bill you can win just by issuing a regulation through the Minister for Finance and Services before even one witness is called or one submission is made. That is what new section 146C (1) (a) and (b) does. It says that once the Government has declared by regulation that an aspect of Government policy is required to be given effect to by the commission, the commission must, when making or varying any award or order, give effect to that policy. What a charade applications will be before the commission if this bill gets through. What kind of charade will the hearings be?

The union will turn up with its evidence and present a compelling case and the Government can just turn up with a piece of paper and a regulation and say, "That has been fascinating. We have enjoyed those 10 days of evidence. It's been wonderful hearing about the struggles of nurses. It's been very enlightening hearing about how those workers in the Department of Community Services are doing it tough. It's been fascinating to hear about the difficulties faced by ambulance services. But we really don't care what you say or what the evidence is. We win the case because we've issued the regulation."

The Government will say to the commission, "Just be a good little boy; be a good little pet commission and issue the order like we tell you to do and give us a nice red stamp. We will destroy your independence." That is what new section 146C (1) does. It is an appalling piece of legislation. It is an attack on the independence of the commission and it does so in blatant and bald terms. That of itself is a fairly appalling state of affairs: the Government issues a regulation and you can read from the regulation what it is that the Government intends to do and, having presented it to the commission, the Government can just determine wages and conditions.

It is very untidy and tiresome for the Government to put its policy into regulation. The Government does not want to go to the trouble of getting the Parliamentary Counsel to put its policy into regulation so it can be amended by this House. If the Government has been telling crossbench members that they will be able to amend the policy when it comes before this House under its control of regulation-making power under the Act, then the Government has not been telling those conservative crossbench members the full story. New section 146C (2) in schedule 1 [2] states:

- (2) Any such regulation may declare a policy by setting out the policy in the regulation or by adopting a policy set out in a relevant document referred to in the regulation.

The second part of that is yet another nasty little addition by the Government in this attack. It wants to be able to adopt a policy that is referred to in a regulation or "a relevant document referred to in a regulation". We could have a regulation that says the document that is in the Minister's bottom drawer behind the door marked "beware of the dog" is the policy that sets up the wages and conditions for public sector workers in New South Wales. There is not even a requirement to publicly disseminate the document. But even worse, let us assume the Government does circulate its document and its policy, and let us assume also that it contains a number of offensive elements; unless it is contained in the body of a regulation it cannot be amended by this House. It cannot be the subject of oversight by this House under its control of regulation-making power of ancillary legislation.

The Government wants to be able to defend its policy even from review by this House. It wants to be able to hide it in a document and simply refer to it in a regulation so that the only option for this House, if the regulation does come here, will be whether to approve or disapprove of the policy as a whole. There will be no capacity for this House to disallow elements of the policy because the Government will have hidden it from scrutiny in a document referred to in the regulations. The Government will no doubt issue a regulation that says, "The wages and conditions of public sector workers are set out in policy circular no. 457 and you can find it in the *Government Gazette*". Therefore the modest degree of oversight that the Government says the upper House will have over the individual elements of the policy will be removed.

Even the flimsy pretence by the Government that through the oversight of regulation-making power this House will somehow have a review of the Government's wage policy—that is yet to be declared under this Act—falls away on close scrutiny. This bill has been cleverly drafted—I will give it that—by some clever Government lawyers to ensure that the wage setting policy is free from scrutiny by this House. Even under our capacity to review the regulations they will be able to sneak the policy into a document that is referred to in the regulations but not contained in the regulations, and remove that modest degree of oversight through the pernicious drafting of new section 146C (2) in schedule 1 [2]. That brings me to new section 146 (3) in schedule 1 [2] to the Amendment of Industrial Relations Act 1996 which states:

- (3) An award or order of the Commission does not have effect to the extent that it is inconsistent with the obligation of the Commission under this section.

What is the obligation of the commission under the section? It is that the commission must, when making or varying an award, give effect to the Government's policy. For example, if the commission was persuaded by the evidence and submissions of a union that something more than what the Government was offering—something more than the crumbs that the Minister for Finance and Services was throwing at public sector wages—was worthy of support, and if the commission had the temerity to defy the Government and say: "No, we are an

independent body and we will issue an award that reflects the evidence", the Government has inserted new subsection (3), which says to the extent the commission goes beyond the crumbs thrown by the Minister for Finance and Services the award is to have no effect.

A real danger then exists that if the commission was to award public sector workers a 4 per cent pay rise that it would be entirely invalidated by new subsection (3) and that the public sector workers would get nothing. New section 146C (3) says to the commission, "Beware. If you go beyond the very modest entitlements we are willing to throw at public sector workers by regulation then beware of this: we can entirely negate and the award will have no effect to the extent that it goes beyond that." The Government will take away the independence and the determination of the commission through that new subsection. This is another brutal attack on the independence of a century-old institution. New section 146C (4) in schedule 1 item [2] states:

(4) This section extends to appeals or references to the Full Bench of the Commission.

Not only will it bind the determinations of a single member of the commission but if the commission gathers together a panel of five members on a full bench—sometimes it is more—there is nothing that even a full bench can do. Not even the combined wisdom of five, six, seven members of the commission can do anything to overcome the brutal effects of a regulation issued by the Minister for Finance and Services. Even the Full Bench is not free from the over-reach of executive power contained in new subsection (4) of this bill. New section 146C (5) in schedule 1 item [2] states:

This section does not apply to the Commission in Court Session.

I said earlier that item [1] in schedule 1 in new subsection (2) seeks to limit the scope of a worker for an unfair contract because it defines a contract as fair even if it has been made unfair by this policy. I repeat that new section 146C (5) in schedule 1 item [2] states:

This section does not apply to the Commission in Court Session.

If one thinks about it that is fairly obvious. The award-making power under new section 146C is exercised not by the Commission in Court Session at all but by the Commission when it is not in Court Session: by the commission in its other guise as the New South Wales Industrial Relations Commission of New South Wales. To the extent that new subsection (5) says this section does not apply to the Commission in Court Session, it gives workers nothing. It simply says, "We are attacking the commission when it is in its order-making form as the Industrial Relations Commission of New South Wales not the Commission in Court Session." The Government has already seriously attacked the jurisdiction of the Commission in Court Session by changing the definition of "unfair contract". It is those unfair contract claims that are brought when the commission is in Court Session, not claims that would be affected by new section 146C. New section 146C (6) in schedule 1 item [2] states:

This section extends to proceedings that are pending in the Commission on the commencement of this section. A regulation made under this section extends to proceedings that are pending in the Commission on the commencement of the regulation, unless the regulation otherwise provides.

In other words, even if a union has a well-researched case before the commission on which it has spent substantial amounts of money, filed an application and placed evidence before the commission to obtain a fair determination by the independent umpire in an award variation case—and indeed we know a number of unions have done that—"Mr Guillotine", the Minister for Finance and Services, the Hon. Greg Pearce, will be able to execute a regulation, cut the rope, let the blade fall, and chop off that action as soon as the bill comes into force. Effectively, it will make the Hon. Greg Pearce the New South Wales public sector guillotiner. He will become known as "The Hon. Greg Pearce, New South Wales Minister for the Guillotine". That is what new section 146C (6) will do.

We know why the Government inserted new section 146C (6) in the bill and why it wants to be able to apply the guillotine to proceedings before the Industrial Relations Commission. It is because the New South Wales Police Association, which has almost 16,000 police officer members, has an application before the commission. The association has a hearing that has been set down for approximately 20 days because the award has expired. The association has been gathering evidence in an endeavour to persuade the independent umpire that its 16,000 members are worthy of a decent pay rise—something more than the measly 2.5 per cent that the Government is offering. The association has spent members' fees on collecting evidence, preparation of the evidence and briefing lawyers to forge a case. The association has served its log of claims on the Government, and no doubt the Government has responded. But the Government does not want to win the case on its merits.

The Government does not want to deal with police officers on an equal footing at the Industrial Relations Commission. The Government wants the issues decided by a regulation issued by the Minister, even though the case commenced before the bill was dreamt up by the Parliamentary Counsel. On second thought, perhaps the case had been started after a draft was put in the Government's bottom drawer during the election campaign: I give the Government that much credit. The Government may well have cooked this up well before the end of March but failed to tell anyone about it. The Government wants to be able to attack existing cases. Surely any government would realise that effectively changing the rules midway through a case, or shifting the goalposts, as it were, after an association has expended its members' money, is grossly unfair. It goes against the tradition that eschews retrospective legislation and is contrary to the broad tradition that supports basic rights and entitlements.

This is a government that is not afraid of retrospective legislation when it takes away ordinary working rights or the rights of householders to receive a decent payment under the Solar Bonus Scheme. The Government is attacking individual rights and attacking the rights of ordinary working people under new section 146C. This Government loves retrospective legislation and is happy to give the Minister for Finance and Services the power to retrospectively take away rights. But of course the Government will not use retrospective legislation to attacks things other than workers and individual rights. As soon as someone suggests a retrospective clawback of electricity sector contracts we can bet our bottom dollar the Government will say, "Oh, we can't have retrospective legislation. That will shake the commercial foundations of New South Wales. We can't attack big business with retrospective legislation because that will affect business confidence in New South Wales." But the Government has no trouble at all passing retrospective legislation that grossly attacks an ordinary household's solar bonus, and no problem whatsoever with retrospective legislation that attacks the ordinary working rights of approximately 16,000 police officers who have presented a case to the industrial commission and who will have their rights retrospectively changed by this Government midway through the case.

It is not just the Police Association that will have its rights attacked by this retrospective legislation. The New South Wales Public Service Association is a union that covers approximately one-third of the public service. It has more than 100,000 members whose award expires on 30 June. The Public Service Association has an application before the commission and is in the process of gathering evidence on the multiplicity of individual occupations that fall within the scope of its coverage—the clerks and the ordinary workers who keep the day-to-day administration of government running. Those people sometimes work in unglamorous jobs. They are not police officers. The people who do filing, typing and data entry are the backbone of the bureaucracy, but they are repeatedly attacked by conservative politicians who believe that the only decent workers are those we see on the streets in a uniform. Government members seem to think that any public servant who is not working in a uniform is less worthy. They always refer to them disparagingly as backroom officers. In the minds of Government members there are two classes of workers: those on the front line who have direct interaction with the public and others from whom the Government feels free to strip working conditions as though they simply do not count, as though their lives and entitlements are less worthy, and as though the work they do is less worthy.

If the Government was honest it would recognise that thousands of tireless public sector workers who do quite unglamorous work keep the machinery of government running. They do the necessary administrative work that ensures checks and balances are carried out. They do the administrative work that ensures that nurses have the medication and equipment they need to be able to do their work. It is not glamorous to do an inventory in a public hospital because clerks do not get the public acclaim that nurses get for the work they do. But unless we have clerks working with honesty, diligence and efficiency the services of our public hospitals will collapse. Administrative workers across the public sector often are unheralded but they are nevertheless essential to public administration. Yet their application before the Industrial Relations Commission for fair conditions and a decent pay rise will be retrospectively removed by this Government by this legislation. A regulation can be issued by the Minister for Finance and Services under new section 146C without referral to their union, without regard to what is fair or reasonable, without hearing from them about their daily struggles, and without ever hearing from them about their need for a reasonable pay rise to deal with the increased cost of living.

During the election a great deal was said by members of the present Government about the cost of living, but the first piece of legislation they introduce after the election is the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011. The Government wants to cut wages and conditions of 400,000 public sector workers, destroy their independence and destroy their pay packets. Consequently, the very same 400,000 workers will have great difficulty dealing with the large increases in the cost of living. Far from making life easier for the people of New South Wales or making New South Wales number one again, the

Government wants to be able to retrospectively take away the rights of 100,000 workers covered by Crown awards, and wants to do that in the dark of night by a regulation issued by the Minister for Finance and Services, irrespective of their case already being on the books of the Industrial Relations Commission and irrespective of the fact that the union in good faith has spent union fees on preparation of a case, only to have it stripped away by retrospective legislation under new section 146C (6). Proposed section 146C (7) in schedule 1 provides:

This section has effect despite section 10 or 146 or any other provision of this or any other Act.

That is the type of boilerplate, brutal, push-through provision that is contained in legislation intended to strip away rights. The bill states that new section 146C (7) has effect despite any other piece of legislation which might give entitlements or any other provision which might give rights or obligations. Subsection (7) means that that policy issued by the Minister will prevail over any other section of this or any other Act. It is a complete attack. What does section 10 of the Act, which this new subsection would explicitly override, provide?

**The Hon. Scot MacDonald:** Getting warmed up?

**Mr DAVID SHOEBRIDGE:** Warming up. Section 10 of the Act provides:

The Commission [Industrial Relations Commission of NSW] may make an award in accordance with this Act setting fair and reasonable conditions of employment for employees.

What is wrong with section 10? Section 10 says that the commission may make an award provided it complies with the Act but only if it sets fair and reasonable conditions of employment. What problem could any government of good conscience have with a provision that says the commission can set fair and reasonable conditions of employment? Is the Government concerned that the commission might want to set fair and reasonable conditions? That is all section 10 does. It gives the commission the capacity to set fair and reasonable conditions. In the Government's mind that is a dangerous power: it does not want the commission to be able set fair and reasonable conditions. It explicitly says in new subsection (7) that it wants the Government's unfair policy, issued by regulation, to override the commission's power to set fair and reasonable conditions of employment for employees.

If this bill is anything other than an attack, if it is intended to deliver fair and reasonable conditions of employment, as some of the patter from the Government has suggested, why does the Government seek to override section 10 of the Act? All that section 10 does is give the commission the power to make an award that is fair and reasonable. What is wrong with fair and reasonable? Why is the Government so frightened of fair and reasonable? The only conclusion is that the Government wants to be able to issue policy setting wages and conditions that are unfair. It obviously wants to be able to set wages and conditions that are unfair, otherwise why would it take away the commission's power to set fair wages and conditions? It wants to be able to set a policy that is unreasonable for employees and attack the reasonable conditions of employees. Otherwise, why is the Government so frightened of the commission using its existing power to set fair and reasonable conditions? That is what new section 146C (7) does.

New subsection (7) is an explicit acknowledgement by this Government that its clear, drafted intent in black and white in this bill is to set unfair and unreasonable conditions for employees in New South Wales. At least the Government has shown some degree of honesty in admitting, through its own legislation, that it intends through regulations issued by the Minister to set unfair and unreasonable conditions of employment for public sector workers in New South Wales. The Government is not only afraid of section 10; it also wants to get rid of the strictures set out in section 146, which sets out the general functions of the commission. These are the bread and butter provisions setting out the commission's functions as an independent organ of the New South Wales Government. Section 146 (1) provides:

The Commission has the following functions:

- (a) setting remuneration and other conditions of employment,
- (b) resolving industrial disputes,
- (c) hearing and determining other industrial matters,
- (d) inquiring into, and reporting on, any industrial or other matter referred to it by the Minister,
- (e) functions conferred on it by this or any other Act or law.



In other words, the commission has a fairly broad compass of duties and functions, including the remuneration and conditions of employment, resolving industrial disputes and hearing and determining other industrial matters, such as, discrimination cases and other applications that come before the commission. The commission's functions also include inquiring into matters referred to it by the Minister and such other functions conferred upon it. Section 146 (1) sets out a fairly broad compass of functions. Why does the Government want to ensure that new section 146C overrides the existing section 146? Why does the Government want to ensure that its policies override the existing provisions of section 146? It is because of subsection (2) of section 146, which provides:

The Commission must take into account the public interest in the exercise of its functions ...

That is what the Government is frightened of. The Government is frightened of the commission having regard to the public interest. The Government knows that the policies that will be issued by the finance Minister will be a drastic attack on the public interest in New South Wales. That is why it has included a provision in the bill that says that even though section 146 (2) of the Act provides that the commission has to have regard to the public interest, if the Government issues a policy that is against the public interest the commission still has to apply the policy. The Government will hamstring the commission. Even if the commission makes a determination that the policy the Government is imposing on public sector workers is against the public interest, the commission's decision will have no effect. According to subsection (7) of section 146C, even if the commission forms the view that the policy the Government is proposing is against the public interest, the commission will still have to issue an award that complies with that offensive policy of the Government. Further, section 146 (2) provides:

The Commission must take into account the public interest in the exercise of its functions and, for that purpose, must have regard to:

- (a) the objects of this Act ...

One would think the Government would want the commission to consider the objects of the Act. Again, the Government is concerned that if the commission has regard to the objects of the Act it may find matters in the Government policy that trouble it. What are the objects of the Act? One of the objects of the Act that the Government is worried about and is asking the commission to disregard when it conflicts with policy issued by the Government is section 3 (a), which states:

The objects of this Act are as follows:

- (a) to provide a framework for the conduct of industrial relations that is fair and just,

The Government does not want the commission to refer to that provision. If the commission does have regard and gives weight to the objects and concludes that the Government's policy is unfair or unjust, then the Government wants to make sure that its policy will override that object of the Act. Even if the commission has regard to the objects of the Act and says, "We have had a look at this. We have had a look at what the finance Minister is proposing and it's downright unfair; it's deeply unjust. We are offended by it root and core" the commission will be hamstrung by subsection (7) of proposed section 146C. The commission will say, "Well, there's nothing we can do about it, I'm sorry. We're an independent body. We think what the Government is doing is unfair. We think what the Government is doing is unjust, but there's nothing we can do about it because we are constrained"—by proposed section 146C the Government seeks to persuade this House to pass—"by the unfair and unjust policy of the Government and we must implement that policy."

If the Government had even a scintilla of industrial courage or decency, it would not seek to have the power to issue a grossly unfair and unjust policy and have the commission implement it. If the Government had even a skerrick of industrial decency or respect for the independence of the commission or the rights and entitlements of ordinary working people in the public sector to some kind of industrial justice, it would not be frightened of the commission being able to form the view that the policy is not fair or just and it would not make it part of the award. The Government is so scared of the eventuality that the commission might form that view, that the bill states the commission must rubberstamp the government policy. Another object of the Act is:

- (b) to promote efficiency and productivity in the economy of the State,

Sometimes we hear from management and government that their views are the only views of efficiency and productivity. Sometimes we hear from an employer in a dispute that the employer has all knowledge about how a workplace operates and how to deliver efficient and productive outcomes in the workplace. As a member of The Greens I do not subscribe to that view. My party does not subscribe to the view that all the intellect about efficiency and productivity in a workplace and economy lies in the hands of management. Often it is the

ordinary working people, those doing the job day in and day out, through their unions that have the best understanding of how to deliver efficiencies in the workplace, and how to deliver a truly productive outcome in their employment.

Why should the commission not have regard to the views of unions and of working people on how to produce efficiency and productivity when it conflicts with the views of the Government? That is exactly what is in proposed subsection (7). It states that the only views about efficiency and productivity that the commission can take into account are the views of the Government. But even if the union puts a compelling case about gross inefficiencies and how to do the task better and it supports that case through the evidence of its members—if the union makes the compelling case about how to deliver efficiencies and productivities—and if the Government has a different view and has stuck it in its precious regulation, the commission can have no regard to what the union says or to the evidence put before it. The commission has to do the cobbled-up job issued through the regulations by the Minister for Finance and Services.

Surely that is an unnecessary constraint. Indeed, it is a deeply unfair constraint. An ideological constraint is being imposed on the commission through the workings of a deeply conservative right-wing Government that does not believe in unions or that working people also should have a fair say. It does not believe that working people can deliver efficiencies and productivities through their own means and ideas in a productive exchange with management. The Government does not believe in that; it wants to ride roughshod over working people regardless of their good ideas. This brings me to section 3 (c) of the objects of the Act. This is another subsection that frightens the Government and its ideological masters so much that it wants to make sure where it conflicts with the Government's policy that the commission can have no regard to it. Of course, it does that through proposed section 146C (7). Section 3 (c) of the Act's objects states:

- (c) to promote participation in industrial relations by employees and employers at an enterprise or workplace level,

Surely that object should be given power over and above a regulation issued by the finance Minister. But it is not. The Government is not interested in negotiating or participating with employees at an enterprise or workplace level. The Government believes that that is troubling because talking to workers can waste hours: hours and weeks can be wasted negotiating with workers. The Government does not want to have to go to all that unnecessary trouble and bother and talk with working people and consult with unions. The Government does not want to have to worry about promoting participation by employees in industrial relations. The Government wants to be able to determine conditions in the ministerial office.

The Government just wants to be able to impose conditions without even talking to the working people whose conditions will be affected. The Government is offended by the object and by the concept of some kind of equal participation between employees and employers at an enterprise or workplace level. The Government is offended because it is ideologically opposed to giving working people a fair say in their industrial entitlements. The Government wants to do that by regulation and managerial prerogative; it wants to go back to the days before the civilised industrial relations system. Those kinds of people used to run cotton mills in England in the 1700s. Another object of the Act to which the Government is so opposed is subsection (d), which states:

- (d) to encourage participation in industrial relations by representative bodies of employees and employers and to encourage the responsible management and democratic control of those bodies,

Of course, the concept that unions might be democratically controlled by their members is foreign to those opposite. They always think of unions as some sort of evil conspiracy by a cabal of union organisers and officials. That is an erroneous view of unions in New South Wales. Unions are under the democratic control of their members, they represent the interests of their members and they ought to be encouraged to participate in industrial relations. Subsection (d) of the Act's objects does that: it seeks to encourage the participation in industrial relations by representative bodies of employees and employers.

One good way of encouraging unions to engage in industrial matters and in negotiations with the Government would be to make them an equal party to proceedings. Give unions the right to represent their members and seek to persuade the commission of the merits of their case, allow them to represent their members, allow them to present evidence before the commission and allow them to persuade an independent umpire of the merits of their case. Of course, that object conflicts with what the Government wants to deliver through this bill. The Government, through this bill, wants to deliver the right to ignore unions and ignore working people, and it wants the right to say, "I don't care what the union wants. I don't care what the Industrial Relations Commission wants. I don't care what the evidence is. I don't care that you're having trouble making

ends meet at the end of a week. I don't care if the work you do is being undervalued because we just want to be able to issue a regulation, ignore your union, ignore your democratic rights and determine your wages through a stroke of the Minister's pen, not through any kind of participation in industrial relations by unions."

This is an ideological attack on the rights of organised labour. It is an ideological attack on a century-old institution that to date has encouraged unions to participate in industrial relations. The Government never told the people of New South Wales it was going to do this because, no doubt, it was frightened that the people of New South Wales may have broadly rejected, as they do, this ideological attack on unions and the basic industrial rights of organised labour. Another object of the Act that the Government wants to avoid, by the insertion of subsection (7) of 146C, is:

to facilitate appropriate regulation of employment through awards, enterprise agreements and other industrial instruments.

This Government is not interested in facilitating the regulation of employment through awards. It finds awards troublesome. It wants to be able to determine conditions of employment by regulation—not by award, because an award is made after hearing from the other side. How annoying to have to listen to the rights of working people; don't they go on about wanting to have pay rises; don't they go on about wanting to have some decent parenting rights; don't they go on about wanting to have some decent annual leave and a decent leave loading! Working people will tell you, day in and day out, that they want additional pay and that they want improved wages and conditions. But, of course, the Government does not want to hear from working people. It does not want to facilitate the regulation of employment through awards. It wants to avoid this object of the Act through the insertion in the Act of subsection (7). A matter that is very topical is object (f) as set out in section 3 of the Act. The Act—save for the new provision that the Government wants to insert in the Act—has this as one of its objects:

to provide for the resolution of industrial disputes by conciliation and, if necessary, by arbitration in a prompt and fair manner and with a minimum of legal technicality.

We can only assume that what so offends the Government about that provision is that the commission is required to determine matters in a prompt and fair manner. You see, fairness might get in the way of the regulation. The fact that the commission has to have regard to fairness could well get in the way of regulation. Indeed, it almost certainly would, if it is allowed to operate, get in the way of the gross unfairness proposed in the regulations by this Government. Without having to confront the issue, without being put to the task of proving that its regulation is fair, the Government wants to be able to neuter and negate that object of the Act and say to the commission, "Well, again, even if it is one of the objects of this Act to determine things in a fair manner, we are not interested in fairness, we are not interested in procedural fairness, we are not interested in hearing what the other side has to say; we want to be able to determine it in an arbitrary fashion by the issuing of a regulation." Object (f) of the Act states:

to prevent and eliminate discrimination in the workplace and in particular to ensure equal remuneration for men and women doing work of equal or comparable value.

Over the past 12 months we have heard about the efforts of those in the non-government community sector to achieve a measure of industrial fairness through an equal pay case that the sector is running in the Federal court, Fair Work Australia. All members would be aware that some sections of the workforce are traditionally dominated by women, and that in sections of the workforce the work of women in the sector attracts a rate of payment that is less than that paid to men who do comparable work.

**The Hon. Melinda Pavey:** Yes.

**Mr DAVID SHOEBRIDGE:** I note the interjection by the Hon. Melinda Pavey. She agrees that there are sections of the current workforce that are effectively dominated by women and where the work is undervalued, not because of the nature of the work, the hard work, the caring work in sections where women tend to dominate—

**The Hon. Melinda Pavey:** They do not have enough union reps who are men to look after their interests.

**Mr DAVID SHOEBRIDGE:** Again, I acknowledge the interjection of the Hon. Melinda Pavey, suggesting that unions have not been properly representing those women. That is her suggestion. I do not adopt

it, but I acknowledge she has made it. But there are sectors of the workplace where women are being paid less simply because the work they are doing is viewed as women's work, and therefore traditionally has been undervalued by both the market and by the government as an employer.

**The Hon. Melinda Pavey:** And the unions.

**Mr DAVID SHOEBRIDGE:** The members says, "And the unions." For whatever cause, there are parts of the public sector where women dominate and simply because the work is viewed as women's work the wages paid are less than those paid to men for comparable work. One would think that the Hon. Melinda Pavey would be greatly troubled that the legislation going through this House tonight will remove the ability of the Industrial Relations Commission to have regard to that object which allows the Industrial Relations Commission to increase the wages of women in those sectors above anything set by the policy of this Government. This Government is not intending to issue a policy that states, "It's 2½ per cent across the board, except that in areas that traditionally have been dominated by women we will give them a bit of an uplift." The Government is not intending to do that; there is not even a pretence that it is intending to do that. It wants an across-the-board chop, an across-the-board pay cut in real terms.

This policy will not allow women to collectively organise, to approach the Industrial Relations Commission and say, "We're not getting a fair go; our work is being undervalued and we want more than 2½ per cent," because even if they persuaded the commission of the merits of their case, even if they assembled together and presented to the commission evidence that proved absolutely tellingly and comprehensively that they were being underpaid simply because they were women, they would still not get their wage increase and they could still not get the commission to ameliorate their unfair conditions. That is because the commission would be bound by section 146C, subsection (7) as proposed by this bill, and the commission would have to say, "Sorry ladies, sorry guys, it can have no effect, there can be no deal, no pay rise, because the Government's policy does not allow it; we cannot give you a red cent."

What an absolute disgrace! How could any Government member of good conscience so hamstring the reasonable exercise of the commission's power to increase the wages and conditions for women in those sectors? I do not know how Government members, in good conscience, could put up legislation that states, "We won't allow that to happen; we won't allow women or unions to approach the commission to seek to have equal pay for equal work." Let us make no mistake about it: this legislation will prohibit any union from running an equal pay for equal work case. It would prohibit basic industrial fairness from being delivered by the commission. Why? It is because the Government does not believe in giving people fair industrial entitlements.

The Government is not interested in hearing the merits of a case. It is not interested in hearing evidence about underpaid work. It is not interested in ensuring that the industrial entitlements of the feminised sectors of the workplace eventually rise to meet those of male-dominated sectors of the workplace. The Government will not allow the commission even to consider that. The commission will be hamstrung by the Government's policy, and the policy says no, the computer says no, so the commission says no. Who knows what they will specialise in from here on in? The last object of the Act that the Government is frightened of and is seeking to avoid is section 3 (h), which currently provides that it is an object of the Act:

to encourage and facilitate co-operative workplace reform and equitable, innovative and productive workplace relations.

Why is the Government so scared of working together with unions and its workforce in order to facilitate cooperative workplace reform? Why is the Government scared of innovative, equitable and productive workplace relations? It is because it is not interested in equity or facilitation and it does not want to encourage its workforce. It wants to be able to direct its workforce. It wants—without regard to the industrial merits, without regard to equity, even without regard to necessarily being innovative—to be able to direct its workforce and the commission, avoiding those objects of the Act. That is what subsection (7) does. It states:

This section has effect despite section 10 or 146 or any other provision of this or any other Act.

It looks innocuous, but it is a gross attack on all those basic rights. Subsection (8) of proposed 146C provides:

In this section:

*award or order* includes:

- (a) an award (as defined in the Dictionary) or an exemption from an award...

That is a fairly broad definition. It also provides in (b) that an award or order includes:

- (b) a decision to approve an enterprise agreement under Part 2 of Chapter 2, and
- (c) the adoption under section 50 of the principles or provisions of a National decision or the making of a State decision under section 51...

Section 50 of the Act provides:

**Adoption of National decisions**

- (1) As soon as practicable after the making of a National decision, a Full Bench of the Commission must give consideration to the decision and, unless satisfied that it is not consistent with the objects of this Act or that there are other good reasons for not doing so, must adopt the principles or provisions of the National decision for the purposes of awards and other matters under this Act.

A national decision is defined in section 48 as:

A **National decision** is a decision of the Minimum Wage Panel or a Full Bench of Fair Work Australia that generally affects, or is likely to generally affect, the conditions of employment of employees in New South Wales who are subject to the jurisdiction of that panel or body.

New section 146C (8) (c) of the bill states that an award or order, being one that the commission would otherwise make, but for this section, includes the adoption under section 50 of the principles or provisions of a national decision. What does that mean in effect? It means that if Fair Work Australia determines to set new minimum national entitlements, a new minimum wage nationally, or a general increase nationally, ordinarily prior to this section the New South Wales Industrial Relations Commission would have a flow-on provision. If 3 or 4 per cent were provided nationally it would work its way through under section 50, and the New South Wales Industrial Relations Commission would, without having to hear all the evidence about why 3 or 4 per cent was appropriate, flow on 3 or 4 per cent to workers covered by the State awards. That would have a flow-on effect on public sector awards and the like.

But the Government wants to ensure, through new section 146C (8) (c), that to the extent that Fair Work Australia provides an entitlement greater than 2½ per cent, or whatever future miserly entitlement it offers under the regulations, New South Wales workers do not get the full entitlement. New South Wales workers will have their entitlements capped at whatever the Minister for Finance and Services says. So comparable workers in Victoria, South Australia, Western Australia, the Northern Territory, Queensland and Tasmania doing the same job will be getting greater pay rises than their counterparts in New South Wales.

This legislation will make workers in New South Wales second-class industrial citizens. The Government wants to ensure that workers in New South Wales do not get the flow-on effects of a national award if the national entitlement is greater than whatever crumbs the finance Minister wants to throw at them. The Government wants to make New South Wales workers receive the lowest possible conditions. It is frightened that through adopting a national decision, determined in a fair process in Fair Work Australia, that New South Wales workers might be given more than what the finance Minister wants to throw at them through regulations.

To ensure that they do not get that fair and just entitlement contained in a national decision, the Government has included new section 146C (8) which provides that even if Fair Work Australia says 4 per cent is good, we say the most they can get in the next 12 month is 2½ per cent. Lord knows what it will be 12 months later. It might be nought. It might be a pay cut but, most definitely, the New South Wales commission is not entitled to have regard to the national wage setting entitlements of Fair Work Australia if they have the temerity of giving workers more than whatever crumbs this State Government wants to throw at them through the Minister. That is an appalling process.

When did the Coalition say in the election campaign that it wanted to give New South Wales workers second-class industrial entitlements? When did it say to the people of New South Wales, "I know we have Fair Work Australia, which might set some basic minimum wages, but we do not want to be bound by what Fair Work Australia does in terms of some sort of industrial fairness, we want to be able to say to the commission, 'Ignore what Fair Work Australia does, ignore basic national minimums and just do what we tell you. Put in place the minimum that we tell you.'"

That is what this legislation does. Again, it looks innocuous but its impact will be that New South Wales workers will be second-class industrial citizens. Under this bill New South Wales workers will not be

entitled to the full flow-on effects of a national minimum wage increase and New South Wales workers will get the lowest wages increases in the nation. The Government has sought to rope in the broadest possible number of employees in this bill with the definition of "public sector employee" in new section 146C (8), which states:

*public sector employee* means a person who is employed in any capacity in:

- (a) the Government Service, the Teaching Service—

so the wages and conditions of public sector teachers are under attack—

the NSW Police Force—

In case police officers may have been able to avoid this nasty attack and say they are special constables and not employees under some longstanding common law traditions, the Government has sought to rope in police officers, ignore that century-long learning that they are not technically employees but are special officers and constables. So without any doubt the Government considered whether it wanted to cut police wages. Does it want to rope in all the officers and constables of the NSW Police Force? The Government thought about the ambiguity of whether they were employees so it defined them in the definition of "public sector employee" because it wants to cut the wages and conditions of police constables. It is in black and white so there is no doubt about it. This is an attack on the wages of conditions of those New South Wales police constables doing that hard public service tonight. It is an attack on their industrial entitlements because Government members have an ideological bent against unions. New section 146C (8) (a) also includes the NSW Health Service, which includes employees in what used to be area health networks—I forget what the name has been changed to now. Area boards?

**Dr John Kaye:** Area health boards, to the best of my knowledge. That was yesterday.

**Mr DAVID SHOEBRIDGE:** That was yesterday. They might have changed. This Government loves to re-badge things.

**The Hon. Catherine Cusack:** I am sorry, I am married to one of them. We went through five in the past 10 years.

**Mr DAVID SHOEBRIDGE:** I note the interjection of the Hon. Catherine Cusack. They went through five in the past 10 years. They changed their names like confetti. The former Government had a specialty in letterhead. They had the department of letterhead and the department of public signage. The new Government has jumped in exactly where the former Government left off. It changed the name of the Department of Justice and Attorney General. It thought there was something wrong with that, so it changed the name to the Department of Attorney General and Justice. Now is that a worthwhile expenditure of public money? No wonder it has not got any money to pay hardworking members of the New South Wales public sector.

In case there was any doubt, they have included in the legislation those people who serve this Chamber on a daily basis, those people who serve the Parliament on a daily basis—the people who make the functioning of Parliament possible—by defining "public sector employee" as "anyone employed in any capacity in the service of Parliament". Just in case there was a potential argument that those people who on a daily basis help us carry out our duties as parliamentarians, who keep the machinery of Parliament running, may not be covered by these draconian laws, the Government has included them explicitly in the definition of "public sector employee".

So while parliamentarians will have their entitlements set by an independent remuneration board—which, rather remarkably, will be a flow-on from a Federal decision—and will not be constrained by a 2.5 per cent pay rise, the Government has said that those who work in the Parliament will be affected by it. It has determined that those who work here on a daily basis, who work to keep this Parliament operating, will have their entitlements stripped. I will be interested to hear the contributions of those opposite. There has been no explanation; the Government is just imposing this legislation on us. It is nice to hear those opposite wake up and listen when I speak about some of the deleterious effects that their legislation will deliver. Subsection (b) of the definition of "public sector employee" sets out that it is:

a person who is employed in any capacity in:

the service of any body that is constituted by an Act and that is prescribed by the regulations for the purposes of this section.

That means that the Government can rope in anyone employed in New South Wales at any time by issuing a regulation, whether they are employed by a statutory corporation or by what was previously thought to be potentially a body independent of the Crown. The Government does not want to find itself struck by any nice little technicalities; it wants to be able to rope in anyone in this Act. The Government wants to rope in anyone employed in any capacity in New South Wales simply by a regulation under this Act issued by the Minister.

The Government has not come clean about this broad regulation-making power. It has not been honest with the people of New South Wales that here in subsection (b) of section 8 under the definition of "public sector employee" it can rope in anyone by regulations. Perhaps that is another reason why the Government does not want this issue to go off to an inquiry. Perhaps it is yet another reason why the Government is trying to ram this legislation home late at night. The Government does not want people to know that anyone in New South Wales is subject to being roped in by regulations under this Act. The Government does not want to come clean with the people of New South Wales; it would rather push through this legislation in the dark of night.

**The Hon. Catherine Cusack:** We would rather have done it two hours ago.

**Mr DAVID SHOEBRIDGE:** I note the interjection. The Hon. Catherine Cusack says she would rather have done this two hours ago. If Government members genuinely thought that this bill could withstand public scrutiny, they would not be forcing the debate to go on. They would respect the ordinary sitting times, adjourn the House, put the debate over to Tuesday week, engage in public debate with the people of New South Wales in the meantime, and then face the music. Instead, they want to force the legislation through. If the Government were genuine about wanting to adjourn this matter to another day so it can be debated in daylight, it could—it is within its power. But the Government is refusing to do so. It is using its numbers to force this House to sit on and on until the Government thinks it will be passed.

*[Interruption]*

Mr President, it is most difficult to make my contribution with the unseemly interjections by the Minister from directly across the table. I ask you to direct the Minister to desist from making unseemly interjections.

**The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile):** Order! Interjections are disorderly at all times. Mr Shoebridge has the call.

**Mr DAVID SHOEBRIDGE:** Why is this debate happening tonight? Why is the debate not going over, out of respect for the people of New South Wales? We know that before the election, the punitive Premier—who was going through a coronation and not an election—Barry O'Farrell, in some grand demonstration, said:

I'm pleased to announce petitions signed by 10,000 or more people will be debated in the Parliament. We promised to be an accountable government, and this will ensure issues of concern to the community get a voice in Parliament.

This is far from accountable. If the Government were accountable it would have been open with the people of New South Wales that as soon as it got a comfortable majority on the benches in this Parliament it intended to cut wages and conditions. The Premier then said—and it is remarkable doublespeak:

I want to put people back at the centre of decision-making in New South Wales.

The Premier does not want to put people at the centre of decision-making in New South Wales; the Premier plans to put one person at the centre of decision-making powers when it comes to industrial matters—the Minister for Finance and Services—and not the people of New South Wales. That is directly contrary to what the Premier said in the election campaign. During the election campaign the Premier remarkably said:

I promise my government will inject more democracy into Parliament by giving power back to the people.

The Premier has said:

Now we are delivering. We are delivering more democracy into Parliament by giving power back to the people.

How is the Government giving power back to the people in this bill? The Government is stripping the rights of working people to exercise their industrial entitlement to argue their case in the Industrial Relations Commission. That is not giving power back to the people; that is stripping rights away from people. It is

stripping away the basic right of people to argue their case for fair entitlements before an impartial judge. That is stripping power from people and centralising power in the executive; it is destroying the independence of the Industrial Relations Commission; and it is directly contrary to the rhetoric of this Government about openness, democracy and empowering people. On 12 May the Premier said:

After 16 years of Labor people felt locked out of decision-making and people's views were not being heard.

That is probably right. Under the previous Government the people of New South Wales did feel locked out of decision-making. The people of New South Wales felt that their views were not genuinely being heard. So what does the new Government do? It strips away the rights of ordinary working people to engage in decision-making. It says, "You can't use your century-old industrial entitlements to engage in decision-making about your rights and conditions at work. We are taking away those rights of decision-making." Although people might have views that differ from those of the government of the day about their wages and conditions, and that differ from those of the finance Minister about their entitlements and conditions at work, the Government has said that it will not listen. Not only will the Government not listen; it is blocking the ears of the Industrial Relations Commission and telling the commission that it cannot listen to the views of working people if those views are contrary to those of this super powerful Executive that wants to ride roughshod over a century of tradition of industrial decision-making in New South Wales. Then, rather remarkably, the Premier said:

One of Labor's final acts was to prove their contempt for the Parliament by shutting it down early in an attempt to stop the inquiry into Kristina Keneally's bungled and dishonest power sale.

I adopt wholeheartedly the Premier's views about what the previous Government and the former Premier did. The previous Government and the Premier wanted to stop an inquiry into aspects of what they were doing at the time. There was a reference—indeed, the Assistant-President was chair of General Purpose Standing Committee No. 1, of which I was a member at the time the reference—to the committee seeking to have a public inquiry into what the previous Government had done with New South Wales electricity assets. We heard the rhetoric from the then Opposition, which asked the previous Government, "What have you got to be frightened about? Why won't you let the inquiry go ahead? Why won't you allow an inquiry to be set up so that people can come and we can get to the truth of what the Government is doing?"

**Dr John Kaye:** Are they the same people?

**Mr DAVID SHOEBRIDGE:** That is exactly right. Those same people now want to strip away the rights of working people, and they will oppose the motion to refer this matter to General Purpose Standing Committee No. 1. The Government, with the stench of hypocrisy, will say, "No, the previous Government was trying to hide what it was doing."

**The Hon. Duncan Gay:** There's a big difference. Parliament wasn't sitting, in case the member does not remember. Your friends in the Labor Government had shut down Parliament. You had no chance to debate it in Parliament, like you have now. That is the difference.

**Dr John Kaye:** That's not relevant.

**The Hon. Duncan Gay:** It's an important point.

**Mr DAVID SHOEBRIDGE:** The Minister for Roads and Ports and Dr John Kaye can continue their conversation.

**The Hon. Duncan Gay:** It's one that The Greens have forgotten about.

**Mr DAVID SHOEBRIDGE:** The previous Government was rightly criticised for the contempt it showed by shutting down the Parliament and stopping an open public inquiry into a core plank of its policy—that is, its appalling decision basically to give away the electricity sector. It was a disgraceful act. It should have been open to a full and open public review through reference to a standing committee of this House. The same principles apply to this bill. Before the Government forces through a bill that strips away the entitlements of workers—the Government did not take this legislation to the people of New South Wales during the election campaign; it acknowledges that the bill will be "unfair" and "unjust", and will produce harsh, unreasonable and unconscionable outcomes—it should, in good conscience and consistent with the rhetoric it applied to the previous Government—



**The Hon. Dr Peter Phelps:** Good conscience!

**Mr DAVID SHOEBRIDGE:** I acknowledge the surprised interjection from the Hon. Dr Peter Phelps. He is astounded that the Government might have to exercise good conscience. He is offended by the very principle that his Government, with its numbers—

**The Hon. Dr Peter Phelps:** Point of order: The member is again trying to verbal me. It is not what I said, and he knows it.

**Dr John Kaye:** To the point of order: It is totally incorrect to say that Mr David Shoebridge was trying to verbal the Government Whip. Mr David Shoebridge was making a totally valid observation, which is within his right to free speech.

**The Hon. Dr Peter Phelps:** Further to the point of order: Let Hansard record that I was being ironic in relation to Mr David Shoebridge's comments about good conscience, considering his predetermined views about the nature of this bill and thus the irrelevancy of its going to a committee.

**The Hon. Amanda Fazio:** To the point of order: The Hon. Dr Peter Phelps is not taking a point of order. He has not referred to a specific standing order. He is attempting to make a personal explanation under the guise of taking a point of order, which is an inappropriate use of the procedure for taking points of order. I ask you not to uphold the point of order and to direct Hon. Dr Peter Phelps to the possibilities that lie within the standing orders for him to make a personal explanation if he feels that is appropriate.

**The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile):** Order! There is no point of order. Mr David Shoebridge will continue with his speech.

**Mr DAVID SHOEBRIDGE:** Rather than live up to its rhetoric about openness and supporting open public inquiries, when the Government is trying to force through potentially damaging legislation or a damaging deal it is hiding from an inquiry. The Government will not support referring this bill to a general purpose standing committee. The Government is picking up where Labor left off: more backroom deals, hiding from the public and seeking to conduct government business behind closed doors. Government members are being less than honest with the people of New South Wales and forcing legislation through without allowing for a broad public debate. When the Premier was confronted with a petition about Barangaroo and seeking a public debate in Parliament he said:

It's fantastic to allow the public an opportunity to raise their issues in the parliament ...

I think it's a great addition to Parliament, I'm very proud of it and we're not worried at all about it.

What happened yesterday? Yesterday a petition with 15,000 signatures from the people of New South Wales was presented to the Parliament, calling for a debate in Parliament on public sector wages and conditions before the bill becomes law. What was Barry O'Farrell's response? An article in the *Sydney Morning Herald* of 1 June stated:

Prior to the March election, Mr O'Farrell made his "people's petition" pledge, whereby petitions of more than 10,000 signatures would lead to a debate in parliament.

"Those of us on this side of politics want the voices of those outside heard," Mr O'Farrell told parliament on Wednesday.

"Whether you agree with them or not, this is meant to be the people's place. I look forward to that debate next (sitting) week."

What did the Premier do immediately after that? He forced on the debate in this House without being informed by that broad-ranging public debate between now and the next sitting week. He said that he looked forward to an informed public debate before the next sitting week, but he then insisted that the legislation be debated immediately in the House in which there might have been a scintilla of a chance that it would be amended because the Government does not absolutely control the agenda here. He told his front bench bovver boys in this House to introduce the bill and to force it through—

**The Hon. Duncan Gay:** Point of order—

**Mr DAVID SHOEBRIDGE:** I withdraw that derogatory term. The Premier has insisted that his frontbench members in this House force through the legislation without the benefit of that broad-ranging public

debate. The rhetoric behind the Government's attack on public sector wages has been delivered daily by the Premier. He and the Minister for Finance and Services have said day in and day out that public sector wages were spinning out of control under the previous Government. They say that they are spending billions on public sector wages, that public sector workers are being paid too much and that the previous Government did not show sufficient restraint. They have been trying to mount the argument that public sector workers have it too good, that their wages are too high and that they need to be restrained. Their argument is that we have a bunch of fat cats in New South Wales who were given gifts by the Labor Government, that they are paid too much and that their wages should be restrained.

What is the evidence on public sector wages? Of course, the best evidence does not come from a media release issued by the Premier. It comes from careful, detailed academic research into what public sector employees have been paid. The most timely, up-to-date academic research has come from the Workplace Research Centre at the University of Sydney. The director of that centre, Dr John Buchanan, has been troubled by the Government's ill-informed rhetoric about this issue. The centre has produced a research note entitled "Are NSW Public Sector Workers Overpaid? Wage rates for public sector teachers, senior constables and registered nurses at the top of their pay scales in Australian States and Territories 2010-2011".

The paper is designed to inform the debate and to give it a factual foundation so that when considering the future of wage setting for public sector workers Parliament can do so seriously, studiously and intelligently. It does that by looking at the rates paid to a range of workers at the top of their classification in key categories in the public sector. It states that the newly elected Government is looking for dramatic changes in the determination of wages for public sector workers. It details the arguments put to justify those changes and states that they imply that New South Wales public sector workers have experienced disproportionate wages growth and that they have it too good compared with public sector workers in other States. The centre decided to examine that assertion and to report back on how well those public sector workers at the top of their pay scales were paid relative to their counterparts across the country.

One would expect the Government to provide that information rather than simply say that public sector workers are being paid too much and that wage growth is out of control. Surely it should have suggested that we compare the wages paid to New South Wales public sector workers with those paid to their counterparts in Victoria or Western Australia. It should have compared apples with apples to establish whether New South Wales public sector workers are being paid too much and whether there is any basis for this power grab by the Minister for Finance and Services so that he can cut wages. The Government did not produce that evidence because it wants to rely on rhetoric and the conservative mindset that, by definition, public sector workers are not worth the wages they are paid and the conditions they have been awarded. Members opposite are ideologically opposed to paying public sector workers a decent amount.

Let us not listen to that rhetoric or fall into the dark hole of ideology. Let us look at the evidence and establish whether there is any truth in the Government's assertion that New South Wales public sector workers are being paid too much. The paper sought to ascertain whether New South Wales education, health and law and order workers are being paid too much. It focused on those three sectors because combined they represent a substantial majority of the Government's expenditure on wages. The researchers collected statistics about the job categories from all States and Territories. The categories chosen included the workers whose wages and conditions are being directly attacked by this legislation. The first category was public school teachers at the top of their pay scale. These are the people who educate our children and who have their future in their hands. As we all know, public schools are great and public school teachers are a wonderful group of public servants. However, this legislation will place their wages and conditions in peril.

The paper also examined the wages and conditions of senior constables at the top of their pay scale. Constables at that level have generally been in the Police Force for many years, devoting their lives to selfless service for the people of New South Wales. They are not the officers who are showered in glory and promoted to commissioner, assistant commissioner or superintendent level. The paper also examined the wages and conditions of registered nurses at the top of their pay scale. Once again, we are talking about the men and women who make our hospitals work and who give us the care and attention that we all need when we are admitted to a public hospital. They are there for us when we need them and we should be there for them when they need us—and they need us now. They need this Parliament and their democratically elected representatives to stand up for them and to protect their wages and conditions. They need us to say that we will listen to them with regard to the impact that this legislation will have on them and that we will not strip away their right to fair wages and conditions and to go to the Industrial Relations Commission.

The last class of public sector workers were assistants in nursing at the top of their scale—who do the sometimes less glamorous job and really difficult hard work. They deal with the unseemly aspects of being an animal that we tend to exhibit sometimes when we are in hospital, the ones who do the heavy lifting and often do the cleaning—the really tough work in nursing. A lot of that tough work in nursing is done by assistants in nursing but, for consistency, the research paper chose assistants in nursing at the top of their scale.

The research paper then gathered together the data for New South Wales workers under those four categories and looked at what those job categories would have earned had this proposed policy been in place since 2000. They had a look and said, "If the proposed policy—this 2.5 per cent wage freeze—had been in place since 2000, what would that have done to the wages and conditions of those public schoolteachers, senior constables, registered nurses and assistants in nursing? What would it have done if we had this for the past 10 years?" That involved comparing the rate of pay they have today with what they would have had if this policy had been operating for 10 years. What did they find? The findings are shocking; they are deeply troubling. They found that New South Wales workers, those people at the top of their classification structure in those key occupations that I took the House to—schoolteachers, constables, nurses and assistants in nursing—are not being overpaid in the public sector.

New South Wales workers in the public sector are simply not the best paid, and it is worthwhile looking at the figures. The best paid teachers in the top category in the Commonwealth are not found in New South Wales at all. The best paid teachers are found in Western Australia. Western Australian teachers at the top of their level get some \$84,863 per annum. New South Wales teachers are paid less at \$84,759. In fact, New South Wales teachers are only some \$450 per week better off than those in Queensland and some \$700 per week better off than those in South Australia. We all know, because we have heard about it from our constituents, that the cost of living for many teachers in Sydney, where a great many of them live, and broadly throughout New South Wales can be significantly greater than that in Western Australia, Queensland and South Australia, yet New South Wales teachers are paid less than those in Western Australia and only a fraction more than those in Queensland and South Australia. They are not being overpaid at all. They are getting the relatively modest sum of \$84,759 per annum.

What would those teachers currently be paid if this Government's purported policy had been in place for the past 10 years? They would not be on \$84,759 per annum. The top paid teacher in New South Wales, if this Government had been in government imposing this policy for the last 10 years, would be getting only \$70,179, which is \$14,600 less than they are getting now. They would be getting \$14,000 less than comparable teachers in Western Australia and Queensland. What would have happened if this Government's policy had been in place for the last 10 years? We would not be able to hold on to a single public sector teacher here in New South Wales. We would have had a flight of public sector teachers to any other State where they were going to be paid a decent living wage. That is the concern going forward, that when this constraint is put on, year in and year out, under this new Government, we will see teachers' wages in New South Wales drop and drop and drop. Their relativity will fall against those in other States. We will lose our trained teachers and we will see a flight of skills out of our public school sector into any other State that pays them a decent living wage. That is the effect this will have on teachers' wages.

**Dr John Kaye:** It is a war on teachers.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjection of Dr John Kaye. This is a war on teachers. It is a war on the wages of teachers being fought by regulation by the finance Minister. One of the four important categories to consider is that of senior constable. Again, the Government's rhetoric seems to be that those senior constables have it too easy; that the previous Government has given them too many wage rises and that somehow those public sector workers, those senior constables, have it too easy in New South Wales. It suggests they are getting paid too much; that historically they have been given too many pay rises. Therefore, the Government wants to wind them back and reduce their pay rises going forward to this 12-month 2.5 per cent. Heaven knows what the Government is going to do 12 months after that—it might want to cut them—but we will give the Government the benefit of the doubt that they are going to have an increase of 2.5 per cent. Is that justified on the figures?

**The Hon. Shaoquett Moselmane:** No.

**Mr DAVID SHOEBRIDGE:** Exactly. I note the acknowledgement by the Hon. Shaoquett Moselmane. It is simply not justified on the figures because when one looks at the figures they show that senior constables in New South Wales are paid \$75,195 per annum. That is a modest wage for a pretty tough job. They

might have been in the force for 10 or 15 years; they are very skilled workers who know what they are doing. They are out there protecting the public and they get \$75,195 per annum in New South Wales. What do they get in Western Australia? They get \$76,226 in Western Australia—a full \$1,030 more than we pay comparable police constables here in New South Wales. The Northern Territory figure is slightly lower than that of New South Wales. Police constables in New South Wales are paid \$75,195 and in the Northern Territory they are paid \$74,193. Of course, the cost of living in New South Wales is much higher than it is in the Northern Territory. New South Wales senior constables are paid less than their Western Australian counterparts and only marginally more than their Northern Territory counterparts. That proves comprehensively that New South Wales police have not been getting too rich a deal over the last 10 years.

What would the salary of New South Wales police be if the Government's policy had been in place for the last 10 years? New South Wales senior constables would not be on \$75,195; they would be on \$66,234—almost \$9,000 worse off per annum, year in and year out, if the Government's policy had been in place for the last 10 years. That would make senior constables in New South Wales the worst paid in the country by a significant margin.

**The Hon. Dr Peter Phelps:** Bodgie figures.

**Mr DAVID SHOEBRIDGE:** I note the interjection from the Government Whip that these are bodgie figures. To suggest that an academic of the credentials of Dr John Buchanan working for a research centre at the University of Sydney is producing bodgie figures is most offensive indeed!

**The Hon. Greg Donnelly:** A social scientist; he has "scientist" in his title.

**Mr DAVID SHOEBRIDGE:** Social scientist, yes.

**The Hon. Jeremy Buckingham:** Another totalitarian planner.

**Mr DAVID SHOEBRIDGE:** Obviously some sort of totalitarian scientific attack upon the workings of the libertarian Dr Phelps—a social scientist. We know what those scientists are up to, don't we, Dr Phelps? They are trying to do a job on democracy, of course. I did not realise the intellect of Dr Phelps, when applied to these social scientists, says immediately that it is some kind of fascist conspiracy designed to break down democracy. When I looked at these figures, I did not see it as some sort of totalitarian conspiracy like the Hon. Dr Phelps. I actually thought it was the learned workings of a distinguished researcher holding a prized academic position at one of the finest institutions in Australia, the University of Sydney.

That is not someone trying to do a job on the people of New South Wales. That is a fine and distinguished researcher presenting clear and comprehensive evidence that what the Government is proposing will produce unjust outcomes and that the basis upon which the Government is trying to push this bill through is not supported by facts. It might be inconvenient to Dr Phelps. It may be that when he goes to bed at night he dreams of the totalitarian conspiracy that is coming out of that Orwellian workplace, the research centre at the University of Sydney, but when most fair-minded people and I read it we see a careful and distinguished academic producing careful and distinguished research that gives a factual foundation to the rhetoric of the Government when it attacks public sector wages.

We now know from this evidence that if New South Wales senior constables for the last 10 years had been labouring under the unfair regime this Government seeks to impose upon them they would be \$9,000 a year worse off. One might think that for registered nurses there might be some truth to the Government's rhetoric and that maybe they are getting it too easy. Let us look at the figures for registered nurses. The top category of registered nurse in New South Wales is paid \$72,028 and, to show Dr Phelps the precision of this research, 25¢. Is that category of nurse the highest paid in the Commonwealth? No, it is not. The highest paid registered nurse in the Commonwealth is found in Queensland where the cost of living is significantly less than in New South Wales. Where the weather is always sunny and the wages are always good, registered nurses are paid \$72,786 per annum, a full \$750 per annum more than comparable registered nurses in New South Wales. Members can see from that that New South Wales public sector workers are sitting in the comfortable mean of public sector workers across Australia. Registered nurses in New South Wales are currently getting \$72,028.25 per annum if they are at the top of their bracket; not all registered nurses are getting this.

**The Hon. Paul Green:** That is right.

**Mr DAVID SHOEBRIDGE:** The Hon. Paul Green well knows that registered nurses often get significantly less than \$72,028.25, but that is at the top of the bracket. What would they be getting if this Government's policy of 2.5 per cent wage restraint had been in place for the last decade? They would be being paid not \$72,000 but \$59,796 per annum, a full \$12,000 per annum less than they are getting under an industrial relations system that set their wage in a fair manner through an independent umpire, the Industrial Relations Commission, after it heard the evidence and considered the fairness of the matter. They now get \$72,000 but if the unfair model being proposed by this Government had been in place for the last decade they would be getting only \$59,796. Those figures are an indictment of the Government's policy. Does it not put the lie to the argument that the Government is seeking to make New South Wales number one again? It is seeking to ensure that those registered nurses have skills they can sell, not just here in New South Wales—

**The Hon. Greg Donnelly:** Internationally.

**Mr DAVID SHOEBRIDGE:** —but they have skills they can sell internationally. We regularly see delegations from countries like the United Kingdom, Canada, and all the American States. They set up camp in Sydney and they sell the merits of their health systems to the nurses we train, trying to entice them overseas with increased wages and conditions and saying, "We can give you a much better outcome overseas. Bring your skills to us because we need your skills." If this Government's policy had been in place for the last 10 years and if our registered nurses were on only \$59,000 per annum, there would be hardly a registered nurse in a New South Wales public hospital. They would be poached by the other States and countries. We would be merely a training ground for registered nurses to find work in another system that respected them and paid them a decent wage.

**The Hon. Greg Donnelly:** Once they graduated they would be off.

**Mr DAVID SHOEBRIDGE:** Exactly. As soon as they graduated they would be straight off to greener pastures where they are paid a decent wage and their work is respected. The last class of occupation that is considered by this study is that of the assistant in nursing—as I said before, people doing really hard work, often not glamorous but the tough kind of work that is needed in our public hospitals; tough, hard, unglamorous work. What are they being paid in New South Wales at the moment? Are they being overpaid, like the Hon. Charlie Lynn seems to think they are? Are they being overpaid like the Government is alleging? They are not.

**The Hon. Charlie Lynn:** Point of order: I did not say that and I request a withdrawal from the member. He is misleading the House.

**Mr DAVID SHOEBRIDGE:** I must have misheard the member. I accept his explanation and I withdraw the comment so far as it applies to the honourable member. What are those assistants in nursing being paid in New South Wales? They are being paid \$40,445 per annum; that is if they are at the top of their bracket. That is a modest wage indeed. What are they being paid in other States? In Queensland they are being paid \$49,153 per annum for the same work. They are being paid about \$8,500 more for exactly the same work. In South Australia they are being paid \$41,354—\$1,000 a year more. As I said before, the living costs in Queensland and South Australia are often significantly less than they are in New South Wales.

So, we are far from overpaying those assistants in nursing. When one looks at the figures, we are probably underpaying them. Indeed, if the proposal to restrain their wages had been in place they would be no better off under the Government's policy; they would still be the lowest paid assistants in nursing if the Government's policy had been in place for the last 10 years. These are people who need industrial fairness. Assistants in nursing in New South Wales are in need of a pay rise well above the 2.5 per cent that the Government is proposing, just to give them some kind of industrial fairness, some wage parity with those doing the same kind of work in Queensland. Instead, a guaranteed wage freeze on these hardworking assistants in nursing will be delivered through this Government's policy.

The evidence is in and the evidence is telling. This Government's policy would produce gross unfairness if it was allowed to sit in place for anything like 10 years. The evidence is in that New South Wales public sector workers are not paid more than their comparables across Australia, and that New South Wales public sector workers should not be subject to the razor gang of the Coalition Government chopping their wages. New South Wales public sector workers are paid basically the same as—in many cases, somewhat less than—their comparative workers around this great Commonwealth and they ought not be subject to the razor gang of the new O'Farrell Government.

Some of the rhetoric from the Government has suggested that public sector workers are getting paid too much in comparison with private sector workers. An argument is going around that those skilled, highly valued public sector workers are getting paid more than their comparables in the private sector. A research note by Yuri Andrienko and Serena Yu looks into that. Research note No. 2 from the Workplace Research Centre at the University of Sydney, headed "Are NSW public sector workers paid excessively?" looks at the comparison of New South Wales public sector workers with their private sector counterparts. I feel anxious in saying this, but the research is done by the social scientists at the University of Sydney—

**The Hon. Greg Donnelly:** Not socialist scientists?

**Mr DAVID SHOEBRIDGE:** No, not socialist scientists, but the totalitarian scientists at the Workplace Research Centre at the University of Sydney—with their evil conspiracies to bring down democracy here in New South Wales, their global attack on democracy through climate change science, and their global conspiracy to bring down democratic government, which the Hon. Dr Peter Phelps has so eloquently spoken about. They had a look at statistics—

[*Interruption*]

I heard the groan from the Hon. Dr Peter Phelps: Oh, not statistics.

**The Hon. Greg Donnelly:** It might be too close to the facts.

**Mr DAVID SHOEBRIDGE:** It might actually give us some factual basis upon which to have an argument. Not statistics produced by those terrible scientists, who we know are only out to bring this place down! Yes, I am sad to say, statistics. And they have come from the heart of totalitarian scientists and statisticians, that group of totalitarian social scientists, mathematicians, academics and scientists contained in that Orwellian organisation, the Australian Bureau of Statistics. It is full of scientists, I am afraid to say.

**The Hon. Greg Donnelly:** They're amongst the worst.

**Mr DAVID SHOEBRIDGE:** Yes, they are. They are right at the heart of this nation, beaver away at their science, their maths, and their learning, trying to bring down democracy. In any event, they have been doing that for a while and we seem to be struggling on. The figures from the Australian Bureau of Statistics show that the gap in real wages between public sector and private sector workers between 1994 and 2011 has been, on average, around 8 per cent. The Hon. Dr Peter Phelps may not like the Australian Bureau of Statistics. He may not like the fact that statisticians and scientists can come together and apply their minds and their rigorous learning to producing comprehensive statistics that show the true state of matters, but that is exactly what the Australian Bureau of Statistics does. I, for one, accept their learning and their skills. I, for one, accept that the scientists and statisticians in the Australian Bureau of Statistics are producing statistics that we can trust and upon which we can found a proper debate. I do not join the conspiracy theories of the Hon. Dr Peter Phelps, suggesting that statisticians and scientists are out to do a job on democracy.

So what does the Australian Bureau of Statistics say? It says that from a simple analysis there are some observed differences between public and private sector workers, that the gap is about 8 per cent. But then the bureau drills down into the matter and has a look at why that gap is in place. It says, in looking at the figures for New South Wales, that there is a raw wage gap of 8 per cent between public sector and private sector workers in the period between 2007 and 2010. But then it says, "The vast majority of that gap, 7 out of the 8 per cent, was explained by some really obvious observed differences." It says that, predominantly when you look at public sector workers, they have greater levels of experience and qualifications, and that there are differences in the occupational structure amongst New South Wales public sector workers.

So, what explains the difference in wages? In New South Wales, more than half—54 per cent—of public sector workers hold a bachelor degree or a higher qualification. That is the workforce this Government is attacking—a workforce half of which hold a bachelor degree or a higher qualification. We should be proud of our public servants. We should be proud of the learning and the skills they have, and we should be ensuring that their industrial entitlements will not be stripped away from them by a power-hungry Government and a Minister for Finance and Services who can strip them away by regulation. As I said, more than half of public sector workers hold a bachelor degree. That compares with just 28 per cent in the private sector. Public sector workers in New South Wales are, on average, almost twice as likely to hold the qualification of a bachelor degree or

higher than their counterparts in the private sector. Of course, it is no wonder they get a modest differential in pay. But it is not just that our public sector workers are, on the whole, more qualified than workers in the private sector.

New South Wales public sector workers also tend to be much more experienced in the tasks they perform. On average, New South Wales public sector workers have a tenure of 10 years. In comparison, private sector workers have a tenure of just six years. So our public sector workers stick at it for 10 years, and it is no wonder they get a higher pay rise: they are more senior in their profession, they are more senior in their position, they are more experienced in their position, and that well and truly ought to be reflected in the wages they are paid. More than half—52 per cent—of our public sector workers are professionals. They are professionals doing a professional job, and they deserve a professional wage. They deserve to be entitled to a professional wage—not whatever crumbs the Minister for Finance and Services wants to throw at them. That 52 per cent of public sector workers being professionals compares with the 31 per cent of professionals in the private sector. When one looks at those figures it is well and truly explicable—indeed, it is obvious and compelling—that our public sector workers should have a modest wage differential of some 7 per cent. And there is absolutely no justification for this Government's attack upon their wages, their conditions and their entitlements.

We need to take a step back and have a look at what is underpinning this legislation. What is the theory that is guiding the Government in bringing forward this kind of legislation? What is the intellectual motivation that is behind this attack and fuelling it? There are often a number of competing theories in industrial relations, but two that seem to be in conflict in this debate are what can be described as the unitary perspective of industrial relations on the part of the Government and what I stand for on behalf of The Greens: the pluralist perspective of industrial relations. What is this unitary perspective of industrial relations that the Government is trying to drive? In unitarianism you have an organisation—here, the Government together with its employees—where the Government perceives it as an integrated, harmonious whole, with the idea of basically one happy family, where management and other members of staff are determined to share an absolute common purpose, where there is a paternalistic approach from the Government, where it commands the loyalty of its employees, and where it predominantly focuses on managerial directives. That is its emphasis; that is its application: a managerial directive.

That, of course, is a deeply anti-liberal approach. It is the theory that underpins this Government and it is the theory that tends to underpin governments of the radical right or radical left, where they say, "It is the government's unitary view; there is only one perspective. You are either with us or against us and if you are against we are going to exclude you, so you had better join in and stick with what the government says", because they do not tolerate difference. They do not tolerate multiple voices in the debate. It is the kind of industrial relations system that we see in mainland China, where the government determines wages and conditions and ignores the rights of trade unions and collective labour. The entitlements to wages and conditions are centrally determined by a finance Minister and the politburo in mainland China, and they direct those wages and conditions. They do not have a plurality of voices and they do not let trade unions represent their members. They do not let more than one voice speak and they do not have checks and balances in their system, such as an independent industrial relations commission where working people can go.

Under the O'Farrell view of the world, trade unions are unnecessary. In O'Farrell land there is a one-party State where the loyalties of employees and organisations are considered mutually exclusive and there cannot be two sides of industry. It is all one. This is the Chairman Mao approach and the Vladimir Putin approach to industrial relations, where the power lies in the hands of the executive. They issue their fiat and they do not listen to more than one voice, because this type of government conflict is perceived as disruptive to its plans. It has a pathological approach to agitators and to any kind of difference. They want to shut down difference, because for this government, difference, plurality and multiple centres of power are dangerous to their plans to drive home this one-party State where what the executive says goes and everyone else can go to billyo. The rest of the people can be ignored because the government wants all power to lie in that centralised executive. They do not want alternate sections to produce power and to hold them to account.

As a member of The Greens I am proud to stand for a different view of industrial relations. I am proud to stand for a pluralist view of industrial relations, not this O'Farrell one-party executive rule. In pluralism there is an organisation that is made up of a number of powerful and different subgroups. There are legitimate and respected loyalties. There are different objectives and different leaders in a group; there are multiple voices and multiple sources of power in industrial relations all working together to have their differences resolved. There is no ignoring of differences by executive fiat. There is no denial of legitimacy of any other power than the

Government Executive. In particular, when we look at industrial relations from a pluralist view there tends to be management—under this State's public sector that tends to be the Executive Government—and on the other hand there is collective labour, the public sector trade unions.

If the Government were committed to some kind of liberal pluralist role it would respect that. The Government would accept that it is the role of management not to impose its will by sheer brute force. It is not to enforce and control the workplace through dictates from Ministers. If they were genuine liberals—and they are not—and if they were genuine conservatives who respected more than one source of power in a State or an industrial relations system, they would respect the fact that the executive needs to work with persuasion and coordination, not brute force or force through regulation. In a pluralist model, one that ought to be supported by any notionally liberal government—this would have to be one of the least liberal Liberal governments we have seen; it is almost as though someone ought to challenge the trademark of this Government because the Liberal Party here is one of the least liberal, most conservative and least pluralist governments that we have seen in their short stay in power—trade unions are deemed as legitimate representatives of employees.

*[Interruption]*

I note the interjection from the Hon. Charlie Lynn suggesting that the voters got it wrong. It would have been useful to have told the voters what this Government intended to do. If the voters were to have an informed choice and be able to consider this kind of model it would have been necessary for this Government to tell the voters what its plans were on industrial relations. It would have been necessary to give the voters an informed choice by saying, "Four weeks after we sit comfortably and smugly on the Government benches we are going to introduce legislation that savagely attacks your individual rights and collective rights to fair and reasonable wages and conditions."

The Government did not say that to the people of New South Wales in the election campaign. They did not say that in their millions of dollars of advertising. They kept mum about that bottom drawer policy. In fact, they attacked people during the election campaign who said that the Coalition had a bottom drawer policy. They said, "No, no, we are being open and honest with the people of New South Wales." It turns out that they were not. It turns out this Government was far from honest with the people of New South Wales about this key piece of legislation, which centralises power in the finance Minister. This illiberal view that says trade unions are not legitimate, which is being pushed by the Government, also says you cannot resolve conflict by collective bargaining and resolve well-managed conflict through positive conciliation and arbitration before an independent tribunal. This Government denied all of those pluralist matters. They are forcing this legislation through without having told the people of New South Wales what they intended beforehand.

Historically in New South Wales we have had a multiparty commitment to a pluralist form of industrial relations. Historically we have had legislation that has respected that unions and management, employees and employers, have a legitimate role in industrial relations. We have had conflict that has been well managed and well directed. Where there has been irrevocable conflict we have not resolved it by giving one side absolute power. In New South Wales we have resolved it by directing that conflict towards an independent umpire. For more than 100 years that independent umpire has been the Industrial Relations Commission. It is this institution that is now directly under threat from this Government.

It is worthwhile considering what this institution is before this Parliament so blithely strips it of its powers and neuters it as an independent source of power in the industrial relations system in New South Wales. The Industrial Relations Commission has a long and proud history in New South Wales. The earliest form of the court—there are arguments about whether this was substantially different from the Industrial Relations Commission that followed—was the Court of Arbitration that was established by the Industrial Arbitration Act 1901. Before we so blithely destroy the present institution it is worthwhile looking at the Act passed in 1901 that put the first industrial commission in place. They loved having long names for their Acts in 1901. It reads:

An Act to provide for the registration and incorporation of industrial unions and the making and enforcing of industrial agreements; to constitute a court of arbitration for the hearing and determination of industrial disputes, and matters referred to it; to define the jurisdiction, powers, and procedure of such court; to provide for the enforcement of its awards and orders; and for purposes consequent on or incidental to those objects.

It has been cited ever since as the Industrial Arbitration Act 1901. Section 16 stated:

16. There shall be a court of arbitration for the hearing and determination of industrial disputes and of references and applications under this Act. The court shall be a court of record and shall have a seal, which shall be judicially noticed. The court shall consist of a president and two members.



The Court of Arbitration first sat on 12 December 1901. It operated for some seven years. It came about as the result of a failure at that time of employers and unions to use a system of voluntary arbitration. There had been a system of voluntary arbitration but it had not worked so it gave the court jurisdiction to hear and determine any industrial matter referred to it, to set a minimum wage, to make orders and to make awards. But it did not circumscribe the jurisdiction of that court. It gave the court the power, it produced an independent umpire and that independent umpire worked. And what was seen was a reduction in industrial disputes and greater industrial fairness. In 1908 the first properly named Industrial Court was established under the Industrial Disputes Act 1908—more than 100 years ago. That court had a fairly broad jurisdiction. It had the power to arbitrate on conditions of employment, it could hear prosecutions for breaches, and it was an independent source of industrial fairness in New South Wales. Section 13 of the Industrial Disputes Act 1908 states:

- 13 (1) There shall be an Industrial Court, consisting of a judge appointed under this Act, sitting with or without assessors, who shall be elected by the parties to the dispute in the manner prescribed. Such court shall be a court of record, and shall have a seal, which shall be judicially noticed.

It provided tenure of seven years for a genuinely independent court. That Act also established a system of industrial boards. Those boards consisted of representatives of employers and employees. The boards were a separate source of industrial arbitration power. Section 26 of that Act established the jurisdiction of the boards.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The level of audible conversation is gradually increasing. Members who wish to engage in conversation should either leave the Chamber or do so quietly so I can hear Mr David Shoebridge.

**Mr DAVID SHOEBRIDGE:** Section 26 of that Act established the jurisdiction of the boards. That jurisdiction given to the boards would be offended and circumscribed under this bill. Section 26 (1) of that Act states:

- 26.1 Proceedings before a board shall be commenced by—
- (a) reference to the board by the Industrial Court of any dispute; or
  - (b) application to the board by employers or employees in the industry or group of industries for which the board has been constituted.

We had a series of industrial boards dealing with different industries, which had specialised knowledge and specialised skills, to set common rule awards in those industries and to determine disputes populated by the members of the court together with those appointees from the industry. Of course, a board with respect to the industry or group of industries for which it had been constituted could, under section 27—

**The Hon. Greg Donnelly:** Point of order: I am trying to listen to the contribution of Mr David Shoebridge in this very important debate. The debate has just got underway in some respects and there is still some way to go. The honourable member is working his way through his contribution. I note no speakers from the other side have participated as yet, but it is early—it is only 9.25 p.m. The noise emanating from the other side, notwithstanding that the members on the other side will not make a contribution I might add, is making it difficult to hear the member's contribution. I would ask that members opposite be asked to desist in making noise.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! There is far too much audible conversation in the Chamber.

**Mr DAVID SHOEBRIDGE:** The jurisdiction established under section 26 gave the power to decide all disputes. In fact it gave the power to rescind or vary any of its awards, and it could fix the lowest prices for piece work—the lowest rates of wages payable to employees. That was a broad power, not constrained by regulation-making power, and a power to do industrial justice—a power that has been around since 1908. They also had the power to fix the number of hours and the times to be worked in order to entitle employees to the wages so fixed. What an absolute fundamental power in an industrial organisation to set the minimum hours of work and the times of work. But all of the rights that have been put in place in the past 100 years are at peril by the simple stroke of the pen of the Minister for Finance issuing a regulation under the Act.

Those boards were also constituted so that they could fix the lowest rates for overtime, holidays and other special work, including allowances as compensation for overtime, holidays or other special work. In the 100 years since then, collectively workers in this State have gathered together to get decent entitlements for

overtime, holidays, leave loading, and compensation when doing work on a public holiday. But that 100 years of struggle is directly under threat by this bill. The boards are also given the power to fix the number or proportionate number of apprentices and improvers, and the lowest prices and rates payable to them. Of course, such prices and rates were said to be able to be payable in accordance with age and experience. Again, those 100 years of rates for apprentices are under threat by this bill.

The boards were also give a power that we should look back on with some regret for how little it has been used since: the boards were given the power to grant or provide for the granting of permits allowing aged, infirmed or slow workers, who were unable to earn the lowest rate of wages fixed for other employees, to work at a lower fixed rate for aged, infirmed or slow workers. That has since fallen by the wayside but the intent was clear—

**The Hon. Jeremy Buckingham:** Point of order: My point of order is under Standing Order 84, which states:

(3) A member not addressing the House may not converse aloud or make any noise or disturbance during debate.

Madam Deputy-President has already ruled that members opposite should desist from conversing aloud. I could definitely hear them. I was finding it very difficult to hear Mr David Shoebridge—

**The Hon. Michael Gallacher:** Listen mate, we know you are the new boy but don't get set up by these blokes opposite. You will look like a goose. It will get used against you.

**The Hon. Jeremy Buckingham:** I ask the honourable member to withdraw his comment.

**The Hon. Michael Gallacher:** I did not say you are a goose. I said you will look like a goose.

**The Hon. Jeremy Buckingham:** Oh, you said I look like a goose. I take offence at that. I ask the honourable member to withdraw his comment.

**The Hon. Michael Gallacher:** I withdraw the comment.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The Minister has withdrawn the comment.

**The Hon. Jeremy Buckingham:** To the point of order: It is difficult to hear the honourable member in his intelligent and well thought out—

**The Hon. Michael Gallacher:** Drivel.

**The Hon. Jeremy Buckingham:** It is certainly not drivel. It is a considered and important contribution to this House.

**The Hon. Michael Gallacher:** No-one is listening.

**The Hon. Jeremy Buckingham:** I would ask honourable members to listen intently to the contribution.

**The Hon. Michael Gallacher:** You have not been here listening to it.

**The Hon. Jeremy Buckingham:** I have been in the House and I have been listening to it. I ask members opposite to listen to it.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Members will keep unnecessary conversation to an absolute minimum so that the Chair can hear the member with the call.

**Mr DAVID SHOEBRIDGE:** I find the sotto voce sledging by the Leader of the House entertaining but on occasions it is distracting. All that the sotto voce sledging by the Leader of the House will do is make my contribution to the debate take longer. I am pleased that he is about to leave the Chamber so that I can turn my

attention to the material I wish to present. The Leader of the House regularly complains that he has not been given the right to be heard that other members have been afforded. I invite the Leader of the House to address the House at the conclusion of my contribution.

**The Hon. Jeremy Buckingham:** Point of order: Again I refer to Standing Order 84 (3). The member should be heard.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Members who wish to persist with conversations should leave the Chamber.

**Mr DAVID SHOEBRIDGE:** The essential rights of an independent tribunal have been in place in New South Wales legislation since 1908 and so have existed for more than a century. Those rights face imminent peril if the bill is passed and the Minister for Finance and Services is given the power to strip away the rewards of a century-long struggle for rights and conditions in New South Wales. Members will be well aware that industrial relations law is often the subject of political debate. If there is one area of New South Wales law that has been the subject of regular legislative amendment it is industrial relations law. But one thing that has remained constant throughout the last century, at least in New South Wales, is that regardless of the colour of the politics of the government of the day, there has been a consistent commitment from both sides of politics and all political parties to having an industrial relations court.

**The Hon. Trevor Khan:** Point of order: I am having difficulty hearing the debate because of the conversations that are occurring on the Opposition side of the House. It is absolutely disgusting that members opposite will not listen to Mr Shoebridge.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I uphold the point of order. Members on both sides of the House will keep audible conversations to a minimum.

**Mr DAVID SHOEBRIDGE:** I thank the Hon. Trevor Khan for his intervention.

**The Hon. Trevor Khan:** Point of order: The Hon. Jeremy Buckingham made a point of lecturing Government members about our conversations. He has specifically ignored your direction, Madam Deputy-President.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Members will keep audible conversations to a minimum.

**Mr DAVID SHOEBRIDGE:** It is not yet late. There will be plenty of opportunities for all members to interject and have their say. I thank the Hon. Trevor Khan for twice attempting to quell chatter in the House.

**The Hon. Trevor Khan:** Discourtesy from your side will rebound.

**Mr DAVID SHOEBRIDGE:** I genuinely thank the Hon. Trevor Khan for his efforts to ensure that I am able to make my contribution without having to speak above chatter from either side of the Chamber. In 1912 the Court of Industrial Arbitration was established by the Industrial Arbitration Act 1912. The long title of that Act states:

An Act to provide for the regulation of the conditions of industries in certain particulars by means of industrial conciliation and arbitration, to see and for the repression of lockouts and strikes; to establish and define the powers, jurisdiction, and procedure of an industrial court and certain subsidiary tribunals; to preserve certain awards and industrial agreements; to repeal the Industrial Disputes Act, 1908, the Industrial Disputes Amendment Act, 1908, the Industrial Disputes (Amendment) Act, 1909, and the Industrial Disputes (Amendment) Act, 1910; to amend the Clerical Workers Act, 1910, and certain other Acts; and for purposes consequent thereon or incidental thereto.

That Act is rarely referred to in those terms. It is usually referred to as the Industrial Arbitration Act 1912. That Act established what was then known as the Court of Industrial Arbitration under section 13, which states:

*Constitution of the court.*

There is hereby constituted a court to be called the Court of Industrial Arbitration. It shall be a superior court and a court of record, and shall have a seal, which shall be judicially noticed.

The court shall have the jurisdiction and powers conferred on it by this Act, and also the jurisdiction and powers conferred in the Industrial Court by the Clerical Workers Act, 1910. Subject to the said Act, with regard to jurisdiction, the provisions of this Act shall apply so far as they are applicable for the purpose of making and enforcing awards under the said Act.

That court was constituted by no more than three judges, and all of those judges had the status of a District Court judge. The court had all of the powers conferred on all industrial tribunals. The Act empowered the Minister to establish conciliation committees. The court and the jurisdiction operated for a substantial period. The Board of Trade, which was established under a 1918 Act, and the court worked together and produced a number of decisions.

**The Hon. Catherine Cusack:** Point of order: The member is referring extensively to a 1908 Act. I suggest in terms of relevance that he should fast forward to the year 2011 and explain how that piece of the puzzle bears on the debate that is currently before the House on a 2011 bill.

**The Hon. Greg Donnelly:** To the point of order: The nature of the debate in which we are participating this evening deals with the regulation of industrial relations in this State, which has a history dating back to before the beginning of the last century. To make sense of the debate in which we are participating this evening one needs to go back to see and understand how industrial relations regulation in the context of the whole economy, but specifically in the context of tonight's debate with respect to the public sector, has been determined through industrial regulation in this State. It is perfectly appropriate for the member to give the House that perspective. It enables us to see where we are today, how we got there, and how things will change as a result of the legislation before the House. His remarks are perfectly in order.

**The Hon. Catherine Cusack:** Further to the point of order: I have no objection to the perspective, but it needs to be linked or connected in some manner to the bill before the House. The member is making no attempt to do that.

**Dr John Kaye:** Further to the point of order: I have two points to make. Firstly, we do not know what connection Mr Shoebridge will make because he has only just begun discussing this point and he has a way to go. Secondly, I remind you, Madam Deputy-President, of the words stated by the Government Whip on 30 May. He said that those who forget history are doomed to repeat it. We certainly do not want to repeat the 1908 Act, so it is very important for us to understand the 1908 Act in its context, which is where Mr Shoebridge is about to take us.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! There is no point of order.

**Mr DAVID SHOEBRIDGE:** For the benefit of the member, I was addressing some changes that came about through the Industrial Arbitration Amendment Act 1918. In a matter of sentences I have advanced 10 years. The member will be pleased to know that I am about to launch yet another eight years into the future and go to the Industrial Arbitration Amendment Act 1926. In 1926 the Government of the day abolished the Court of Industrial Arbitration and set up a new Industrial Commission. It gave that commission the power to determine disputes. It did not give it partial power or the power to resolve disputes that could be overridden by Executive fiat.

Consistent with a century-long proud history in this State of having independent industrial umpires, it gave the Industrial Commission the power on any reference or application to it to make awards fixing rates of pay and working conditions. It gave it the same type of power that the current Industrial Relations Commission has. It also gave it the power to determine the standard hours to be worked in industries within its jurisdiction. It had power to determine any industrial matter. The commission at the time had broad authority to adjudicate in cases of illegal strikes and to deal with lockouts or unlawful dismissals. The Government of the day gave it the power to exercise its jurisdiction through conciliation commissions and, importantly, it also gave it a new jurisdiction in arbitration proceedings.

In 1926, when parties could not agree, the Industrial Commission had direct power through this new jurisdiction to exercise its arbitral power to determine disputes and proceedings. That is an important point. The commission made a number of controversial decisions at the time. As a result, the status of the commission was lifted to that of the Supreme Court. That is a relevant point because the presidential members of the current commission have the same status. This wonderful institution that has been in New South Wales for 100 years was given Supreme Court status. In 1927 the commission was given the highest judicial authority status that could be granted to a court or body. Our forebears respected the Industrial Commission. They respected the position of the commissioners and judges who sat on the Industrial Commission and they gave them the same status as a Supreme Court judge. The presidential members and senior deputy presidents of the Industrial Relations Commission have retained that status because they have been recognised as the essential independent umpires in our industrial system.

A series of amendments were made to the Industrial Arbitration Act throughout the 1930s. Members would realise that the 1930s were a difficult period for workplace relations in New South Wales. It was at the time of the Great Depression and, as I said, a period of substantial difficulty. A number of iterations and amendments were made to the Industrial Arbitration Act throughout that period that affected the ability of the commission to hold compulsory conferences, to intervene in disputes and to set wages and conditions. In 1940 a new Act was introduced, which operated for the better part of half a century thereafter. It was a seminal Act for the purpose of industrial relations in New South Wales. It was the Industrial Arbitration Act 1940. That Act was assented to on 19 April 1940, 71 years ago. It established one of our key institutions that has subsisted ever since. In part II of that Act it established the commission, the conciliation commissioner, conciliation committees and apprenticeship councils. Section 14 (1) of part II of that Act provides:

There shall be an industrial commission of New South Wales—

ever since there has been an industrial commission of New South Wales—

The Governor may appoint not less than five and not more than six persons each of whom shall be a member of the commission. One of such persons shall be by his commission appointed President.

Basically, we have had a president ever since. The current president is the judicial officer that the finance Minister could not find when he was undertaking consultation on this bill. He could not find the president.

**The Hon. Greg Pearce:** He was on leave.

**Mr DAVID SHOEBRIDGE:** He could not find the acting president who by force of law had the powers of the president at the time of consultation. The position of president was established in 1940. It has been around for 71 years but those opposite were unable to find the president or the person in the office of the president for consultation.

**The Hon. Greg Pearce:** You are confusing it with the Occupational Health and Safety Act.

**Mr DAVID SHOEBRIDGE:** Despite that office having been in existence for more than 71 years, in the course of consultation on this bill and the Occupational Health and Safety Amendment Bill the Minister failed to make any efforts to consult with the president. I note the Minister's interjection that I am confusing it with the Occupational Health and Safety Act. I simply note for the record that in any public utterance the Government has not indicated that it made any attempt to consult with the Industrial Relations Commission about this legislation before it was presented to the Parliament.

**The Hon. Greg Pearce:** I will tell you later of my attempts to consult.

**Mr DAVID SHOEBRIDGE:** I note the response of the Minister about his attempts to consult. Attempts to consult do not amount to consultation. I will be interested to hear about his attempts, no doubt in due course, in the fullness of time and at the appropriate juncture. The 1940 Act also established the position of conciliation commissioner. I mention that because the position of commissioner has existed for the 71 years since. This important Act gave power to the commission to determine awards and disputes and to determine fair and reasonable conditions without constraint and without direction from the executive government of the day. For 71 years governments have accepted that they cannot dictate outcomes to the industrial commission.

Now 71 years on, this Government, which says it is conservative and liberal, wants to destroy that liberal tradition which had pluralist voices. It wants to ride roughshod over that great history of independence and plural sources of power in this State and now have determinations made by the Executive Government. It does so without a scintilla of evidence supporting the need for it. It does it in the face of evidence that our public sector workers are not overpaid. In 1988 a conservative Government came into power. That Government, headed by Premier Greiner at the time, put in place the Industrial Relations Act 1991. Former Premier Greiner has raised his head again.

**Dr John Kaye:** Out of the bottom drawer.

**Mr DAVID SHOEBRIDGE:** Greiner of the bottom drawer.

**Dr John Kaye:** And out he popped.

**Mr DAVID SHOEBRIDGE:** The bottom drawer has been opened and not only did Premier Greiner pop out of the bottom drawer but also a flavour of industrial relations which was even more draconian than those imposed by the then Coalition Government under the Industrial Relations Act 1991. The 1991 Act is where we first saw essential objects being instituted in industrial relations matters. The intellectual forebears of those opposite, under the guidance of then Premier Greiner, put a series of objects into the 1991 Act, most of which are grossly offended by what is proposed in this bill. The objects of the 1991 Act from a previous Coalition Government recognised what had been then a multiparty agreement to a pluralist approach to industrial relations. The first of these objects inserted in section 3 of the 1991 Act states:

to promote industrial harmony and co-operation between employers and employees and other parties involved in industrial relations in New South Wales

Industrial harmony and cooperation is not the flavour of this current bill. The bill before this House is to ignore the need for harmony and to do away with the need to cooperate because it gives the Executive Government the power simply to determine matters by regulation. The second object of the 1991 Act introduced by a former Coalition Government was:

to provide a framework for the orderly conduct of industrial relations in the context of the technological and economic environment, for the purpose of improving efficiency, productivity and equity, having regard to the interests of employers, employees and the community

Those concepts of equity and orderly conduct of industrial relations where the interests of employees, employers and the community are all able to be balanced against each other before an independent umpire are being thrown out with this bill—they are being destroyed by this bill. This bill states that regardless of what the community might say, regardless of what employees might say, the Government as employer can just determine wages and conditions by regulation. That would be grossly offensive even to the former conservative Government that introduced this 1991 Act. The Act's objects also provide:

for the making of awards and enterprise agreements to regulate the terms and conditions of employment

And it did not. It gave that full and unfettered power to the Industrial Commission. It did not fetter it by a regulation-making power of the Executive; it gave that power to the Industrial Commission. The objects also state:

to provide a framework for the prevention and settlement of questions, disputes or difficulties relating to a settled award or agreement by conciliation and arbitration

When a dispute or difficulty arose between any parties in industrial relations, the previous Coalition Government recognised that the appropriate way to deal with that was not to determine a dispute by a ministerial regulation but to refer the matter to the commission for conciliation and arbitration—a key objective of the 1991 Act and one that is being absolutely trashed by this Government with its proposed amendment. Another object of the 1991 Act that would be grossly offended by this current proposal was:

to facilitate the conduct of conciliation and arbitration in a prompt and fair manner and with the minimum of legal form and technicality

This Government got rid of fairness. Not a fig leaf of fairness covers what it puts forward in the bill. The Government does not want to ensure the rights of employees and employers. The Government would reject the objects of the 1991 Act by the previous conservative Government because it is not interested in fairness. I spoke earlier about how subsection (7) of proposed section 146C will allow this Government to avoid the unnecessary obligation of fairness, as it considers that obligation to be, and remove the current objects of the Act that deal with fairness. That is directly contrary to its forebears in the previous Coalition Government that recognised what, until then, had been the accepted compact in New South Wales politics of a fair resolution of matters before a conciliation and arbitration commission with a minimum of legal form and technicality. The objects also provided for the avoidance of industrial action related to settled terms of an award and to prevent or minimise disruptive effects of any industrial action associated with the making of awards. Crucially and relevant to the issue before the House with this bill, one of the core objects of the 1991 Act from the former Coalition Government was:

to recognise and facilitate the organisation of representative bodies of employers and employees, and to encourage their democratic control and efficient management

This bill is a statement to organised labour, but the Government does not believe in organised labour. Regardless of what unions say and regardless of the position unions put before the commission, they will have their terms

and conditions dictated by regulation, not by fair bargaining. The last object to which I draw the attention of the House which is being denied by this bill but which was contained in the 1991 Act of the former Coalition Government was:

to promote the conduct of industrial relations in a non-discriminatory manner and to provide for quality of opportunity in employment matters

My earlier contribution is relevant again here. The policy being presented by the Government through regulation removes the capacity of the commission to make an award giving pay rises above the 2.5 per cent flat rate set by this bill, or whatever figure is set in the future, to sectors of the workforce that have been traditionally discriminated against in wages and conditions, whether by reason of gender or otherwise. The commission cannot issue an award or an order that goes beyond the 2.5 per cent, or whatever future cap this Government intends to impose. They are the historical antecedents of the current Act and current commission.

On 2 September 1996 the Industrial Relations Act 1996 came into force. It repealed the 1991 Act and instituted some key reforms in our industrial relations system. When people seek to criticise the New South Wales Act, as those on the other side tend to do, and speak in favour of a Federal Act that was much renovated by WorkChoices and slightly improved but hardly fully improved by the Fair Work Act, it is worth comparing the size and complexity of New South Wales industrial relations legislation to the Federal legislation. The New South Wales Act is readable. It is able to be printed in a handy, sizeable and readable form. When that simple Act with a clear set of principles is compared to the enormous complexity of the Federal Fair Work legislation and regulations, which require multiple *Oxford* dictionaries to contain its complexities, one realises how fortunate New South Wales public sector workers are to be governed by an Act with a clear set of principles in plain English and which is accessible to those who engage in industrial relations. That is yet another great tragedy The Greens see with this bill.

We are moving from a world-class Act written in clear terms with a firm set of principles to an industrial relations regime that is unfounded in principle and is just determined by regulation. Since earlier today my office has been inundated by concerns expressed via letters, emails and phone calls from people across New South Wales who are mortified by what is happening in this House and who cannot believe that the Government that was so recently elected failed to tell the people of New South Wales its real intent. They cannot believe that their trust has been betrayed in less than a month from the time the writs were returned and the Coalition was declared the New South Wales Government. I shall read a small portion of the communications my office has received in just the past 24 hours. One person who contacted my office is Sylvia Innes, who works at the Mount Druitt TAFE. Of course, the TAFE sector is under direct attack from this Government. Indeed, it had a pretty rough trot under the previous Government as well.

Its last award determined by the Industrial Relations Commission was quite harsh, and in many ways a quite draconian attack upon many key conditions of the TAFE sector. Face-to-face hours for TAFE workers were increased and their wages were increased at a very modest rate. Indeed, TAFE workers have legitimate complaints that they got a rough deal from the New South Wales Industrial Relations Commission while the Government got a pretty good outcome in the award determined by the commission. It is of real concern that TAFE teachers, notwithstanding that history, would stand up and speak in favour of maintaining the Industrial Relations Commission. They have seen it at its harshest and toughest, but still they vastly prefer that to what is proposed by the Government. I will read some of what Sylvia had to say:

As a teacher at Mount Druitt TAFE I wish to express my outrage and contempt—

**The Hon. Trevor Khan:** You were attacking the commission and the independence of the commission.

**Dr John Kaye:** Point of order: Many members in this Chamber, myself included, are very interested in what Mr David Shoebridge has to say. With Mr Trevor Khan making remarks across the Chamber, it is almost impossible to follow Mr David Shoebridge's speech. I ask that he be heard in silence.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Interjections are disorderly at all times.

**Mr DAVID SHOEBRIDGE:** Sylvia Innes had this to say:

As a teacher at Mount Druitt TAFE I wish to express my outrage and contempt for the proposed legislation put forward by the O'Farrell Government which will effectively freeze the wages and conditions of public education vocational teachers.

What the introduction of this legislation would mean is the acceleration of the privatisation of the education process in this country. It means a driving down of the quality of education provision as the education sector is less able to offer young Australians picking a career or profession valued by our society.

We have seen that in the consideration of the comparable rates of pay between New South Wales workers and those in other States. Ms Innes goes on to say:

Without an independent umpire (this is the form of the Industrial Relations Commission) employees would be reduced to a position of total dependency upon the government of the time in regard to their working conditions. Such a move is pure political expediency, in a wider continuing neoliberal agenda where the values of the public service provision is subsumed in the centrality of the marketplace.

That is well said by Sylvia. This is an ideological attack upon the working conditions of those hard-working TAFE teachers. Ms Innes goes on to say:

The undermining of this area strikes at the heart of our society and leads to fundamental shifts which could only produce a narrower, less equal and just social structure. This has implications for Australia as a nation, and in the community of nations we are diminished.

What an accurate observation by Sylvia Innes, one of our hard-working TAFE teachers. My office also received a contribution from Sally Chapman, yet another citizen of New South Wales, who writes:

I write to express my disgust with the O'Farrell government's attack on the hard-working teachers, nurses, police and other public servants.

I join with her in that disgust. Indeed, those on this side of the Chamber join with her in that disgust. Sally then says:

It's a threat to the working conditions and industrial rights of all when the government removes independent arbitration. Attack one, attack all. First pick the public sector workers off. We know who they'll come after next. They'll break the unions and come after the private sector next.

She goes on to say:

Shame on the Shooters and Christian Democrats for their craven willingness to sell out their fellow Australians in order to impose legislation that most citizens abhor.

I do not recall hearing Mr O'Farrell mentioning his plan to strip members of the public service of their rights during his election campaign.

Many of us looked forward to a change in the NSW government. Many of us are already sorely disappointed.

How right they are to be disappointed by this Government. There is the promise of change, there is the promise of accountability, there is the promise of openness; but, as soon as they are comfortably there on the Government benches, all of that is thrown aside and it is: "You'll do as we say, you'll do as we tell you; we will issue the regulations and you will just have to sit back and take it." Well, Sally Chapman has not sat back and taken it. Sally has expressed her views. I do not intend to be parochial in my media, but I also got a tweet forwarded, saying:

Please voice my strong concerns over this issue. I work very, very hard as a teacher. I don't deserve this.

Less than 140 characters, but the intent is very clear.

**The Hon. Jeremy Buckingham:** More character than over there.

**Mr DAVID SHOEBRIDGE:** I note the interjection of the Hon. Jeremy Buckingham. Greg Robinson of Shuttleworth Avenue, Raby, another TAFE teacher, writes:

It is a disgrace that the coalition government is seeking to remove the umpire from industrial relations negotiations. Mr O'Farrell seems to want to make up the rules as he goes.

Exactly right! In fact, what a great summary of this bill. It allows the Government to make up the rules as it goes—to issue any regulation it likes in the future, to just determine matters as it likes. Mr Robinson goes on to say:

If he [Mr O'Farrell] doesn't like it, he will take his bat and ball and go home. The problem is, he has the score card with him and will fix the game. This proposed bill will create a situation where any government of the future will be able to change my conditions of work, leave entitlements, super etc as they wish with no recourse for me to an independent umpire.

He has good reason to be concerned.



**The Hon. Catherine Cusack:** What a load of rubbish! And you know it. It is complete rubbish.

**The Hon. Greg Donnelly:** Point of order: The squawking from the other side—

**The Hon. Catherine Cusack:** That's rude.

**The Hon. Greg Donnelly:** It is about the best way I can describe it. The squawking from the other side is making it very difficult for those on this side to hear the contribution of Mr David Shoebridge. The Hon. Catherine Cusack might continue to squawk—a decision that she will make—but, at the end of the day, it is quite distracting. I would ask that the member be asked to desist.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! I suggest that members refrain from interjecting.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjection of the Hon. Catherine Cusack. It is not complete rubbish, because at the core of the bill is the capacity for the government of the day to introduce a regulation through the finance Minister, and whatever is in that regulation as to wages and conditions, whether a 5 per cent wage increase, a 2½ per cent wage increase, or a 10 per cent wage cut, whether an entitlement to more, less or the same annual leave, long service leave, parental leave, or whatever, will become, by force of section 146C, the entitlements of public sector workers. That is exactly what this legislation does. So when Mr Robinson says that a future government will be able to change his conditions of work, and he does not have recourse to an independent umpire, he is expressing in the clearest terms exactly what this Act will do. He says:

Any honest, sensible, intelligent person can see this proposal is wrong. I urge the House to defeat this bill for the good of us all. The fact that the bill was proposed is a worry in itself.

My office also received a representation from Brian Derwent. Mr Derwent is from the Kempsey college of TAFE, one of those rural and regional workers whom many members opposite said they spoke for when making their inaugural speeches. But what are the actual views of rural and regional workers in New South Wales? They are well expressed by Mr Derwent when he says this:

After talking to National Party politicians before the election, I felt positive that the Nationals would support TAFE as a valuable community based organisation.

So, before the election, after he had spoken to The Nationals, he thought they felt positive. He then says:

As I listen to the implications for public service workers of the new Barry O'Farrell draconian legislation to bypass the IRC in order to impose unfair cuts to public service wages and conditions, I can only hope that the Nationals will cross the floor to protect the conditions of those who teach our kids and the disadvantaged, look after us while we are in hospitals and keep our communities safe. Come on guys. We pay people much more to look after our pets than those who provide vital community services. Shame on you, Barry. I thought you would be fair.

They are the words of Mr Brian Derwent to those he thought would represent him from The Nationals. It is a request that they do the right thing and not sign up to the neoliberal agenda that is being shoved down their throat by their Liberal compatriots; and he asks that they cross the floor and oppose this legislation. All strength to Mr Derwent: Let us hope his pleas do not fall on deaf ears. Another representation has come to my office from Mrs Lexie Stephens, who works at the Taree College of TAFE.

[Interruption]

**The Hon. Lynda Voltz:** Point of order: It is difficult to hear the speech of Mr David Shoebridge when there are interjections from both sides of the House and across the Chamber. I ask you to bring both sides of the House to order.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! That is a very good suggestion. Members on both sides of the House will cease interjecting.

**Mr DAVID SHOEBRIDGE:** Mrs Lexie Stephens is from the Taree College of TAFE, again another rural worker who no doubt expected that her interests would be met by the much-vaunted 12 Ministers who come from regional and rural New South Wales in this new Government. She wrote:

This proposed legislation to effectively freeze the pay and conditions of NSW public servants will have a highly negative impact on regional communities.

Regional communities are worried about the impact this legislation will have on them. She continued:

Public servants currently contribute considerable dollars to their local regional communities. Should salaries not keep pace with inflation this will result in significant loss of income to businesses in the private sector.

In particular relation to teaching staff in public schools and TAFEs, which are often the backbone of small communities, the impending retirement of almost 50% of the workforce will result in vacancies which it will be very difficult to fill unless salaries and conditions are comparable to that offered in the private educational sector.

That is a clear and prescient observation because we have seen from Dr Buchanan's material from the University of Sydney that the current wages being paid in TAFE and public education sectors are just keeping pace with those being paid in other States. If this Government thinks it can cut the wages and conditions of TAFE, secondary, primary and infant school teachers and that it not have a deleterious impact on those currently in the sector looking for greener pastures elsewhere, and preventing that new generation of workers we need when the current 50 per cent approach their retirement in the imminent future, it will get a very rough surprise. The Government will be faced with a generation of retirement from our public schools and TAFEs and unless attractive wages and conditions can entice young people into the sector, those who have gone through the long education and required training, we will see a major shortage of skilled staff in our schools and TAFEs. Leslie Stephens' observations continue:

Industry in regional communities relies on the TAFE sector to provide adequate training to future and current employees to move seamlessly into the workforce. This can only be provided by a highly trained and motivated teaching staff.

The very staff that will have their motivation attacked when their wages and entitlements are attacked and they will look for an exit from the sector under this Government. She continues:

This legislation will result in a loss of motivation and therefore productive outcomes in the VET sector. Teachers who are inadequately reimbursed will be highly unlikely to spend any hours above their program hours in eg consulting with industry, researching current industry trends, or creating engaging lesson material. It should be noted that the professional development hour was removed in the last award agreement ...

This TAFE teacher is talking about how they did it tough. The professional hour that was contained in the previous entitlements had been stripped away by the Industrial Relations Commission, but that is not tough enough for this Government. This Government wants to be tougher on TAFE teachers because it thinks they have had it too easy under the previous award and it wants to strip back further entitlements. Leslie Stephens says further:

As a long term TAFE teacher and public servant I am appalled at this legislation and I am confident that you, in your wisdom, will not be bribed by personal considerations to support this legislation.

As Barry O'Farrell himself clearly stated, the community relies heavily on the public service to keep this State running effectively and efficiently to maintain high levels of productivity.

Do we really want "off-duty" nurses and policemen to turn their backs at the scene of an accident or a crime because they are demoralised?

We will see a demoralised public service with this legislation. Josie Keeley is a TAFE teacher from Goulburn, another regional worker and public servant. It would do the members opposite good to listen to what the people of New South Wales are saying. Josie wrote:

I am so pleased you are fighting for the NSW public service and their rights in negotiating fairly for their award and conditions without their employer having the dictatorial role on any changes.

It's about time the community and the government support their public service.

Of course they should. The Government should not be attacking after being in office for only four weeks. Josie continues:

We have been providing quality provision of education, health, police, council, fire and rescue services.

As a TAFE teacher in Goulburn, I see how valued we are in the community and Pru Goward our MP has stated how much she values the training and pathways we provide.

It is easy to make a statement that TAFE is valued but the real test of any government is not its rhetoric in an election campaign, or when it cuts a ribbon at local Lions Club events, but it is when push comes to shove and

public sector workers are asking for protection for their wages and conditions. When push comes to shove this Government attacks public sector wages and conditions, and that is what this bill does. Josie Keeley describes the future that TAFE workers and others face in the public sector very clearly in these terms:

The future looks bleak. Funding cuts and the destruction of qualifications along with a full casualisation of the workforce will destroy quality training.

Please stand up for us.

Let us hope this House stands up for these regional TAFE teachers.

**The Hon. Jeremy Buckingham:** Point of order: Standing Order 84 states:

1. A member not addressing the House may not converse aloud or make any noise or disturbance during debate.

I am enormously disturbed that the Hon. Dr Peter Phelps is reading *Heaven and Earth* in this Chamber. I ask you to ask him to desist.

**The Hon. John Ajaka:** To the point of order: Clearly, that is a frivolous and almost vexatious point of order. I ask you, Madam Deputy-President, to tell the member that such points of order are out of order.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! There is no point of order. Mr David Shoebridge will continue his speech uninterrupted.

**Mr DAVID SHOEBRIDGE:** Mitch Spooner is a TAFE worker at the Meadowbank College of TAFE, a matter of kilometres away from this House. He says:

Please allow me to express my absolute disgust at the proposed changes to my working conditions by the recently elected O'Farrell Government.

That is a disgust that Mitch feels and it is a disgust that is generally felt by those who are aware of what this Government is doing. Mitch goes on to say:

I am a teacher at Meadowbank TAFE and I cannot believe a government would have the gall to attempt to strip away my rights of appeal to the NSW Industrial Relations Commission, forcing it to become an enforcer of ideology.

What a great turn of phrase Mitch has, because that is what the Government wants to turn the Industrial Relations Commission into—not an independent arbiter but the enforcer of the Government's ideology, the enforcer of its neoliberal wage-setting ideology, whereby the Government says, "Whatever we say goes because we are the Government, and the rest of you can just take it in silence. If you want to exercise your rights we have gutted them from you, because we have stripped away your right to go to that independent arbiter." This is an ugly enforcement of ideology by those opposite and it ought to be condemned, as it has been by Mitch. Linda Stewart, a resident of Lane Cove, puts it quite simply. She says:

I find it hard to believe that after all the work that was done to get rid of WorkChoices at the 2007 Federal election, the NSW Government can legally attempt this attack on public sector workers in our State. How is that even possible?

Unfortunately for Linda, it is possible, if a majority of members of this House decide to allow a grossly unfair piece of legislation to find its way onto the statute books of New South Wales. It is only possible if people of goodwill do not stand up and do not cross the floor against this appalling piece of legislation. It is only possible if those in this House who have the capacity stand up against the Government and say no to this unfair law. It is only possible if there are cowed or offered inducements or entitlements to support this kind of unfair law. That is how it is possible, I hate to tell Linda, and that is exactly what it seems will happen through this House. Ms Stewart goes on to say:

And how on earth did Shooters and Christian Democrats end up holding the balance of power in our State Parliament? There's something very wrong with our political system if parties with minimal support from the voting public can find themselves in such powerful situations.

Well said, Ms Stewart; nicely put. Deborah Talbot writes:

I'm a teacher—

members should listen to what Deborah Talbot says are her entitlements and her contribution, because she is right under the gun from these laws—

I have more than 20 years experience in the classroom in school leadership and as a facilitator of teacher professional learning. I hold a Masters degree in Education and I am currently undertaking a PhD in the area of teacher professional learning. In my spare time—

what spare time she would have outside of that extraordinary professional commitment—

I am the mother of four children, two of whom are students in State schools. One is in their fourth year of Bachelor of Education and one is an apprentice electrician. I am so fed-up with attacks by politicians on the very people responsible for the building and continuation of a civil society in Australia that I believe the only recourse left is extreme militant action. Politicians in this country have become so self-serving that they no longer recognise that what they have been elected to do is to ensure the equitable distribution of available resources in a manner which benefits all members of our society.

That is exactly what this bill is. It is an attack on the equitable distribution of resources and it is an attack on the public interest. Why else would the Government insist on reading down the object of equitable distribution of resources? Why else would the Government insist on a piece of legislation that says that the commission cannot have regard to fair and just outcomes unless it wants to attack equality and have an inequitable distribution of resources? Ms Talbot goes on to say:

For the first time in my life I'm prepared to publicly speak out in favour of industrial confrontation rather than conciliation on issues relating to the undervaluing of teachers, nurses and firefighters.

Of course we are getting these sentiments in the community of New South Wales because people know they have got no recourse to an independent umpire. People know that they have got limited rights to industrial action and that their only options will be to do what Ms Talbot then says:

All public sector workers should walk off the job altogether and leave the Government to deal with the fall-out from the general public and their beloved private sector.

That is the situation we are facing in New South Wales. As Ms Maureen King said:

Dr John Buchanan from the Industrial Relations Department at the University of Sydney was on television last night saying that this attack on public sector wages is not justified. He may have appeared on the 7 p.m. news.

Indeed, he did. But he also produced a learned research paper that comprehensively undermines the notional reason that this Government presents for its attack on wages. Ms King continued:

I used to work for the Public Service Association of NSW for about 15 years before I retired in 2000.

**The Hon. Greg Pearce:** Oh well, there you go.

**Mr DAVID SHOEBRIDGE:** I note the interjection of the Hon. Greg Pearce, "Oh well, there you go", because that is the Government's approach to the unions in New South Wales: Who cares what the unions say? Who cares what Ms Maureen King says? Who cares what 400,000 public sector workers have in rights and conditions? Worse still, that comment comes from the Minister who, if this bill passes, will be given absolute power over the rights, conditions, wages and entitlements of public sector workers. It comes from the Hon. Greg Pearce, the Minister for Finance, who will be given the power to strip away with his quill the rights and conditions of those who are covered by the Public Service Association. Ms King went on to say:

I was there when Nick Greiner was in power and slashed the public service to the bone, to the point where I don't think it has ever recovered, particularly departments such as Family and Community Services as it was then, or DOCS as it is now. There have been constant attacks on public sector workers over the years and once jobs have gone they never seem to be replaced. I have friends who work in the public sector at present and they work hard. Many tend to work long hours and also lose time such as rostered days off due to pressure of work.

**The Hon. Catherine Cusack:** Bureaucratic creep; they always come back.

**Mr DAVID SHOEBRIDGE:** I note the interjection of the Hon. Catherine Cusack: Bureaucratic creep; they always come back. The situation is quite the opposite. Those working on the front line in the Department of Community Services know that there are fewer people doing more work. Less with more has been the mantra driven to the New South Wales public sector, and less with more is what this Government will do. At some point there needs to be a leveller and respect.

**The Hon. Greg Donnelly:** Point of order: I took a point of order earlier in relation to the squawking emanating from the other side of the Chamber.

**The Hon. Duncan Gay:** To the point of order—

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** The Hon. Greg Donnelly has not finished stating his point of order. The Hon. Greg Donnelly has the call.

**The Hon. Duncan Gay:** He is using unparliamentary language.

**The Hon. Greg Donnelly:** No, I am referring to the nature of the sound.

**The Hon. Duncan Gay:** No you are not. You are being sexist. It is a sexist comment. You are a disgrace.

**The Hon. Greg Donnelly:** Madam Deputy-President, I ask you—

*[Interruption]*

The squawking is going on still. I ask that you tell them to please desist immediately.

**The Hon. Duncan Gay:** To the point of order: I ask the Hon. Greg Donnelly to withdraw that remark. I find the comments in his point of order to be offensive, not only to me but to all members on this side of the House. To describe the voice of a person in this Chamber as "squawking" is unbecoming of this member and, frankly, I am disappointed. He should know better. It is not the first time the Hon. Greg Donnelly has used that term this evening. It is not an accident; I heard him use the same term earlier while I was listening to the proceedings in my office. It is a disparaging and appalling comment. I take offence at it and I ask the Hon. Greg Donnelly to withdraw the term "squawking".

**The Hon. Lynda Voltz:** To the point of order: I have heard the terms "gang-gang" and "squawking" used often in this Chamber to describe members. Some members would not think they were being described as "feminine" when those terms were used. I have certainly heard the terms directed across the Chamber at both male and female members on a number of occasions.

**The Hon. Catherine Cusack:** To the point of order: It is not in order for the Hon. Greg Donnelly to ask me to cease interjecting when he deliberately uses the term "squawking", which is a term he reserves for female members of this House. If he is making a genuine point of order, he should use parliamentary language. I am offended by the term. I appreciate the point of order taken by my colleague because, as he said, it is not the first time the Hon. Greg Donnelly has used the term.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! At least two members, including the Hon. Catherine Cusack, have found the word offensive. I suggest that the member withdraw the offensive word. Members will cease interjecting.

**The Hon. Greg Donnelly:** The term I used is not sexist at all.

**The Hon. Duncan Gay:** No, you were asked to withdraw it.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Will the Hon. Greg Donnelly withdraw his remark?

**The Hon. Greg Donnelly:** If the member who did not take objection to my original comment is now objecting because it has been raised by another member, I withdraw it.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Thank you. Mr David Shoebridge has the call.

**Mr DAVID SHOEBRIDGE:** Ms King said this about the public service:

In my view the public service is a vital way of taxpayers having their taxes redistributed fairly. The Industrial Relations Commission is a court set up to deal with the claims of trade unions, and the judges and legal people have years and years of experience.

Yet the Government will cast aside those years and years of experience by regulation, by the stroke of a pen. Ms King further said:

Trade unions do not find it easy to always have a win, and they spend many thousands of dollars running wage cases. I understand the Public Service Association of New South Wales has recently put together a wage case. It takes a lot of time and money as well as hours spent on research.

This goes to the retrospective nature of this legislation.

**The Hon. Greg Donnelly:** Point of order: I cannot hear the contribution of Mr David Shoebridge. There is a wall of sound coming from the Government benches.

**The Hon. John Ajaka:** To the point of order: While I have been sitting here for at least the last hour, and hours prior to that, the amount of noise coming from the Opposition and the crossbenchers, in particular members of The Greens, has been astonishing. Yet the Hon. Greg Donnelly did not say a word or take a point of order. I suggest that the Hon. Greg Donnelly tell his colleagues and crossbench members that the rules apply to everyone.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Indeed, the standing orders apply to all members. Members on both sides of the House will desist from interjecting and from conducting audible conversations. My ruling applies equally to people in the gallery.

**Mr DAVID SHOEBRIDGE:** It was probably a shift change on the Government benches, so perhaps some leniency should be shown. Ms King said:

It takes a lot of time and money as well as hours spent on research.

She points to the Public Service Association case that is currently before the Industrial Relations Commission. The Public Service Association has done hours of work and spent members' money on preparing the case, only to have the goalpost moved midway through the process. The goalpost is being moved retrospectively by the Government, which seems to love retrospective legislation. As I said, the Government will use retrospective legislation to attack individual workers or households—for example, the solar bonus rebates. However, when retrospective legislation is necessary—for example, when the Gentrader contracts are due to be reviewed—the Government will balk and say that it cannot introduce retrospective legislation against big business. The Government will only use retrospective legislation against the unions and ordinary households. That is exactly what Ms King is complaining about. Public Service Association members' money was used to put together a wage case, only to have the Government change the rules midway through with this ugly legislation. Ms King also said:

The Industrial Relations Commission is a fair system because if a trade union takes a case to the commission for one of their members the commissioners or judges expect both parties to act in a conciliatory manner to solve the problem. It should not be destroyed. And where did Mr O'Farrell get a mandate from the people to do that anyway? He did not run on a platform of destroying the IRC when he went to the election.

That is right. No wonder Ms King feels duped and cheated by this Government. During the election campaign Coalition members were silent on this issue; yet four weeks after the return of the writs the Government is making a serious premeditated attack on the independent umpire and the rights of organised labour and of people like Ms King to resort to an independent umpire and not have their wages and conditions dictated to them by the government of the day. Ms Dorothy Robinson wrote:

The main function of the State Government is to provide services, hospitals, schools, firefighting, transport, agriculture. Wholesale cuts usually reduce efficiency in services. Inadequate pay will make it harder to recruit workers who can do the job effectively and efficiently. With many workers close to retirement age, this could present a significant threat to essential and much-needed services.

It is a long-term, intergenerational threat; if the public service is dumbed down and the wages and conditions of workers are reduced, the next generation will not join the public service. The next generation is not attracted to the great professions of teaching, nursing, firefighting and policing, and the tough work we expect our public servants in the Department of Community Services to undertake, intervening in damaged families and protecting fragile and vulnerable kids. That kind of public service will not be done because the conditions and entitlements of public sector workers will not be sufficient to entice the number and quality of people we need to do that necessary work. Elizabeth Hart, a public sector employee in the former Department of Education and Training, said:

I'm very worried about the New South Wales Government's proposed new law to unfairly limit public sector pay rises to under 2.5 per cent and strip the Industrial Relations Commission's power to independently decide on pay and conditions. I am a public sector worker and I rely upon a fair wage to meet my living costs.

If this bill is passed, Ms Hart is right to be concerned about whether she will keep her entitlements and a fair wage to enable her to meet her reasonable expectations in terms of living costs. Her wage might rise by 2.5 per cent this year, but there are no promises about next year. It might be 1.5 per cent. The Government might discover another black hole in the budget, and it might be a zero per cent wage rise or a pay cut. It is whatever the finance Minister wants to give public servants. It is absolutely unfettered; there are no constraints or controls in this bill. Ms Hart is right to be worried. She goes on to say:

The Government's planned new laws will mean public sector workers have to show savings by cutting jobs or services to the community before keeping up with cost of living rises.

This is unfair on public service workers and on the community.

Indeed it is, because when the Government attacks the public service it attacks the public. Ms Hart goes on to say:

The O'Farrell Government claims:

- public sector wage rises will contribute to a huge black hole in our budget—but the independent parliamentary budget office and all serious economic commentators have debunked the 'black hole' story.

She is right; there is no truth to the black hole story and these are—

**The Hon. Eric Roozendaal:** It is a lie.

**Mr DAVID SHOEBRIDGE:** It is a lie, and that has been proved. One of this Government's first acts when it came to office was to perpetrate a great big dishonest misrepresentation of the State's finances with its mystery \$4 billion black hole. That strategy was designed to change the political environment so that the Government could indulge in these unfair, undemocratic and unjust attacks on public sector workers. The Government spread the myth about the black hole and about public sector workers being paid too much. It then snuck in and attacked their wages and conditions without being honest and fair to the people of New South Wales. This is a dishonest Government that is introducing dishonest laws and being unfair to the people of this State. As Elizabeth Hart said, these unfounded claims are being used to unfairly attack the pay and conditions of public sector workers. She continues:

I'm writing to ask you to consider the FULL story before you vote for this bill.

Members opposite should consider the full story, because it is really ugly. Darlene Royal from Engadine, yet another member of the public, states:

As a member with a broader understanding, I am writing to appeal to your sense of "fair play". The public service bill that the Government is forcing through today is wrong.

She is right and the Government is wrong, and this legislation is wrong. She continues:

The public servants of NSW deserve more respect from the Government, where are you our representatives, than it is not receiving.

Teachers, nurses and firefighters are underpaid currently. Locking them into an uncompromising ceiling is demeaning and devalues the work that we do.

That is exactly what it is: It is demeaning of public sector workers and it demonstrates how little this Government values them. She further states:

Yes, I am a teacher in NSW and when I began the wage of a head teacher in high school was the same as that of a backbencher. Oh, I wish that were the case now! Your Government catch-cry is that you respect us and only want what is fair, fair to whom? Not to the very people you employ to fill the most important roles for the social well being of all members of the state of NSW.

I ask members to think about that for a moment. When Darlene started out in the profession the wage of a top public sector school teacher was the same as that paid to a backbencher. Our public school teachers were properly valued then.

**The Hon. Duncan Gay:** That is rubbish. My wife was a teacher at the time.

**Mr DAVID SHOEBRIDGE:** I look forward to the Deputy Leader's contribution about industrial fairness and pay equity if he ever speaks on this legislation. Ms Royal goes on to say:

You say—

referring to the Government—

you are only carrying out the plans of the last Government—what happened to fair treatment of State employees under YOUR Government?

... Please advise your Governments advertising agencies not to advertise for teachers and nurses in the future as the money will be wasted. There will be no younger people willing to train for four years, arrive in the working world with a huge HECs debt and be paid a substandard wage.

Think of these things and please use your powers of persuasion to insure this bill does not pass.

That is the future for the public sector. Young people will not go through four years of higher education, accumulate a Higher Education Contribution Scheme debt and do the postgraduate training required to be qualified as a teacher only to be paid a substandard wage. They will spend two decades paying off their Higher Education Contribution Scheme debt and they will not be able to pay a mortgage or have any reasonable expectations because this Government does not value them. It does not believe that teachers have a right to earn a decent wage. It wants to cut wages using the regulation-making power in this legislation. Members should appreciate the depth of experience of people in the public service and take on board the concern being expressed across New South Wales. I invite members to consider the views expressed by Bruce Macintosh.

**The Hon. Duncan Gay:** I would rather listen to him than you.

**Mr DAVID SHOEBRIDGE:** The Deputy Leader should listen well. He states:

As a NSW firefighter, I am deeply concerned with the changes the NSW Government is considering in relation to the powers of the Industrial Relations Commission.

The IRC is an independent umpire that all NSW employees need so that we are not subjected to the short-term whims of whatever major party is presently in government and as a result, the decisions made through department heads without any scrutiny or recall.

That is a real concern. When people started work in the public service they thought that their conditions were protected because there was an independent umpire standing up for them when they were in trouble. However, they have suddenly found that they have a new Government and a new set of rules. The independent umpire has been taken out of the equation and their wages and conditions will be set at the whim of the Minister for Finance and Services, who can be tapped on the shoulder by the Premier at any time and told to deliver a wage cut, serve up a regulation and give them nothing. That is exactly what Bruce Macintosh is concerned about. He says he is concerned about the role that the Industrial Relations Commission plays in New South Wales. He is right to be concerned because this Government wants to kill it. Ellissa Pyke, another resident of New South Wales, states:

I was concerned to hear that police have been put in an unacceptable position by the NSW Government, which plans to force police to take a cut in take home pay, or cut back services to the community.

She is quite rightly concerned. This Government intends to tell public servants to trim the services they provide and deliver an efficiency gain. The Police Force will be told to reduce the number of hours that police stations are open and hospitals will be told to reduce the number of nurses on duty in emergency departments. Public servants will be told to cut back, trim, reduce, chop and downsize to deliver efficiency gains. If they do not, they will not get any more than 2.5 per cent in wage rises. Even if they do deliver, they will not get anything for 12 months. They will have a wage freeze slapped on them for 12 months for reducing the level of services they provide to the people of New South Wales. Alyssa Pike continues:

Firstly my brother is a police officer and for his job he has been to hell and back, with minimal support from the government to assist him in getting over what he sees as a failure to stop someone from killing themselves. Now—2 years on it still affects him, despite having been commended by the coroner for his actions. A pay rise is what they deserve for what they put up with protecting and serving the community and risking their lives on a daily basis—something that not many professions can claim to do. Is this not saying to the Police Force—"your not doing your job." or "Your livelihood and lives are not worth it."?

They are reasonable questions. Of course, the Government's answer is that it does not value their work and it will cut their wages. Ms Pyke further states:

The Industrial Relations Commission (IRC) plays an important role in NSW, acting as an independent umpire between the Government and Police Officers on a range of matters. Even the NSW Government's pre-election commitment to Police specifically assured that, 'Police would keep their rights to collective bargaining, awards and an independent umpire.'

That is a right they kept for a grand total of four weeks; it was just four weeks before the Government stripped it away. She goes on to say:

Based on this assurance the Police Association lodged a case in the IRC seeking that the fantastic work police have done to reduce crime rates, lower the road toll, improve their productivity and efficiency be recognised.



The Government does not care about the evidence or the submissions lodged by the Police Association. It will hobble the court and predetermine the outcome by getting the Minister for Finance and Services to issue a regulation that will determine the outcome of the case before the first day of hearing. The Government will decide the case with a wage freeze and effectively a wage cut before one word of evidence is presented. Ms Pyke says:

That's why I was concerned to learn that the Government has plans to prevent the IRC from acting as an independent umpire in salary and Award matters. The Government wants to limit the IRC's role in determining fair and reasonable salaries, and this is an attack on the independence of the IRC.

It is simply outrageous that police officers will be denied the opportunity to have an independent umpire determine the value of their case. It's effectively retrospective legislation and a breach of a clear promise to police officers.

Well said, Ms Pyke, and a fair summary of what this Government is intending to do. John Tikisci makes this representation:

Police are already underpaid for the type of work they do, coupled with the fact that they do not choose where they are stationed, therefore we have a high number of officers who live long distances from their homes which adds hundreds of dollars to their fuel bill and extra hours of travel time which keeps them away from their family. This in itself is an increase of cost of living for these officers and they do not get special relief or a tax break for travel. In the past Police have been compared with other public servants such as librarians.

John goes on to say:

Mr O'Farrell needs to know that crime is down because we have a highly skilled police work force that work tirelessly and very creatively to reduce crime. His actions to reduce our real pay will force a lot of good officers to leave the force and it will attract unsuitable officers to take up the job. The old saying ... you pay peanuts ... you get monkeys.

That is what the Government wants to populate the public service with. It looks like those on the Government benches should be paid more! Brendan Cook writes this:

I work for the Department of Education and Communities in Wollongong. I am concerned about how the wages and conditions of public sector workers will be affected in the long-term if these are determined by the NSW Parliament—

which is the best it gets to under the Government's model—

rather than an independent body like the Industrial Relations Commission. Workers in the private sector have access to an independent body for the determination of wages and conditions—why shouldn't public sector workers have the same rights?

Well, that is a fair question, is it not? Workers in the private sector have access to Fair Work Australia if they cannot get a decent outcome. Workers in the private sector have access to a Federal model where, when push comes to shove and they cannot get an agreement or they cannot get a fair outcome through negotiation or protected action, they can approach and get an arbitrated outcome without constraints from the government of the day. Those in the public sector here in New South Wales are losing that right. They are losing that right through this bill, and it is a downright disgrace. Who is it from the Government who will stand up and say that public sector workers deserve fewer rights than those in the private sector? Who is it from the Government side who will stand at the lectern and say that public sector workers are worth less than their private sector comparators—because that is what this is about. This is a two-class industrial system. You get some sort of modest first-class treatment at Fair Work Australia, at best; but all you get if you are a public servant in New South Wales is cattle class, at best.

**Dr John Kaye:** Discount cattle class.

**Mr DAVID SHOEBRIDGE:** Discount cattle class.

**The Hon. Charlie Lynn:** Why don't you argue for an exemption from the carbon tax?

**Mr DAVID SHOEBRIDGE:** I note the interjection from the Hon. Charlie Lynn about a carbon tax. If he was really worried about the impacts of a carbon tax he would not be doing everything he could as a member of the Government to cut the wages and conditions of public servants. He would not be supporting this bill if there was any genuine concern about carbon tax. We all know there will be plenty of compensation for the carbon tax for those low and medium income workers. There is no compensation proposed for public sector workers by this Government—it is cut, cut, cut, and it will be cuts in the future that will hurt even more! Brendan Cook says:

In a regional city like Wollongong with a disproportionately high rate of unemployment, many people depend on the decentralisation of government departments and agencies for employment opportunities. Any weakening of public sector wages or conditions will be strongly felt in regional and rural areas with government offices, including the Illawarra, Orange, Bathurst, Newcastle and the Hunter—

**The Hon. Jeremy Buckingham:** Orange!

**Mr DAVID SHOEBRIDGE:** I note the interjection by the Hon. Jeremy Buckingham. It will attack those workers in Orange and the Hunter.

**The Hon. Jeremy Buckingham:** Fruit flies.

**Mr DAVID SHOEBRIDGE:** I note the further interjection—that is exactly what the Government is. Its members are the fruit flies on the public sector. That is exactly what they are—the fruit flies seeking to rot the wages and conditions of the public sector. Brendan Cook says that all of those areas:

... experience high levels of social disadvantage and unemployment.

Please oppose any move to take away the powers of the independent IRC in NSW.

That is a plea that I hope does not fall on deaf ears of those opposite. Dr Cassi Plate has a nice pithy contribution to the debate.

**The Hon. Walt Secord:** What does she say?

**Mr DAVID SHOEBRIDGE:** I hear the request by the member behind me and I will respond to it. Dr Cassi Plate says this:

It would be a terrible situation if NSW— with the highest cost of living, became the State offering some of the lowest rates of pay to our essential workers—teachers, nurses, police, firefighters.

This legislation demands a much more considered response.

If the people opposite were listening to Dr Cassi Plate they would support the motion to refer the bill to General Purpose Standing Committee No. 1 for a considered response. We can hear from more people of New South Wales about how it will impact on them, and we can get a much fairer and balanced view of it than the one-sided rhetoric that the Government has been shoving down the throats of the people of New South Wales in the four weeks since it was elected. Michael Garside makes a very intelligent contribution. Michael Garside is a teacher of electrical trades at the Granville College of TAFE—another TAFE worker really under the gun as a result of this legislation. Michael writes this:

I am writing to express my disgust with the current Government's decision to introduce a law that will dictate my pay and conditions.

And one can sense and really understand that disgust. He gets a job with the public sector thinking that his rights and conditions will be protected by an independent umpire. A new government changes the rules—no independent umpire and he is going to get whatever it decides to give him, in its munificence. He says:

Currently I am employed by the NSW State Government as a full-time TAFE teacher of electrical trades at Granville College. Not only am I a fully qualified electrician, but I also hold my Cert IV (workplace training and assessment) and a degree in education ...

When I first started in TAFE as a teacher (after four years teaching in the secondary school system) there was a minimum requirement of qualifications that I needed to hold in order to become a full time employee. Over the last 4 years I have seen a lowering of standards to become a full time teacher. What message are we sending to our students and to our communities, second or even 3rd best is good enough??? Are we not "dumbing down" the education of our students by lowering the standards our teachers need to meet?

Fair question, and surely by reducing the wages they will dumb it down even further. He goes on to say:

The conditions that I enjoyed in my first year of teaching are slowly disappearing ...

After hearing of the current "law" being put forward today, I ask you—where will this all end? What will the current Government do to the public sector, the people that are there to provide the public with the services they demand and deserve?

I ask that the members reject this law.

I join him in that request and I join with him in hoping that honourable members opposite and those on the crossbench will reconsider when they see the extent of concern in the community about these laws. This is not one person's concern; an array of concerns have been delivered to my office in the few short hours since this

Government has been proposing to shove this legislation through today. Terri Quinlan is a member of the Australian Computer Society and holds a Bachelor of Applied Science degree, the kind of qualifications that would deeply trouble Dr Phelps and would lead Dr Phelps to shake in fear that this scientist might be attacking the democratic foundations that he is seeking to attack from another angle. Terri Quinlan said:

I am absolutely appalled at the proposed legislation currently before the Upper House that will make sweeping changes to the IRC rights of public sector workers.

Absolutely appalled, Terri is—and right to be so. She went on to say:

The IRC has been the independent umpire between employer and employee for over 100 years. The proposed legislation will effectively hamstring the IRC's ability to make fair and independent decisions on the pay and conditions of Public Sector Employees by tying the IRC decisions to government regulations on Public Sector pay and conditions.

That is a good summary of the Act and a good summary of the Government. That is exactly what it will do. Terri then goes on to say this:

It is nothing more than an attack on the democratic processes of a fair industrial relations system.

This legislation will open the door to attacks on the pay and conditions of Public Sector Employees of NSW that are unprecedented in any other State or indeed in the private sector. If passed the legislation will allow the government to undermine and erode the pay and conditions of Public Sector Employees in order to pay for Government expenditure. It is outrageous and discriminatory that the government will have the power to dictate to the IRC on its decision making processes for one select group of employees with this democratic state and country and is an insult to my profession. I urge the Upper House to reject this legislation.

I join with Terri in those sentiments. This undemocratic power is being given into the hands of the finance Minister through this bill.

**Dr John Kaye:** It has not been given yet.

**Mr DAVID SHOEBRIDGE:** Exactly. It has been proposed to be given. Phillip Chadwick is from the Miller TAFE and has a diploma in teaching. Phillip states:

I am an Electrical trades teacher from Miller college of TAFE in Sydney's south western suburbs—

They are the kinds of struggling suburbs where they really do it tough sometimes, the kind of suburbs where the cost of living is a real question. He says:

To date I have had the pleasure of teaching at TAFE for some 21 years.

That is the sort of long-term teacher we want to keep in TAFE, the kind we want to see continue to be motivated to do the hard work and teach those vocational skills to the next generation of employees so we have a highly educated and trained workforce. Phillip further states:

In that time I have achieved the satisfaction of assisting over 1500 students from my local area qualify to be licensed electricians.

He has basically trained a whole generation of electricians in south-west Sydney. He said:

I chose the teaching profession over my trade because of the balance of conditions rather than the pursuit of high salaries "on the tools".

I now find myself along with all other public sector workers in a rather precarious position. Because of the Industrial Relation Amendments now before Parliament my future is unclear.

Phillip is talking about that long-term uncertainty, when people do not know what the Government will do next year or in five years time. If they are not sure they will not have recourse to an independent umpire and if they are not sure what the Government will do with their wages in two, three or four years time it can affect their ability to do long-term financial planning; it can affect their family's financial security.

**The Hon. Greg Donnelly:** Superannuation, retirement.

**Mr DAVID SHOEBRIDGE:** Yes, you will not know what is going to be in your superannuation when you retire or what is going to be in your pay packet a year from now. You will not be sure you will be able to

meet a mortgage payment for an extension on your house, for a modest place in south-west Sydney. It is that uncertainty that this Government is seeking to impose on 400,000 public sector workers across New South Wales.

**The Hon. Greg Donnelly:** And their families.

**Mr DAVID SHOEBRIDGE:** And their families—their spouses, their husbands, their wives, their partners, their children. All of them are facing that long-term uncertainty because this Government wants to give absolute power over public sector wages and conditions to one man at this moment, one Minister.

**Dr John Kaye:** Point of order: Standing Order 93 says, "A member may request the Clerk read the question at any time during a debate, but may not interrupt a member speaking." I understand Mr David Shoebridge was taking a break or pausing. I ask that the Clerk read the question.

**The PRESIDENT:** The Clerk may read the question.

**Question, including the amendment of the Hon. Sophie Cotsis, read by the Clerk.**

**The Hon. Duncan Gay:** Mr President—

**The PRESIDENT:** Order! Is the member taking a point of order?

**The Hon. Duncan Gay:** No, I am seeking leave to speak. No-one sought the call.

**The PRESIDENT:** Order! Mr David Shoebridge has the call.

**Mr DAVID SHOEBRIDGE:** Phillip Chadwick had this to say:

As I understand it my wages and conditions can be changed without the consultation of either my union or the industrial relations commission.

That is right. No-one has to ask Phillip or his union before the Government can now change his wages and conditions by issuing a regulation. It does not have to knock on his door or send him a letter or an email. It does not have to bother to trouble his union. The Government can, without any prior consultation, without any notice, without giving Phillip the right to be heard, issue a regulation and cut his wages. It can issue a regulation and put a freeze on his wages; issue a regulation and reduce his right to leave entitlements, to limited hours of work, to overtime, rostering—

**The Hon. Greg Donnelly:** To rostered days off.

**Mr DAVID SHOEBRIDGE:** To rostered days off. Any kind of allowance can be stripped away from Phillip without even bothering to ask him what his views are let alone asking his union, let alone giving him the right to appeal to an independent umpire to get them back, because they can all be stripped away by regulation under proposed section 146C of this bill. Phillips says:

There is no guarantee of pay rises in my future. The number being thrown around at the moment is 2.5% but at the whim of the Minister that figure could be cut to 1 or 2%, a value way below the inflation rate of 3.3%. This is effectively a pay cut in anyone's terms.

It is a pay cut in anyone's terms except for the Government, which is in absolute denial about what it is doing. It is in absolute denial with the rhetoric that all it is doing is putting in place the previous Government's policy. It is not. It is putting in place a mandatory wage freeze across the public sector, giving no rights of review or appeal to the Industrial Relations Commission, no rights of review by any individual worker and forcing additional efficiency cuts on the public sector which will mean reduced services for the community and reduced entitlements for those working in the public sector. Mr Chadwick concludes by saying:

This law goes way above and beyond the policies of Labor. Let's not start the Liberal term of office with the same lies and spin of the previous government. The people of NSW didn't cop it before and they won't take it again.

That is right. Four weeks in and what a sorry tale we already have. Four weeks in and the Government has resorted to the spin and lies that was the practice of the last Government and it is just business as usual in New South Wales. New South Wales Inc. has just changed its management.

**The Hon. Duncan Gay:** Point of order: I take offence. The honourable member accused me of lying.

**The PRESIDENT:** Order! The member has taken offence. The member should withdraw.

**Mr DAVID SHOEBRIDGE:** I will withdraw my comment to the extent that the Hon. Duncan Gay thinks I said it. I do not recall saying it. If he took offence, I am happy to withdraw any imputation that the honourable member has lied. Lynn Waddell, a TAFE teacher at Open Training and Education Network, or OTEN college, is really worried about what this legislation will mean not only to her future financial security but to that of the broad cross-section of people in New South Wales. Lynn Waddell wrote:

I write to you to explain how the O'Farrell Government's proposed changes to IR legislation will affect me.

I invite members opposite and those on the crossbenches to listen to Lynn Waddell's words, because she is telling them what they have blocked their ears to. She is telling them the real effects of this legislation on a worker in the public service serving the students and the future of New South Wales through her work at TAFE. Lynn Waddell went on:

I am a TAFE teacher at OTEN, located at Strathfield—

**The Hon. Dr Peter Phelps:** Point of order: My point of order relates to the conduct of Mr David Shoebridge some time earlier in this debate. I draw your attention to Standing Order 93, which states:

**Question may be read**

A member may request that the Clerk read the question at any time during a debate, but may not interrupt a member speaking.

Standing Order 95 (1) states:

**Interruption of speaker: points of order or privilege**

(1) A member may not interrupt another member speaking, except to call attention:

- (a) to a point of order or privilege, or
- (b) to the lack of a quorum.

Mr David Shoebridge had either finished or he had been interrupted. I contend that he had finished.

**The PRESIDENT:** Order! After further reflection, I was in error to uphold Dr John Kaye's point of order. The Clerk cannot be asked to read the question in the way Dr John Kaye was seeking, unless the member has finished speaking. Mr David Shoebridge has the call and will continue speaking.

**Mr DAVID SHOEBRIDGE:** Ms Waddell continued:

I am a TAFE teacher at OTEN located at Strathfield which is the distance education provider in TAFE NSW.

We teachers employed at OTEN perform a valuable public service and add tremendous value to training and educating over 63,000 distance students a year.

I ask members to think about that—63,000 distance students being served by our TAFE sector. And what a great job TAFE teachers do. Surely they should be respected by this Government. Yet, four weeks into the Government's term it makes a vicious attack on the wages and conditions and future of the TAFE sector. Not only does that affect TAFE teachers; 63,000 distance students have had their future education and the motivation of their teachers seriously attacked. Ms Waddell went on:

These students depend on their highly skilled and qualified teachers to succeed in their studies. Many of these students would be denied a vocational education without us as they are isolated by illness, family or employment or are in a rural or remote area that doesn't offer the course they need or there isn't a TAFE college in their area.

Government members have said in inaugural speech after inaugural speech that they respect rural and regional New South Wales. Yet these TAFE teachers, who provide that essential technical training to those 63,000 distance students, many of them in rural and regional New South Wales, are directly under the gun from this Government. It is a downright disgrace. Ms Waddell wrote further:

The introduction of this draconian legislation—

**The Hon. Dr Peter Phelps:** Point of order: This is now the fourth time Mr David Shoebridge has referred to draconian legislation. He would, or should, be aware that "draconian" is the adjectival form of "dragon". There are no dragons involved in this legislation, and there are no dragons involved in the industrial relations situation of New South Wales. There may well be an argument for draconia-centric global warming, but that is something we will leave for another time. I ask that Mr David Shoebridge cease and desist from bringing the good name of dragons into disrepute by describing this as draconian legislation.

**The PRESIDENT:** Order! There is no point of order. However, I am sure Mr David Shoebridge appreciates the opportunity to have a rest.

**Mr DAVID SHOEBRIDGE:** I was pleased to see the Hon. Dr Peter Phelps flap his wings and breathe his fire from across the other side of the Chamber and make such an erudite contribution to the debate. Ms Waddell continued:

The introduction of this draconian legislation will result in a substantial reduction in my real wages—2.5% pa when inflation is running at 3-3.5%. My energy bills, mortgage and my child's education doesn't seem to be falling in line with my wages. However, after 16 years in TAFE teaching what concerns me is where are the future TAFE teachers going to come from?

That is a valid concern. If people's wages are cut, why would any young person choose to go into a public sector job when they cannot even be sure their wages will withstand inflation because we have an ideological Government committed to attacking wages through regulation? Why would anyone, apart from the most selfless person, engage in public service when they have no industrial rights, their future entitlements to a decent and fair wage are sitting in the lap of the finance Minister and there is no recourse to an independent umpire? Ms Waddell went on:

Many TAFE teachers are casual part-time teachers whose wages are already at poverty levels. Try supporting a family as a single mother on part-time casual wages. Many of my working colleagues are forced to. How is reducing wages and working conditions going to attract a new generation of TAFE teachers? How will this affect the skills shortage?

How, indeed? That is a very valid contribution. Robert Long works at Illawarra TAFE. He is another person with a regional perspective on the importance of public sector wages in regional centres to support the regional economy and local businesses. Robert wrote:

The impact of the new IR legislation before the NSW Parliament will have a dramatic effect on Illawarra TAFE—

Not draconian, the Hon. Dr Peter Phelps will be pleased to note, but a dramatic effect on Illawarra TAFE. Robert Long continued:

Illawarra TAFE teachers provide skill, knowledge and qualifications for 40,000 students on the NSW South Coast, Southern Highlands and Snowy Mountains.

That is 40,000 students served by Illawarra TAFE. What a remarkable job TAFE teachers do. Instead of applauding their work, and instead of supporting them in their work, what does the Government do? It puts in place legislation to attack their wages and conditions.

**The Hon. Walt Secord:** Shame.

**Mr DAVID SHOEBRIDGE:** It is a shameful, spiteful attack on their wages and conditions. The Government did not even have the decency to tell these TAFE teachers before the election that it would do this. The Government was probably going to come in with a wacky majority. One would think it could have been honest about the matter. But no, the Government was not willing to be honest with the people of New South Wales during the election campaign.

**The Hon. Greg Donnelly:** Bottom drawer politics.

**Mr DAVID SHOEBRIDGE:** It is the bottom drawer, the one that Nick Greiner sprung out from to head Infrastructure NSW. Robert Long went on:

In the Illawarra youth unemployment has been a long term issue that has not been resolved by either side of politics. Training and education is clearly the answer to addressing these skills needs for unemployed youth.

Of course it is. If we want a society that progresses, we have to value TAFE teachers, because they are going to provide the skills for the next generation to enable New South Wales to have a productive and efficient economy. The Government will not make New South Wales number one by attacking the very people who will train the next core of professional and vocational workers in this State. Mr Long continued:

The effects of the IR changes will inevitably lower TAFE teachers' wages and conditions. Our community needs investment in vocational education and training, and this requires investment in attracting teachers into the TAFEs at Wollongong, Shellharbour, Nowra, Southern Highlands, South Coast, Goulburn, Queanbeyan and the Snowy Mountains.

All those TAFE colleges are under attack by this bill. Mr Long wrote further:

We need to attract through excellent wages, conditions and support the best teachers in the region to ensure our students are work ready for the needs of industry, plus address problems associated with youth unemployment.

**The Hon. Greg Donnelly:** Not shovel ready.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjection of the Hon. Greg Donnelly. We on this side of the House do not want our teachers to be shovel ready, but the Government is deeply committed to having shovel-ready, not job-ready, students. Mr Long says:

We need improved wages and working conditions to ensure we have the best teachers to work with the wide diversity of students ... TAFE needs to attract the best teachers to meet community expectations in training and educating the next generation.

Of course they do, but they will not be getting that if they cannot give their teachers decent wages and conditions and if their future rights are so at risk from this Government's legislation. Pierre Masse, a TAFE teacher at Ryde College also has a contribution to make—another TAFE teacher.

**The Hon. Walt Secord:** The salt of the earth.

**Mr DAVID SHOEBRIDGE:** The salt of the earth, as the honourable member says. In his letter, where others have put their qualifications he says "a whole lot of industrial qualifications" in addition to his Diploma of Teaching. They are the sorts of qualifications that our public sector workers have, as we saw earlier. More than half of our public sector workers have a bachelor degree or higher. These are highly qualified, highly skilled workers who deserve to be treated with respect, not the contempt that this Government is showing. Pierre says:

I am writing to you to express my dismay at the NSW government's attempt to remove all working conditions from all state public servants ... This proposed legislation winds back industrial rights for workers to more than 100 years when employers had absolute power over the working conditions of their work force.

That is what this is: the industrial revolution mark II by regulation of the finance Minister. Pierre says:

Only a few weeks ago, Barry O'Farrell was proposing a "public service commission" to restore the status of the NSW public service to an employer that people would aspire to work for.

That is what Barry said to Pierre; he wants a public service commission to restore the status of the public service to an employer that people would aspire to work for. Pierre goes on to say:

This legislation will, in fact, cause the opposite and actively discourage people from entering the NSW public service as they would be the only workers in Australia whose working conditions are decided by a bureaucrat and where they have no access to an independent umpire to adjudicate on the fairness of any proposed changes.

Pierre then makes this comparison:

Even the Howard government's WorkChoices didn't go as far as this proposed act in removing workers' access to an independent umpire.

Even WorkChoices was not as draconian as this. Pierre concludes by saying this:

I urge you to vote against this act of betrayal by the O'Farrell government and also urge all of your parliamentary colleagues to vote against it as well.

Jan O'Leary has made a contribution. This is another voice from the public that this Government does not want to listen to. They are blocking their ears to the people of New South Wales and blocking their ears to these contributions from the people of New South Wales. Jan O'Leary says this:

I am most concerned about the changes the government is proposing to the powers of the Industrial Relations Commission and the rights of the state's public servants.

It greatly worries me that the government is trying to place itself above the Industrial Relations Commission which should be isolated from the whims of any particular government. Such separation is fundamental to our Westminster system.

She is right about that. This is one of those fundamental tenets—the separation of the judiciary and the determination of individuals' wages and conditions from the power of the executive to just run roughshod over them. It has been in our Westminster system for centuries and it is being stripped away in one simple, ugly act by this Government. Jan O'Leary says this:

If the government is able to control decisions of the Commission, then what we would have would be something more closely associated with fascism. The IRC is an independent body and it, not government, is best suited to determine wages and conditions.

That is exactly what this is—some kind of corporatist State where the Government of the day, the Executive, has absolute power and control over all sectors of the public service. It is a corporatist State that is more closely associated with the views of those fascist theories of the twentieth century than those that any pluralist democracy should be putting in place in the twenty-first century. Jan O'Leary goes on to say:

This legislation, if it succeeds, is highly discriminatory. It will attack the pay and conditions of just public servants. There can be no other reason than that governments seem to think it safe to make cuts in public sector budgets and the unspoken implication is that public servants are all fat cats. This is far from being the case and this measure is beyond contempt.

What a good characterisation that is: this measure is beyond contempt. Jan says:

It is dog whistle politics at its worst and should be exposed as such.

She asks this House to endeavour to do all in our power to prevent this regressive legislation from being passed. The Greens will not respond to this dog whistling that the Government is engaging in. Let us hope there are enough members on the crossbench listening to these pleas. Let us also hope The Nationals are listening to these pleas from bush, regional and rural communities to stand up to their Liberal colleagues and this neoliberal attack on the working conditions of public servants and vote down this ugly bill. Phillip Ward from the Dubbo College of TAFE says that he is employed by TAFE NSW as a sheep and wool teacher in Dubbo in central New South Wales. This is another one of those rural and regional workers that this Government says it came into office to represent. Let us listen to what Phillip Ward says about this bill:

TAFE teachers and all Public Sector Employees all have made a commitment to the citizens of NSW to deliver a quality service to meet the needs of the community we live and work in. Together we have worked hard to deliver the services required to NSW and our communities.

Public sector conditions & wages need to be decided in a fair and equitable way by the Industrial Relations Commission if negotiation cannot be reached ... The varying of awards must be decided by negotiation or the IRC not by government decree/regulation.

I ask the members of the NSW Government to adhere to the AWARD system—

That is the century-long award system of industrial fairness that this State has had.

—and the IRC as the sole arbitrator, not the PREMIER.

NSW will not grow and have a sound economy if the NSW government passes or amends the legislation before it as it will divide the workforce in NSW and alienate the Public Sector Employees from the Government of NSW.

Please vote against this legislation.

That is the call from the bush—please vote against this legislation. That is the call from south-western Sydney—please vote against this legislation. That is the call from public sector workers, their families, and their friends and colleagues right across New South Wales. It is about time members on the crossbench heard it and it is about time that members on the benches opposite heard it—please vote against this legislation. Chris Vanderwall says:

I wish to raise my concern with you regarding the current discussion over public service working conditions and wages.



Surely our citizens have a right to raise that concern. Why will this Government not agree to refer the bill to a committee so that the people of New South Wales can raise their concerns directly with them? It is because they are afraid of what the people of New South Wales will tell them if they ask. They know what the answer will be. They know the people of New South Wales deeply loathe the attack on working conditions through WorkChoices and they know that the people of New South Wales will reject this ugly little provincial version of WorkChoices that the Government is seeking to foist upon them. Chris Vanderwall says:

As a TAFE teacher I have seen my profession lose value socially, professionally and financially.

The vast majority of TAFE NSW employees chose to work in their respective institutions because they actually care about the future of our state and country, and wish to provide an environment that fosters learning which can benefit the learner and the industries associated.

That is what he went into it for—selfless public service reasons. What reward does he get from this Government? He gets a wage freeze and the threat of future attacks. He continued:

Unfortunately all we hear through the media is how New South Wales TAFE employees are taking advantage of their working conditions and not working hard enough—now we hear this from our own State and Federal government[s]. As a result the general public are now following this view and not valuing the service provided for them.

When I began teaching (15 years ago) there were stringent entry standards which provided a valuable learning experience. Excessive casualisation and changes to entry qualification are encouraging standards to drop. Our future graduates will struggle to compete in their respective industries as a result.

That concern was evidenced in the report of Dr John Buchanan and also in the analysis from the University of Sydney. The concern of this citizen is a valid one. Chris goes on:

NSW TAFE teachers have now lost access to the services of the Industrial Commission and will be extremely fortunate to gain an increase of 2.5 per cent—a figure below current inflation. New South Wales politicians are now being paid approximately thirty to forty thousand dollars more than TAFE teachers.

The Government is not concerned about the pay differential between the top teachers and backbenchers when they are surely professions of equal note and rank in this community. But we know that this bill will prevent TAFE teachers from making that argument to the New South Wales Industrial Relations Commission. They will never get anything more than the measly 2.5 per cent the Government wants to give them. They will not be able to run pay relativity cases to give them the right to approach the commission to have their profession respected as much as politicians.

**The Hon. Greg Donnelly:** Or test cases to improve conditions over time.

**Mr DAVID SHOEBRIDGE:** Or test cases, as the honourable member says, to improve conditions over time. The Government does not want that. It wants to entrench unfairness and inequity and produce more unfairness and inequity. Chris Vanderwall concluded by stating:

I urge you to consider my point of view.

He wants to be heard. The people of New South Wales want to be heard. That is why this matter ought to be sent to a committee urgently where evidence can be directly taken from members of the public. General Purpose Standing No.1—

**The Hon. Greg Donnelly:** Point of order: All members in this Chamber are trying to listen carefully to this debate.

**The Hon. Charlie Lynn:** No, we are not.

**The Hon. Greg Donnelly:** Some are not because some members do not care. Most members in this Chamber are endeavouring to listen carefully to the contribution of the member. Mr David Shoebridge has been speaking for some time and he is articulating a complex explanation as to why the bill should be rejected. The sound coming from the members on the other side is making it very difficult for those on this side to hear his contribution. I respectfully ask that members on the other side desist.

**The PRESIDENT:** Order! The member will be heard in silence.

**Mr DAVID SHOEBRIDGE:** A small collection of comments have been made on my website in the last 24 hours expressing the concern of the people of New South Wales about this legislation. Bill Thomas said—

**The Hon. Greg Donnelly:** Point of order: The Leader of the Government is defying your ruling. He is interrupting and running interference, which is quite audible to me. If I can hear it then it would no doubt be annoying and distracting for the honourable member making his contribution.

**The Hon. Duncan Gay:** To the point of order: The honourable member is making frivolous points of order. He is continuing to do it to in order to delay the vote on this bill. I request that the President curtail the practice of this member and advise him that these sorts of frivolous points of order are not helping the debate in any way.

**The Hon. Shaoquett Moselmane:** Point of order—

**The PRESIDENT:** Order! I have heard enough on the point of order. Audible conversation should be kept to an absolute minimum so the member can be heard. I will, as always, keep a close eye on whether members are taking frivolous points of order. Mr David Shoebridge has the call.

**Mr DAVID SHOEBRIDGE:** Bill Thomas said:

I am very concerned at the Government's rushing the legislation on public sector salaries through Parliament.

What a valid concern that is. Some 16,000 people have put their names to a petition asking for a broad debate before the Government rushes this legislation through. What does the Premier do? He ignores them! That is not bringing democracy to the floor of the House. He has ignored those 16,000 people and has told his Ministers to ram this legislation home regardless. How right Bill Thomas is to be concerned. Bill continued:

I believe that the legislation will speed up the drain of people from essential services such as teaching, nursing, policing and welfare, and we will pay a heavy price for this in future years.

What a concern that is. We will pay this price progressively as the Government deskills our TAFE sectors, our teachers, our nurses, our police—our key public servants. We will pay the price of this ugly piece of legislation over years and decades to come. Dean Driscoll made a very short and pithy but valuable contribution to the debate. Dean stated:

If the government wishes to upset the rights of 400,000 workers then be it on their heads when those 400,000 workers retaliate against this government. The dark days are back again.

I can almost see the effigy of Terry Metherell wandering down Macquarie Street. Terry's back. He is back on the benches opposite. Terry Metherell is coming back, ignoring his burning effigy, forming again a majority on the Government benches and attacking the rights and conditions of public sector workers. Dean continued:

Let us see O'Farrell lead the way by taking a dramatic cut in his own wages. Crooked, self interested governments is all we ever get.

That is a pretty fair concern from the people of New South Wales. Lindsay Johnson made a very poignant contribution when Lindsay said:

If this proposed legislation is passed it is akin to WorkChoices without any choice.

It is even less choices than WorkChoices, no choices. That is what public sector workers get. This is not WorkChoices. This is New South Wales 2011. It is no choices Barry O'Farrell and his team shoving this legislation down the throats of the people of New South Wales giving public sector workers no choices. That is what Lindsay Johnson said. The quote continues:

It appears the coalition have learnt nothing from the backlash they received federally and those who may support them in the Legislative Council will forever stand condemned. The Shooters and the Christian Democrats only need to look back to 2000 and look at what happened to the Australian Democrats after they gave support to John Howard's GST. They have been annihilated. This dangerous piece of legislation should not be passed quickly and the public and especially those nurses, police, fires, ambos and other emergency workers upon whom we all rely for our protection should be listened to and the issue should be fully debated.

The Premier should not be pushing this bill through this House a matter of hours after he receives a petition from 16,000 citizens asking for a full and frank public debate and asking for public consultation before he shoves this kind of no choices legislation onto the people of New South Wales. D. J. Williamson—and this is a plea from a public servant—said:

We actually run the state for the government, under constantly increasing workloads whilst the politically appointed SES on astronomical wages continually just sack the support staff backing the front line workers.

Is that not the story of public sector workers in New South Wales over past decades? D. J. Williamson goes on to state:

This situation leads to an overall poorer product being produced by the front line workers ... [with] less time available to teachers to actually prepare lessons due to the ever increasing levels of administrative tasks which have little or no bearing on improving educational outcomes for students.

Earlier I stated that Government members pretend that the public service comprises only front-line staff in uniform who are directly delivering service. But The Greens know that those people can deliver that service effectively only if they are backed by support staff. If a teacher has to spend half the day doing an administrative task that is half a day that a teacher cannot spend teaching. It is support staff who take the administrative load off teachers, nurses, police and firefighters. Through their hard work and dedication those front-line service workers can do their duty, day in and day out, and provide value for money for the Government. D. J. Williamson also states, when referring to the benefits provided for teachers and front-line workers:

Some examples of this include: completing checklists for non-teaching executives to file in case they are asked by their supervisors for them during their annual review. These checklists say such rivetingly important statements as: all relevant procedures have been followed in the presentation of assessments for junior high school students or, planning of excursions has followed relevant procedures and completing topic registers to say that particular classes have been exposed to all of the syllabus ...

We seem to be spending more time covering the legal liabilities of our Departments than actually producing a better education for the future of our citizens of our community!

Peta Holmes brings a new perspective to the debate—a perspective that is so often ignored by members opposite. Peta states:

I am a teacher in a high school in South Western Sydney with a student population of over 800.

Now that is someone who is doing it tough. That is someone who is working hard at the cutting edge of education in south-western Sydney. Peta goes on to state:

I am also the mother of 4 sons, one of whom has a disability. I write to you to express my dismay at the coalition's IR bill. I know the importance of what I do, every day I work with the children who will one day be our future. A freeze on pay increases will affect the quality of people who will be attracted to teaching and those who will continue to work in the profession. However, I also see it from the position of a mother. One of my sons goes to a special school, he is non verbal and not toilet trained. The teachers who work at his school do an amazing job on a daily basis. I am worried where we are going to find teachers prepared to do such a difficult job after receiving what will be in real terms a pay cut.

Think of the job that we ask those teachers to do. Think of the work they do with those disadvantaged and disabled students, giving them quality of life and giving them an education. What return do public workers who do that receive from this Government? What response do they get from this Government? They get an attack on their wages and conditions—a deeply cynical unheralded attack on their wages and conditions. Peta Holmes also asks:

How can we hope to attract people to work with our most vulnerable children if we demean their work by cutting their wages?

Well, how can we? She goes on to state:

I also see how this will affect my own family. My husband works from home and we rely on my income primarily to support our family. If I am forced to take a real terms pay cut this will impact directly on my family ...

That is what is being proposed by a Government that campaigned on cost-of-living pressures. Those statements point out the Government's hypocrisy and pop the Government's hypocrisy bubble. They put a direct question to crossbenchers who might be interested in supporting this legislation. Does anyone believe that members of the Government were being honest with the people of New South Wales during the recent election when they campaigned on cost-of-living pressures when the first thing they do as a government is attack the ability of working people in the public sector to meet those cost-of-living pressures by imposing a wage freeze and by launching an attack on wages?

**The Hon. Walt Secord:** What did she say?

**Mr DAVID SHOEBRIDGE:** Peta Holmes also states:

I am appalled. Obviously this Government is not concerned with the families of teachers. I am asking you to speak to this on my behalf and let the government know what effect this will have on families like mine.

**The Hon. Walt Secord:** Point of order: There is too much audible conversation. I am unable to hear the member.

**The PRESIDENT:** Order! There is too much audible conversation in the Chamber. Members will keep conversations to a minimum so that the member with the call may be heard.

**Mr DAVID SHOEBRIDGE:** This legislation is not only a betrayal of promises that were made during the election campaign but also a fundamental attack on the working conditions of public sector workers in New South Wales. This legislation also offends international conventions ratified by the Australian Government. It offends some of the most fundamental international conventions, such as the Right to Organise and Collectively Bargain Convention—a convention that was entered into by our Federal Government in 1949. The convention states in article 2:

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.
2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this article.

It also states in article 4:

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

That is a pretty fundamental right that has been enshrined in the convention since 1949. The convention also states in article 3:

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding articles.

What right could be more fundamental than the right to organise and collectively bargain? That was established in 1949 and ratified by the Australian Government. But that right will no longer be respected in New South Wales when this bill is passed. The New South Wales Government feels that it can just chuck this right out.

**The Hon. Scot MacDonald:** Point of order: The bill does not address collective bargaining.

**The PRESIDENT:** Order! The member's comments are within the leave of the bill.

**Mr DAVID SHOEBRIDGE:** There is a list of countries that have ratified the convention. I will not try the patience of members by reading the whole list because that would be unfair. Instead I will provide a sample of countries that have ratified the right being trampled by this Government with this legislation. Albania has the right, but not New South Wales. The citizens of Azerbaijan have the right, but not the citizens of New South Wales. They have got it in Barbados, Belgium, Belize and Benin, but they will not have it in Beecroft.

**The Hon. Jeremy Buckingham:** Or Bankstown.

**Mr DAVID SHOEBRIDGE:** They will not have it in Bankstown. They have it in Belize and Benin, but not in Beecroft or Bankstown. They will have it in Botswana, Brazil and Bulgaria.

**The Hon. Jeremy Buckingham:** But not Boggabri.

**Mr DAVID SHOEBRIDGE:** They will not have it in Boggabri. That is exactly right. This is a right. They will have it in Chad, Chile and Columbia, but they will not have it in Chatswood. I will not read all of them but they will have this right in Costa Rica, Cote d'Ivoire, Croatia and Cuba, but they will not have it in Kings Cross. It is a right they will have in Ethiopia, Fiji and Finland.

**The Hon. Rick Colless:** How about Canada?

**Mr DAVID SHOEBRIDGE:** I note the interjection from the Hon. Rick Colless. I was concerned that they do not have the right in Canada. That is a very astute observation by the member. If the member is concerned that I might miss another country, I am happy to read the full list onto the record.

**The PRESIDENT:** Order! Previous Presidents have made rulings to the effect that members should not attempt to read comprehensive lists onto the record; instead, they should give a precis of a number of examples.

**Mr DAVID SHOEBRIDGE:** I respect the President's ruling and I was attempting to give a precis. That is why I did not address the lacunae in the list being the absence of Canada. I probably could address the lacunae only by reading the list in full but that would mean canvassing the President's ruling. I will not do that even if invited. They will have this right in Haiti, Honduras and Hungary.

**The Hon. Greg Donnelly:** But not Hurstville.

**Mr DAVID SHOEBRIDGE:** They will not have it in Hurstville. They will have the right in countries as diverse as Jamaica, Japan and Jordan. They will have the right in Kazakhstan, Kenya and Kiribati, but they will not have it in Killara.

**The Hon. Jeremy Buckingham:** Or Ku-ring-gai.

**Mr DAVID SHOEBRIDGE:** They most definitely will not have it in Ku-ring-gai. They will have it in Malta, Mauritius and Mauritania, but not in Murrumbidgee.

**The Hon. Helen Westwood:** Not Merrylands.

**Mr DAVID SHOEBRIDGE:** They will not have it in Merrylands, Mulgoa or Murrumbidgee. Rest assured they will have it in Morocco and Mozambique.

**The Hon. Greg Donnelly:** But not Manly.

**Mr DAVID SHOEBRIDGE:** The poor burghers of Manly will not have it. They will have it in Romania and Rwanda but it will not be in Randwick. Mr Bruce Notley-Smith will be very concerned that the people of Randwick will not have the industrial rights that the people in Rwanda have. These rights will be available in countries as diverse as Singapore, Slovakia, Slovenia and South Africa.

**Dr John Kaye:** But not Sydenham.

**Mr DAVID SHOEBRIDGE:** It will not be in Sydenham, Singleton or South Sydney. It will be in Tajikistan, the Tanzania United Republic, Timor-Leste and Togo.

**Dr John Kaye:** But not Tamarama.

**Mr DAVID SHOEBRIDGE:** It will not be found in Tamarama.

**The Hon. Greg Donnelly:** Where is Trevor Khan? Tamworth?

**Mr DAVID SHOEBRIDGE:** It will not be found in Tamworth. It is a right that will be found in Uruguay, Uzbekistan and Vanuatu.

**Dr John Kaye:** Eurobodalla?

**Mr DAVID SHOEBRIDGE:** But it will not be found in Eurobodalla. It will be in Zambia and Zimbabwe.

**The Hon. Cate Faehrmann:** Zetland?

**Mr DAVID SHOEBRIDGE:** It will not be in Zetland because this Government is not committed to having those rights for the people of New South Wales. It would be remiss of me in the course of this short excursion through the industrial relations impacts of this legislation to not point out a key feature of the New South Wales industrial relations landscape that has received little, if any, comment in the course of this debate. That point is that public sector workers in New South Wales not only will lose the right to go before an independent umpire; they already have constrained industrial rights.

The right to strike is hardly enshrined in the New South Wales Industrial Relations Act. Worse than that, for literally thousands and thousands of workers in the New South Wales system if they seek to strike they will be met by a nasty little piece of legislation introduced by the last Coalition Government and, to the shame of the previous Government, never removed from the books: the Essential Services Act 1998. That Act sits there lock-stock with changes to the Industrial Relations Act ensuring that public sector workers in key sectors cannot organise collectively and cannot take protective action in order to progress their industrial entitlements through industrial action. The Essential Services Act applies to essential services as defined in section 4, which states:

(1) For the purposes of this Act, a service is an essential service if it consists of any of the following:

(a) the production, supply or distribution of any form of energy, power or fuel or of energy, power or fuel resources

The Act applies to the thousands of workers in the public sector in the power industry working on distribution lines and in power stations—

**Dr John Kaye:** The meter readers.

**Mr DAVID SHOEBRIDGE:** And meter readers. It applies to those working in the production, supply or distribution of any form of energy. The Act also applies to:

(b) the public transportation of persons or the transportation of freight (including the provision of rail infrastructure for those purposes)

Those services are defined as essential services under this Act. Also defined as essential services are:

(c) the provision of fire-fighting services

(d) the provision of public health services (including hospital or medical services)

Doctors, nurses, assistant nurses are all defined as providing essential services. The Act applies to:

(e) the provision of ambulance services

(f) the production, supply or distribution of pharmaceutical products

Even those working in pharmacies in public hospitals are defined as providing essential services. The Act applies to:

(g) the provision of garbage, sanitary cleaning or sewerage services

The Act applies to employees of Sydney Water and Hunter Water and water authorities around regional and rural New South Wales and the garbos who collect the rubbish on a daily basis. The Act also defines as essential services:

(h) the supply or distribution of water

Again, the Act applies to public servants working on the public distribution and supply of water. The Act applies to:

(i) the conduct of a welfare institution

All those Department of Community Services workers and those working in the public sector welfare industry are defined as providing essential services. Also said to be an essential service is:

(j) the conduct of a prison

Then a service can be declared to be an essential service by regulation, and a service supplying goods or services necessary to the essential services already referred to in the Act is an essential service:

(k) a service declared to be an essential service under subsection (2),

(l) a service comprising the supply of goods or services necessary for providing any service referred to in paragraphs (a)–(k).

I have taken the time to explain the scope and breadth of the Essential Services Act because under that Act a Minister has the power to issue a proclamation concerning an essential service. The Government, acting on the advice of Cabinet, has the power pursuant to section 8 (1) as follows:

- (1) Whenever it appears to the Governor that from any cause the provision of an essential service is, or is likely, for any period:
    - (a) to cease, or
    - (b) to be interrupted or reduced, or
    - (c) to be provided in a manner that does not or is not likely to meet the reasonable requirements of the community, or
    - (d) otherwise to be rendered insufficient for the reasonable requirements of the community,
- the Governor may, by proclamation published on the NSW legislation website, declare that the essential service is one in respect of which regulations may be made under section 9.

What do those regulations provide for?

**The Hon. Matthew Mason-Cox:** Point of order: My point of order relates to relevance. Mr David Shoebridge is canvassing an area that is clearly outside the leave of the bill. I do not know where he is going; I am sure he does not know either. I ask that he be brought back to the leave of the bill.

**Dr John Kaye:** To the point of order: Mr David Shoebridge is canvassing an area where people will lose industrial rights under this legislation. It is totally germane to the current legislation before the House.

**The Hon. Greg Donnelly:** To the point of order: The position is that this bill will have a profound impact on public sector employees in this State. The member is juxtaposing a piece of important legislation and declarations with respect to emergency services against public sector employees to compare the interfaces between the two. If the Hon. Matthew Mason-Cox does not understand that, it is his problem. It is perfectly clear to me why Mr David Shoebridge is referring to this particular piece of legislation.

**The Hon. Matthew Mason-Cox:** Further to the point of order: One can juxtapose any piece of legislation against this piece of legislation and call that relevant on the basis of the member's contribution. This legislation deals with industrial relations matters. The member has strayed well outside the bill and is now completely wasting time. I ask that he be drawn back to the leave of the bill.

**The Hon. Greg Donnelly:** Further to the point of order: With the greatest respect to the member, just because he doesn't get it does not mean it is not relevant.

**The Hon. Matthew Mason-Cox:** I take offence at that comment and I ask the member to withdraw it.

**The PRESIDENT:** Order! I remind Mr David Shoebridge that during the second reading debate he should make comments that are within the leave of the bill. The Hon. Matthew Mason-Cox has taken offence at the words he quoted that were said by the Hon. Greg Donnelly. I ask the Hon. Greg Donnelly to withdraw.

**The Hon. Greg Donnelly:** Mr President, could it be clarified what words he took offence to? I did not quite hear him.

**The PRESIDENT:** The words he took offence to were "doesn't get it".

**The Hon. Greg Donnelly:** Does he get it. Okay.

**The PRESIDENT:** He "doesn't get it".

**The Hon. Greg Donnelly:** I said he doesn't get it.

**The PRESIDENT:** Order! That is what I said, "doesn't get it". Is the member withdrawing the remarks?

**The Hon. Greg Donnelly:** Yes, I withdraw.

**The Hon. Michael Gallacher:** Poor old David has to regather his thoughts now.

**Mr DAVID SHOEBRIDGE:** Members will be pleased to know that a matter has been clarified with me in the time I have been seated, which relates to a point of order taken by the Hon. Dr Peter Phelps. It is a pity he is not present to hear it. He took offence at the use of the word "draconian". In a rather offbeat—which is a polite description—interjection he said, "I used the word 'draconian' in the wrong sense." So far as I can recall he thought it had something to do with dragons. Through some logic that I did not quite follow, he thought the word related to climate change and dragons and to his own concern about science. I have been provided with advice that it has nothing to do with dragons.

**The Hon. Matthew Mason-Cox:** Point of order: This might be enlightening for the member, but it is nowhere near the leave of the bill. I ask that the member be directed to return to the leave of the bill.

**Dr John Kaye:** To the point of order: This matter was raised by the Government Whip.

**The Hon. Michael Gallacher:** You should have taken it up at the time. It was out of order then; it's out of order now.

**Dr John Kaye:** If the Leader of the Government wishes to make a contribution, he certainly is welcome to do so.

**The PRESIDENT:** Order! Dr John Kaye will take his point of order and ignore interjections.

**Dr John Kaye:** This matter was raised by the Government Whip, who thought it was relevant to the matter. Therefore, it certainly is within the leave of the member—

**The PRESIDENT:** Order! I made a ruling at the time that there was no point of order. Obviously, it is out of order for Mr David Shoebridge to make comments about something I ruled out of order earlier.

**Mr DAVID SHOEBRIDGE:** I accept the ruling. If a proclamation is made by the Governor, then on the advice of the Minister the Governor can issue a series of regulations in relation to an essential service. Section 10 states:

- (1) Whenever it appears to the Governor that:
  - (a) from any cause the provision of an essential service is, or is likely, for any period:
    - (i) to cease, or
    - (ii) to be interrupted or reduced, or
    - (iii) to be provided in a manner that does not or is not likely to meet the reasonable requirements of the community, or
    - (iv) otherwise to be rendered insufficient for the reasonable requirements of the community, and
  - (b) an emergency situation exists, or is likely to exist, in relation to the essential service, the Governor may, by order in writing, declare that a state of emergency exists in relation to the essential service.

What happens once a state of emergency arises or a regulation is issued? The Minister's powers kick in under section 11 of the Essential Services Act. The Minister's powers, in part, are:

- (1) If an order is in force under section 10 in respect of an essential service, the Minister specified in the order may, by notice in writing:
  - (a) give such directions as are necessary to regulate, control, direct, restrict or prohibit the provision of the essential service and the activities of any person involved in the provision of the essential service, and
  - (b) direct a person who provides or is engaged in the provision of the essential service to provide it to a person specified in the direction.

Imagine a union going on strike and asking its members to stop providing an essential service. If it no longer has recourse to an independent umpire to get a fair set of wages and conditions, one would think that perhaps it could take some industrial relations action and do work to rule or cease providing the service for a period. But if a union does that and the essential service is any one of the listed services, a declaration can be made under



section 10 and the Minister can direct the union and the employees to go back to work. The Minister also can direct a person to comply with such terms and conditions as the Minister determines relating to the provision of the service. The Minister can direct a person to whom an essential service is provided to accept the provision of the essential service and direct any person to exercise such functions as appear to the Minister to be necessary or expedient to ensure or facilitate the proper provision of the essential service. The Minister can apply that direction throughout the whole of the State or part of the State and to a sector of the workforce or the whole of the workforce. What happens if a union has the temerity to go against a direction?

**The Hon. Walt Secord:** Tell us.

**Mr DAVID SHOEBRIDGE:** I hear the request.

**The PRESIDENT:** Order! The member will resume his seat. Previous Presidents have made rulings to the effect that if a document is a public document and readily available it should be referred to and simply paraphrased, or certain sections of it quoted which are pertinent to the debate. The member is going well beyond that practice now. It is not clear to me that it is pertinent to the debate. The member appears to be reading the entire Act and then splicing that with paraphrasing. The member will stop reading the Act. However, he will continue his remarks insofar as they are relevant to the leave of the bill.

**Mr DAVID SHOEBRIDGE:** I accept the ruling. What is the effect of the Essential Services Act? If an order is in place and the union refuses to comply with the order, and if it cannot go to the independent umpire and take some industrial action, there is no protection. The Minister, having issued the order and directed the union back to work, if the union then goes on strike and seeks in any way to limit or refrain from providing the essential services either through the union or its members, the Minister can direct the union to go back to work and direct the union to tell its members to go back to work. If the union persists with industrial action seeking to get some pressure for some fair wages and conditions, the Minister can suspend or deregister the union under section 17 of the Essential Services Act. That is what can happen.

There is no basic right to withdraw the labour of public sector workers in any of those essential services. If the right to go to the independent umpire is lost, the union and its members have absolutely nothing. If they cannot go to the independent umpire, they cannot go on strike. What has collective labour got? What have public servants got? They cannot go on strike and they cannot go to the independent umpire. They have absolutely no bargaining power. They have absolutely nothing with which to pressure the Government, their employer, for some fair wages and conditions. Their rights and conditions will be dictated to them by the government or the executive of the day.

I state in conclusion that The Greens will be proposing a series of amendments to the bill. If it cannot be defeated in whole—which it should be—then the worst effects of it should be ameliorated by amendments. If it is fair enough to exclude local government workers, what other workers should be excluded by the bill? The Greens have a series of amendments to ensure that others are protected. Rather than compel the commission to follow the dictates of the Government, The Greens have an amendment that will require the commission to consider—yes, to consider, but only to consider and not be compelled to follow—the dictates of the Minister of the day. I would hope for the support of at least those crossbenchers whose ears are still open to the true justice—

**The Hon. Charlie Lynn:** The crossbenchers are all sitting over there in the new alliance.

**Mr DAVID SHOEBRIDGE:** I note the honourable member's interjection that there are no crossbenchers, clearly ignoring—

**The PRESIDENT:** Order! There is far too much audible conversation in the House. The member will be heard in silence.

**The Hon. Charlie Lynn:** I'm talking about the lefties.

**Mr DAVID SHOEBRIDGE:** I repeat, clearly ignoring the presence in the Chamber of the two Christian Democrats and a member of the Shooters and Fishers Party. It may well be that they have ceased to be crossbenchers—

**The PRESIDENT:** Order! The Hon. Charlie Lynn will come to order.

**Mr DAVID SHOEBRIDGE:** The Hon. Charlie Lynn clearly ignores the presence in the Chamber of the two Christian Democrats and the Shooters and Fishers Party who are present in the Chamber, but no doubt recognising the reality that they are handing over their right as crossbenchers to fairly assess this bill. They are handing over those rights and signing on, for whatever reason, to this ugly agenda presented by the Government.

**The Hon. Charlie Lynn:** Point of order: Mr President, I was referring to the left-wing of the Labor Party sitting over there, and not to the crossbenchers sitting here.

**The PRESIDENT:** Order! That is not a point of order. Mr David Shoebridge has the call.

**Mr DAVID SHOEBRIDGE:** This is a nasty piece of regressive legislation. It is a direct attack on the rights and conditions of public sector workers—an attack that the Government failed to herald to the people of New South Wales in an election campaign that ended only a matter of weeks ago. Yet the Government expects this House, without demur, to pass this nasty piece of legislation, this gross attack, without standing up and speaking on behalf of those 400,000 public sector workers, their families, their colleagues and friends whose rights and conditions are being attacked by this ambush from the other side. Well, this side of the House will not be silent while that happens. The Greens will not remain silent while that happens. We will speak up for the rights of public sector workers. We will not see them caught between the essential services legislation and this Government dictat, with no reasonable way to exercise their industrial right to fair wages and conditions.

**The PRESIDENT:** Order! It is believed that the longest single speech—that is, in one delivery—was by the Hon. G. R. "Mick" Ibbett on 20 March 1991. He spoke for three hours and fifty-eight minutes on the Constitution (Legislative Council) Amendment Bill. In the Address-in-Reply debate on 4 April 1990 and 1 May 1990 the Hon. Mick Ibbett spoke for a total of four hours and thirty-four minutes. However, that was not in one delivery. Mr David Shoebridge has come in at five hours and fifty-eight minutes. I note that for the record.

**The Hon. ROBERT BORSAK** [12.15 a.m.]: On behalf of the Shooters and Fishers Party I lead in debate on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011 and will be brief. As I noted in another debate last week, the current Government has just won a landslide victory and will inevitably take a different approach to that of the previous Government on issues such as the House is debating now. That is not to say that the current Government will be afforded a blank cheque in this House, but it does have the right to implement its legislative agenda. A key issue that the current Government campaigned on was in fact fiscal responsibility.

Given the importance of the legislation before the House, we have consulted widely with the key stakeholders and have reviewed the State accounts. As an accountant for more than 40 years I found they do not present a pretty position or picture for the citizens of New South Wales. In our negotiations with the Government we have been given an assurance that the Police Association will be allowed to pursue its current wage claim and that it will be unaffected by any proposed changes. Likewise, we will be moving an amendment that will exempt local government employees from this policy, as they are not employed by the State Government.

Under the proposed changes the Industrial Relations Commission must give effect to certain aspects of government policy on public sector employment that is declared by regulations to be an aspect of government policy. Given that regulations can be disallowed by either House, and in particular this House, where the Government does not have the numbers in its own right, and subject to our amendment and an assurance that the Police Association will be allowed to pursue its current wage claim and will be unaffected by any proposed changes, the Shooters and Fishers Party is prepared to give conditional support to the bill.

I want to refer to some disingenuous arguments that are circulating in respect of the bill. The current Government did not pluck this policy out of thin air. In 2007 the then Iemma Labor Government put out its "New South Wales Public Sector Wages Policy 2007", which provided for "a process to ensure all New South Wales public sector organisations meet the objectives of section 13 of the Fiscal Responsibility Act (New South Wales) 2005." The intention of the 2007 policy was to maintain real wages by allowing for increases of 2.5 per cent per annum, in line with a consumer price index of between 2 per cent and 3 per cent. Additional increases of about 2.5 per cent would be available where employment-related cost savings were achieved. This policy:

... applies to all negotiations, variations, claims or offers by management that impact on wages, salaries and employment conditions, whether or not they are formalised in an award, agreement or any other arrangement.

Therefore this policy, as I said, is not something that the current Government simply plucked out of thin air. It is a policy that has been in place for a number of years. The difference is that the current Government, which campaigned during the election on fiscal responsibility, is seeking to enforce a policy put in place by the previous Labor Government. Our main concern with this policy change is that it places an unfair burden on some public sector employees. In the case of police, it is very difficult to find employee-related cost savings when approximately 80 per cent are front-line wage-related staff costs.

In relation to health workers, it is simply unviable as approximately 40 per cent are front-line nurses and approximately 60 per cent are employed in human resources telling front-line nurses how to do their job. If the Government is fair dinkum about reducing excess fat in the public service, I would suggest that it look very closely at the Department of Environment, which employs more than 10,000 public servants. This stands in stark contrast with the number of front-line police manning level of only 16,000. If the Government reduced that figure of 10,000 to less than 1,000, not one citizen in New South Wales would notice any difference in service. The same does not apply to police or indeed nurses in this State. As I have stated, the Shooters and Fishers Party is prepared to give conditional support to the bill, keeping in mind that any future regulation can be disallowed by this House.

**Reverend the Hon. FRED NILE** [12.20 a.m.]: I speak on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011. Together with the Hon. Robert Borsak, who spoke on behalf of the Shooters and Fishers Party, I acknowledge that the Christian Democratic Party has been involved in negotiations with the Government. As I stated publicly to the media, we were concerned about the New South Wales Police Association's current claim before the Industrial Relations Commission. I am pleased that the Government has assured us that the Police Association will not be included in the legislation and its claim will be allowed to proceed to its final conclusions.

In addition, the Christian Democratic Party noted a matter concerning employees in local government, which will be clarified in an amendment foreshadowed by the Shooters and Fishers Party, which we will support, that makes it clear that this bill does not cover employees in local government. Apparently it was not the Government's intention for that to occur in any case but, as sometimes happens with legislation, unintentional items are included in the drafting of the bill.

As has been stated, approximately 430,000 workers are in the public sector, an important area of our State, who have families to support. This is a serious matter to which the Christian Democratic Party has given very detailed and lengthy consideration. We have to have an element of trust in the Government in the way that we approach this legislation which, in simple terms, is Australian Labor Party policy. The difference is that the previous Labor Government, because of its strong relationship with unions, was fearful to actually implement its own policy. The former Government supported the 2½ per cent increase but did not strongly carry out the second aspect of the agreement for an extra 1½ per cent, or whatever could be negotiated based on savings particularly in the employment area. The Coalition Government is now putting in place a procedure to ensure that any further increases in wages above the 2½ per cent, particularly at least 1½ per cent, are fully justified in the public interest, that is, the taxpayers of New South Wales.

That is for the purpose of achieving a balanced State Budget in surplus and not in debt. I understand that the current net debt for New South Wales is approximately \$12 billion so some action has to be taken. The Premier, Barry O'Farrell, went into the election and, although he did not go into detail about proposed legislation, he constantly repeated that the Coalition, if elected, would rebuild the economy, return quality services, renovate infrastructure, restore accountability and protect the local environment and communities. This bill is fulfilling that commitment. As members know, employee-related costs are the largest component of government expenditure, accounting for almost half of government expenses. In 2010-11 approximately 49 per cent of government expenses will be employee-related and are projected to be \$28 billion. Managing that expenditure is a major challenge, given that front-line services such as education, healthcare and policing are labour intensive.

Each percentage increase in wages permanently increases government expenses by approximately \$300 million per annum. However, in discussions with the Christian Democratic Party and the Shooters and Fishers Party the Government assured us that any cuts in the employment area would not apply to front-line services. That is a black and white commitment. I know it is difficult to achieve those cuts in the bureaucracy as often back-room staff far exceed front-line staff but I believe there is room for cuts in back-room staff in the future. However, the Government will have to balance that up in order to achieve not only economic cost savings but also to maintain the efficiency of the agency, whether it is police, health or the ambulance service, et cetera. It places a heavy responsibility on the Government.

The bill has a number of provisions which have been outlined by previous speakers and I will not canvass them again. New section 146C will be inserted after section 146B on page 3, which outlines how this legislation relates to the Industrial Relations Commission. They will have direction from the Government as to how they should respond to potential increases. I note the Christian Democratic Party has received advice of the Government's commitment that will be conveyed to the Industrial Relations Commission that all future regulations make it clear that there will be no consideration of any changes to, for example, unpaid parental leave, paid parental leave, employer payments for superannuation, long service leave, extended leave, annual leave—a number of members have tried to create fear in the community by suggesting that annual leave requirements would be cut back, but that will not be possible under this legislation—sick leave requirements, public holiday commitments or to part-time work. I know the unions will be pleased in relation to public holidays.

I know the Government has not stressed those points in this debate, although it should have. I believe that should reduce some of the genuine concerns of the Hon. Greg Donnelly, who feels very strongly about workers' rights. If the Government can trim the fat in the budget and balance it, it will then be able to pursue the promises of an additional 550 police, 2,475 extra nurses, 900 extra teachers and 1,390 extra beds in hospitals. All of that depends on the Coalition Government having its budget under control. This bill is one measure to seek to do that, and other measures will be introduced in due course. I believe in the Government's intentions and that this legislation is justified because of the former Government's mismanagement having left this State a large \$12 billion net debt for the Coalition Government. If no reining in was attempted by the Coalition Government the net debt would dramatically increase each year for the next four years and become totally out of control. For those reasons, the Christian Democratic Party supports the passing of the bill, subject to the amendments.

**The Hon. GREG DONNELLY** [12.29 a.m.]: I make a contribution as the fourth speaker in this debate on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011. I know many other members wish to make a contribution following mine. We are also debating a proposed amendment of the shadow Minister, the Hon. Sophie Cotsis. I will start by making preliminary points in regard to the proposed amendment. The amendment states:

That the question be amended by omitting "now read a second time" and inserting instead "be referred to General Purpose Standing Committee No. 1 for inquiry and report, with particular reference to:

- (a) Essential front-line services, such as policing, education, health care and emergency services
- (b) Service delivery in rural and regional New South Wales
- (c) The implications on the judiciary and on the principle of the separation of powers, and
- (d) Any other adverse effects of the legislation.

The Opposition has brought forward this proposed amendment because we are unclear about the full impact of the legislation and we find ourselves in a situation where we are forced to read what has been put out in the public domain, primarily by the Minister for Finance and Services in his second reading speech in this debate, and public statements made via media releases and in other ways by representatives of the Government—I am thinking of comments made by the Premier—and by reading *Hansard* from the other place in answers to questions from the Opposition. The contribution of Reverend the Hon. Fred Nile was short and sharp, but I learned more about some significant aspects of the Government's intention than we have been able to establish thus far. It was not for the want of trying.

**The Hon. Greg Pearce:** Because Reverend the Hon. Fred Nile asked nicely and you should have done the same. He showed interest instead of running scare campaigns.

**The Hon. GREG DONNELLY:** So we have showed no interest?

**The PRESIDENT:** Order! There is far too much audible conversation in the Chamber. The Hon. Greg Donnelly has the call.

**The Hon. GREG DONNELLY:** I understand from the comments of the Minister that the Opposition has not been showing any interest in this matter. That comes as a real surprise to me, because I thought, along with my colleagues in other parties in this House, the Opposition had been showing a deep and abiding interest

in this matter now for some time, certainly from the date of the second reading speech by the Minister, which was 24 May. At the very least, we have been on notice since that date in relation to the nature and the scope of this bill.

As I was saying before I was interrupted, in the short contribution from Reverend the Hon. Fred Nile we have come to find out in a little bit more detail, although not significant detail, what appear to be some additional intentions of the Government in relation to the legislation. I welcome any further contributions by the Minister and senior Government representatives in this debate to help enlighten me, and indeed the other members of this House, so that we can comprehend the nature and scope of what we are dealing with. The Minister accuses the Opposition of running a scare campaign. I have not participated in any scare campaign. I have been trying to understand the nature of the legislation before the House. The Minister would have to acknowledge at least that going to his second reading speech would normally be seen by most members in this House as a primary way to source information about and understand the legislation we are dealing with.

I will not read the Minister's second reading speech because it appears in *Hansard*, but I will refer to specific aspects of the speech that do not go to setting the context and providing an overview of the legislation, but rather to the Minister's specific reflections and comments about the bill. I refer to page 30 of *Hansard* dated 24 May. I will quote a paragraph on that page, together with another paragraph over the page, to explain how I have come to understand the potential impact of this bill if it becomes law. The Minister stated:

I now turn to elements of the bill. The primary amendment to be made to the Industrial Relations Act is the insertion of a new section 146C containing the explicit requirement that when making or varying orders the commission—

obviously, that refers to the New South Wales Industrial Relations Commission—

must give effect to the Government's policy on conditions of employment for the public sector as declared under the regulations—

obviously, regulations made by the Government—

The reference to the Government's policy on conditions of employment is intended to be broad enough to enable all relevant elements of the public sector wages policy to be included in the declaration made under the regulations. It will be appreciated that while the focus of the wages policy is on ensuring appropriate restraints on the quantum of pay increases—

clearly, that is a clear driver in the Government's position. I believe the Government has been very clear about that and I do not cavil with it—

as outlined above, in order to do so the policy may also refer to other relevant conditions of employment, such as increased leave entitlements or a new classification structure.

The conditions of employment are obviously presented as examples and are not conclusive. But the point is made that at the end of the day, as I read the Minister's second reading speech, there could potentially be a range of matters. On any fair reading of the words, that is the conclusion that one could reasonably draw. I go to the following page of the Minister's second reading speech, and once again I will quote a couple of paragraphs. The second paragraph on page 31 states:

The objective is supported and strengthened by subsection (3) of proposed section 146C, which provides that any award or order that is inconsistent with the declared wages policy of the Government will be of no effect.

The amendment also includes very specific words to ensure that its intention may not be subverted by reference to section 146 or any other provisions of the Act. This is found in proposed subsection (7). In order to make it clear to the commission what the amendment requires it to do, the relevant elements of the policy will be declared in the regulations.

The commission will be left in no doubt about the matters to which it must give effect when it makes or varies awards or orders relevant to public sector employment.

...

Similarly, where a claim has been filed to create an additional condition of employment, such as increased leave entitlements or a new classification structure, this too has to be assessed by the commission in accordance with the terms of the declared government wages policy.

Except for one or two paragraphs, what I have read—I have spared members by not reading any further—is all that I could find on the record of what the Government intends to do in terms of the application of this bill if it becomes an Act. In trying to comprehend this, we have a relatively small amount of information that is, in some respects, incomplete. I say that with some confidence because Reverend the Hon. Fred Nile has indicated that

some information has been shared with him with regard to what could be construed—I do not want this to be misunderstood—as concessions to resolve concerns that public sector employees might have in terms of the impact of this legislation. I will comment on that later. I am still not clear about this, and I will not canvass it with the member.

We will probably hear more from the Minister about these matters in due course. If I understand correctly, the list includes unpaid parental leave, paid parental leave, superannuation, long service leave, extended leave, annual leave, sick leave, public holidays and part-time employment. Reverend the Hon. Fred Nile said "other". I do not understand whether the "other" is one additional point or some additional points. No doubt in due course we will find out the form of the concessions that will be reflected in regulations to ensure that these things are protected in the way Reverend the Hon. Fred Nile has described them. I am not sure whether that will be included in the legislation itself or whether it will be left as an undertaking.

**Reverend the Hon. Fred Nile:** It will be in the regulation.

**The Hon. GREG DONNELLY:** As Reverend the Hon. Fred Nile understands it, these matters will be contained in the regulation.

**The Hon. Greg Pearce:** I can confirm that.

**The Hon. GREG DONNELLY:** Okay. The other point I want to make relates to the "other". I am keen to hear what the "other" is. I return to my original point, which related to understanding the totality of the issue. We understand that business is business in politics, and the Government wants to do what it wants to do and will initiate parliamentary tactics to produce the result it desires. But at the end of the day a number of people in this State and families that rely on those people are concerned about this legislation. As I have indicated, I have not been out there whipping up sentiment about this issue. I have been trying objectively to make a judgement about it, to the extent that it has been difficult to fully comprehend the Government's position.

It still seems to be a moving feast because, as in the previous contribution, we heard some additional news that may be construed as good news, depending on how we look at it. Is that it? Is there more? Do we have to wait and see? We are simply not sure. Therefore, the idea of referring this to General Purpose Standing Committee No. 1 was developed in the context of not knowing. The Opposition did not come into the House and throw around different options, wondering which one would land. We thought, "How can we inform ourselves about the real effect of what clearly is"—and no-one denies this—"a significant piece of legislation and probably the most significant piece of legislation that the new Government has introduced in the early part of its term of office?"

From the Opposition's point of view, referring the bill to General Purpose Standing Committee No. 1 was not necessarily the best option because at the end of the day we did not control that committee. It was not as if the committee members would produce a particular outcome. The committee comprises the Chair, the Hon. Catherine Cusack, and the Deputy Chair, the Hon. Jennifer Gardiner. Other members are Dr John Kaye, Hon. Melinda Pavey, Reverend the Hon. Fred Nile—

**The Hon. Catherine Cusack:** Reverend the Hon. Fred Nile is the chair.

**The Hon. GREG DONNELLY:** I apologise. Who is the deputy chair?

**The Hon. Melinda Pavey:** I am.

**The Hon. GREG DONNELLY:** I apologise. The Hon. Eric Roozendaal and the Hon. Mick Veitch are also members of the committee. My point is that it is not the case that the Opposition—

**Reverend the Hon. Fred Nile:** They are in alphabetical order.

**The Hon. GREG DONNELLY:** Indeed. From our point of view, we could not control the outcome of an inquiry. If one thinks about it, a request to have important legislation of this dimension examined by a committee is not an amazing proposition to put before the House. I make this point about the WorkChoices legislation. People might have different views of history and interpretation, but WorkChoices ultimately led to the defeat of the Howard Government and John Howard in his seat. Some people wish that that was not the case,

but that was the outcome. That result certainly reflected strong concerns in the community about the WorkChoices legislation. Even in the context of the Federal Parliament, John Howard was in a position to proceed with WorkChoices in the way he did. It must be said that going back many years John Howard was determined to proceed with industrial relations reform.

**The Hon. Greg Pearce:** This is not industrial relations reform of that nature. It is a wages policy. It is the previous Government's wages policy. That's all it is.

**The Hon. GREG DONNELLY:** I do not agree and I will be responding. I am not using scare tactics. I am using a moderated tone as I work through the issue. In the end John Howard enabled the Senate to hold an inquiry, albeit a brief one. That inquiry was not controlled by the then Opposition; it was simply to capture a complete picture of the legislation and its potential impacts. Through that process citizens and/or representative organisations, if representative organisations wanted to participate, could be involved in the inquiry.

I find it extraordinary that we have this bill before us. About 350,000 employees and their families, who rely on the wages they earn, will be affected by this legislation. However, the Government is not prepared to enable even a very short, sharp inquiry to be conducted to assist people who do not have the same privilege that we have in the Parliament to be informed about the bill and its potential consequences. It would not be an environment in which people were beating their drum. It would be a forum in which they would be able to establish or understand why the Government is doing what it is doing and to express their concerns. The idea of upper houses allowing short reviews to take place—

*[Interruption]*

Members opposite might not like to hear this, but it is not uncommon for major pieces of legislation that come before this Parliament to be examined, scrutinised, considered or examined by a committee. No-one is denying that this is a significant piece of legislation; clearly it is. It is not as though the Opposition controls the committee. To be quite crude about it, the Government could almost write the report itself. There should be a capacity to have an inquiry and to allow people who are affected by the legislation to ventilate their concerns, to ask questions and to have a report of sorts produced that would potentially help to allay a number of fears.

The previous speaker said that a large number of people had written to him and had used language that the Minister might consider intemperate. I do not tell people how to write emails and letters. However, if they are using that language, perhaps that reflects the depth of their concern. I do not think anyone is suggesting that they are bodgie letters. I have been receiving them and the Minister might also be receiving them.

**The Hon. Greg Pearce:** I have not received any.

**The Hon. GREG DONNELLY:** The Minister says that he has received no correspondence from anyone in New South Wales—

**The Hon. Greg Pearce:** I did not say that.

**The Hon. GREG DONNELLY:** The Minister said that he has not received any correspondence from any public sector employees in New South Wales about the legislation.

**The Hon. Greg Pearce:** If you are going to quote me, at least quote me accurately.

**The Hon. GREG DONNELLY:** I am happy to put what the Minister said on the record.

**The Hon. Greg Pearce:** That isn't what I said.

**The Hon. GREG DONNELLY:** What did the Minister say? That is what I understood him to say.

**The Hon. Greg Pearce:** You are wrong.

**The Hon. GREG DONNELLY:** I thought that is what he said. If he refuses to tell me what he said, I can only put on the record what I thought he said. The idea of an inquiry is not radical. That is why the Opposition raised the matter in the House. I will not take up the time of the House detailing committee processes, but they do provide people with the opportunity to make a submission. Often that is all they want to do; that is, to express a point of view or to make a comment.

**Reverend the Hon. Fred Nile:** We have had about 10,000 already.

**The Hon. GREG DONNELLY:** That is more than I have received. Reverend the Hon. Fred Nile is obviously referring to the petition tabled in the other place.

**Reverend the Hon. Fred Nile:** No, I am referring to correspondence that I have received.

**The Hon. GREG DONNELLY:** I must admit that I have not received that many pieces of correspondence on this issue. However, I am conscious of the petition tabled in the other place.

**The Hon. Greg Pearce:** Set up by John Robertson as part of his scare campaign.

**The Hon. GREG DONNELLY:** The Minister says that it is part of a scare campaign.

**The Hon. Greg Pearce:** It is.

**The Hon. GREG DONNELLY:** I am happy to address that because it is important to refute that claim. Before hearing Reverend the Hon. Fred Nile's contribution about half an hour ago, I had not heard about these things being "red circled" and put into regulations for protection. I am using loose language to describe this. As I said, it is not a complete list because apparently there is a section called "other", and we are yet to find out what that is. I had not heard about that. With the greatest respect, I do not think employees directly affected by this legislation have heard about it either. I do not speak for them, but it may well be that had they heard about it, some of their concerns may have been allayed.

I make the point, and it goes to a point I will address later in my contribution, that one of the big issues that arises from a piece of legislation like this is whether as members—41 members and the President—we are in a good position to make a judgement about the importance or otherwise of particular work entitlements. I will deal with the question of award content later. However, on reflection this is probably my biggest area of concern with regard to this legislation, and I have a number of concerns.

**Reverend the Hon. Fred Nile:** There are two stages; we are debating the main bill and then later we will debate the regulations.

**The Hon. Greg Pearce:** It is the way legislative schemes work.

**The Hon. GREG DONNELLY:** I understand that, but that is not the point I am addressing. I will deal with what is before the House in terms of the nature of the instrument created and what flows from it. I am referring to the capacity to regulate wages and conditions of a group of workers in this State, in this case public sector employees—and I use that term broadly—through a regulation. The Government Whip referred to a "disallowable instrument". Of course, this House could potentially disallow one of these regulations.

However, with the greatest respect to members of this House and those who have served for a long time, honourable members know that awards are comprehensive documents that list not only wages, which are obviously very important, but also allowances—and there can be a range of them—and many other conditions. By supporting the bill, would we in effect be making ourselves a de facto commissioner and potentially judging what should be in or out with regard to wage rates, allowances and entitlements? Let us assume that the bill is passed and in the not too distant future a regulation is proposed and the appropriate steps are taken to challenge it. We could find ourselves debating that regulation.

In effect, we would be having a debate about wages, allowances or people's conditions. I find it difficult to comprehend—and I have high regard for the expertise, skills and legal knowledge of a number of people in this House—with all that taken into account how we as a House of review, which would not be able in the normal process to have evidence presented before it, would be able to make a judgement as to whether something was fair or unfair in the proposition before the House.

**The Hon. Greg Pearce:** We do that every day on every bill.

**The Hon. GREG DONNELLY:** Hang on. We would have a regulation and efforts being made to disallow it. There would be attempts by those who currently benefit from or enjoy those entitlements to lobby strongly that support should be given to make sure the regulation was disallowed. People would be chasing you



up on the phone or through email or whatever saying that you cannot do that. Appreciating the dynamics of the House and the influence of the Christian Democratic Party and the Shooters and Fishers Party, most of that lobbying would be directed to the four members of those parties because one would assume the Government wants those changes—that is why the regulation was made in the first place—and the Opposition and The Greens, with their combined vote, do not have enough numbers to have the regulation disallowed. So four members of this House would be heavily lobbied, if I can use that phrase, by either individual workers or their unions, putting the case why they must not allow this regulation.

In effect, we would have a situation that is analogous to but different from what happens in the current industrial relations system in New South Wales, where someone presides over a contested matter. With respect to that contested matter, the difference would be that the commission is an adversarial system where two different points of view are put and contested. The commission sits as an independent body and exercises its judgement to create a binding award, and the parties have to live with that. In the situation that I have described, the four members I have referred to would not have the luxury of properly conducted proceedings, where different points of view would be put and arguments presented. Some pretty heavy duty lobbying would be going on.

Presumably the Government would say that it needs to get the regulation through and then give its reasons, and the workers, either individually or through their representative organisations, would say, "We need to explain to you how these particular conditions are important"—and it may be all or a subset of conditions. They will plead that the members not allow the regulation to go through. They might have a whole range of reasons for that—but I will not get into that. I presume you would listen to those reasons and make a decision.

**Reverend the Hon. Fred Nile:** One of the problems is the police union case.

**The Hon. GREG DONNELLY:** This is part of the difficulty with the legislation. I am sure that Peter Remfrey, as secretary of that union, and the president and the officers of that union and the police men and women of the State will be pleased tomorrow morning to read in the newspapers that some statement has been made by the Government—not by the Government, but by Reverend the Hon. Fred Nile—about the position that it intends to take with regard to the police.

**Reverend the Hon. Fred Nile:** It will be in the reply; wait for the Minister's reply.

**The Hon. GREG DONNELLY:** We will hear it when the Minister replies to the debate in due course. The position I am trying to articulate is that—and I am sure this is not the intention of the Government because I do not think it would want to find itself doing this, and I do not think the four crossbenchers would want to find themselves in this situation—it is inevitable that there will be a process of lobbying and engagement on matters that go to individual worker entitlements. It is not as though we would be dealing with theoretical constructs or hypothetical situations—things that might or might not happen, something abstract. We would be dealing with workers trying to make contact with you or meet with you to say that the Government wants, through regulation, to take away completely or diminish a particular entitlement, and that entitlement is particularly important to them. The workers would argue their case before you. The situation you would find yourself in—

**Reverend the Hon. Fred Nile:** It is the reverse of that. The union would know what action it could take to get that 1.5 per cent extra. If they deliver on it, we do not have to tell them.

**The Hon. GREG DONNELLY:** Perhaps I have not been clear in my explanation or perhaps I misunderstood what I have been told this evening. As I understand Reverend the Hon. Fred Nile's comments in his contribution tonight, a group of entitlements will be red circled. That is a finite set of entitlements. We all know that awards contain a whole range of entitlements. The history of how those entitlements came to be there in the first place will vary from award to award and from one sector of the public service to other sectors of the public service. That is the reality of what we find in the awards. If one looks at an award you will see the first clause, the arrangement clause, and it has in alphabetical order the clauses. But there is no way of understanding how the award came about other than by knowing its history. If you look at the *Industrial Gazette*, you can see how entitlements were built up and came about over time. My point is that, except for those red-circled entitlements, what if the Government comes along and, through regulation, says that it wants to take away or reduce a particular entitlement, to change it.

**Reverend the Hon. Fred Nile:** It is the other way round. It has to be bargained from the union.

**The Hon. GREG DONNELLY:** But as I understand it the regulation can be made and, in that regulation, the Government is not prohibited from embedding a provision that says that a particular entitlement—which may not be one of the ones that has been mentioned—be reduced.

**Reverend the Hon. Fred Nile:** It has to be bargained with the union. The employees have to be given ways to produce savings. The Government doesn't find the savings.

**The Hon. Catherine Cusack:** It's all about productivity.

**The Hon. GREG DONNELLY:** As I understand what is being said—and I ask members to correct me if I misunderstand this—the regulation would not come before the House unless negotiation had taken place whereby some change had been made that would equate to a percentage, which would justify an increase.

**The Hon. John Ajaka:** Sort of like Eric intended but didn't actually put into practice.

**The Hon. GREG DONNELLY:** The issue is this, though—

**The Hon. Trevor Khan:** This is not rocket science, Greg. I'm sure Eric explained it to you over and over again. You blokes just never listened and never comprehended how these things work.

**The Hon. Catherine Cusack:** You kept rolling him.

**The Hon. GREG DONNELLY:** The issue is—

**The Hon. Catherine Cusack:** What's the issue, Greg? We roll Greg?

**The Hon. GREG DONNELLY:** No. The issue is: How do the workers deal with a situation—

**The Hon. Greg Pearce:** The issue is that the savings were agreed, the pay rises were paid, and the savings were achieved.

**The Hon. Helen Westwood:** Point of order: It is impossible to hear the Hon. Greg Donnelly's speech because of the constant interjections. I understand that pursuant to the standing orders of the House all interjections are disorderly.

**The Hon. Trevor Khan:** To the point of order: The Hon. Greg Donnelly is asking questions of members on this side of the House, who, by way of courtesy, are responding to his questions. If the Hon. Helen Westwood does not want that to occur, I strongly recommend she speak to the Hon. Greg Donnelly and have him cease asking us questions.

**The Hon. GREG DONNELLY:** To the point of order: In this debate I have only directed questions to two people in the House: the Hon. Greg Pearce and Reverend the Hon. Fred Nile.

**The Hon. John Ajaka:** Who are on this side of the House!

**The Hon. GREG DONNELLY:** I am not claiming that the Minister and Reverend the Hon. Fred Nile have been interjecting. Indeed, it is the other members on the backbench who are interjecting.

**The Hon. Helen Westwood:** Further to the point of order: Members are showing absolute disrespect. Even while you were hearing the points of order members were interjecting. I am trying to address a serious point of order so we can all hear this excellent contribution to this very important debate, but while I am doing so members opposite are interjecting and showing complete disregard for the standing orders of this House.

**The Hon. Peter Primrose:** To the point of order: Surely in debate rhetorical questions asked by the member who has the call are in order. However, all interjections are, by definition under the standing orders, disorderly.

**The Hon. Paul Green:** To the point of order: It is very early in the morning. I think it is to the Hon. Greg Donnelly's credit that he is trying to understand such an important issue. It is important that we have this dialogue, because this issue is too important not to understand for the benefit of the people of New South Wales.

**The Hon. Peter Primrose:** Further to the point of order: With regard to the second reading debate, the standing orders are in place to enable members to contribute and other members to respond. That is precisely why we have the Committee stage, which presumably would follow if this matter proceeds to the second reading. More importantly, complex matters are referred to committees such as general purpose standing committees so that we can have this sort of debate.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Interjections are disorderly at all times. Members will direct their contributions through the Chair, not across the Chamber. The Hon. Peter Primrose is quite correct: dialogue across the Chamber might be more appropriate in the Committee stage. The Hon. Greg Donnelly may proceed.

**The Hon. GREG DONNELLY:** I was seeking to raise a critical point. I was trying to understand precisely what the Government is planning with respect to the bill. Even the recent exchange between members, which was the subject of the point of order just dealt with, produces further information about how this bill will work. The honourable Minister is simply saying, "This is what will happen. This is how it will work." However, it is not clear at all. I ask the Minister—I am sure he will do this later—to inform me where in the bill it provides for what is in effect a process outlined by Reverend the Hon. Fred Nile, where the union, the organisation representing the workers, will negotiate an outcome that will be tagged with a dollar value, which will then become part of a calculus used to work out the size of an increase.

The increase would not necessarily have to be 1.5 per cent. As I understand what the Minister has said, 2.5 per cent is the base and then you build on top of that. No provision in the bill describes what has just been put to me as the way the legislation will work. The bill is particularly clear about the restrictions placed on the Industrial Relations Commission in terms of what it would be bound by, subject to the content of the regulations that are passed. However, the bill is silent about the process that has just been outlined. So how would people know that that is the case? It does not follow that that necessarily would have to be the case.

I have not been privy to the discussions that Reverend the Hon. Fred Nile, and no doubt the Shooters and Fishers Party, have had with the Government. However, in his contribution Reverend the Hon. Fred Nile explained that there appears to be some intention that, given the cuts that will take place in the future—they are the words of Reverend the Hon. Fred Nile—protection will be provided for front-line service employees. However, a number of employees who work in the State public service are not front-line employees. I do not think there is debate about that. I know that there is debate about the numbers of them and about whether one department has more than another, or whatever the case may be. But there is no doubt that some employees in the State public service are clearly not front-line employees, or indeed could be front-line employees by the very nature of their job because they work, to use a phrase used in management, back of house.

To the extent that those people are back-of-house employees and not front-line employees, and therefore they will not be protected by the effect of cuts in the future, I raise an issue about the effect of this legislation on them. They are not people who had their wages and conditions determined in any way other than pursuant to their award. In other words, their wages and conditions are simply covered by the award. They have a single employer, which is the New South Wales State Government, and their wages and working conditions, from beginning to end, are covered by the award.

The Government says, "We provide a 2.5 per cent wage increase as a base increase but if you want more we will have to talk about negotiating changes, perhaps either taking away or downgrading existing conditions in the award." As I understand it, in some cases that would potentially form part of the Government's argument to justify paying an increase. In other words, workers could find themselves potentially in a situation where they got the 2.5 per cent increase and if they wanted to obtain more they would have to trade off award conditions.

**Reverend the Hon. Fred Nile:** Or find savings.

**The Hon. GREG DONNELLY:** The proposition that has been raised is that the employees find savings. With respect to employees finding savings, I must say that in a past life as a union official I was involved in a number of negotiations over wages and working conditions and invariably it is the case that the employer comes forward with a proposition. The employer puts a proposition and the employees respond to that. It would be a very interesting situation to introduce into our industrial relations system in New South Wales with respect to public sector employees that the employees themselves work out how to make the cost savings.

**The Hon. Peter Primrose:** Point of order: It is the same point of order that I raised earlier. I am trying to listen to the debate and I cannot hear over the interjections coming from the other side.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! Interjections are disorderly at all times. Members will listen to the contribution of the Hon. Greg Donnelly without interruption.

**The Hon. GREG DONNELLY:** The scenario is that workers whose terms and conditions are governed by an award—if I understand what the Government is saying and it is becoming clearer as the discussion goes on—will have to reduce their award entitlements to get a wage increase above 2.5 per cent—

**Reverend the Hon. Fred Nile:** If they increase their productivity.

**The Hon. GREG DONNELLY:** By reducing award conditions—

**The Hon. Catherine Cusack:** This is Labor's own policy.

**The Hon. GREG DONNELLY:** We have an interesting dialogue going here because there is a bill before the House—that is all we have, the bill, the second reading speech and bits and pieces of information that are becoming clearer as we go on, at least in part.

**The Hon. Greg Pearce:** Why don't you read your own 2007 wages policy? That will give you a basis.

**The Hon. GREG DONNELLY:** There is a bill before the House and it will become law or be defeated. If I understand what Reverend the Hon. Fred Nile is saying, there is a policy that will operate and there is the bill. However, as Reverend the Hon. Fred Nile would agree, Government policies can come and go. There is nothing set in concrete about a Government policy.

**The Hon. Catherine Cusack:** That is why it will be in regulations so you can disallow it—so you can choose.

**The Hon. GREG DONNELLY:** This goes to the point I made. In effect you are turning this House into a quasi industrial tribunal whereby members of this House—

**The Hon. Greg Pearce:** Rubbish.

**The Hon. GREG DONNELLY:** We will be faced with making a judgement about the merits of what is in effect a package contained in a regulation about entitlements. If there is an attempt to have it disallowed, the 41 participants in this House will be scrutinising a regulation that will contain wages, allowances or working entitlements, or all three, and making a judgement about whether it weighs up and is fair and should be let through on its merits or rejected. That is what we would be faced with.

**Reverend the Hon. Fred Nile:** That is what the workers want.

**The Hon. GREG DONNELLY:** The workers want?

**The Hon. John Ajaka:** Point of order: It is similar to the point of order taken by the Hon. Peter Primrose. The problem we have here is that the speaker is directing his statements to various members on this side literally by way of questions and asking them to confirm, agree or disagree with what he is stating, or seeking information from them. I ask that the speaker direct all his comments through you.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The Hon. Greg Donnelly will direct his remarks through the Chair. Members will resist the temptation to answer rhetorical questions.

**The Hon. GREG DONNELLY:** I will exercise my willpower to resist them at this time of the morning.

**Reverend the Hon. Fred Nile:** Point of order: My concern is that because of the way the Hon. Greg Donnelly is making these statements, to remain silent implies we agree with what he just said. That is the danger in the way he is posing these issues. I do not want to mislead him into thinking that his stating a proposition and our remaining silent means it is correct. We are trying to indicate that his interpretation is not correct.

**The Hon. Catherine Cusack:** To the point of order: The Hon. Greg Donnelly has described the process as discussion and has stated that he is finding it enlightening and his knowledge is developing as a result of his speaking for an hour and asking us questions. That suggests it is more than a rhetorical question that is being asked.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The Hon. Greg Donnelly will direct his remarks through the Chair.

**The Hon. GREG DONNELLY:** I thought debate in this House was partly about discovery and understanding what the bill may do in terms of its implications for employees. I am not a State sector employee covered by one of these awards so in that sense it could be argued I am remote from that. But there are at least 350,000 people in this State who are State sector employees and are covered by State awards. I have to say that the ones I have spoken to and their representatives do not have a clear understanding of what is in effect a parallel exercise.

Certain things are happening in the context of a Government policy, which is subject to unilateral change by the Government at any time, and the bill if it becomes an Act. The two are to be read and understood fully in conjunction with each other. One has to look at the Government's policy, which may be changed unilaterally, and also look at the bill. If members can put aside for a moment their concerns about the Act, we can come back to that. We could have a whole debate on legitimate concerns about the impact of the unilateralism of the government of the day—it could be any government of the day being able to change its policy unilaterally and State sector employees having to catch up to understand things. At the end of the day these people rely on their award conditions.

**The Hon. Greg Pearce:** Hello, that is what Costa and Roozendaal did.

**The Hon. GREG DONNELLY:** That is what we are trying to get to the bottom of here. Are we talking about essentially an exercise of a 2.5 per cent wage increase and award offsets?

**The Hon. Melinda Pavey:** No.

**The Hon. GREG DONNELLY:** I will not respond to that interjection because I have been directed to speak through the Chair. What does productivity mean?

**The Hon. Catherine Cusack:** This is ridiculous. This is really silly.

**The Hon. GREG DONNELLY:** I am sure the honourable member has a great deal of experience in industrial relations practice and jurisprudence. The practical reality of the meaning of productivity is in the eye of the beholder. Forget about this Government for the moment and think about another employer. An employer could put a case for wanting productivity outcomes met and insist that that be done through changes to award conditions. They could be quite firm about that. I say that as someone with some experience of industrial relations and I have dealt with employers. I am not saying all employers are like this but sometimes employers come to a negotiation and say: "Sure, we are prepared to pay some extra money but you will have to trade off award conditions." They are the employers and they can put that position. But I cannot think of one instance I have experienced where employees have responded that they have found those other things and can quantify them to justify the increase. At the end of the day to achieve the productivity increase there has to be a way to calculate it.

If one takes a group of employees in any workplace—and it could be anywhere in the public sector—how does that group or its trade union representative calculate the actual value of the productivity if the employer wants changes in award conditions? Potentially one has the situation where the employer is pressing for changes to award conditions. At the end of the day employees are not in a position because of a lack of corporate intelligence, knowledge, resources or the wherewithal to do the calculations to work out the value of that productivity. Ultimately the value of productivity is measured and judged by the employer. I cannot recall a negotiation where the workers had been able to knock up a package so to speak, have it valued and the employer accepted it. It does not work that way.

**The Hon. Trevor Khan:** Be careful with your terminology. They enter into a negotiation and it is agreed as to the work value.

**The Hon. GREG DONNELLY:** We are introducing a new concept. I am not going to be distracted by comments about work value.

**The Hon. Catherine Cusack:** It is not a new concept. Productivity—

**The Hon. GREG DONNELLY:** What we are saying now is that productivity is the same as work value and that is not necessarily the case. The term "productivity" is bandied around here as a single, understood, accepted definition.

**The Hon. Catherine Cusack:** Yes, the Carr Government brought it in. It used to be efficiency and the Carr Government called it productivity.

**The Hon. GREG DONNELLY:** I do not have the policy in front of me that defines the meaning of the word "productivity". I am not trying to be the devil's advocate; I am trying to present an argument on the notion of productivity. Where an employer holds a firm position that the way in which the productivity outcome is going to be secured is through trading award conditions—

**The Hon. Paul Green:** Or work processes; for example, instead of sending three police you only send one and you do not need a magistrate to sign off on a domestic violence order, et cetera.

**Reverend the Hon. Fred Nile:** The police are doing it already.

**The Hon. Paul Green:** They can make a saving of 18-man hours, which would equate to value of work.

**The Hon. GREG DONNELLY:** I am talking award conditions here.

**Reverend the Hon. Fred Nile:** Work practices.

**The Hon. GREG DONNELLY:** It has been suggested that this is all just about work practices?

**The Hon. Duncan Gay:** You do not understand that, do you?

**The Hon. GREG DONNELLY:** No.

**The Hon. Catherine Cusack:** You have been talking for a long time on this bill.

**The Hon. GREG DONNELLY:** It is not about award conditions; so it is all about work practices?

**The Hon. Duncan Gay:** No, it is about productivity.

**The Hon. Melinda Pavey:** Maybe you need a little rest.

**The Hon. GREG DONNELLY:** No, I have really just started.

**The Hon. Catherine Cusack:** You started by trying to find out about the bill.

**The Hon. GREG DONNELLY:** No, I can read what is in the bill.

**The Hon. Catherine Cusack:** This is farcical, Greg.

**The Hon. GREG DONNELLY:** When members read *Hansard* tomorrow they will understand my point with crystal clarity. There appears to be great confusion as to what this is all about.

**The Hon. Catherine Cusack:** You are confused; we are not confused.

**The Hon. GREG DONNELLY:** No. We are saying it is not about award conditions; it is about work practices. Productivity is being sort of bandied around as if there is some singular agreement about that and at the end of the day it will all just shake down. All I can say is I am not clear about this.

**The Hon. Catherine Cusack:** Sit down.

**The Hon. GREG DONNELLY:** No. I ask the Minister in reply to clarify the matter.

**The Hon. Catherine Cusack:** You aren't going to talk about something you are not clear about, are you?

**The Hon. GREG DONNELLY:** Let us look at the bill itself then.

**The Hon. Catherine Cusack:** What have you been talking about for the last hour?

**The Hon. GREG DONNELLY:** We are missing the point here. It is really not about the bill; it is about work practices, productivity, the Government saying, "Get on board and everything will be okay". It is not as clear as that. It is policy subject to unilateral change and the legislation; the two work in conjunction with each other. The long title of the bill reads:

An Act to amend the *Industrial Relations Act 1996* to require the Industrial Relations Commission to give effect to certain government policies on public sector conditions of employment; and for related purposes.

That is what it does. Nothing in the bill clarifies precisely what the policy is. We have been told there is a policy and people have to accept it; that is the way it is going to be. I assure members that if I have not been able to understand it—and I have listened carefully to the debate and read all the literature I can get my hands on—then neither will many public sector employees in this State.

I will deal with State sector employees because there is a large number of them. Yesterday I obtained information that provides a snapshot of State sector employees in New South Wales. The document to which I refer is on New South Wales Government letterhead and is entitled "The NSW Public Sector Workforce: A 2010 Snapshot and Snapshot Tables". I presume members have read it, seen it or can access it. [*Quorum called for.*]

[*The bells having been rung and a quorum having formed, business resumed.*]

I do not intend to read this very comprehensive document, but I invite interested members to examine it because it contains figures that will provide clarity on important issues. On page two, the document states:

4.1 What is the size of the NSW public sector workforce?

- The average number of full-time equivalent (FTE) employees in the NSW public sector at census period was 322,452
- The number of people (headcount) who were working in the NSW public sector at census date was 386,185
- The NSW public sector represented 11.10% of **NSW employed** persons
- The Health and Education sectors represented 59.71% (189,298 FTE) of all NSW public sector employees during the year

**The Hon. Catherine Cusack:** Why don't you get to the bill?

**The Hon. GREG DONNELLY:** For the benefit of the member who could not hear me, I point out that the last two dot points are very important. The first states that the New South Wales public sector represented 11.10 per cent of New South Wales employed persons. The last is significant and relates to points made earlier in the debate. When the health and education sectors are combined, they represented 59.71 per cent, which is nearly 60 per cent or 189,298 full-time equivalent employees, of all New South Wales public sector employees in 2010.

To understand how the workforce is allocated across disciplines, occupations or groups of occupations, the 2010 snapshot shows 13 categories. That is really helpful in obtaining a clear understanding about how the State sector workforce is categorised in New South Wales. Without digressing, I must say it is pleasing that an amendment has been circulated by the Shooters and Fishers Party that will make clear that the legislation does not apply to local government employees.

**Reverend the Hon. Fred Nile:** But it is subject to the amendment being agreed to.

**The Hon. GREG DONNELLY:** Indeed, but I understand that the Government will not oppose the amendment, and that is significant.

**The Hon. Robert Borsak:** It has 50,000 members.

**The Hon. GREG DONNELLY:** As the Hon. Robert Borsak has senior level local government experience, he knows there are 50,000 direct staff who are employed in local government in full-time, part-time and casual positions. Those 50,000 employees will be relieved, and it is good news for those employees that the amendment will provide some certainty for them.

**The Hon. Robert Borsak:** But it is with thanks to the Shooters and Fishers Party, Greg.

**The Hon. GREG DONNELLY:** I welcome amendments from any political party that can remove provisions that cause legitimate concern. I consider criticism that Labor is scaremongering to be a bit rich in view of the definition of "public sector employee" in schedule 1 item [2] new section 146C (8) to the bill, which states

*public sector employee* means a person who is employed in any capacity in:

- (a) the Government Service, the Teaching Service, the New South Wales Police Force, the NSW Health Service, the service of Parliament or any other service of the Crown, or
- (b) the service of any body that is constituted by an Act and that is prescribed by the regulations for the purposes of this section.

The bill, as it stands, has the real potential to cover local government employees. There is no question that that is the case. In a reasonable person's mind, the bill, as defined, clearly covers local government employees. The Minister has left the Chamber but he said in his second reading speech that it does not cover local government employees. So we have this ambiguity and confusion between the drafting, which is crafted in a broad way, and the Minister's position as stated in his second reading speech. The proposed amendment from the Shooters and Fishers Party, which I welcome, will create great relief for people in the local government area.

Returning to State sector employees, I refer to statistics from the most recent census period that is available, that is, the 2009-10 period. The 2010-11 census information is not yet available but I am sure it will become available soon. The total number of State sector employees across the 13 categories is 322,452. That refers to the full-time equivalents, not the head counts. In Premier and Cabinet there are 1,974 and in Treasury 3,655. The number in the Communities area is 3,268. That surprised me; I thought it would be larger. In Human Services there are 18,881, or 5.86 per cent. That is a significant number compared with other portfolio areas. As I indicated earlier, Health and Education combined produce almost 60 per cent of the total.

A large component is Health, which would not surprise members. In Health there are 96,364, or almost 30 per cent. In Education and Training there are 98,191, or 30.45 per cent. In Planning there are 2,609 and in Industry and Investment there are 19,594. I was surprised by the size of Industry and Investment. Transport obviously is a significant area. The Government has indicated it will make transport a priority on its agenda and it has been forthright in saying so. It is argued by some that transport was the key issue that led to the demise of Labor. As the argument goes, we were unable to do enough in the area of transport. The focus is now on the Government to deliver in this area. During our period in government during the census period 2009-10 there were 28,434 in Transport. That includes bus and train drivers and related workers, people who work on ferries and so on. Transport is a very large portfolio.

I note that the Hon. Robert Borsak has left the Chamber. His comment about the number in the portfolio of Environment, Climate Change and Water was quite close. In that area there are 9,749. I am sure he was being rhetorical when he said it could be reduced to 1,000 and no-one would notice the change. I do not believe that is the case at all. This is an important area that State sector employees work in. Environment, Climate Change and Water are a critical part of our future. We are looking closely at what the Government is going to do in these critical areas. When they were in opposition they were throwing mud the other way. Now that they are in Government they are in the driver's seat. In relation to the portfolios of Environment, Climate Change and Water the citizens of New South Wales are looking at the Government's proposals in these important areas. The Government made promises and undertakings in respect of its so-called contract with the citizens of New South Wales. We will wait and see what they actually deliver.

**The Hon. Duncan Gay:** As we did with the Integrated Transport Authority.

**The Hon. GREG DONNELLY:** I have just left the area of Transport and the Minister for Roads and Ports has given me an opportunity to go back to it. As I said, in Transport there were 28,434 State sector employees, or nearly 10 per cent.



**The Hon. Dr Peter Phelps:** Point of order: I refer to standing order 94 (1). The rote recitation of these numbers without any distinguishing features or any relevance to the debate is a breach of standing orders because it is irrelevant. It is tedious repetition. These numbers were previously read out by the Hon. Sophie Cotsis. Hence, it constitutes matter already presented in debate.

**The Hon. GREG DONNELLY:** To the point of order: As a member of this House I can make a contribution to this debate. In doing so, I am looking at the New South Wales public sector and how the employment clusters are grouped. I will link it later in my contribution to the potential impact of this bill on certain sectors, which I am covering now. It is integral to my argument at this early stage of my contribution—it being only 2.00 a.m.—that I go through the groups and look at the numbers and relative size. I will link it to my argument later in my presentation on the impact of the bill.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The Hon. Greg Donnelly may refer to the speech of the Hon. Sophie Cotsis; that is not repetition. However, a member has taken objection to the reading of the list of names of individuals or organisations who have made representations in relation to the matter. Members should confine their remarks to a statement of the comments or views of those individuals or organisations and the number of individuals or organisations making similar representations. I suggest the Hon. Greg Donnelly abide by my ruling.

**The Hon. GREG DONNELLY:** I am referring to a table that breaks down the sectoral groupings of employees of the New South Wales public service. No representation has been made to me about these numbers. They are on a document that my office downloaded yesterday from the Department of Premier and Cabinet website. I refer again to the publication's title because there seems to be some misunderstanding that this was provided to me by groups. The document's publication title is "The NSW Public Sector Workforce: A 2010 Snapshot and Snapshot Tables."

With respect to the clusters to which I was referring, the numbers do not relate to any representations made to me but, rather, are specifically in the document. I had mentioned transport, but returned to it when a member raised it. I was dealing with Environment, Climate Change and Water. There are three categories remaining. Services, Technology and Administration has 3,380, which at just over 1 per cent is a much smaller number than I anticipated; and Justice and Attorney General has 12,359. Finally, the large and significant one, on which I will conclude, is Police and Emergency Services. When added together the total is just shy of 24,000, making it almost 8 per cent.

That presents a clear picture of the relative groupings of the State public sector. Some words and phrases have been bandied in this debate, such as "front-line" when referring to public sector employees. Indeed, from a contribution this morning the House was told that an undertaking of sorts had been made that front-line employees will not be affected by future cuts. On behalf of whoever are those front-line employees in the New South Wales public sector, I am sure they will be greatly relieved to know they will not be affected by future cuts. However, it is not quite that simple. What does front-line mean? The bill contains no reference to what are front-line services. Therefore, we can only be led to believe that it means certain things. I presume we are to understand, for example, that front-line involves police officers on the beat. Perhaps we are to understand that it might mean nurses actually on a ward looking after patients. We may be led to believe or construe that front-line could mean a train driver. I do not know whether that is true but, on balance, a train driver probably is a front-line employee.

**The Hon. Peter Primrose:** Is a child care worker?

**The Hon. GREG DONNELLY:** But let us explore this further. I acknowledge the interjection of the Hon. Peter Primrose. Anyone else wanting to make a contribution will get their chance later. Before dealing with that specific worker category I should like to expand on my train driver example. Each morning I get a train from Thornleigh to come to this place. When the train is ready to depart from each stop it makes a person stands on the platform with a white flag and a whistle. That person blows the whistle—interestingly, it is the same whistle at every station—and raises the white flag. The train then departs. That worker is performing an important role in ensuring that the train will depart in circumstances of complete safety with respect to the people operating the train—driver and guard—but, importantly, the people using the service. Is that person who blows the whistle and raises the white flag a front-line worker?

How do we define front-line worker? The answer could be that the person with the whistle and white flag is a front-line worker because they are visible to the customers. The people who use that mode of public

transport can stop and talk to them, obtain information from them and get directions from them. Certainly, that is a front-line service, but at the end of the day they do not directly operate the trains around the rail system. Without those people the train system would quickly grind to a halt. However, they are carrying out that important job on our railways stations. Is that person a front-line worker? I refer to the interjection of the Hon. Peter Primrose about people working in child care services.

**The Hon. Duncan Gay:** I didn't hear him say anything.

**The Hon. GREG DONNELLY:** The Minister for Roads and Ports should listen more carefully.

**Reverend the Hon. Fred Nile:** Table the rest of your speech.

**The Hon. GREG DONNELLY:** No. I am only getting warmed up. How do we define people working in children's services? Are they front-line workers?

**The Hon. Rick Colless:** Sorry, but you cannot ask any more questions.

**The Hon. GREG DONNELLY:** I am not asking anyone to answer the question. I am pointing out that this is part of the problem we face. We have to make a judgement while trying to comprehend clearly and precisely how this legislation will work. It is all well and good to say that an undertaking of some sort has been made that front-line employees will not be affected by future cuts. My rhetorical question—I am not asking for it to be answered—is: How does one define front-line? That is the difficulty we face. If we examine that sectoral breakdown I referred to we could establish that in every one of them some people probably are front-line workers. However, in every one of them I could identify through reasonably persuasive arguments that some people are back-of-house workers and not front-line and therefore could be subject to cuts. Without exception every one of those categories clearly has a grouping that could be front-line workers. It is all well and good for people to use these phrases but at the end of the day it is not clear what "front-line" means. I have probably covered all I wanted to cover regarding sector breakdown. If members want additional information I am happy to provide it.

**Reverend the Hon. Fred Nile:** No, we are very happy with what you have said.

**The Hon. GREG DONNELLY:** Right. Before I conclude—

**The Hon. Trevor Khan:** Hear! Hear!

**The Hon. GREG DONNELLY:** No, conclude this part of my contribution. I should like to comment on the gender breakdown in the State public service, a matter I am sure people want to be informed about. It is important to understand this breakdown. It is important to understand that the ratio varies between males and females through sectors, but in some sectors there is a significant ratio disparity.

**The Hon. Catherine Cusack:** Point of order: I refer to a ruling by President Willis:

It is a waste of parliamentary funds that a member should quote extensively from material which is readily available in the Parliamentary Library.

The document from which the member is quoting is available in the Parliamentary Library. The point I have taken is in addition to other points of order taken about reading extensively from documents.

**The Hon. Peter Primrose:** To the point of order: This House has always allowed wide-ranging debate in which members may read copious notes. The honourable member is reading selectively from a document to make various points. He has not been reading the whole document from cover to cover. He is selectively reading various sections of it, making comments, then reading from other sections and relating those back to the policy aspects of the bill. I submit that is perfectly in line with the longstanding practice of this House.

**The Hon. GREG DONNELLY:** To the point of order: I am not reading by rote from the document.

**The PRESIDENT:** Order! Will the member clarify for the Chair the document from which he is quoting?

**The Hon. GREG DONNELLY:** Mr President, the full title of the document is "The NSW Public Sector Workforce: A 2010 Snapshot and Snapshot Tables".

**The PRESIDENT:** Order! Had the member finished making his contribution to the point of order?

**The Hon. GREG DONNELLY:** No, Mr President.

**The PRESIDENT:** Please continue.

**The Hon. GREG DONNELLY:** I am not reading rote from the document. Those who have been listening carefully to my contribution would appreciate that I have been selecting sections, highlighting them and tying them to my argument. I submit I am entitled to do so to make an argument to put before the House, and that is what I am doing.

**The PRESIDENT:** Order! It is the practice and precedent of the House, according to rulings of former Presidents, that members when quoting from a document should identify the document, which the member has now done, precis its contents and quote selectively and briefly from the document. I was in the Chamber when the member quoted selectively and briefly from the Minister's second reading speech. As the member is now referring to another document, I would rule that he quote selectively and briefly from it as well. The member may continue.

**The Hon. GREG DONNELLY:** This important document extends to 25 pages. I had been referring to information contained in the first five pages; I do not intend to go beyond that. I was starting to deal with a gender breakdown of the State's public sector workforce, and I intend to conclude on that aspect of the report because it ties in with an argument that I will make later in my contribution. This is an important matter, particularly in the light of the significant recent decision of Fair Work Australia, which, as members would be aware, is not in final form as more aspects are to be clarified. I would summarise the decision. There is in-principle recognition that the work of a cohort of workers, primarily female workers, by its very nature has been undervalued.

**The Hon. Catherine Cusack:** Anyway, get on to the bill. Talk about the bill, Greg.

**The Hon. GREG DONNELLY:** The honourable member may not agree with the Fair Work Australia decision about the undervaluing of female work.

**The Hon. Catherine Cusack:** Only its relevance.

**The Hon. GREG DONNELLY:** It is interesting that the member thinks this part of my contribution is irrelevant. Could I go to the cluster grouping. The Communities grouping is 3,268, and for Human Services it is 18,881. Added together, that totals almost 8 per cent of the public sector workforce in New South Wales. One can conclude immediately from that figure that that is the proportion of workers affected by the decision of Fair Work Australia. It has been established by Fair Work Australia, by a clear and transparent process that has taken some time to complete, that there has been manifest undervaluing of the work done by workers in those jobs, mainly female. I know that some members on the Government side do not want those female employees to receive a wage increase, an increase that ultimately will flow from the—

**The PRESIDENT:** Order! Interjections are disorderly at all times. The Hon. Greg Donnelly should be careful not to impute motives to other members of the House in his contribution.

**The Hon. GREG DONNELLY:** I will listen with interest to the contribution of the member when she deals with this very important issue of the undervaluing of the work done by employees, mainly women, in some public sectors. The Fair Work Australia decision is significant, though not complete. Effectively, it is an in-principle outcome, with a judgement made about the undervaluing of that work. The task now is how to address that problem, but it will be addressed. Industrial relations tribunals, Federal and State, over a number of decades have dealt with significant matters such as this, producing outcomes which employee and employer representatives accept as fair and reasonable overall. The effect will be that these mainly female workers whose work has been undervalued will have their wages progressively improved and increased to a rate that better reflects the value of the work that they do. I would hope that members of this House would agree that it is a good thing that that decision has been made and that the rate will increase, undoubtedly through transitional and phasing in arrangements involving incremental increases which will ultimately result in a just outcome.

I was about to speak about the breakdown of employees in the New South Wales public sector. Census data for the period 2009-10 show that 60.88 per cent of the New South Wales public sector workforce was

women. But, interestingly, female employees constituted 45.37 per cent of employed persons in New South Wales. That surprised me. I thought the figure was closer to 50 per cent. Looked at in globo, 61 per cent of public sector employees are female.

The next figure is even more significant because of the sheer size of the respective health cluster, which had the highest female participation rate of 74.81 per cent, or nearly 75 per cent. Interestingly—and this could be seen as a converse or alternative cohort—the transport cluster had the highest male participation rate of 77.55 per cent. Because some figures were bandied around in earlier contributions, which did not help our understanding of the rates of pay in the New South Wales public sector, it is worth noting that at the census date of 2009-10 the median remuneration for non-casual males in the sector was \$69,443 and for females it was \$68,201. I thought the differential would have been much more than that—an intuitive conclusion I had drawn from my experience in some other sectors—but it is relatively close; the differential is not so large. The median figures of \$69,443 for males and \$68,201 for females do not refer to people who are on huge salaries. These people are not highly paid—they are not even getting \$70,000.

If we look at pay rates in the private sector—data that is readily available in a commercial form and that can be purchased—we find that in a number of instances the pay rates for full-time employees is much higher than that. I will refer later in my contribution to an issue that was raised by other members in debate. An examination of the trend line reveals quite low unemployment rates with pressures or bubbles building in the labour market. Even the most amateur observer of labour economics in Australia would be aware that in the mining industries in Western Australia and in Queensland, those aged 18 or 19 can readily obtain employment—a two-week in, two-week off, fly-in, fly-out job—and earn \$120,000 at the drop of a hat. That is not unusual. Often young employees aged 18 or 19 do not have high qualifications and, by definition, it is unlikely that people aged 17 or 18 have higher qualifications. However, they might have completed a traineeship.

**The Hon. Duncan Gay:** Point of order: As interesting as the pay and conditions are of fly-in, fly-out employees in Western Australia, it has nothing to do with the bill that is being debated. This legislation is about pay and conditions in New South Wales.

**The Hon. GREG DONNELLY:** To the point of order: My comments are apposite to this debate and specifically the issue of pay rates of New South Wales public sector employees and what will flow from that if this bill becomes law. That is what I am dealing with.

**The Hon. Duncan Gay:** It might have been what you were thinking about but it wasn't what you were saying.

**The Hon. GREG DONNELLY:** In reality we are dealing with a national labour market. People move around more than ever before and they are attracted by jobs.

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

**The Hon. GREG DONNELLY:** People employed by the mining industry in Queensland and in Western Australia are in highly paid jobs. Significantly, the State Government, as an employer of approximately 350,000 employees, competes in that labour market. At one end of the labour market record rates of pay are attracting people to those jobs and at the other end of the labour market a significant employer such as the New South Wales Government is introducing legislation which will impact on wages, and that is likely to have an impact on the relative attraction of employees to the State sector. The Government will have difficulty in attracting and maintaining employees in front-line jobs, which is the Government's priority. It has been argued that front-line services and employment are vital to the wellbeing and welfare of the citizens of New South Wales. However, this Act arguably will have a negative and deleterious effect on people's wages and conditions in a labour market where there are high rates of pay.

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

**The Hon. GREG DONNELLY:** I move from my analysis of the elements of the New South Wales public sector to the constitutionality of the bill before the House. No-one would disagree with the claim that this bill is a significant piece of legislation. If this bill is enacted it will interact and co-exist with government policy and the capacity of the tribunal, which hitherto has been responsible for arbitrating public sector wages and

conditions, will be significantly altered. I am sure that some members in this place who are learned in the law will give detailed explanations, in addition to those that we have already heard, about the separation of power so I do not seek to repeat what has already been said.

Referring to the separation of powers, we have the executive and its role, and the role that it wants in order to prosecute in the context of the wages of public sector employees. We have also the independent umpire, the Industrial Relations Commission, which hitherto from time to time has had the task of dealing with applications for awards with which it would deal in the normal course. Members will know that the practice in the New South Wales Industrial Relations Commission is that applications are made, they take their course and the matter is contested and argued, unless it is done by consent. The respective parties present their case and, in doing so, they bring evidence—sometimes expert evidence—and the Industrial Relations Commission will then make a decision. If the decision is made in the first instance by a conciliation commissioner or a single commissioner under the Act it can be appealed to a higher authority.

The independent body acts in the role of adjudicator and deals with matters that are brought before it through applications under the New South Wales Industrial Relations Act 1996. That will now interface with a piece of legislation that will impact significantly on the capacity of that body to deal with those matters in the way in which it dealt with them in the past. It should come as no surprise that in something as significant as this potentially there is a constitutional argument about whether or not we have a breach of the separation of powers doctrine. One would have thought it would have been prudent for us to better inform ourselves about this. As members of a House of review we understand, uphold and appreciate the significance of the doctrine of the separation of powers which we believe is fundamental to our democratic rights not only in New South Wales but also in Australia.

Win, lose or draw on contested matters—it does not matter whether one is on the receiving side or the losing side—as Australians we understand that if we go before tribunals in these types of industrial matters we present the best argument we can in the circumstances. Sometimes that is imperfect because, for whatever reason, we cannot get the witnesses we want or the evidence is not in the form we would prefer. Nevertheless, we put our best case forward, the matter is arbitrated and a decision is made in the form of an award that is binding. We accept the binding nature of the award and what that means. In the context of understanding the doctrine of the separation of powers, where clearly there is at least an argument that we are transgressing into an area where that doctrine is compromised, it is difficult to comprehend why the Government does not apply the precautionary principle. When we are transgressing in an area where we uphold important principles and respect the separation of powers, we should just draw breath and be clear about what we are doing and whether or not what we are doing is correct.

I will enter now into a further examination of the bill's contestability and constitutionality. At the end of the day we are ultimately being invited to make a decision and vote on this bill. As such we should be fully informed on all aspects of it, including those areas that we do not want to know about. Something is getting in the way but we choose to get on with it anyway. I do not think Opposition members accept that the bar is high enough. Opposition members are deeply concerned that ultimately they will transgress into and breach the separation of powers. I will not go through the separation principle in detail as generally members are familiar with it conceptually. However, I draw the attention of members to a piece of legal advice—"The Validity of the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011: Memorandum of Opinion", signed by Arthur R. Moses, SC, at Frederick Jordan Chambers, and Yaseen Shariff at Selbourne Chambers. This advice is contemporary and the legal advisers were asked specifically to turn their minds and their attention to this specific and significant matter—the potential constitutional issues flowing from the bill.

It would not be appropriate for me to read the advice but I would like to refer to some key aspects of it. I will touch on the executive summary and then draw out some of the relevant points. Other members may refer in their contributions to debate on this bill to this comprehensive piece of advice. On page 3 the executive summary states:

In summary it is our opinion—

so it is the collective opinion of the two barristers—

(a) that it is arguable that the proposed amending Act—

which is the legislation before the House—

would impair the institutional integrity of the Industrial Relations Commission (the Commission) so as to make it a body (when in court session) whose exercise of judicial power is incompatible with Chapter 3 of the Australian Constitution.

- (b) The proposed amending Act, if enacted, is likely to be considered a valid exercise of the power conferred upon the Parliament by the Constitution Act 1902 (NSW).
- (c) If the proposed amending Act was enacted, any awards made by the Commission pursuant to the mandatory provisions in section 146C (1) (to give effect to Government policy as promulgated in a regulation) are susceptible to be set aside and quashed upon application for prerogative relief upon the basis that they will have been made in denial of procedural fairness.

"Procedural fairness" is a phrase that was used by Opposition members a few times in debate last night and this morning, but I have not heard too much of it from the other side. The advice continues:

- (d) If any regulation is promulgated pursuant to the Industrial Relations Act (as amended by the proposed amending Act), which seeks to require the Commission to enforce a government policy on the setting of public sector terms on conditions of employment (including as to the removal of existing benefits)—

This is the critical point I referred to earlier. In this vague discourse we are talking potentially about productivity and offsets—the removal of existing benefits and award entitlements. We are not talking about workplace practices, although that has been bandied about. This bill will result in the prospect of having to negotiate away award entitlements to obtain a wage increase above 2.5 per cent. It is not pie-in-the-sky speculation or hyperbole.

**The Hon. Rick Colless:** It's hypothetical.

**The Hon. GREG DONNELLY:** No, it is not being hypothetical. Clearly, in the context of this bill, if it is passed into law, it is possible that State sector employees will have to bargain away their award entitlements to get a wage increase above 2.5 per cent. There can be no doubt about that. The Government is running a million miles from acknowledging that point. To be perfectly honest, if I were in the Government's shoes I would do the same thing. We know why the Government is running away from it at 100 miles an hour: The notion of having to bargain away award conditions to get a wage increase was never Australian Labor Party policy.

It was never Labor Party policy that State sector employees, New South Wales union workers, would have to trade off award conditions to obtain a wage increase to get them beyond a base minimum. I did not make this comment earlier because I thought I would be buying into an argument that was not necessary at the time. However, it must be said now that the Government must be frank about this. The prospect of having to bargain away working conditions prescribed by awards which have been built up not over only a few years but over decades is on the table. The quote continues:

Then the regulation may itself be susceptible to judicial review and declared invalid on the grounds that it:

- (1) is inconsistent with the objects of the Industrial Relations Act.

I say at this juncture that Mr David Shoebridge, in an expert way, gave a thorough explanation to the House about potential inconsistency between what would be the practical application and operation of the bill if it becomes an Act up against and intersecting with the New South Wales Industrial Relations Act 1996 and the role of the commission formed by that legislation in terms of its powers, scope of responsibility and specific tasks of setting wages and working conditions pursuant to making awards in New South Wales. I will conclude on this second point: It denies procedural fairness to employees. There is an issue of inconsistency with the Industrial Relations Act. We have an Act with principles that have been developed and enunciated over a long period, which we all understand, and the Government's legislation could potentially trade inconsistencies with the objectives of that Act.

If that was not bad enough—from my point of view, I consider that bad enough—we have the potential for denying procedural fairness to employees. It may be the case that not all members share the view that denying procedural fairness is a big deal. The fact is that some people do not care much for fairness. Some people take the view that we should live in a world in which the winner takes all. At the end of the day if people can do it, they do it. It is as simple as that. However, there is an alternative view: It is not simply a case of people taking what they can when they think they can get it. I submit that the notion of people taking what they can when they think they can get it is an unreasonable position. In the context of industrial relations not only in New South Wales but more broadly, if people simply take what they can when they can get it, we end up with a dog-eat-dog world. People with industrial muscle are tempted to use that industrial muscle to get the industrial outcomes they want.

What about those who do not have industrial muscle? Members should think about this for a moment. I have heard arguments presented in this House on other occasions, and indeed outside this House, that some

State sector employees in what we might consider critical or sensitive areas may be tempted to use industrial muscle to get their way. I do not agree with that proposition, but I hear that argument from time to time. I can understand the arguments, and I have heard them before. But let me put an alternative position. Leaving aside the 350,000 or so employees who are employed by the New South Wales Government, what about the hundreds of thousands of employees who are not in that position? That is what we are talking about.

It is argued that employees in industrially sensitive positions who are capable of using industrial muscle to get their industrial ends—I do not accept this argument—are only a small component of the total number of employees. I take human services as an example. In the past we have all had the pleasure of dealing with constituents in different parts of the State who bring us into contact with Community Services and the wonderful people who work in the department. Does it strike members that Community Services employees are the type of people who would contemplate for a second, or even half a second, using industrial muscle to get their way? The answer is no. The idea would not entertain their minds for a moment. These people are not in a position and are not inclined to use industrial muscle, but they never would in any case. Even if we run the argument that if they could they would, my experience is that a large number of employees, because of the nature of their work and their devotion to the work they consider it an honour to have, working for the State Government, would not anticipate using industrial muscle to get their way. That is simply not the way those people think.

So it is important to understand the New South Wales State sector. We need to appreciate its diversity and complexity. We need to understand that this is not simply a group of employees. Denying procedural fairness is significant for those who are not in a position to use industrial muscle. As I said, those employees would not entertain the thought of taking such action to get their way. That is why this issue is dear to the hearts of these employees. Some members do not seem to understand—I might get pulled up for this so I will be careful; I will not point fingers—that working in the State sector or having the Government as an employer is different from working in the private sector.

**The Hon. Charlie Lynn:** People in the private sector know that.

**The Hon. GREG DONNELLY:** I am looking forward to the Hon. Charlie Lynn's long dissertation in this debate. I have had the opportunity to work in both the private sector and the public sector. I worked for the Australian Bureau of Statistics, to which reference was made earlier this evening. I worked in a very junior role in the bureau's office in St Georges Terrace, Perth. So I do know what it is like to work for—

**The Hon. Charlie Lynn:** Have you had your own business?

**The Hon. GREG DONNELLY:** I was working at two part-time jobs as well. I had three jobs on the go. I worked at the Australian Bureau of Statistics during the day and I am happy to provide more details about what I did.

**The PRESIDENT:** Order! The Hon. Greg Donnelly will confine his remarks to the leave of the bill. He should ignore interjections, which are disorderly at all times.

**The Hon. GREG DONNELLY:** I did undertake not to succumb to temptation, but I obviously did that before 3.00 a.m. and I apologise. There is a significant difference between working in the public sector and working in the private sector. People who work in the public sector make a conscious decision to work for the Government. People do not drift in and say to themselves, "Well, this looks like a highly paid job. I think I'll work for the New South Wales Government." We have already talked about the median wage in the public sector.

Employees in the private sector who have virtually no or very little training can earn much more than wage and salary earners working for the New South Wales Government, or any other government in Australia. People who decide to work for a public employer, whether that is the Commonwealth Government or a State or Territory government—I will leave local government aside for the moment—know that they could probably get much greater remuneration for doing comparable work in the private sector. That is very interesting. Some people make the decision to work for the State because they wish to make a contribution to the wellbeing and welfare of the people of the State. That is very important and we should not misunderstand it.

I am not saying that members do not appreciate that point. However, we must understand that people make a conscious decision to work in a job where they can derive satisfaction from doing something for their fellow man or women as a public sector employee. I will not go through the various categories in the public sector

because members know what they are. However, each category in and of itself provides an opportunity for individuals with gifts and talents to make a contribution in their own unique way. That is one of the fantastic things about working for the public sector—it provides the opportunity to make a contribution that cannot be made by working for a commercial enterprise. Members must understand that. That is why I come back to the issue of procedural fairness. At the end of the day, these people rely upon an independent adjudicator or an independent umpire. In effect, I am referring to a third party who independently deliberates on and determines applications.

One of the unfortunate aspects of this issue is the subtext that has coloured some of the comments that have been made about the Industrial Relations Commission and its determinations during this debate. Some people appear to be suspicious about this entity called "the commission". There is a suggestion that the commission is a bit suss. That is not said; it is implied. It is a tone or a look and that is very unfortunate. The people who work for the commission have the highest integrity.

**The Hon. Matthew Mason-Cox:** Hear, hear!

**The Hon. GREG DONNELLY:** I acknowledge the interjection from the Hon. Matthew Mason-Cox. He is a solicitor and an experienced professional. I gather that in the past he has represented parties before tribunals, and perhaps even the Industrial Relations Commission or the Conciliation Commission. Those who appear before the commission understand the significance of the process and they know that it has integrity. They also know they are dealing with individuals who understand that they must act independently and ultimately adjudicate in a manner that is consistent with the objects of the Act.

One does not always win. I will not give a recitation of all my successful and unsuccessful appearances before the New South Wales Conciliation Commission and the Industrial Relations Commission. If I did so I could embarrass myself because I might discover that my losses outnumber my wins. However, that is the point: The commission is an independent body and there is no guaranteed outcome. If parties decide to participate in the process, it is like going through a one-way door. Everyone has an opportunity to put their case to the best of their ability to achieve their desired outcome. The process is a contest.

**The Hon. Rick Colless:** Are you going to talk until 9.00 a.m?

**The Hon. GREG DONNELLY:** I have dealt only with the first page of my notes and the issue of constitutionality. I have a number of points that I want to explore in some detail. I have not dealt with the history of this issue yet. I know that many members are interested in history.

**The Hon. Rick Colless:** We have already heard that.

**The Hon. GREG DONNELLY:** Not the history I was going to present, which was far more comprehensive. I want to make sure that I understand precisely the circumstances I find myself in. I am dealing with constitutionality and I will continue on that exploration. On the issue of constitutionality I spoke only about some points in the Executive summary in summary form. I will now get onto the substance of the question of constitutionality. This is important. The question of respecting the separation of powers is integral to the operation of this Parliament. I know that is putting it pretty highly and members may say that I am stretching things a little, but if the separation of powers doctrine is transgressed—and I use the word if—I think that would be serious and I suspect that a number of other members in this House would think that is very serious. I have said I will not read the advice, and I will not, but I want to pick out some salient paragraphs. At paragraph 3.1 the learned barristers say:

The IR Act creates a distinction between the Commission in Court Session and the Commission not in court session: see Chapter 4 of the IR Act (including Parts 1 and 2).

The Commission exercises jurisdiction that may be best described as arbitral and/or quasi-legislative.

It refers people to an important decision, *Power Coal PL v the Industrial Relations Commission of New South Wales 2005*, cited at 24 New South Wales Labour Relations 406 at paragraphs 38 to 40. It states:

By contrast the Commission in Court Session is described in s. 152 of the IR Act as a "*superior court of record*". The Judges appointed to the Commission have status equivalent to judges of the Supreme Court of New South Wales: see schedule 2 of the IR Act and Part 9 of the *Constitution Act 1902* (NSW).

This is very important and is the key point that the learned barristers are making:

The Proposed Amending Act would oblige the Commission to a directed result.



**The PRESIDENT:** Order! I understand that from time to time it is necessary for members to conduct conversations. However, I ask that members engaged in such conversations be as quiet as possible so that Hansard and other members can hear the speech of the member with the call.

**The Hon. GREG DONNELLY:** I go further to show the differentiation the learned barristers make in relation to two aspects of the constitutionality issue. They assert that there is a potential constitutional issue over the constitutionality of this Act meeting the New South Wales Constitution but they then separate it into two points. They refer to them as the first validity question and the second validity question. The two are important because they come together as one to produce a particular comment. In relation to the first validity question the learned barristers say:

The legislative validity of the Proposed Amending Act requires consideration of the *Constitution Act 1902*. The *Constitution Act* was passed by the New South Wales Parliament ...However, a further question arises as to whether, if the Proposed Amending Act is enacted, any award made by the Commission in exercise of the powers under s.146C would itself be valid or invalid to be set aside or quashed by a writ of certiorari.

What we have is an argument being put that there is a potential problem. They then go on to say:

The effect of s.146C on the face would require the Commission to make an award, or determine an application for variation of an award, to simply give effect to Government policy.

Members made fun of this point I was making earlier and I chose not to respond, but the interaction of government policy is subject to unilateral change, working directly in conjunction with a piece of legislation, if it is passed. The effect of that combined interaction is to produce an outcome to direct the tribunal how to, in effect, to use the vernacular, go about its business. We know that the commission's business, if we use that phrase, essentially involves making awards or setting aside awards, as the case may be, or varying awards. The making of awards and varying awards is at the heart of what the commission does.

The learned barristers are saying that this is where the legislation starts to get itself into strife because we have this confluence of policy and legislation, subject to it being passed, producing an outcome of directing an independent body, the New South Wales Industrial Relations Commission, to do or not to do certain things. It is in effect requiring, obliging, whatever phrase we want to use, the Industrial Relations Commission to produce an outcome to give effect to government policy. In other words, one cannot get away from the fact that government policy in some sense is corrupting the process. One has a policy that is subject to unilateral change by the Executive working in a fundamentally intimate way with the legislation directing an independent tribunal to produce outcomes, or not produce outcomes as the case may be. The barristers go on to explore this point in a lot more detail and this is so important. This is where you have the interaction of policy, legislation and the third party. They say:

In those circumstances, one queries the utility of any hearing of an application by a party which was contrary to or at odds with Government policy.

I made the point earlier, and it was pooh-poohed by members, that we should not worry about this issue of government policy. It was asserted by the Government that it is just doing what the Labor Government did. That is a debatable point. However, putting that matter aside, this issue of the capacity to unilaterally change policy cannot be denied. The Executive can change its policy. How can an industrially registered union in this State representing State sector employees carry out its role as a trade union representing the industrial interests of employees if it is subject to the reality that it could not possibly know what necessarily may be the future positions of government policy that would then determine how it goes about carrying out its role representing its members? In other words, you do not have a situation where the trade unions have a fixed position in terms of understanding what the policy is and knowing that that policy cannot change over time, and therefore craft and frame their applications and the way they go about representing their members, because that policy can be changed. That is what is being put forward here as a critical point.

If, in what is effectively government fiat, the policy can be changed, which then has a knock-on effect, it raises the threshold question about the whole purpose of a trade union making applications in the first place. A trade union could make an application in good faith. I will use this as an example, and I will not be provocative about this. Let us say a government in the future—not this government—had this new law in place and it understood how it worked, and it had been imposed on the people of New South Wales by the New South Wales Parliament so that people were living with it. With respect to the State sector employees, in good faith it would make applications to the New South Wales Industrial Relations Commission pursuant to what they understood was the government policy at the time and how they interpreted the Act in terms of its full application.

What would stop the Government—and this would be a very pernicious thing to do—altering its policy unilaterally, in a very deliberate and malicious way, to frustrate the union with its application? What would stop a malicious government doing that? And guess what? There is nothing the union could do. The reality is that although the union's application when made in the first instance was consistent with government policy, the

goalposts could then be moved. Is there any obligation on the Government to tell the union? Of course not. There is no obligation on the government to tell the union in advance that it was going to alter its policy, the outcome of which would mean the union's application would fail. It would die in a ditch. It would not even get to first base, because it was inconsistent with government policy.

Even to a person who is not a Rhodes Scholar, a senior counsel, a barrister or solicitor, or even a bush lawyer, that is unfair. If you went out to Martin Place tomorrow and said to passersby, "Listen, I want to run this scenario by you. What do you think?", you would find that every person you spoke to would say, "That's just not fair." That is what this Government is trying to impose on the State sector employees in New South Wales.

I want to go back to the advice. Union applications will now potentially be prejudiced by what effectively will be a government fiat by changing policy. Any such hearing would be superficial and would achieve no purpose. The Leader of the Government understands intimately police, through his experience and past work with the Police Force. He and other Government members would be aware I am sure of the time it takes to put together an application. Later in my contribution I want to go into some detail about the current application before the New South Wales Industrial Relations Commission by the New South Wales Police Association.

I have a copy of the application here with me. If members have not had a look at the application, I suggest they do so, particularly Government members who might have a view that members on this side of the Chamber are beating this up a little, and that the people in Macquarie Street yesterday were just turning up because they had nothing better to do at lunchtime and they thought they might come along for the ride. There is real concern about this issue. There is real concern by State sector employees because they know that their wages and working conditions are governed by awards, that those awards are determined by the Industrial Relations Commission, and that the capacity to alter, amend or change those awards rests with the commission. The commission knows that it is required to meet a very high standard.

I practised in industrial relations in New South Wales as long ago as the mid-1980s, and I know that much more experienced members in this House participated in industrial relations for a longer period than I did. From my experience, I know full well that the commission goes about its business in a very professional way, exercising the highest level of integrity. I will speak about test cases in more detail later in my contribution because that aspect is most concerning to members on this side of the House, but effectively what State sector employees will lose if this application is successful is the capacity to bring a test case. In summary, a test case is a fresh matter, a fresh claim of sorts, in which a set of arguments is presented that have merit and basis to persuade the commission that a particular entitlement should be, for example, improved or enhanced, or even better still on behalf of the workers, a new entitlement secured.

I have a whole range of State sector employee awards that I intend to go through in detail later. I have more coming down from my office. As I said earlier, these awards by their nature are very comprehensive. In some sense it is a little unfortunate that a copy from a website shows only an index and a range of entitlements. But what Government members do not understand is how long it has taken for those wages, allowances and conditions to accumulate. These things did not just come about because a trade union turned up to the Industrial Relations Commission and said, "We want this particular entitlement", or, "We want this leave enhanced", or, "We want this new allowance, which we did not need but we want it now because of the new work requirement." In each and every instance a case had to be put and argued, and a case had to be won. If it was not won, guess what? There was no change to their entitlement; the award would remain unchanged.

We have an industrial relations system that provides a rigorous framework within which State sector employees make these applications to enhance and improve their entitlements. The preparation behind these cases is extensive. As I said, given his regular dealings with the New South Wales Police Association, the Hon. Michael Gallacher would be aware of the time it takes to put together an application. It is not a case of just sitting down at a word processor and knocking up a claim; it requires having to prove one's case, and proving one's case is not taken for granted by trade unions. At the end of the day, one has to present one's case and provide evidence to support it.

[Interruption]

I want to cover many other matters. Indeed, I am just getting warmed up. However, in the circumstances, I understand that there will be a further opportunity for members to participate in this debate at the Committee stage. That may well provide a suitable opportunity for me to explore some of the other points I was hoping to make in my primary contribution.

[The President left the chair at 3.19 a.m. The House resumed at 9.00 a.m. on Friday 3 June 2011.]

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