

LEGISLATIVE COUNCIL

Thursday 25 August 2011

The President (The Hon. Donald Thomas Harwin) took the chair at 11.00 a.m.

The President read the Prayers.

RETIREMENT OF LYNN LOVELOCK, CLERK OF THE PARLIAMENTS AND CLERK OF THE LEGISLATIVE COUNCIL

The PRESIDENT: I advise honourable members that I received, with regret, a letter from the Clerk of the Parliaments, Ms Lynn Lovelock, advising of her impending retirement. Ms Lovelock's last day of service as Clerk will be 7 October 2011. As honourable members may be aware, as a consequence of Ms Lovelock's advice, an external recruitment process was undertaken. A message has been received advising me that Her Excellency the Governor, with the advice of the Executive Council, has approved of the appointment of David Michael Blunt as Clerk of the Parliaments from 8 October 2011. I am sure that members of the House—indeed, as they have just demonstrated—join me in congratulating David on his appointment.

BUSINESS OF THE HOUSE

Routine of Business for Friday 16 September 2011

The Hon. DUNCAN GAY: As Friday 16 September 2011 is the last sitting day before the retirement of the Clerk of the Parliaments, Lynn Lovelock, to provide an opportunity for members to express their appreciation for Lynn's work in the Legislative Council and to provide an opportunity for those who wish to attend a luncheon in Lynn's honour, it is intended that the conduct of business on Friday 16 September 2011 will be as follows.

The House will meet at 9.30 a.m. according to the sessional order. After formalities, Private Members' Business will take precedence until 10.30 a.m., when business will be interrupted for Question Time. After Question Time, at 11.30 a.m. a motion of appreciation will be moved, and then the adjournment motion will be moved at 12 noon. Members attending the lunch will proceed to the Members Dining Room. It is important that all those attending the lunch be seated before the arrival of Her Excellency the Governor at 12.40 p.m. To enable this to happen, I now seek the leave of the House to move a motion to vary the time for Question Time on that day.

Leave granted.

Order of Business

Motion by the Hon. Duncan Gay agreed to:

That on Friday 16 September 2011 questions commence at 10.30 a.m.

HIS GRACE ARCHBISHOP ISSAM JOHN DARWISH

Motion by the Hon. John Ajaka agreed to:

1. That this House congratulates His Grace Archbishop Issam John Darwish, Archbishop of the Melkite Greek-Catholic Eparchy of Australia and New Zealand, on his appointment as the Archbishop of Zahleh, Lebanon.
2. That this House notes:
 - (a) that on 2 June 1996, Bishop Issam John Darwish was enthroned as Melkite Greek-Catholic Eparchy of Australia,
 - (b) the selfless work undertaken by His Grace for the welfare and benefit of the Melkite Community within New South Wales as well as the New South Wales community as a whole,
 - (c) the work of His Grace in highlighting the positive aspects of relationship building of interfaith organisations, and
 - (d) the principled stance by His Grace against racism and prejudice and the continued promotion of greater unity and social inclusion of all members of the community.

3. That this House notes that among his many achievements His Grace:
 - (a) in 1997, established the first Melkite Catholic Centre in Australia, including the Bishop's Chancery, Welfare Community Centre and clergy residence,
 - (b) in 1998, established the Melkite Welfare Association in Australia which deals with community welfare and migration settlements,
 - (c) in 2000, established the first school for the Melkite Catholics in Australia named "Holy Saviour", located in Greenacre,
 - (d) in 2000, founded the Seminary of St Gregory the Theologian at the Melkite Catholic Centre, located in Greenacre,
 - (e) in 2003, founded the Australian Christian Muslim Friendship Society,
 - (f) in 2004, established the new parishes St Rita at Liverpool and Our Lady of Dormition at Schofields,
 - (g) in 2008, built the Parish Hall in St Elias the Prophet, Guildford,
 - (h) in 2008, established a child care centre at Guildford,
 - (i) in 2010, built and consecrated a multi-purpose hall for Holy Saviour School, Greenacre, and
 - (j) on 14 August 2011, was installed as the Archbishop of Zahleh e Fuzrol (Melkite Greek), Lebanon.
4. That this House notes the publication history of His Grace Issam John Darwish, who:
 - (a) in 2000, established the Melkite Press to publish activities of the Eparchy,
 - (b) in 2005, established The Melkite Journal,
 - (c) in 2007, published a book in Arabic entitled "The Face of Christ – A Vision from the East",
 - (d) in 2007, published a book in English entitled "A Bridge for Unity: the Melkite Greek Catholic Church in Australia",
 - (e) in 2009, published the Statutes of the Eparchy of St Michael of Sydney for Melkite Greek Catholics in Australia and New Zealand, in both English and Arabic,
 - (f) in 2009, published a book in Lebanon entitled "A journey with Saint Paul",
 - (g) in 2010, published a book in Lebanon titled "The Priest! Identity and Mission",
 - (h) between 2000 and 2010, wrote weekly spiritual articles in the Melkite Pastoral Link, and
 - (i) between 2000 and 2010, published various liturgical books for the feasts in both Arabic and English.

ORICA PLANT INCIDENT

Production of Documents: Order

Motion by Ms Cate Faehrmann agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents in the possession, custody or control of the Premier, Department of Health, the Department of Premier and Cabinet, the Minister for the Environment and Heritage and the Office of the Environment and Heritage:

- (a) any document created since 8 August 2011 relating to the chemical release from Orica Limited's Kooragang Island site,
- (b) any document created since 8 August 2011 relating to any response to the chemical release from Orica Limited's Kooragang Island site and related activities, and
- (c) any document which records or refers to the production of documents as a result of this order of the House.

SMOKING AND HEALTH

Dr JOHN KAYE [11.07 a.m.]: I declare I have a personal interest in this motion. I happen to like the member concerned with this motion, and I feel I would benefit from her having a long and healthy life. Having declared that, I move:

1. That this House notes that:
 - (a) the following tweet from the Hon. Catherine Cusack was sent on 23 August 2011: "@katieqs: I am smoking my last ever cigarette. No more, the end, finis.", and

- (b) the following health benefits will reward the member's courageous decision to quit smoking:
- (i) within 20 minutes of quitting, her blood pressure, pulse rate and the temperature of her hands and feet will return to normal,
 - (ii) within 8 hours, the remaining nicotine in her bloodstream will have fallen to 6.25 per cent of normal peak daily levels, a 93.25 per cent reduction,
 - (iii) within 12 hours, her blood oxygen level will have increased to normal and carbon monoxide levels will have dropped to normal,
 - (iv) within 24 hours, anxieties will peak in intensity and within two weeks should return to near pre-cessation levels,
 - (v) within 48 hours, damaged nerve endings will have started to regrow and her sense of smell and taste are beginning to return to normal, though cessation anger and irritability peaks,
 - (vi) within 72 hours, her entire body will test 100 per cent nicotine-free and over 90 per cent of all nicotine metabolites, the chemicals it breaks down into, will now have passed from her body via her urine,
 - (vii) also within 72 hours, symptoms of chemical withdrawal will have peaked in intensity, including restlessness, and the number of cue induced crave episodes experienced during any quitting day will peak for the "average" ex-user,
 - (viii) lung bronchial tubes leading to air sacs, alveoli, will be beginning to relax, breathing will become easier and the lungs functional abilities will be starting to increase,
 - (ix) within five to eight days, she will encounter an "average" of three cue induced crave episodes per day, and although she may not be "average" and although serious cessation time distortion can make minutes feel like hours, it is unlikely that any single episode will last longer than three minutes,
 - (x) within 10 days, the member will likely be encountering less than two crave episodes per day, each less than three minutes,
 - (xi) within 10 days to two weeks, the member's recovery is likely to have progressed to the point where her addiction is no longer doing the talking and blood circulation in her gums and teeth will be similar to that of a non-user,
 - (xii) within two to four weeks, the member will be experiencing cessation of related anger, anxiety, difficulty concentrating, impatience, insomnia, restlessness and depression,
 - (xiii) within 21 days, her brain acetylcholine receptor counts up-regulated in response to nicotine's presence will have down-regulated and receptor binding will have returned to levels seen in the brains of non-smokers,
 - (xiv) within two weeks to three months, her heart attack risk has started to drop and her lung function will begin to improve,
 - (xv) within three weeks to three months, her circulation will have substantially improved, walking will become easier, and the chronic cough, if any, will have likely disappeared,
 - (xvi) within one to nine months, any smoking related sinus congestion, fatigue or shortness of breath have decreased, cilia will have regrown in her lungs thereby increasing their ability to handle mucus, keep lungs clean, and reduce infections, and her body's overall energy will have increased,
 - (xvii) within one year, her excess risk of coronary heart disease, heart attack and stroke will have dropped to less than half that of a smoker,
 - (xviii) within five to 15 years, her risk of stroke has declined to that of a non-smoker,
 - (xix) after 10 years, her risk of being diagnosed with lung cancer will be between 30 per cent and 50 per cent of that for a continuing smoker, risk of death from lung cancer will have declined by almost half if she were an average smoker of one pack per day, and her risk of pancreatic cancer has declined to that of a never-smoker, while risk of cancer of the mouth, throat and oesophagus will have also declined,
 - (xx) after 13 years, her risk of smoking induced tooth loss has declined to that of a never-smoker,
 - (xxi) after 15 years, her risk of coronary heart disease declines to that of a person who has never smoked,
 - (xxii) after 20 years, her excess risk of death from all smoking related causes, including lung disease and cancer, will have reduced to that of a never-smoker.

2. That this House:
 - (a) congratulates the Hon. Catherine Cusack for her courageous and sensible decision to quit smoking and wishes her a successful and easy path to these health benefits,
 - (b) thanks the Hon. Catherine Cusack for setting an excellent example to the community, and
 - (c) calls on all levels of government to support tobacco control measures including plain packaging of tobacco products, licensing all vendors, banning all vending machines and restrictions on outdoor smoking near public buildings and children's play areas.

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

Motion agreed to.

MALEK FAHD ISLAMIC SCHOOL

Motion by Dr John Kaye agreed to:

1. That this House notes that:
 - (a) section 21A of the Education Act 1990 requires that financial assistance not be paid to non-government schools operating for profit, defined as income or assets being paid to another person or entity, except where it is payment for a service, including rent at a fair market rate,
 - (b) Malek Fahd Islamic School in Greenacre has been accused of providing \$3.2 million to the Australian Federation of Islamic Councils (AFIC) in so-called "management fees",
 - (c) this amount would pay for more than 20 person years of senior school management time,
 - (d) AFIC has also been accused of requiring Malek Fahd to pay \$2.59 million in backdated rent increases, and
 - (e) these payments raise serious questions about the compliance of Malek Fahd with section 21A of the Education Act 1990 and the \$3,966,566 paid by the New South Wales Government to the school each year in section 21 subsidies.
2. That this House calls on the Minister for Education, the Honourable Adrian Piccoli MP, to investigate the allegations and the compliance of the school with section 21A of the Education Act 1990 and to strip the school of all State Government subsidies if it is found to have been operating for profit.

PETITIONS

La Perouse Museum

Petition requesting that the House seek a review of the proposed Kawai-La Perouse draft plan, in particular, in regard to the proposed changes to the La Perouse Museum by the National Parks and Wildlife Service, received from the **Hon. Dr Peter Phelps**.

Coal Seam Gas Exploration

Petition requesting that the House put communities and the environment ahead of the profits of gas companies, support a moratorium on coal seam gas exploration and extraction activities, and support an independent investigation into the environmental, social and economic consequences of coal seam gas activities, received from the **Hon. Jeremy Buckingham**.

IRREGULAR PETITION

Leave granted for the suspension of standing orders to allow the Hon. Dr Peter Phelps to present an irregular petition.

Wentworth Falls Railway Station

Petition stating that Wentworth Falls railway station should be upgraded by installing access lifts and a ramp to the platform to enable safe access for the elderly, disabled and infirm members of the community, received from the **Hon. Dr Peter Phelps**.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Orders of the Day Nos 1 and 2 postponed on motion by the Hon. Duncan Gay.

RESIDENTIAL PARKS AMENDMENT (REGISTER) BILL 2011

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

Motion by the Hon. Greg Pearce agreed to:

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

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

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

The Hon. LUKE FOLEY (Leader of the Opposition) [11.23 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. 207 outside the Order of Precedence, relating to a select committee to inquire into the Kooragang Island Orica chemical leak, be called on forthwith.

This matter is urgent. There is no more pressing matter before this House than the necessity of inquiring into the circumstances surrounding the toxic chemical leak from the Kooragang Island Orica plant two weeks ago into the suburb of Stockton. This House needs to establish a select committee to inquire into a number of things. Why did it take the company 16 hours to inform the Government? Why did it take the Government 54 hours to inform the community? What can be done in future to ensure that this never happens again? Yesterday we saw the extraordinary circumstance where not one, but two, Cabinet Ministers of the O'Farrell Government fled from press conferences when asked about their failure to notify.

The Hon. Matthew Mason-Cox: Point of order: The Leader of the Opposition well knows that he should be establishing urgency, not canvassing the substantive elements of the debate.

The PRESIDENT: Order! I remind the Leader of the Opposition to confine his remarks to the question before the Chair.

The Hon. LUKE FOLEY: This matter is urgent because yesterday two Cabinet Ministers sought to avoid the scrutiny of journalists regarding the Government's response.

The Hon. Greg Pearce: Point of order: My point of order relates to urgency. The Leader of the Opposition well knows that he should be establishing urgency, not criticising Ministers. He is not addressing the substance of the motion, which does not involve any investigation of Ministers' actions.

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

The Hon. LUKE FOLEY: There is no greater example of why this matter is urgent than the repeated points of order moved by Government members. We need a select committee, and we need it now, to stop the cover-up by the O'Farrell Government—the cover-up that continues with points of order—to try to stop us getting to the bottom of why it took the Government 54 hours to inform the people of Stockton about the leak of a toxic chemical into its community. Government members can move all the points of order they like, and Ministers can run from all the press conferences they like, but the people of New South Wales have a right to know why it took the Government and the company so long to tell people about the leak when the children of Stockton were playing outdoors on the Tuesday, Wednesday and Thursday.

The Minister for the Environment did not have the decency to issue a health alert to warn Stockton residents against letting their children play outdoors and to tell them that their children should be kept inside

until 3.30 p.m. Thursday afternoon. Currently there is no more urgent matter in New South Wales public affairs. That is why we need an inquiry. This House, the house of review, should establish a select committee to review the actions of the O'Farrell Government and the company to get some answers for the people of the Hunter.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [11.28 p.m.]: This matter is not urgent. In 16 years Labor—that mob on the other side of the Chamber—did not amend the law to ensure that the company was obliged to notify in a timely fashion. They had 16 years to address it yet they did nothing. On 17 August 2011 Premier O'Farrell released the terms of reference of an inquiry into the Orica incident.

The Hon. Amanda Fazio: Point of order: My point of order is that the Minister is not addressing urgency. He is talking about the substantive argument.

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

The Hon. GREG PEARCE: I do not want to take up too much of the time of the House on this matter, but in 16 years that mob on the other side did not amend the law to ensure timely reporting by the company. The Government has now established an inquiry, which has the power to fully investigate this matter. This matter is premature. We need to see the outcome of the inquiry being conducted by Brendan O'Reilly, who is the former Director General of the Department of Premier and Cabinet.

The Hon. CATE FAEHRMANN [11.29 a.m.]: The Greens support urgency in relation to this matter. It was interesting to hear the Minister for Finance and Services, and Minister for the Illawarra say that this matter is not urgent. Clearly, it is very urgent. Although the Government is holding an independent inquiry into this matter, the proposal is for a select committee examined the issue after the O'Reilly report is handed down. That is critical. The select committee would look at different matters to those of the O'Reilly inquiry. That is critical for us. This matter is absolutely urgent because it is clear from public meetings that the community wants answers. Indeed, this morning I spoke to a resident about this issue. The residents want answers and they want their parliamentarians from all sides to look into the matter. They need an assurance that we are concerned about the matter and that we want to examine the laws. We do not simply want to shift the blame from one side to the other, depending on which party is in government; we need to look at the laws, and I hope that is what a select committee inquiry will do. Frankly, no matter is more urgent at the moment than assuring the community that this House takes the matter seriously and we will investigate it after the O'Reilly report is handed down.

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

Motion agreed to.

Order of Business

Motion by the Hon. Luke Foley agreed to:

That Private Members' Business item No. 207 outside the Order of Precedence be called on forthwith.

ORICA PLANT INCIDENT

The Hon. LUKE FOLEY (Leader of the Opposition) [11.32 a.m.]: I seek leave to amend Private Members' Business item No. 207 outside the Order of Precedence for today as follows:

1. Omit paragraph 1 (a) (ix).
2. Insert after paragraph 1 (b) the following paragraph:
 - (c) the final report of the inquiry into the chemical leak at the Orica site being conducted by Brendan O'Reilly, and
3. Insert after paragraph 1:
 2. That apart from its first meeting, the committee is not to hold any further meetings until the first sitting week following the publication of the final report of the inquiry into the chemical leak at the Orica site being conducted by Brendan O'Reilly.

Leave granted.

Accordingly, I move:

1. That a select committee be appointed to inquire into and report on the Kooragang Island Orica chemical leak, in particular:
 - (a) the response of Orica following the incident, including:
 - (i) how the Chromium VI was released and how Orica became aware it had been released,
 - (ii) Orica's understanding of the geographic extent and environmental impact of the leak,
 - (iii) whether the potential health and other impacts of the leak on Orica workers and on the community around the company's plant were adequately addressed,
 - (iv) the actions and timing of Orica in reporting the leak and addressing its immediate impacts,
 - (v) the adequacy of Orica's emergency response plans and safety plans with respect to chemical discharge or explosion prior to the incident,
 - (vi) compliance by Orica with licensing or regulatory obligations arising from the incident,
 - (vii) whether other toxic chemicals stored or produced on the Orica Kooragang site have potential to affect the community and environment,
 - (viii) Orica's response plan to the incident.
 - (b) the New South Wales Government's response following the incident, including:
 - (i) the timelines and reporting to the Office of Environment and Heritage within the Department of Premier and Cabinet, the Office of the Minister for Environment and Heritage, the Office of the Premier, the Department of Health, the Office of the Minister for Health, New South Wales Fire Brigades, the Office of the Minister for Police and Emergency Services and the Minister for the Hunter,
 - (ii) the actions of government departments and agencies once notified,
 - (iii) the actions of government ministers and ministerial staff once notified,
 - (c) the final report into the chemical leak at the Orica site being conducted by Brendan O'Reilly, and
 - (d) any other related matters arising from these terms of references.
2. That apart from its first meeting the committee is not to hold any further meetings until the first sitting week following the publication of the final report of the inquiry into the chemical leak at the Orica site being conducted by Brendan O'Reilly.
3. That the committee consist of seven members comprising
 - (a) three Government members, nominated by the Leader of the Government,
 - (b) two Opposition members, nominated by the Leader of the Opposition, and
 - (c) two crossbench members, nominated by agreement between the crossbench members, or in the absence of agreement, by a vote of the House.
4. That at any meeting of the committee, any four members of the Committee will constitute a quorum.
5. That a committee member who is unable to attend a deliberative meeting in person may participate by electronic communication and may move any motion and be counted for the purpose of any quorum or division, provided that:
 - (a) the Chair is present in the meeting room,
 - (b) all members are able to speak and hear each other at all times, and
 - (c) a member may not participate by electronic communication in a meeting to consider a draft report.
6. That the committee report by the last sitting day of the second sitting week of 2012.

This House has a vital role to play in scrutinising the actions of Executive Government. It is entirely within our obligations to inquire into what has happened in the past couple of weeks. An inquiry should examine a number of things: first, the actions of the company and why it took 16 hours to notify the Government; and, secondly, the actions of the Government once notified and why it took 54 hours to alert the community to the toxic

chemical leak. I believe a select committee is the appropriate forum for this House to investigate and examine those matters. I propose a select committee comprising seven members, with three to be drawn from the Government, two from the Opposition and two from the crossbench.

I have discussed this with crossbench members, who have suggested to me that Mr O'Reilly should be allowed to conduct his review, which the Government has established, and report before this committee sets about its work. I am prepared to accept that constructive suggestion from the crossbench. We do not seek to interfere in any way with the work of Mr O'Reilly, who is a distinguished public servant. Last week the Opposition made some criticisms because it felt that constraints were being put on Mr O'Reilly in terms of how he could conduct his investigation and what he could look at. This Chamber is within its rights to conduct a wider investigation. I draw to the attention of members comments of the Premier, Mr O'Farrell, last summer when an upper House inquiry into the actions of the then Government was proposed. Mr O'Farrell said:

Because the public have a right to know, and in the absence of the State Government being prepared to tell the public what is happening in this deal, this inquiry should proceed.

I cannot put it any better than how Mr O'Farrell put it last summer. I commend the motion to the House.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [11.36 a.m.]: The Government is most concerned about the events in question, as evidenced by the fact that it moved quickly to establish the independent O'Reilly inquiry. We did not limit Mr O'Reilly in any way, and I invite members to look at the terms of reference of the O'Reilly inquiry if they are of a mind to do so. Mr O'Reilly was chosen as the respected independent chair of the inquiry. He was the Director General of the Department of Premier and Cabinet under a former Labor Premier. We expect him to investigate every aspect of the incident.

The Government is determined to ensure that there is no repeat of the delays that have characterised this matter. The inquiry will look at apparent delays in Orica's reporting of the incident to the appropriate authorities and whether legislative changes are required to improve the timeliness of reporting. I hope that Mr O'Reilly spends considerable time on that aspect of the matter. As I indicated earlier, we are concerned that in 16 years the former Labor Government did not change the law to ensure timely reporting by the company in question. The Government is also dissatisfied with the current procedures that resulted in delays in informing both the Government and the public about the incident. The inquiry will also look at that issue and how improvements can be made.

It is important to note that the New South Wales Chief Health Officer, Dr Kerry Chant, confirmed and reconfirmed that tests revealed no health risks to residents. The Government is determined that in the event of any future similar incidents information should be made available to the public as soon as possible. As members know, Mr O'Reilly has been asked to report by 30 September 2011, and the report will then be made public. We are determined to improve the procedures surrounding spills to ensure timely and accurate notification. Earlier I opposed declaring the matter urgent because we were concerned that a select committee, if established, might in some way hamper Mr O'Reilly's inquiry, so I welcome the amendments that have been made by the Opposition in that regard. I am also concerned about whether the committee, as established, will have the capacity to investigate the operations of the company. That is a matter that the Opposition will have to consider. I hope that the committee, if established, will give due consideration to any recommendations in the O'Reilly report and ensure that the committee does not in any way hamper the Government if it wants to adopt or address the recommendations.

The Hon. ROBERT BROWN [11.39 a.m.]: The Shooters and Fishers Party will support the Leader of the Opposition's motion as amended by leave. Our support of this inquiry does not in any way impugn the ability or the reputation of Mr O'Reilly to carry out a thorough—though, of necessity, hurried—inquiry. We are pleased that the Opposition was prepared to support the inquiry by amending the original motion.

The Hon. CATE FAEHRMANN [11.40 a.m.]: The Greens also support the motion. Obviously it is very important for the upper House to examine all the issues surrounding this incident, including the responses of the company and the Government. It is also important for this House to look into pollution incidents more broadly and the regulatory environment surrounding how companies are licensed to emit pollution into the air and discharge pollution into waterways. It is crucial for us to get a handle on whether the Environment Protection Authority and the Office of Environment and Heritage have adequate resources to undertake their roles as essentially the environmental watchdogs in this State. The Greens support the motion, although we are seeking to expand it somewhat. I have an amendment to that effect. I move:

That the question be amended by inserting after paragraph 1 (b) (iii):

"(iv) the capacity of the Environment Protection Authority and the Office of Environment and Heritage to adequately respond to this incident and to monitor and enforce Environment Protection Licences, and"

This amendment will allow the parliamentary committee to investigate the Environment Protection Authority, which over the years has lost its teeth and been subsumed into the Office of Environment and Heritage. I understand that the Environment Protection Authority is now a board and that fewer and fewer personnel undertake the many compliance and monitoring activities of the Office of Environment and Heritage. We have seen the closure of Department of Environment and Climate Change and of Environment Protection Authority offices. I wonder whether the resources of the Office of Environment and Heritage are adequate to monitor the number of licensees that have been issued with environment protection licences.

This inquiry is critical in order to understand what happened. In addition to the investigation into Orica and the Government's response to this crisis, it is critical that we also look at whether the Government has the resources required to ensure that such incidents do not occur again and that every single company that is issued with an environment protection licence—that is apparently what they are called—in New South Wales is monitored adequately and that compliance is undertaken across the State. My understanding is that thousands of breaches of environment protection licences have occurred in recent years, involving entities ranging from coalmines to companies such as Orica—they occur on almost a daily basis. It is about time the House, through this committee, examined the matter and strengthened the regulations if required, but also gave the Environment Protection Authority and the Office of Environment and Heritage more resources to do their job. I commend my amendment to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.44 a.m.]: The inquiry that is proposed by the Leader of the Opposition is necessary for the reasons he has set out. However, in answer to the Minister for Finance and Services, one area of scrutiny that is omitted from Mr O'Reilly's investigation is the conduct of the Minister and of the Government after Orica notified the Government of the toxic leak. The Minister says—and I believe he says this genuinely—that the Government is unhappy about the delays in notifying the public. Yet this matter is uniquely within the Government's purview. The public and this House need to know what happened between Orica notifying the Government on Tuesday and the environment Minister notifying the public at 3.30 p.m. on Thursday. Why the delay? We have already heard in this Chamber from the Minister for Police and Emergency Services that he did not know of the incident until the middle of the day on Thursday. The proposed inquiry will give the House and the public the answers they need to understand why the Government took so long to act and to notify the public properly. That is one of the many reasons why the House should support the inquiry.

The Hon. ROBERT BORSAK [11.45 a.m.]: The Shooters and Fishers Party will not support The Greens amendment moved by the Hon. Cate Faehrmann. The inquiry proposed by the Opposition is meant to be targeted, and its purpose is to get answers for the citizens of Stockton as to what happened and why it happened. What The Greens are seeking, though commendable, is more within the purview of a General Purpose Standing Committee investigation, or in fact part of the governmental process of departmental review.

The Hon. LUKE FOLEY (Leader of the Opposition) [11.46 a.m.], in reply: I thank all honourable members for their contributions to debate on the motion. I thank crossbenchers—in their rich kaleidoscope—for their constructive contributions to the drafting of this motion, which I commend to the House.

Question—That the amendment of the Hon. Cate Faehrmann be agreed to—put.

The House divided.

Ayes, 19

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

Noes, 21

Mr Ajaka	Miss Gardiner	Mrs Mitchell
Mr Blair	Mr Gay	Mrs Pavey
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

Question resolved in the negative.

Amendment of the Hon. Cate Faehrmann negatived.

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

Motion agreed to.

RESTART NSW FUND BILL 2011

Second Reading

Debate resumed from 24 August 2011.

The Hon. AMANDA FAZIO [11.56 a.m.]: I indicate that I will not oppose the Restart NSW Fund Bill 2011 even though it is a complete waste of time. The fact that the Government feels it has to introduce a bill that allows it to set up a new bank account demonstrates its complete lack of economic management. That is all it is. It is like opening up a Christmas club account: all the family is excited but it is no good unless money is put into that account. The Government has given no indication that it will put money into this account. It is even discretionary for the Treasurer or Minister to put windfall funds into the account. The bill states that the Minister "may" put windfall funds into it or may declare something to be a windfall gain. However, unless something is declared to be a windfall gain the money can be used for whatever purpose the Government deems appropriate. This bill is a waste of time; it is symbolism and tokenism at its absolute worst. It shows that most of the things in the O'Farrell-Stoner Government's 100 Day Action Plan are a farce, a charade. They have no meaning and they will do nothing to benefit the people of New South Wales. Having said that, the Government can have its silly bill; I will not oppose it.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [11.57 a.m.], in reply: I thank honourable members for their contributions to debate on the Restart NSW Fund Bill 2011, which is important legislation. There has been a range of commentary, particularly from Opposition members and The Greens, and I thank them for that. I will address a couple of comments, particularly from the Opposition spokesperson, the Hon. Steve Whan, that were reflected in other contributions, especially in the other place. First, I will deal with the need to legislate to create this fund. It is clear that there is some misinformation around the place as to the Government's motives, and I put that on record.

I note that the shadow Treasurer in the other place stated that we should not be debating the purpose of the bill; the Treasurer should have just set up the fund within his portfolio. The Hon. Steve Whan made similar comments, stating that this is simply a stunt, just a bank account and of no use at all. The reason the Government wants to legislate for the fund, as members would be aware, is that this was an important promise of the Government before the election—more than an off-handed gesture. We wanted to state clearly to the people of New South Wales that accountability and transparency in government are important to the Coalition in opposition and in government.

As members would be aware this legislation will stand the test of time whilst governments from time to time disappear. It specifies that any money paid out from Restart NSW will be based on recommendations by Infrastructure NSW, and it will ensure that Infrastructure NSW receives regular reports on the balance of money standing to the credit of the fund. That is the sort of accountability behind which the Government stands in relation to starting this important fund. The bill ensures that payments from the fund are reported to Parliament annually and that receipts and payments to the fund are audited annually by the Auditor-General, thereby increasing the transparency of the fund. The Government is committed to that type of transparency and accountability, and it is for that reason that it is important that Restart NSW is set up with those types of reporting benefits for the Government and for the New South Wales public at large.

The PRESIDENT: Order! There is far too much audible conversation in the Chamber. The Chair and Hansard, no doubt, are having difficulty hearing the contribution of the Hon. Matthew Mason-Cox. I would be grateful if members would keep the level of their conversations to an absolute minimum.

The Hon. MATTHEW MASON-COX: Members of the Opposition referred to similar funds set up by the former Government, in particular, the State Infrastructure Fund. I think the Hon. Steve Whan mentioned that \$16.6 billion was spent on infrastructure.

The Hon. Steve Whan: It was in the last budget.

The Hon. MATTHEW MASON-COX: In the last budget. He mentioned the setting up of the State Infrastructure Fund. I note that in the Legislative Assembly the shadow Treasurer pointed to nine special deposit accounts that were operating under the former Labor Government. I will deal with the State Infrastructure Fund that was established in 2008 by Treasurer Michael Costa to deliver infrastructure for New South Wales. As we heard, \$16.6 billion was the nominal figure attributed to the last budget of the former Government. But the fund provides very interesting reading. I have been advised by Treasury that a mere \$1.3 million was only ever deposited into that fund and, indeed, that no payments were made from the fund for infrastructure. Under the former Government the State Infrastructure Fund was set up to invest in State infrastructure but it did absolutely nothing. Restart NSW has a fund and the Government has given a commitment that seed capital will go into that fund over time and that measures will be taken in relation to the issue of Waratah bonds.

[Interruption]

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

The Hon. MATTHEW MASON-COX: By way of edification, Mr President, I advise that the mobile phones on the table are not mine. I show my phone and lay it on the table for all to see. I have set it on "vibrate" so that it will not be the cause of interruption.

The PRESIDENT: Order! I apologise to the Hon. Matthew Mason-Cox and withdraw the call to order.

The Hon. MATTHEW MASON-COX: We heard the Hon. Steve Whan and other members say that the former Government invested enormous amounts of infrastructure in the past 16 years. The realities are mixed but are very clear in relation to the State Infrastructure Fund, which was set up by the former Government: there was no investment in infrastructure, no accountability and no auditing of the fund. Indeed, no attributable auditing report was given to the former Government, nor was the fund overseen by the Parliament. It is one thing to receive tax revenue, but it is yet another thing to be accountable for spending it.

The Opposition spokesman, the Hon. Steve Whan, referred to the expected total payments into the fund. He argued that there is no real commitment until we see some funds flow from the fund. The reality is that we cannot put the chicken before the egg. The fund needs to be set up in the first place to ensure that we pay into it potential proceeds from issuing bonds and the sale or lease of the desalination plant, or the windfall gains through the budget process. For the past 16 years under the former Government any windfall gains it received were used simply as a slush fund for whatever it deemed appropriate at the time. The Coalition Government will be disciplined and accountable about how it uses funds. It has a budget of estimated expenditure over the forward estimates, but the reality is that if the estimates are exceeded, the funds will be devoted to Restart NSW to ensure that we continue to build the capital base to invest in important infrastructure needed by this State. The former Government made a slush fund of any windfall gains, which was used in a very ill-disciplined way. That culture will be changed under the present Government. We need accountability and transparency, and Restart NSW will provide that.

The Hon. Steve Whan referred also to the use of funds in regional and rural New South Wales. To make it abundantly clear for the member I advise that projects financed from Restart NSW will include local infrastructure projects in regional areas. Indeed, 30 per cent of the total payments from the fund will be used on such infrastructure projects. This will complement the Government's policies for improving investment in infrastructure and services in regional areas—policies about which the Government is very proud. The Government is proud to support our regional areas, which were neglected for far too long under the former Government. We have a whole host of policies to complement the investment of infrastructure. Restart NSW will inject life, colour, movement and real resources into infrastructure in regional New South Wales, and we are all very excited about that.

Opposition members attacked also the issuance of Waratah bonds. They clearly do not understand that concept. The advice from Treasury Corporation is that Waratah bonds will diversify New South Wales Government funding at no extra cost. This diversity is critical given the events of the past days and weeks with regard to capital protection for investors looking for safe investments. The member for Cabramatta in the other place said that Waratah bonds will be a nightmare as they will increase administrative complexity and transaction costs, all of which will be costs that the taxpayer would otherwise not have had to bear. The member for Cabramatta and others on the Opposition benches do not understand how the bonds will work. The claims by

the member for Cabramatta are simply incorrect. There will be no cost to taxpayers associated with Waratah bonds. A retail bond is different from a wholesale bond, and the relatively small administration costs associated with retail bonds are embedded in the yield offer.

Members of the Opposition referred to what the Government described as the budget black hole. When this Government came to office in March its incoming brief indicated a very significant deterioration in the budget position. It is very clear, and the facts speak for themselves, that the incoming brief showed a \$4.5 billion black hole relating to the years up to 2014-15. The \$4.5 billion black hole, uncovered by this Government, is derived from the cumulative difference between the mid-year review figures and the latest estimates in the incoming brief.

The Hon. Steve Whan: The Parliamentary Budget Office's comment was very impressive.

The Hon. MATTHEW MASON-COX: I will get to that. It was confirmed by Michael Lambert's report on the audit of the State's finances. The reality is that the Lambert report also identified an additional \$700 million, at that time, in relation to the Solar Bonus Scheme costs—a blowout of \$700 million. That figure has blown out quite significantly since then. The reality is that adding the \$4.5 billion budget deterioration over the years to 2014-15 to the \$700 million blowout in the Solar Bonus Scheme over the same period results in a \$5.2 billion deterioration of the budget. It is important to put that on the record, because we have heard assertions from Opposition members about a fictitious black hole. There is nothing fictitious about the black hole; the previous budget has been shown to be inadequate to the tune of \$5.2 billion. So members opposite should not perpetrate that lie. The reality is there in black and white: New South Wales is \$5.2 billion worse off than it should have been when the Coalition came to office.

Those on the other side have continued to say that they left New South Wales with a triple-A rating and with the State's finances in a good state. The reality is somewhat different. It is absolutely right that New South Wales has a triple-A credit rating, but I have been demonstrating a deterioration in budget dynamics. The \$5.2 billion difference in the budget is compounded by a long-term problem with the fiscal balance of the budget. Over the last 5 to 6 years of the former Government expenses had been growing at a rate 1 per cent higher than revenue. When Moody's and other rating agencies are measuring whether or not they need to review a rating for governments, they compare the ratio of net debt and unfunded superannuation liabilities to total revenue. I will give the members opposite an economics lesson, if they are up to it.

The reality is very simple. We have a long-term deterioration in that very important ratio. In the budget papers of 2010-11, estimates at that time for 2014 showed the ratio net debt and unfunded superannuation liabilities were 108 per cent of revenue. Members opposite might understand that the ratio that Moody's considers puts the rating under pressure is 120 to 130 per cent. We found from the incoming Government's brief that there was a deterioration in the financial position of the State with a \$5.2 billion black hole and an expense ratio that was out of control; the graph was heading into the 120 to 130 per cent, putting our triple-A rating under threat. That is the reality. That is the economic case that the Hon. Steve Whan does not understand. That is something you will not accept because you do not know anything about economics, fiscal realities and how budgets work.

The Hon. Steve Whan: Point of order: The Parliamentary Secretary is addressing me directly across the table and is seeking to mislead the House with his flawed analysis of budgets. I ask that the Parliamentary Secretary be called to order and asked to address members through the Chair. I suggest he might want to answer why the Parliamentary Budget Office said that the Premier's claims were unsupported by evidence.

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

The Hon. MATTHEW MASON-COX: The member thinks he is still in the other place; he does not realise that this House has standards and that its members understand a little bit more than the rhetoric and the nonsense that he normally sprouts. I conclude by stating that Restart NSW will be a benchmark of accountability and transparency. The former Government did not understand that. The O'Farrell Government is determined to ensure it is the benchmark for behaviour in the public sector for years to come. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Matthew Mason-Cox agreed to:

That this bill be now read a third time.

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

GAMING MACHINE TAX AMENDMENT BILL 2011

Second Reading

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [12.17 p.m.], on behalf of the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

In October last year the New South Wales Liberals and Nationals signed a memorandum of understanding with ClubsNSW. The title of that agreement was "Strong Clubs, Stronger Communities", which very clearly points to the future that the New South Wales Liberals and Nationals Government wants for clubs and communities across this State. The memorandum of understanding contains a range of commitments to help secure the long-term financial viability and sustainability of New South Wales clubs and allow them to strengthen their economic and social contribution to the State and the communities they service.

The bill implements two important commitments relating to reduced gaming machine taxation rates and the expanded and renamed Community Development and Support Expenditure Scheme, now called ClubGRANTS. Other commitments relate to the establishment, amalgamation and de-amalgamation of registered clubs as well as gambling policy, industry sustainability and accountability provisions in the Registered Clubs Act, together with clubs on Crown lands and workers compensation insurance.

The bill provides for a reduction in gaming machine taxation rates commencing from 1 September 2011, which is the start of the 2011-12 gaming machine taxation year. The amendments to gaming machine taxation in this bill will benefit registered clubs by approximately \$300 million over a four-year period to 2015. This is made up of more than \$200 million resulting from the tax rate changes and a further \$90 million associated with the ClubGRANTS scheme, which I will discuss shortly. This is an important contribution to the sustainability of the club industry and an expansion of the role of clubs in the community.

The New South Wales Liberals and Nationals Government believes that clubs themselves are best placed to determine how this money, which is derived from club revenue, should be spent in local communities. This new ClubGRANTS scheme more accurately reflects the origin of contributions made under the scheme. It will assist club members and the wider community to have a greater understanding of the origin of funds provided for development and support purposes.

The original Community Development and Support Expenditure Scheme was established in 1998. Its purpose was to encourage larger registered clubs in New South Wales with gaming machine profits over \$1 million to contribute financially or in-kind to locally based community programs and services. In return, clubs received a tax rebate of up to 1.5 per cent of their gaming machine profits over \$1 million. This is provided that an equivalent amount has been applied to approved expenditure on community development and support. Approximately one-third of all New South Wales registered clubs participate in this voluntary scheme. Last financial year clubs allocated more than \$63 million to various community projects and services including aged, disability, youth and volunteer emergency services. This was \$25.3 million more than eligible clubs were required to contribute, and that reflects the generosity of the club industry. The original scheme provided for two categories of expenditure, as outlined in guidelines under the Act. Category 1 expenditure relates to specific community welfare and social services, community development, community health services and employment assistance activities; Category 2 expenditure relates to other community development and services.

This bill will increase the total tax rebate that may be claimed by clubs under the scheme from 1.5 per cent to 1.85 per cent of gaming machine profits over \$1 million. It is proposed that the minimum rebate for category 1 expenditure will remain at the current rate of 0.75 per cent, while the maximum rebate for category 2 expenditure will be increased from 0.75 per cent to 1.1 per cent. This increase will facilitate changes

to category 2 expenditure, allowing clubs to claim contributions to club core activities as well as professional sport, including the National Rugby League, that are not player-related payments. The bill provides also for a further 0.4 per cent of a club's gaming machine profits over \$1 million to be paid into the new ClubGRANTS fund.

This new State-wide funding pool is for large-scale projects associated with sport, health and community infrastructure and will be known as category 3 under the scheme's guidelines. Clubs will make a minimum contribution of 0.4 per cent of their profits in excess of \$1 million to this new category. Together, the effect of these amendments is that amounts equalling 2.25 per cent of registered club profits over \$1 million in every tax year are available as community support expenditure through the ClubGRANTS scheme. These amounts will be taken from the tax that would otherwise be payable by clubs. In order to relieve clubs of the cost of making separate funding payments these amounts will be transferred on their behalf by the Government each year. The State-wide funding pool will enable communities in local government areas that have no participating clubs in the ClubGRANTS scheme to also benefit from the club sector's contributions. Based on current machine profits, the contribution of clubs to this funding pool will amount to more than \$10 million annually.

The Minister administering the Registered Clubs Act will be responsible for approving any expenditure payable from the State-wide fund. The club sector will be consulted when decisions are made on individual funding applications pertaining to this fund. As is currently required under the Gaming Machines Tax Act, guidelines will be published to assist clubs in determining what constitutes the application of profits to community development and support under the ClubGRANTS scheme. In addition to defining the terms for category 1 and category 2 projects and services, the guidelines will also define the terms for the new category 3 projects and services. The guidelines as they will apply to category 3 will be settled in consultation with ClubsNSW. Those guidelines are being developed and when finalised they will be tabled in this Parliament. The proposed expansion of the range of projects and services that clubs can contribute funds towards under the ClubGRANTS scheme will ultimately have a positive flow-on effect to the club and the broader community. Some of these projects would otherwise be in need of public funding or would not be possible without the financial assistance that will be provided by the new ClubGRANTS scheme.

The club industry in this State has a long and proud history of community support in a wide range of areas. Clubs are strong supporters of community sporting, social and charitable organisations and donate towards assisting with health and community care, especially for the elderly. Clubs foster community spirit and provide vital socialising facilities, often for people who have little other recreational opportunities. This is particularly important in regional and rural areas of New South Wales where access to facilities may be limited due to distance and smaller populations. The New South Wales Liberal-Nationals Government believes that making clubs stronger also strengthens the resilience and vitality of all communities. This bill will help to achieve that commendable goal.

According to ClubsNSW modelling that was completed by KPMG every dollar of tax relief given to clubs can create \$2-worth of benefits to New South Wales. The ClubsNSW modelling shows that tax relief will help to boost the social contribution of clubs by \$272 million and gross State product by \$261 million through to 2015. It will also help to create an extra 2,000 jobs each year. The New South Wales Liberal-Nationals Government is in no doubt about the importance of securing the future of clubs. This is especially important in regional and rural communities of New South Wales. Registered clubs are often one of the largest employers in country towns, employing people in full-time, part-time, casual, apprentice or trainee positions. The wide range and significant number of employment opportunities provided by clubs is vital to the growth and prosperity of local economies. Every job saved in a registered club, through the assistance provided by this bill, will result in more money spent in local businesses and more people choosing to live and raise their families in regional areas.

The New South Wales Liberal-Nationals Government recognises the substantial and unique economic and social contribution clubs make to this State. Not only does this bill confirm our support for the club industry, it also demonstrates that this Government believes that clubs deserve more than broken promises; they deserve real action that will deliver real and tangible benefits for all. The bill will assist clubs to continue their good work in enriching the lives of members and their guests as well as helping the many thousands of people who rely on or benefit from the club industry. As I noted earlier, the bill forms part of a wider package of reforms under the memorandum of understanding between the New South Wales Liberal-Nationals and ClubsNSW. Other reforms in the memorandum of understanding that are not included in this bill are being developed so that they can be introduced into the Parliament shortly. The Government looks forward to

continuing its constructive relationship with the registered club industry in this State when implementing the commitments contained in the memorandum of understanding so that the industry can grow and prosper to the mutual benefit of all the people of New South Wales.

I note that the memorandum was signed in many places across New South Wales in the lead-up to the last election. I attended the signing of the memorandum in Queanbeyan for the electorate of Monaro. A number of clubs participated in that meeting, including the Queanbeyan Leagues Club, the Queanbeyan Tigers Club, the Queanbeyan Golf Club and the Queanbeyan Kangaroos Club. A range of juniors from those clubs were present to witness the signing of this historic memorandum and the support the clubs provided at that time was welcome. These clubs understand the importance of their place in the community, and the community understands the support these clubs richly provide to the social fabric. The Government is committed to the future of clubs in New South Wales and to the benefits that they provide to the communities that rely upon them. I commend the bill to the House.

The Hon. STEVE WHAN [12.28 p.m.]: The Opposition supports the bill. The Labor Party over many years has had a strong history of supporting clubs in New South Wales. We support this proposed legislation because it was a commitment given by the Government before the last election.

[*Interruption*]

It is obvious from the interjections of members on the Government side of the House that they have short memories. Clubs in New South Wales have thrived under Labor governments over many decades since 1956, when Labor permitted the introduction of poker machines into clubs. That allowed our modern club movement to develop and to provide community services. I would be interested to read *Hansard* of that time to read the comments of the Liberal-Nationals then. Labor introduced that process and over many years Labor has worked with the club movement to support its work throughout the community and to assist clubs to develop and support a variety of employment opportunities.

The New South Wales Labor Party has consistently supported club employees and acknowledges the valuable contribution they make through employment in many towns around the State of New South Wales. We support this legislation because it was a commitment by the Government. However, I want to put on record Labor's support for clubs in New South Wales. Although we support the bill and acknowledge the work that clubs will be able to do in their communities with these funds, we emphasise that the Government is proposing massive cuts to other sections of the community in its upcoming budget. One could question the Government's priorities given that it can afford to give \$300 million tax cuts at the same time as it proposes multi-million dollar cuts to services that assist vulnerable people throughout the community. Opposition members can interject, but we come back to the Government's ideological fixation with cutting the public sector—which we are seeing at the moment—on the unjustified basis of a so-called black hole.

The Hon. Matthew Mason-Cox: Point of order: The member has strayed into areas totally unrelated to the tenure of the bill. I ask that the member be brought back to the leave of the bill.

The Hon. STEVE WHAN: To the point of order: The bill proposes the allocation of funds that otherwise would have come to the Government. It is proposing a tax cut, which is directly relevant to the finances of the Government, so talking about the overall budget position is directly relevant to the bill.

The PRESIDENT: Order! With regard to debate on bills the rulings of Presiding Officers are consistent. Deputy-President Kelly ruled:

Although contributions of members must be relevant to the question before the Chair during debate on the second reading of a bill, members may make wide-ranging contributions.

Deputy-President Kelly ruled also:

Although members are granted a great deal of latitude in their comments during the second reading speech, the majority of their speeches should address the bill being debated.

The Hon. Steve Whan is in order. However, I remind him of those limitations.

The Hon. STEVE WHAN: If one cannot put the expenditure of government money into context, then one cannot manage a budget. I was surprised to hear those types of comments coming from the Opposition benches.

The Hon. Matthew Mason-Cox: We are the Government.

The Hon. Marie Ficarra: It takes a while to get used to it, doesn't it?

The Hon. STEVE WHAN: I acknowledge that it is odd to see the Liberals and The Nationals on the Government benches and I aim to keep it odd for as short a time as possible. Clubs in New South Wales do a terrific job working with communities. The Opposition is pleased that the funds will go directly towards community grants and contributions. Labor always has supported our local clubs, as do many members of the Labor Party who are members of club boards or who are club members in this State. As the Parliamentary Secretary has mentioned, the Community Development Support Expenditure scheme was introduced in 1998 by a Labor Government. Many incredibly important community grants, which will continue, have been made under that scheme. I am aware of a range of clubs from a particular community getting together with local government and other interest groups to determine the priorities of that funding.

The Parliamentary Secretary mentioned, for instance, the Queanbeyan Leagues Club. Contributions from that club assisted the ACT Eden Monaro Cancer Support Group to establish its headquarters on old Cooma Road—a very worthwhile use of funds. For many years the Queanbeyan Leagues Club also paid for the entire maintenance and running of the Seiffert Oval for the benefit of the junior rugby league and the local rugby league competition and other sports in the area, but the council now has taken that over. Many clubs in the Monaro area are equally engaged in good work. Queanbeyan Kangaroos plays an important role in sports development, as does Queanbeyan Golf Club, Queanbeyan Tigers, Cooma Ex-Services Club, Cooma Country and Bowling Club, Jindabyne bowling club and others. For many years the club movement has demonstrated its interest in a diverse range of community grants, not only in rugby league. I play for the Tuggeranong Vikings water polo club in the Australian Capital Territory. The club is named after its sponsor, the Tuggeranong Vikings Club, whose support has been vital to our club. Water polo, like most amateur sports, does not receive many sources of funding.

The Hon. Michael Gallacher: It would be cold playing water polo down in Queanbeyan, wouldn't it?

The Hon. STEVE WHAN: I note the interjection by the Leader of the Government about the temperature when playing water polo in Queanbeyan. We are playing indoors at the moment, but I do remember in my early days some very cold and green pools.

The Hon. Michael Gallacher: I thought you would have been outside—the Queanbeyan Icebergs.

The Hon. STEVE WHAN: They keep closing the outdoor pool and I keep complaining.

The Hon. Michael Gallacher: You would be a budgie smuggler boy though.

The Hon. STEVE WHAN: That is right—most serious swimmers are. A serious water sports person would know there is not much point wearing parachutes in the water because they will not go very fast.

The Hon. Marie Ficarra: Too much advice.

The Hon. STEVE WHAN: Yes. I have been involved in sports development around New South Wales for some time and clubs have played a big part in that. We have seen very important support at the elite level given by ClubsNSW to the New South Wales Institute of Sport. That has helped many top athletes from New South Wales and resulted in many medal wins at Olympic Games for our State. ClubsNSW is a major partner and has supported the New South Wales Institute of Sport for many years. That support has been incredibly valuable. At the local level I was involved in the formation of the South East Regional Academy of Sport. The clubs came on board very early in relation to that project to offer assistance, along with local councils. The contributions made to sporting development by clubs are important to the Australian way of life. Without support during development, people from grassroots to elite can be lost to a sport.

Sport also contributes to a healthier society. Importantly, people need to be engaged in physical activity to maintain a healthy lifestyle. For a long time the club movement has been involved in promoting healthy lifestyles, and I compliment them for that. Clubs also get involved in many other community service projects in our local areas. How often do we see charity organisations holding their functions at clubs or receiving a contribution from them? The Opposition is pleased that this tax cut will go directly to our communities through the mechanisms outlined. Although as I have indicated the Opposition supports the bill, I ask why at the same

time as giving a welcome tax break to the clubs in New South Wales the Government is lining up to cut funding for important community services, such as those rendered by the Department of Community Services which provides staff on the end of a telephone who investigate reports of child abuse?

As I said yesterday, the Government is simply telling fibs. It is inventing a budget black hole to justify its ideological pursuit of cutting the public sector, which will hurt the people of New South Wales. The analysis of the Parliamentary Budget Office, which is an independent office as I stated in an earlier debate, was that most of the claims made in the media release of Premier O'Farrell of 27 April about a budget black hole, which were repeated by the Parliamentary Secretary earlier today, are unsupported by evidence and conflict with available information on the State's fiscal position and budgetary processes. We are faced with the contrast of the Government implementing something it promised to do when in opposition in an attempt to win votes—at that stage it was willing to say anything to get people to vote for it—while at the same time hiding its agenda to cut the public sector, the people who make a real difference. In some cases the same people being helped by club grants will be negatively affected by other cuts to government spending on services provided by, for example, the Department of Community Services and the Department of Primary Industries. I have spoken about that in the past. The public sector is facing the brunt of a government seeking to justify cuts with an invented budget black hole.

Unfortunately that is what we are seeing from this Government. It is great that the Government has introduced legislation to implement something it was happy to announce publicly to the people of New South Wales while it privately, secretly and deceitfully plans cuts to other areas of government expenditure that will hurt the most vulnerable people in communities throughout New South Wales.

Clubs in New South Wales also will bear some of the burden of this amending bill because, as I said, some people are helped by club grants. For example, in my community I often see people receiving financial assistance from the Australian Capital Territory Eden-Monaro Cancer Support Group while at the same time being dependent on the good work of New South Wales government agencies to assist them in other areas of their lives. We cannot and should not look at those matters in isolation and the Opposition will not do so. It is easy for Government members to say, "How can you introduce these two things in the same discussion?" We can and we should. Being in government is about ensuring that in the bigger picture everything is working together. It is also about not being hypocritical about how government takes up these issues.

As I said, ClubsNSW has had a long and healthy relationship with the New South Wales Government. Governments and the people of New South Wales benefit from the revenue derived from poker machines. Clubs help to fund many activities. Some may argue that the States are too dependent on gambling revenue, and I suspect that that argument goes to Commonwealth-State financial relations and the distribution of income. That is a legitimate longer-term argument. However, we cannot deny that the revenue collected from the clubs by the Government is important to providing services in New South Wales. The Government also should be concerned about problem gambling. The former Labor Government worked proactively with ClubsNSW and pubs in New South Wales to address problem gambling: the evidence bears that out.

The Labor Party is proud of its record in working with clubs. We have a right to be proud of that because over many decades the Labor Party assisted clubs to become the healthy community venues and the focus for community activities they are today. The Labor Party helped clubs to reach a position in which they could employ thousands of people throughout New South Wales. The Government can crow all it likes and pat itself on the back but, frankly, we are only in the early days of the Liberals-Nationals relationship with clubs in New South Wales. There is a long way to go before we will see whether the Government is able to balance community needs, the need to address important issues and the need to ensure that club workers stay employed in decent positions. I reiterate the Opposition's support for this legislation.

The Hon. TREVOR KHAN [12.43 p.m.]: I will speak briefly on the Gaming Machine Tax Amendment Bill 2011, noting the time limits that appropriately apply and the importance of making one's point clearly and concisely. What we heard from the Hon. Steve Whan was the greatest load of hypocritical nonsense. At one point he said that the Labor Party supports the club movement in New South Wales. He extolled the virtue of clubs in New South Wales and the important role they play in the social fabric of our community. He told us that, because of those issues, the Labor Party supports clubs in New South Wales. However, we know that the Labor Party is part of a coalition at the Federal level that is embarking on an exercise to destroy the very clubs that the Hon. Steve Whan said the Labor Party support. That is typical of Labor's rank hypocrisy.

The Hon. Amanda Fazio: Point of order: My point of order is relevance. The Hon. Trevor Khan is raising issues that are not before the House. We are debating the Gaming Machine Tax Amendment Bill; we are

not dealing with matters that are before the Federal Parliament. Mr President, I ask you to direct him to make his comments within the leave of the bill and not to raise extraneous matters that have not been raised by other speakers in this debate.

The Hon. John Ajaka: To the point of order: The Hon. Trevor Khan was not only being generally relevant but also being specifically relevant to the legislation. This bill deals with amendments to the gaming machine tax. What is occurring and what may occur at the Federal level is relevant to clubs in New South Wales. That is why the Hon. Trevor Khan's comments are relevant.

The PRESIDENT: Order! Further to earlier rulings I made on this issue when points of order were taken, I might also direct members to the rulings of Deputy-President Fazio. I will paraphrase slightly but Deputy-President Fazio ruled that a member speaking on the second reading of a bill may do so in fairly broad terms, provided the contribution of the member is relevant to the bill. While the comments of Deputy-President Fazio applied to the Opposition at that time, they are equally applicable to the Government on this occasion.

The Hon. TREVOR KHAN: I agree with the Hon. Steve Whan—that the money being returned to clubs will enable them to improve the social infrastructure of towns throughout New South Wales—because, as he said, the support that clubs provide to various institutions and sporting clubs is vital. There is absolutely no question about that. However, the capacity of clubs to provide that support depends on the Government amending the legislation introduced by the former Government. The Opposition supports amendments to legislation introduced by the previous Labor Government that decimated the club movement in New South Wales.

The Hon. Duncan Gay: He was present at the Cabinet table.

The Hon. TREVOR KHAN: As has been pointed out, the Hon. Steve Whan was part of Cabinet that created the problem that we are now forced to correct.

The Hon. Sophie Cotsis: Point of order: This is typical of the Coalition's hypocrisy. My point of order is this: Where is the Government's support for club workers now that John Alexander wants to get rid of their penalty rates?

The PRESIDENT: Order! There is no point of order. The Hon. Sophie Cotsis will resume her seat. I call the Hon. Sophie Cotsis to order for the first time. I call the Hon. Sophie Cotsis to order for the second time.

The Hon. TREVOR KHAN: Time and time again Labor members show rank hypocrisy. Although they express concern about club workers, the previous Labor Government introduced legislation that decimated the club movement and reduced the capacity of clubs to employ the people whom the Hon. Sophie Cotsis says need to be protected. That is the shameful part of their behaviour. This was the reason why Labor was so comprehensively voted out. It is rank hypocrisy and shameful what Labor members did then, and it is shameful how they come mealy-mouthed into this House now to indicate support.

I make the point that every single Labor member who comes in mealy-mouthed fashion to say how they support the clubs movement should commit to this House and to the people of New South Wales that they will attend clubs in their areas and indicate their opposition in relation to the legislation that the Federal Labor Government wishes to introduce—legislation that will destroy clubs and the clubs movement even further. Sadly I am sure the Hon. Steve Whan would scurry from any such meeting in the Queanbeyan area. He is not prepared to support the clubs.

The Hon. Steve Whan: I spoke at one of the meetings.

The Hon. TREVOR KHAN: Indeed. He will support the shameful actions of the Federal Labor Government. It is only the New South Wales Liberals and Nationals who are standing up for the clubs of New South Wales. Members opposite should hang their heads in shame.

The Hon. AMANDA FAZIO [12.51 p.m.]: I will ignore the ludicrous challenge that was made by the Hon. Trevor Khan in relation to members of the Opposition speaking during debate on this bill. I will speak my mind and will not be constrained by some stupid challenge from him. The one question I have to ask about this legislation is: Why this commitment? On 3 August the Minister in the other House introduced the bill and

during the agreement in principle debate stated that in October last year the New South Wales Liberals and Nationals signed a memorandum of understanding with ClubsNSW, which is the reason the Government introduced this legislation. During the election campaign the then Opposition made many commitments throughout New South Wales, a large number of which they have subsequently dumped. Why are they sticking with this commitment?

The Hon. Marie Ficarra: Name one.

The Hon. AMANDA FAZIO: And I have been asked to name one. The promise that I was most interested in was when the Nationals at the State and Federal level at a rally about the closure of Gulgong Hospital promised to reopen that hospital.

The Hon. John Ajaka: What happened to that?

The Hon. AMANDA FAZIO: Russell Turner, the former member for Orange, Mark Coulton, the Federal member for Parkes, Warren Truss, the Federal Leader of The Nationals, and Andrew Gee, the then candidate for Orange, all got up on the back of a truck and promised that they would reopen Gulgong Hospital. But they failed to do so.

The Hon. Rick Colless: Did you get a good reception?

The Hon. AMANDA FAZIO: The Hon. Richard Colless asks me whether I got a good reception. I was expecting to be booed when I defended the Government's decision, but what was really interesting that day was to see Andrew Gee being booed by the people of Gulgong. He did not even have the sense to realise that the people wanted to hear about Gulgong Hospital and medical services for that area. They did not want to hear some wishy-washy, weak as dishwater sort of election speech from somebody who thought he was out there tub-thumping. He was just an absolute wimp so he was booed when he was not expecting it. I got booed because I knew I was in a difficult place: but I was prepared to go there and defend the Government's decision because we knew that hospital was riddled with asbestos. Government members promised to reopen the hospital, and now they have not. That is one broken election commitment that I can definitely name.

The Hon. John Ajaka: They found it had asbestos, did they?

The Hon. AMANDA FAZIO: Of course. This commitment has to be kept. Why? I would like to know the reason for this commitment being honoured in the face of so many others that are being forsaken or are not being considered.

The Hon. John Ajaka: To rectify the damage your Government did to clubs, that's the reason.

The Hon. AMANDA FAZIO: The reason is that Government members know they have to suck up to powerful lobby groups, no matter what. That is why they are honouring their commitment to the clubs and not honouring the commitments they made to various community groups and rural communities across New South Wales. Another concern is changing the name of the Community Development Support Expenditure scheme to ClubGRANTS. The reason for that has not been adequately explained. It is just another tool by which clubs can promote themselves in the community. It will supersede the current scheme, which works perfectly well.

The amendments in the bill relating to gaming machine taxation will benefit registered clubs by approximately \$300 million over the four-year period up to 2015. That amount comprises more than \$200 million resulting from the tax rate change and a further \$90 million associated with the ClubGRANTS scheme. What I want to know is: What else could this money be used for in New South Wales? What else could we do with that money? How many extra teachers, nurses and police could we employ with that \$300 million? What else could we do with it?

The other issue that is really important is that we are moving \$300 million from public expenditure to the clubs to distribute in whatever way they see fit. The problem with that is we are moving targeted government expenditure into discretionary expenditure that will be controlled by individual clubs. That is a real problem. With targeted expenditure, if there is a need in an area, government can provide a service to address it. But with the money that goes to the clubs, the clubs have their own little special interest groups they will give the money to. There could well be a far more pressing need in the club's local community than the organisation

to which the clubs give that money. That is the concern I have. I always support targeted expenditure rather than discretionary expenditure. That is a principle of economic management of which the Hon. Matthew Mason-Cox should be well aware.

When the Government introduced this legislation, reference was made to more than \$63 million given by clubs to support various community projects. My view is that clubs have a commitment to give money back to the community. Frankly, their licences to operate poker machines are in fact licences for them to print money. The licences that are given to them by the Government are licences that should require the licence holder to make a contribution to the community. I believe that is important. I believe clubs should contribute to the community, but I do not believe the Government should be taking money from areas of government expenditure and giving that to the clubs.

I conclude my remarks by discussing the way in which clubs use discretionary funds and giving the House one example from my local area. My son attended Ashfield Boys High School, which has a very close working relationship with West Ashfield, which is next door. For decades West Ashfield used the school premises for parking for the club. When the school underwent a redevelopment, West Ashfield assisted the school and undercover parking was provided underneath the new gymnasium for the use of club members. I was at a speech day at the school when the West Ashfield Club handed over to the school \$1 million. Everybody said "Isn't that wonderful", but quite simply that money should not have come out of the Community Development Support Expenditure. That should have been part of a commercial arrangement between the club and the school over more than a decade for the provision of parking.

The fact that that club was able to give a million dollars to the school under the Community Development Support Expenditure scheme instead of as part of a commercial arrangement just shows it is wrong to transfer \$300 million of targeted government expenditure to clubs. I caution members in relation to their support for this bill to be aware that those sorts of commitments may be involved. If we are going to have a tough budget, we should not be giving \$300 million away to clubs, especially when we cannot be sure that that expenditure will be targeted to areas of greatest need in the communities that those clubs serve.

[The President left the chair at 1.00 p.m. The House resumed at 2.30 p.m.]

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

QUESTIONS WITHOUT NOTICE

FEDERAL MEMBER FOR DOBELL CRAIG THOMSON

The Hon. LUKE FOLEY: My question is directed to the Leader of the Government in his capacity as Minister for Police and Emergency Services. What did the Federal shadow Attorney-General, George Brandis, say to him last Friday that compelled him to believe it was appropriate to contact the New South Wales Commissioner of Police with the details of a potential police investigation?

The Hon. MICHAEL GALLACHER: I thank the honourable member for his question. I am happy to give a very frank and thorough explanation to the Labor Party on this matter. However, it is surprising that Labor has not asked for an explanation from Mr Craig Thomson, the member for Dobell, about the allegations. I will return to that and no doubt when I do members opposite will strain their backs and hamstrings jumping up and taking points of order on me.

At the outset I indicate my anger at the way in which the Leader of the Opposition and the Prime Minister have today denigrated the name and reputation of the New South Wales Commissioner of Police and, by extension, the New South Wales Police Force. The dog whistle, the inference, is that the commissioner has allowed himself to have had political pressure applied to him with respect to the matter involving the member for Dobell. This is the same Commissioner of Police who for many years members opposite said had done an outstanding job with 17 out of 17 crime categories. However, today that argument does not suit them.

The PRESIDENT: Order! There is far too much interjection in the Chamber.

The Hon. MICHAEL GALLACHER: A major article in today's *Australian* refers to the Police Force as having a reluctance to investigate Australian Labor Party government figures because of the long history of

the New South Wales Labor Government. I draw to the attention of members that in the *Australian* the inference is that the Commissioner of Police and the Police Force have been reluctant to investigate Australian Labor Party figures. On the other hand, a *Sydney Morning Herald* article argues that somehow the Commissioner of Police has succumbed to political pressure from the conservatives, the Liberal-Nationals Coalition. Which report did the Labor Party want to use today? Did it want to use the article stating that the Commissioner of Police and the Police Force are reluctant to investigate the Australian Labor Party or the *Sydney Morning Herald* article? Surprise! Surprise! Labor Party members are a disgrace, and I will return to them shortly.

Last Friday afternoon I received a request to call the Federal shadow Attorney-General, George Brandis. I later telephoned him and he informed me that he intended to write to the Commissioner of Police regarding the matter involving Craig Thomson and that he was ringing me to let me know out of courtesy. I told him that writing to the commissioner directly was the proper course of action. Senator Brandis and I then had a further conversation about other unrelated matters. On that evening I was attending the commissioned police officers dinner, together with Nathan Rees. The Commissioner of Police was not able to attend as he was recovering from a medical procedure, so I rang to check on his recovery—as I do every day—and asked whether there was anything he wished me to convey to his personnel on his behalf.

During the course of that conversation I indicated, as a courtesy, that Senator George Brandis was going to write to him regarding the Thomson matter. The commissioner indicated that if he did receive any correspondence, it would be treated like any other referral. At no stage have I received any correspondence from Senator Brandis, nor have I spoken to any other officer on this matter. On Saturday afternoon— [Time expired.]

The Hon. LUKE FOLEY: I ask the Minister to further elucidate his answer.

The Hon. MICHAEL GALLACHER: I thank the Leader of the Opposition for seeking further elucidation. On Saturday afternoon I again called Senator Brandis and indicated to him that if he had any information regarding this matter, it would be received and assessed by police in the normal manner. That is the process I followed at the time, believing it to be the proper process. Guess who has indicated that what I have said and done on this is correct? The Commissioner of Police himself. That is the very same commissioner alongside whom Labor members when in government wanted to stand. They could not get beside him quick enough to have a photograph taken. But as soon as there is an article giving members opposite an opportunity to malign his name and the reputation of the New South Wales Police Force they take every opportunity to do so.

By all means have a go at me, day in, day out, because that is the game. However, when it comes to the Commissioner of Police and his organisation and public confidence in his independence, I suggest that members opposite do not use the dog whistle approach that they have used in the course of this investigation. I am incredibly annoyed at the way in which Labor has hung the commissioner out there. And I include in that criticism our pathetic Prime Minister, who had a go at the commissioner again on Sky television this morning. It is an absolute disgrace. An orderly who works at Nepean Hospital or an ambulance driver on the Central Coast who is a member of the Health Services Union pays 600 bucks a year to be a member of that union—yes, \$600; an amount similar to that which has been spent on a number of occasions, if media reports are correct, in a number of brothels right around this country. Not once have we heard from the Opposition publicly, but I am sure they talk in hushed terms in their rooms privately— [Time expired.]

PRINCES HIGHWAY UPGRADE

The Hon. JOHN AJAKA: My question is addressed to the Minister for Roads and Ports. Will the Minister please update the House on developments towards the upgrade of the Princes Highway in the Illawarra and South Coast regions?

The Hon. DUNCAN GAY: I thank the Parliamentary Secretary for that question. It is a pity that members of the Opposition do not care to ask a question relating to the Illawarra at a time when the Illawarra is doing it tough. All they want to do is get down into the gutter to protect people in the Federal Parliament who frankly probably do not deserve protection. This month I wrote to the Federal Minister for Infrastructure and Transport—"Albo the Good", as we all know him—seeking an extension of the national land transport network along the Princes Highway south of Wollongong, including a connection to Port Kembla. The network currently terminates at Gwynneville at the base of the Illawarra escarpment near the University of Wollongong. Put simply, the New South Wales Government would like to see the national network extended from Gwynneville to Port Kembla and from Port Kembla to Jervis Bay Road south of Nowra.

Extending the network will release much-needed Federal funds to help upgrade the Princes Highway in those regions. Even in the face of a \$5.2 billion budget black hole left by New South Wales Labor—it is probably more today—the Liberals and Nationals have committed half a billion dollars towards upgrading the Gerringong to Bomaderry section of the highway in their first term of government. Extending the national network will provide a stronger transport and freight link between southern Sydney and the vital export hub of Port Kembla, not to mention the major centres of the South Coast.

Under the Nation Building Program (National Land Transport) Act 2009 a road can be included in the National Land Transport Network if it connects a capital city with a major centre of commercial activity or is important to the development of trade and commerce. The Federal Government will be hard pressed to argue that connecting the outer southern suburbs of Sydney to Port Kembla and the South Coast does not meet such a criterion. Given that the Illawarra and South Coast are major contributors to the State and national economies, notably in generating significant export revenues, the need for this reform is obvious. Port Kembla is one of the largest ports in Australia exporting a range of products and commodities including steel, grain, motor vehicles, coal, iron ore and various dry and liquid bulk products.

Extending the network on the Princes Highway will also enhance transport and freight transport to and from the naval defence facilities at Jervis Bay and HMAS *Albatross* at Shoalhaven; the Shoalhaven Paper Mill at Bomaderry—Australia's largest specialty paper producer; the Manildra Group at Nowra, which produces ethanol, starches and animal food; the University of Wollongong, including the Shoalhaven Campus and Innovation Camp at Fairy Meadow; and the Flinders Industrial Estate at south Nowra, which among a diverse range of businesses, accommodates Tyco Flow Control, a company manufacturing valves and control systems for a range of industries including mining, oil and gas and food and beverage. In light of the decision this week of BlueScope Steel to close half of its steel-making capacity at Port Kembla, our request to the Federal Government, a proposal which will help stimulate further economic and trade development in the Illawarra and South Coast regions, now takes on greater urgency. [*Time expired.*]

The Hon. JOHN AJAKA: I wish to ask a supplementary question. Will the Minister elucidate his answer?

The Hon. DUNCAN GAY: The New South Wales Government has received widespread support from the communities and industries of southern Sydney, Wollongong, Port Kembla, Kiama, Gerringong and Nowra. Local and regional councils, business chambers, community organisations and transport groups including the PHocus Working Group have rallied behind its request. The member for Heathcote, Lee Evans, the member for Kiama, Gareth Ward, the member for South Coast, Shelley Hancock, and the Mayor of Shoalhaven are strong advocates for this section of the Princes Highway to be included in the transport network. In fact, in the coming days Shelley and Gareth will circulate a petition in their electorates to present to the Federal Minister.

I emphasise that this is not a partisan request. My upper House colleague and the current Mayor of Shoalhaven City Council, Paul Green, also supports the concept, as have past and present Federal Labor members of Parliament in the region. For example, in September 2008, the then Federal Labor member for Throsby, Jennie George, said in the Australian Parliament:

Currently the road links south of Gwynneville to our port at Port Kembla are not on the AusLink national network, nor is the Princes Highway from Wollongong to the Jervis Bay turn-off. And yet the existing and current Sydney-Wollongong Corridor Strategy document rightly points out that the future of the Sydney-Wollongong Corridor Strategy will be shaped by factors such as the expansion of Port Kembla—

[*Time expired.*]

FEDERAL MEMBER FOR DOBELL CRAIG THOMSON

Mr DAVID SHOEBRIDGE: My question is directed to the Minister for Police and Emergency Services. Given that the Minister's first phone conversation about Mr Thomson with Senator Brandis on Friday was only a courtesy call, and not the Senator seeking the Minister's assistance, what was the purpose of the Minister's second call to Senator Brandis, given that the commissioner had given him no new information or suggested any alternative action to that which Senator Brandis had already told him he was going to undertake?

The Hon. Duncan Gay: The Greens are defending them now.

The Hon. MICHAEL GALLACHER: Yes, I know. The fight for the union movement continues on that side of the Chamber. "We will defend you, comrades, we will defend you." What have we heard from the Opposition about the way in which the fees of hardworking union members have been spent? Not a word. We have Inspector Clouseau trying to go through the evidence and slowly dissect it with his blunt scalpel.

The Hon. Jeremy Buckingham: Point of order: My point of order is relevance. The Minister was asked a serious question and I ask that he be brought back to the substantive element of it rather than waffling.

The PRESIDENT: Order! The Minister is reminded of the need to be generally relevant in the answer that he gives.

The Hon. MICHAEL GALLACHER: I refer to the member—

The Hon. Walt Secord: The Minister should finish what he was saying.

The Hon. MICHAEL GALLACHER: I will come back to him. I am sure there will be more questions. It will give me an opportunity to get my thoughts together and get those punch lines right.

Mr David Shoebridge: Why did you speak to him Saturday? Why?

The Hon. MICHAEL GALLACHER: Why did I speak to him on Saturday?

Mr David Shoebridge: There was no new information, so why did you call him on Saturday?

The Hon. MICHAEL GALLACHER: Why did I call him on Saturday? We have interjections. The fact is he was told by me and by the commissioner to send the information directly to the Commissioner of Police.

Mr David Shoebridge: He was doing that already.

The Hon. MICHAEL GALLACHER: Well let me tell you, I went back and told him to send it directly to the—

Mr David Shoebridge: He was doing that already.

The Hon. MICHAEL GALLACHER: You need to look at the words the Commissioner of Police has said in relation to this issue as well.

The Hon. Cate Faehrmann: What was said in that second conversation?

The Hon. MICHAEL GALLACHER: I know. Let me just continue to refer you to—

[*Interruption*]

I am panicking now! Is it 2 o'clock or 3 o'clock yet? What time is it? The fact is I told him to send it directly to the Commissioner of Police.

Mr David Shoebridge: Why did you do it a second time?

The Hon. MICHAEL GALLACHER: I did what I did, and that is what I did. Those opposite think we have got something here as they continue to work together because they are concerned about covering up for the Federal Labor Government. Member of the Labor Party in New South Wales are failing to stand up for workers in New South Wales and for members of the Health Services Union who pay \$600 a year in union fees. As I have indicated, they are not prepared to have questions asked of Mr Thomson but the fact is that he blew the money—or somebody blew the money—belonging to the Health Services Union. Not one of those opposite have said that publicly. I refer members to my earlier statement— [*Time expired.*]

Mr DAVID SHOEBRIDGE: I ask a supplementary question. Will the Minister elucidate on why he called Senator Brandis a second time? The Minister explained in his answer that he did, but I ask him to elucidate why he called him on the Saturday?

The Hon. MICHAEL GALLACHER: As I said to you a minute ago, I spoke to the Commissioner of Police, and the Commissioner of Police said that if any matter is referred to him it will be investigated in the proper course of investigations when they are assessed. I rang Brandis and told him to send it to the Commissioner of Police and it would be assessed like all other investigations.

The Hon. Jeremy Buckingham: Why twice?

The Hon. MICHAEL GALLACHER: I have just told you. I rang him the second time to tell him that it would be assessed like all other investigations.

Mr David Shoebridge: Why didn't you tell him that the first time?

The Hon. MICHAEL GALLACHER: Because I had not spoken to the Commissioner of Police at that time.

BUDGET BLACK HOLE

The Hon. ADAM SEARLE: My question is directed to the Minister for Finance and Services, either on his own behalf or as representing the Treasurer. Why does the State Government continue to claim, as it did as recently as Tuesday this week, that there is a \$5.2 billion budget black hole, when the Lambert review, the Parliamentary Budget Office and Standard and Poor's have all discredited this claim and the monthly statement for the 11 months to 31 May 2011, published on the official Treasury website, reports that the State budget is in surplus \$2.012 billion?

The Hon. GREG PEARCE: I wish the Deputy Leader of the Opposition would speak to the Hon. Eric Roozendaal, who is here today. It is good to see him and to thank him for the great job he did for us in the election campaign. What the Deputy Leader of the Opposition does not understand is that, if he looks at the forward estimates, in the next three years after the current year, he will see that in each year we have a large and growing deficit looming. Now that is where the black hole comes from. When the budget comes out—and I cannot anticipate the budget now—we will have another year, because we go to a four-year cycle. As previously indicated, the current estimate of the black hole is \$5.2 billion over that period.

The point of that is that had we proceeded along that path New South Wales would have lost its triple-A rating in one year, or two years perhaps. If we do not correct that trend, what will happen is that every year we will have to borrow more money to make up for the deficit. That is because for the past 10 or 12 years the mob opposite was allowing expenses to grow faster than revenue. And not only that, in years that they received windfall revenues they blew them; revenue disappeared as fast as Craig Thomson's credit card dissipated the union's funds. If that were allowed it go on indefinitely, we would be in the same position as Greece.

The Hon. Duncan Gay: Or the union.

The Hon. GREG PEARCE: Or the union. Have they called in the receiver yet?

The Hon. Duncan Gay: No.

The Hon. GREG PEARCE: Members will see the budget and the then current figures. They will also, in due course, see Mr Lambert's detailed financial audit. That will worry and upset all on the Opposition side because, as parliamentarians, they have a collective responsibility to ensure that the State is well managed financially. So I am sure that when they have read all the new reports they will support the Government in its efforts to rein in the financial deficit that occurred because of the financial mismanagement that occurred under their previous Government.

Members opposite need to understand that the monthly figures—to which the Hon. Eric Roozendaal pointed on many occasions—bump around; they reflect a part of the year, the collection of taxes and various other things. Frankly, they are not very good as guidance, but I must say it presents an opportunity to members of the Opposition—as it did for me when I was in opposition—to ask the Treasurer of the day a question based on those figures. I suggest to the Deputy Leader of the Opposition that any time he likes I am happy to arrange a meeting with the Treasurer at which we can explain to the Deputy Leader of the Opposition, the Leader of the Opposition and any other Opposition members exactly how the State accounts work. We will take them through the problems associated with the budget black hole.

RURAL FIRE SERVICE VOLUNTEERS DEATHS

The Hon. TREVOR KHAN: My question is directed to the Minister for Police and Emergency Services. Could the Minister inform the House about the recent tragic deaths of two Rural Fire Service volunteers in a motor vehicle accident?

The Hon. MICHAEL GALLACHER: I am sure all members were immensely saddened to learn of the tragedy that occurred near Armidale on Thursday 18 August 2001, when a man and his wife, both Rural Fire Service volunteers, died in a motor vehicle accident. I understand that the couple's passenger, a 16-year-old relative, was also critically injured and died later in Armidale hospital. A fellow Rural Fire Service member, who knew the couple, was by coincidence travelling directly behind the vehicle at the time of the crash. This volunteer—one of our many brave and committed Rural Fire Service members—stopped at the scene and attempted to provide first aid. To this volunteer I would like to extend my sincere thanks and those of the House and our support for what must have been a terribly traumatic experience. I know they will have all the support and best wishes from their fellow volunteers and all those who work in front-line emergency response.

Members of the New South Wales Police Force, the NSW Rural Fire Service, Fire and Rescue NSW, the NSW Ambulance Service and the State Emergency Service arrived shortly after the incident to render assistance and to investigate the cause of the crash. The Rural Fire Service chaplain also attended at the scene, giving comfort to the Rural Fire Service member who had valiantly responded to this terrible tragedy. There is no doubt as to the community's admiration and appreciation of our Rural Fire Service volunteers. The loss of these two committed and capable young people, who between them had already contributed a total of 17 years active volunteer service, will be deeply felt. Commissioner Fitzsimmons has said that their colleagues in the Armidale-Dumaresq Rural Fire Service are devastated, and the Rural Fire Service is providing counselling to some of those affected.

I understand a funeral service for the two volunteers is to be held in Armidale tomorrow. While I regret I will be unable to attend as I will be attending the Police Attestation in Goulburn, my Parliamentary Secretary, Steve Cansdell, will be in Armidale representing the Parliament at the service. I know that all honourable members will join me in extending the condolences of this House to the bereaved families and friends of those who have been lost. Our sympathies are also with the fellow volunteers who have served alongside them in sharing a commitment to protect their communities as members of the New South Wales Rural Fire Service.

FEDERAL MEMBER FOR DOBELL CRAIG THOMSON

The Hon. CATE FAEHRMANN: My question without notice is directed to the Minister for Police and Emergency Services. Given that Senator Brandis's first call to the Minister was out of courtesy, what did Senator Brandis say to the Minister during the Minister's second call with Senator Brandis that the Minister referred to earlier?

The Hon. MICHAEL GALLACHER: As I indicated, when I spoke to him earlier I gave him my opinion in relation to what I believe to be the proper process. I then spoke to the Commissioner of Police in relation to this matter, and on the second occasion I spoke to him—when I rang him the subsequent day—given the advice that I had been given by the commissioner that it was the proper process, I gave him that advice.

BUDGET BLACK HOLE

The Hon. PENNY SHARPE: My question is directed to the Minister for Roads and Ports. I refer to the Government's own Treasury website, which states that to May 2011 the budget was in surplus by \$2.012 billion. Will the Minister apologise for misleading the Parliament on Tuesday, when he claimed that there was a \$5.2 billion black hole in our budget?

The Hon. DUNCAN GAY: No.

INFORMATION AND COMMUNICATIONS TECHNOLOGY

The Hon. MATTHEW MASON-COX: My question is directed to the Minister for Finance and Services. Can the Minister outline to the House how the Government is working with industry under the new information technology framework?

The Hon. GREG PEARCE: The next stage in realising the information and communications technology governance framework is in train with the expression of interest process closing at the end of last week for nominations to the ICT Industry Advisory Panel. The ICT Advisory Panel will consist of industry experts tasked with ensuring that prevailing and emerging technologies are effectively aligned with agency and whole-of-government objectives. The panel's independent chair will report to the Information and Communications Technology Board. This is an important step in making New South Wales the leader in information and communications technology.

The next stage in realising the information and communication technology [ICT] governance framework is in train, with the expression of interest process closing at the end of last week for nominations to the information and communication technology industry advisory panel. The information and communication technology advisory panel will consist of industry experts tasked with ensuring that prevailing and emerging technologies are aligned effectively with agency and whole-of-government objectives. The panel's independent chair will report to the information and communication technology board. This is an important step in making New South Wales the leader in information and communication technology.

Two key challenges in information and communication technology are in determining how to stay aware of emerging technologies and in deciphering which technologies provide the best solution to the problem at hand. It is easy to become a champion of the latest new gadget or the latest software suite, but unless it addresses a particular problem or drives a desired outcome it can fast become a very expensive white elephant. Those on the opposition side of the Chamber know all about white elephants. They wrote the handbook on how to throw good money after bad. Unlike those opposite, we realise that we cannot be the experts on everything. In information and communication technology, the private sector is more in tune with the direction of the market and is well placed to give advice on which technologies could assist government information and communication technology outcomes, and which ones are white elephants.

By formalising industry into a whole-of-government information and communication technology framework and enabling it to provide direct advice on the direction of information and communication technology strategies, we can provide better outcomes for the community. Industry knows how valuable this approach is. The Department of Finance and Services received almost 400 registrations of interest to be kept up to date on the developments of the New South Wales information and communication technology governance framework and strategy. In response to the expression of interest for membership to the advisory panel, the department received almost 200 applications.

In case there is any doubt about the importance that industry places on this, one only needs to look at the calibre of the applications. They were from employees of some of the biggest information and communication technology firms in the world—chief executive officers, key directors, regional vice-presidents and chief information officers. Applications also were received from university vice-chancellors and directors of other research institutions, chief executive officers of industry groups—the list goes on. We will give every application due consideration. In the forthcoming weeks we will advise successful applicants. For applicants who are not accepted this first time, there will be plenty of opportunities to continue engagement with the New South Wales Government, specifically through the information and communication technology ministerial forum and information and communication technology project working groups. Moreover, as membership of the panel will be for an initial 12-month period, there will be an opportunity for others to join the group at a later stage through rotation of membership.

Industry has been ready for this—crying out for it—and the New South Wales Liberals and Nationals have responded. I pay tribute to the public servants I have been working with on this. My department is led by Michael Coutts-Trotter, Michael Cannon-Brookes, who was formerly the joint chief executive of Freehills, and Anne Skewes, and in my own office Kary Petersen and my dedicated departmental liaison officer, James Owen. James is present in the gallery with his mum, who is visiting from England on her first trip to Australia, and with his son, Jack. I am pleased to have such a great team working on these projects with me.

A GUIDE TO ASBESTOS LAUNCH

The Hon. PAUL GREEN: My question is directed to the Minister for Finance and Services. Will he inform the House of the recent WorkCover publication launch of "*A Guide to Asbestos*", which was held at Coolangatta Estate in the Shoalhaven on 15 August 2011?

The Hon. GREG PEARCE: Members may be aware that recently I announced the Government's establishment of a Heads of Asbestos Coordination Authorities group to develop a State plan for the management of asbestos. I also recently announced, in partnership with Shoalhaven City Council, the launch of a WorkCover guide for the proper management of asbestos in recycled construction and demolition material. The partnership between WorkCover and the Shoalhaven City Council in the development of the new asbestos guide is a positive development. The council took an active role in the development of the guide from day one.

After experiencing difficulties with the management of asbestos in recycled construction and demolition waste, the Shoalhaven City Council identified that better educational resources within the local

government area were needed to promote the safe handling of asbestos. I am also aware that Shoalhaven staff had strong input into the document through the Southern Councils Group. On the day of the launch, I was joined by the Mayor of the Shoalhaven City Council, the Hon. Paul Green, who spoke of the danger of asbestos and the importance of ensuring that the strategies and processes put in place through the guide are consistently followed. Councillor the Hon. Paul Green stated:

It has been a long process but by implementing the strategies and measures used in the management of asbestos in the Recycled Construction and Demolition Waste Guide, Council is well equipped to manage the risks associated with asbestos.

Shoalhaven council has undertaken a number of important changes to its construction and demolition recycling policy to ensure the area's recycled products are of consistently high quality—and it has done that under the excellent leadership of Councillor the Hon. Paul Green. I take the opportunity to congratulate the Shoalhaven City Council, its staff and mayor on their efforts. I also acknowledge the work of the Shoalhaven City Council waste management department who have direct input into the publication's content. Their courage and commitment to successfully tackling an incredibly difficult and complex issue head-on makes them leaders in confronting the challenges we face in asbestos management. We need more councils to get involved.

The partnership between the Government and the Shoalhaven City Council is a great example of local councils and government agencies working together to deliver better outcomes for workers and the community in relation to the safe management of asbestos. The guide is an important step forward in safety for New South Wales workers and residents. It will provide practical assistance to construction and demolition recycling industry by minimising the potential risk of asbestos contamination in worksite materials, such as brick and concrete. Importantly, it outlines the key procedures workers must follow to ensure that no asbestos is present in materials that could be recycled for construction.

The guide assists employers and workers to meet their work health and safety obligations by providing advice on how to check incoming materials before stockpiling or processing to minimise the risk of asbestos contamination, how to reject loads that contain asbestos, and how to record non-complying waste generators that illegally dispose of asbestos-contaminated material. The guide also discusses training responsibilities for employers and encourages them to carry out independent reviews. This will mean everyone in the chain of responsibility can feel confident that material will be recycled in an environmentally sustainable manner, without posing a risk to the health of workers. I am sure members will agree that the importance of the safe removal and management of asbestos cannot be overemphasised. The WorkCover guide for the proper management of asbestos in recycled construction and demolition material is yet further evidence of this Government's ongoing commitment to keep the people of New South Wales safe from asbestos-related diseases.

POLICE RESOURCES

The Hon. STEVE WHAN: My question is directed to the Minister for Police and Emergency Services. Why is your Government conducting polling to decide where police resources should be allocated?

The Hon. MICHAEL GALLACHER: Polling? What sort of polling? I am not aware of any polling.

BIRCHGROVE PUBLIC WHARF

The Hon. NATASHA MACLAREN-JONES: My question is directed to the Minister for Roads and Ports. Will he update the House on the completion of the Yeend Street wharf in Birchgrove?

The Hon. DUNCAN GAY: I am pleased to report that a new public wharf at Yeend Street, Birchgrove has been successfully completed by the New South Wales Government. For the first time in 20 years, day trippers will now be able to travel across the harbour and tie up at the Yeend Street wharf to visit Ballast Point Park at Birchgrove.

The Hon. Greg Donnelly: When did the work start?

The Hon. DUNCAN GAY: Members opposite ask: When did the work start? The important things are: When did it finish, and who completed it? Like many necessary improvements, Labor thought about it and talked about it but did not complete it. Had Labor been a good government and completed a few improvements around the State, Labor members would have been able to announce and open them. Every day we say thank you to Walt Secord, we say thank you to Eric Roozendaal—"Thank you, Eric"—and we especially say thank you to Steve, who gave us Monaro, and thank you to the people of Monaro, who gave the electorate to someone who was going fight for them.

The New South Wales Government spent \$450,000 on the much-needed and long-awaited upgrade to the Birchgrove wharf. The wharf in Mort Bay, which is adjacent to the newly established Ballast Point Park, will provide boat owners with drop-off and pick-up access to Ballast Point Park, a launching point for kayaks and canoes, and a water taxi landing. The wharf has incorporated a launching ramp with an anti-slip egg crate surface and safety grab rails to facilitate safe loading and mooring. The structure is a U-shaped pontoon consisting of hinged-concrete modules that absorb wave action and wash from passing vessels to create safe and convenient access. It caters for as many as three vessels up to 15 metres in length, with land access provided over a 19-metre-long aluminium bridge. People with mobility restrictions are able to access the wharf via a gentle slope.

On a busy summer weekend it is expected that 100 to 200 kayaks will be launched and retrieved at the facility, and up to 100 power boats will be able to access the Ballast Point Park from Parramatta River. For 20 years the former Yeend Street wharf had been closed to the public, due to its unsafe condition. Sixteen years of that period was under the former Labor Government. The original wharf was constructed in 1938 by Leichhardt council as a ferry wharf. It was rebuilt in 1964 for the Sydney to Hobart ferry service. The old wharf was 25 metres long and two meters wide with a wharf head on two levels. Unfortunately, due to its deteriorating condition, in 1991 the council had to close the wharf to the public.

More recently, the Ballast Point Park master plan identified the need for a day berth facility. This wharf presented the perfect opportunity to create a new facility for boat users. The new U-shaped wharf is primarily designed to provide day berthing, seaward daytime access to Ballast Point Park and a local launching point for kayaks. The New South Wales Government is determined to provide safe and convenient boating access to the waterways for the New South Wales public. Recreational boating is a popular pastime for hundreds of thousands of New South Wales families and the harbour and its foreshore are central to Sydney's appeal. Whether visitors to the wharf are international visitors, interstate guests, country visitors or Sydneysiders enjoying a good day out, the Government wants day trippers to use the harbour and enjoy it. [*Time expired.*]

FEDERAL MEMBER FOR DOBELL CRAIG THOMSON

Dr JOHN KAYE: My question is directed to the Minister for Police and Emergency Services. What opinion did the Minister offer to Senator George Brandis on Friday as to the correct process for lodging his complaint? Did that differ from the advice given to the Minister by the Commissioner of Police?

The Hon. MICHAEL GALLACHER: No. They were one of the same. I have already said that. I refer the member to my earlier answer.

[*Interruption*]

Dr John Kaye: I did not hear a single word of that response because the Hon. Charlie Lynn went into verbal meltdown. I ask the Minister to repeat his answer.

The PRESIDENT: Order! There was a large amount of interjection.

The Hon. MICHAEL GALLACHER: To assist the member, I suggest he has only to refer to my earlier answer.

Dr JOHN KAYE: I ask a supplementary question.

The PRESIDENT: Order! It is difficult for the Chair to conclude that a supplementary question would be in order, but I will allow Dr John Kaye to proceed.

Dr JOHN KAYE: Will the Minister elucidate his answer by pointing out which exact piece of the three previous answers he has given on this issue is the answer to the question I have asked?

The Hon. MICHAEL GALLACHER: Absolutely—all of them. It is interesting that last week The Greens sat among commissioned police officers at the commissioned officers' dinner and now, with the Opposition, they are part of a conspiracy that the New South Wales Police have somehow buckled under pressure.

Dr John Kaye: Point of order: The Minister is debating my supplementary question by suggesting there is some kind of conspiracy. The supplementary question was very straightforward. Which part of the Minister's previous answers is the answer to my supplementary question?

The PRESIDENT: Order! I uphold the point of order. The Minister has concluded his answer.

STATE BUDGET

The Hon. SHAOQUETT MOSELMANE: My question is directed to the Minister for Finance and Services, representing the Treasurer. How can the Government justify budget reductions in the portfolios of Health, Community Services, Primary Industries and Corrective Services when the website of the New South Wales Treasury shows an improvement of more than \$1.3 billion in the budget for 2010-11?

The Hon. GREG PEARCE: The Government has not delivered the budget yet, "Shaq Attack". You will have to wait until 6 September.

The PRESIDENT: Order! The Minister will refer to other members by their correct titles.

BUSHFIRE HAZARD REDUCTION

The Hon. JENNIFER GARDINER: My question is addressed to the Minister for Police and Emergency Services. Will the Minister update the House on preparations for the soon-to-commence 2011-12 bushfire season, particularly in light of the major risk of grassfires?

The Hon. MICHAEL GALLACHER: I thank the member for her very timely question. Members will be aware that last summer New South Wales enjoyed its most benign bushfire season in a very long time. While we are very grateful for the respite, we are under no illusions that we can afford to take it easy as the next fire season approaches. It is timely that some of our young farmers are present in the gallery today. They have seen the risk at firsthand. They have seen the grasslands. Unlike The Greens, who think country New South Wales is Centennial Park, they actually know what western New South Wales looks like. Be that as it may, New South Wales is facing its most extreme grassfire risk—and we are not talking about cannabis. We are talking about grassfires on the land.

The recent drought-breaking rainfall resulted in a significant and dramatic increase in vegetation growth, such as grass and crops. As conditions change, including drier winds and increases in temperature, those areas will become more susceptible to grassfires. While people living in rural and regional areas know the dangers posed by grassfires, the current level of threat is a new challenge. Many people living in affected areas may not have experienced this level of threat during their lifetime. In areas such as far western New South Wales, grass has reached its highest level for 20 to 30 years. Despite still being in winter, we already have seen a large number of grassfires across New South Wales. From 1 July to 17 August alone, there were more than 745 grassfires spanning hundreds of hectares. Grassfires can be especially dangerous: They can start quickly and spread rapidly, catching people off-guard. They can destroy not only homes but also people's livelihoods, and burn crops, stock and expensive equipment.

I am informed that preseason briefings and coordination between all emergency services agencies have helped to raise preparedness for the forthcoming fire season. Throughout the colder months, fire authorities, local councils and other land managers also have been working hard to carry out a range of hazard reduction works. However, it is worth noting that backburning has been difficult in some areas, due to continuing wet weather. Combined with other prevention and mitigation activities, such as development control in bushfire-prone areas, community education and responding to complaints about bushfire hazards, the Rural Fire Service is making every effort to prepare for the season ahead.

As we prepare for a bushfire season that has the potential to be far worse than the last one and to be a type not experienced for some years, the people of New South Wales can be proud that in the Rural Fire Service we have a firefighting force that is recognised as among the best in the world—with morale, resources, the people and the facilities to match the tasks.

WIND FARMS

The Hon. ROBERT BORSAK: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Resources and Energy. Is it a fact that the previous Labor Government

removed wind turbine noise from the New South Wales industrial noise policy and the Protection of the Environment Operations Act 1997? If so, will the O'Farrell Government reinstate industrial wind turbine noise in accordance with the policy and the Act?

The Hon. DUNCAN GAY: As members know, I am not a huge fan of wind generation, particularly as it affects the farming community of New South Wales.

The Hon. Amanda Fazio: You generate enough yourself.

The Hon. DUNCAN GAY: Enough wind is generated from the Opposition side. The question is important, and I am embarrassed to admit that I do not know the answer. I have spoken in the House many times about the cumulative effect of wind noise on farmers. In particular, I tell the story of a fourth generation farmer at Crookwell whose single ownership holding dates back to the 1840s. That farm has no wind turbines on it. It has Crookwell 1 to the north and it will have Crookwell 2 to the west and the south, and coming around on the third side as well. Eventually the farm will be totally surrounded by wind turbines.

The wind farms have put two neighbours at war with each other. The properties that surround this farm are occupied by long-term residents of our town. They are decent, good people. Members of this House met these people during the upper House inquiry into wind farms. These people are droughtproofing their farm with the Federal Government's incentives accompanying wind farms. Frankly, one cannot blame them for trying to make an extra quid: It has been a tough time in the bush over the past few years. The problem is that when Frank Sartor and the previous Labor Government put this through part 3A, the little guy, the guy from the *Castle* in the middle, was left out. He copped the whole lot. His family's farm, which they do not want to leave, is now virtually valueless.

The noise comes from within the gearing in the turbines. We hear funny stories about the reasons people are grasping at to prevent a wind farm from being near them. People who have read novels about France will know about the mistral. The droning and the noise of the turbine gears is much like the mistral. It destroys the farmers as their properties lose value. It pits friends and family against each other. It has been the most debilitating process for my community. The community is split almost 50-50. Sometimes more people are in favour of wind farms; at other times fewer people are in favour of them. Frankly, this green stupidity does not help our environment. There are many better ways to help the environment. Labor established the wind farms and created a problem for our community. [*Time expired.*]

POLICE SALARIES

The Hon. PETER PRIMROSE: My question is addressed to the Minister for Police and Emergency Services. What is the Minister's position in relation to the claim by members of the New South Wales Police Force for a 5 per cent per annum pay increase?

The Hon. MICHAEL GALLACHER: I make it my business not to have running commentary in a public domain on matters that are currently working their way through the Industrial Relations Commission. I do not think that is helpful for any party. I do not believe it is helpful at all. To put it simply, we should maintain an approach that allows the Industrial Relations Commission to look at the matter. We will hear the commission's views in the fullness of time.

HYDRO-ELECTRICITY

The Hon. SCOT MacDONALD: My question without notice is directed to the Minister for Finance and Services. Will the Minister inform the House on practical measures that the New South Wales Government is taking to reduce our carbon emissions?

The Hon. GREG PEARCE: Last week I launched a new hydro-electric plant at Prospect, which will generate enough power for 1,500 homes. The New South Wales Government is committed to improving services to the community, and this project is an example of the way existing assets can be utilised to provide better outcomes. The hydro-electric plant converts potential energy from water flows from Warragamba Dam to Prospect Reservoir, which range from 5,000 litres to 12,000 litres per second. A 30-tonne turbine has been attached to the pipe. The force of the water causes the turbine to turn. A generator also is attached that converts the rotational energy of the turbine to electrical energy. The plant will generate approximately 5 per cent of Sydney Water's total energy needs each year and will power Sydney's largest water pumping station at Prospect.

The hydro-electric generator has a capacity of more than 3.5 megawatts and has the capacity to produce around 20,000 megawatt hours of electricity a year—enough electricity to power more than 1,500 households. It will reduce Sydney Water's greenhouse gas emissions by more than 20,000 tonnes a year, which is equivalent to taking 5,000 cars off the road. The new hydro-electric plant was built by Sydney Water's energy partners Worley Parsons and Energetics. I congratulate Sydney Water and its private sector partners on delivering this project. The plant is part of a \$60 million investment in new renewable energy projects by Sydney Water, including five recently completed methane gas cogeneration units and the three new hydro-electric plants. These projects reduce Sydney Water's reliance on electricity by 20 per cent a year and save Sydney Water approximately \$2.5 million a year in avoided electricity costs.

Capturing some of the potential energy within our water and waste water supply system is a cost-effective way to reduce the amount of power Sydney Water sources from the grid. Sydney Water aims to reduce emissions by 60 per cent by 2012 and to be 100 per cent carbon neutral for energy and electricity use by 2020. This ultimately will eliminate or offset more than 400,000 tonnes of carbon dioxide a year. I am told that this is approximately the same as taking 100,000 cars off the road. If the figures are right, they are remarkable. Unlike Labor, we are taking action to reduce our carbon footprint through practical measures that utilise the power available in our existing assets. Of course, members opposite want a new tax: Forget simple practical investments that reduce our reliance on electricity from the grid. Members opposite just see the dollar signs from a new tax, and that is it. Even if they feel a little differently, they cannot say anything about it. They are hamstrung by their boss, John Robertson, who is too scared about the poor polling of his Federal colleagues to give his State colleagues the chance to stand up for what we all know is right for this State.

FEDERAL MEMBER FOR DOBELL CRAIG THOMSON

The Hon. JEREMY BUCKINGHAM: My question is directed to the Minister for Police and Emergency Services. Why was the Minister giving his political colleague Senator Brandis his opinion on how to lodge a complaint with the New South Wales Police Force regarding Mr Thomson? Does he think it is appropriate for him, as the Minister for Police, to be offering his opinion to a political colleague on a potential police investigation?

The Hon. Michael Gallacher: Point of order: I was asked whether I think it is appropriate, which seeks an opinion. The question is out of order.

The PRESIDENT: Order! Having been shown a copy of the question, and in accordance with the practice adopted by previous Presidents, I allow that part of the question that is in order, which is the first half of the question.

The Hon. JEREMY BUCKINGHAM: My question is: Why did the Minister for Police and Emergency Services give Senator Brandis, his political colleague, his opinion on how to lodge a complaint with the New South Wales Police Force about Mr Thomson?

The Hon. Michael Gallacher: On which occasion—the first or the second occasion?

The Hon. JEREMY BUCKINGHAM: That is up to the Minister. Just answer the question.

The Hon. MICHAEL GALLACHER: I refer the member to my previous answer in relation to this matter. That was a most enjoyable question time, and I thank all honourable members for their contributions.

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

ORICA PLANT INCIDENT

The Hon. MICHAEL GALLACHER: On Tuesday I was asked a question by the Hon. Cate Faehrmann with respect to the use of bore water in the Stockton area. I can now provide the following answer. I am advised by the Chief Health Officer that New South Wales normally recommends that people use town water for drinking and cooking in preference to bore water or tank water. With regard to the Orica incident, we have no information that suggests bore water has been affected by the chemical release. NSW Health reiterates that the reticulated water supply in Stockton is safe to drink and the clean-up notice issued to Orica by the Office of Environment and Heritage requires Orica to drain rainwater tanks in the affected area and refill them with potable water.

Questions without notice concluded.

TABLING OF PAPERS

The Hon. David Clarke tabled, pursuant to the Crimes (Administration of Sentences) Act 1999, the report of the Serious Offenders Review Council for the year ended 31 December 2010.

Ordered to be printed on motion by the Hon. David Clarke.

GAMING MACHINE TAX AMENDMENT BILL 2011**Second Reading**

Debate resumed from an earlier hour.

The Hon. MARIE FICARRA (Parliamentary Secretary) [3.32 p.m.]: I support the Gaming Machine Amendment Bill 2011 as I believe clubs in New South Wales are our community's lifeblood and part of the fabric of our society not only in the Sydney metropolitan area, but more importantly in rural and regional New South Wales. The New South Wales Liberal-Nationals made a key election commitment to ensure the sustainability of the clubs industry, to protect jobs within the clubs industry, and to protect and enhance the valuable community support that the industry provides across the State. Delivering on this commitment, the Government has decided to introduce new gaming machine tax rates, benefiting nearly 500 clubs—the majority of which are small- to medium-size organisations.

At the outset, I reiterate the comments of Minister George Souris, who said the legislation "is not a tax cut to poker machine operators but a lifeline to the struggling registered club movement". Changes to gaming machine tax will return an estimated \$200 million to the club movement over the next four years, and in turn money will flow to the many community, sporting and charitable organisations that clubs support. We know that clubs are very responsible about how they allocate community grants. We know also that with every dollar they give to fabulous volunteer organisations—so many of us have spent hours at club community grants presentations with the community groups that benefit from those donations—the community reaps so much more in benefits. The cost and benefit is never dollar for dollar; it is more like \$1:\$100 because the volunteers work so hard to put to good use the community grants on which they rely so much.

These changes in the legislation strike the right balance between the obligation on registered clubs to pay a fair amount of tax while ensuring their future financial viability. This tax relief will result in many clubs investing in new community facilities and services, and create hundreds of new jobs. This is especially important in regional and rural communities where the local club is often one of the largest employers in town. Every job saved in a registered club through these tax reforms will result in more money being spent in the local economy and more people choosing to live and raise their family in regional areas. A new ClubGRANTS scheme will increase financial support for community and sporting groups by an estimated \$85 million over the next four years. The changes include a new ClubGRANTS Fund, which clubs pay into, to provide a statewide funding pool for large-scale projects associated with sport, health and community infrastructure.

A review of the clubs industry by the Independent Pricing and Regulatory Tribunal commissioned by the former Government confirmed the significant contribution that clubs make to the New South Wales economy and the need for continued government support. The New South Wales clubs industry has faced many challenges over the past decade, such as excessive taxation and the smoking ban, which I support but which has had economic consequences for the clubs. They are happy to comply with the regulations but it has affected their financial status. Clubs have also had to contend with the global financial crisis, increased competition for the entertainment dollar, changing demographics, and now of course the insidious poker machine reforms of the Federal Labor Government, which is in bed with Andrew Wilkie.

I note that as a result of the amendments in this legislation amounts equalling 2.25 per cent of registered clubs' prescribed profits in every tax year will be returned to the community from gaming machine tax receipts through ClubGRANTS, being 1.85 per cent to clubs as ClubGRANTS tax rebates and a further 0.4 per cent as payments to the ClubGRANTS Fund on behalf of clubs. As most honourable members will be aware, in New South Wales there are 1,375 registered clubs with approximately 2.5 million members.

The Hon. Sophie Cotsis: More.

The Hon. MARIE FICARRA: That is what is documented by the clubs. It could be more, as the Hon. Sophie Cotsis says. I would be delighted about that. I think club membership is growing. I believe those

numbers are fairly conservative and if the clubs did a head count now their membership would probably total much more than 2.5 million. But let us go with that figure. Of those clubs, 829 are in regional New South Wales. Clubs generate more than 45,000 jobs, and 26,000 of these are in regional New South Wales. Last financial year clubs allocated more than \$63 million to charities, schools, community projects, sporting clubs, emergency services, aged, disability and youth services, and many more worthwhile community organisations.

One has only to look, for example, at Penrith Panthers—which is a club close to me—and a number of other clubs to see how they hold our community together through their magnificent generosity. In the past year alone, Penrith Panthers contributed more than \$1.8m to Panthers on the Prowl Community Development Foundation, which is a fantastic foundation doing great work in the community of western Sydney; Panthers Women in League, which then supports requests for financial support within the community from many community groups; Penrith Netball Association; Penrith Fishing Club; Panthers Cricket Club; Panthers Social Euchre; Penrith Cricket Club; Boronia Bowls Club; Panthers Social Golf; Penrith Valley Sports Foundation; Nepean Evening View Club; Rotary International District 9690 Club; Penrith Valley Rotary Club; Retired Police Association; Penrith Waratah Day Slimmers; and many local schools within the Penrith and Mulgoa regional areas.

In previous years Penrith Panthers contributed approximately \$2.5 million annually to community charitable school and sporting organisations. The reduction in community grants from Panthers and other clubs is definitely due to Labor's past tax increases. This bill seeks to recoup some of that lost revenue. It has been documented that excessive tax rates levied by the former Labor Government contributed to the closure of approximately 100 clubs.

The Hon. Trevor Khan: How many?

The Hon. MARIE FICARRA: There were 100.

The Hon. Trevor Khan: And how many workers?

The Hon. MARIE FICARRA: The Hon. Trevor Khan asks how many workers were affected. Many thousands of workers have been affected, principally in rural and regional areas of New South Wales, robbing local communities of valuable facilities, services, jobs and financial support. The chairman of Panthers, Mr Don Feltis—a wonderful man—has welcomed the O'Farrell Government's new legislation. He said that it:

... will see our registered clubs have poker machine taxes cut in exchange for clubs donating more funding to community organisations. Panthers already delivers funding to organisations such as the Panthers On The Prowl Foundation for children, the Panthers Women In League, the McGrath Foundation and other charities within the Penrith community. Panthers looks forward to the Government continuing to roll out a raft of reforms for clubs as part of an MOU the Coalition signed with ClubsNSW.

This was a recent quote from the chairman of Panthers, who echoes the sentiments of so many clubs around New South Wales. I compliment in particular Mr Peter Newell, OAM, President of Clubs Australia, who also shares those sentiments and who does a wonderful job representing the interests of club members—

The Hon. Helen Westwood: And the Liberal Party.

The Hon. MARIE FICARRA: Not the Liberal Party, as the Hon. Helen Westwood asserts. She insinuates that Mr Peter Newell has improper motives. He is not a political operator; he stands up for the more than 2.5 million club members in this State alone. It is a shame that the Labor Party of New South Wales, and indeed of Australia—because Prime Minister Julia Gillard is in bed with Andrew Wilkie—have forgotten those people. They have left behind the workers and will decimate families with the carbon tax and poker machine gambling target reforms. Labor has left its heartland behind. The Greens are always ready to pick up the union heartland, but they will both miss out at the next election. We cannot wait. Every day people are lighting candles, hoping and praying for an election. I light a candle at St Aloysius every weekend.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The Hon. Marie Ficarra will be generally relevant to the bill before the House.

The Hon. MARIE FICARRA: In the Penrith region alone there are 100,731 people registered with clubs.

Dr John Kaye: Name them; read out the list.

The Hon. MARIE FICARRA: I will read it out. In that region this legislation will result in a State tax reduction over the next four years of \$6,755,354, which will facilitate an increase in community donations of \$1.788 million.

Dr John Kaye: What has happened to the 670 schoolteachers?

The Hon. MARIE FICARRA: These clubs help school communities.

Dr John Kaye: Not as much as 670 teachers would.

The Hon. MARIE FICARRA: The teachers will be looked after. The Hon. Dr John Kaye is worried about the teachers. Teachers, nurses and front-line workers will never be forgotten by the Coalition parties; they will be looked after. Following Labor's tax increases, approximately 100 clubs in this State, many in regional areas, had to dissolve. I am informed also by the club movement that 60 clubs were forced to amalgamate. Others are being forced to consider amalgamation. If the insidious Federal Labor-Wilkie changes take place, many clubs will be wiped out. We will watch what happens in Canberra over the coming months and years as further evidence of how Labor has forgotten its heartland. The O'Farrell Government's ClubGRANTS scheme will provide an estimated \$85 million in additional community support from registered clubs over the next four years. ClubGRANTS builds on the existing Community Development and Support Expenditure Scheme, which provides gaming machine tax rebates to registered clubs if they spend an equivalent amount on approved community developments and support.

Let us consider a sample of the benefits across the State. Auburn has almost 84,000 registered club members and over the next four years there will be a reduction in State taxes of \$5.692 million, facilitating an increase in community donations over the next four years of \$1.539 million, in addition to the donations already made. In East Hills, which has 62,820 members of the registered club movement, there will be a \$5.474 million reduction in State taxes, facilitating an increase in community donations of \$1.495 million.

The Hon. Lynda Voltz: Daryl Melham will be pleased to hear that.

The Hon. MARIE FICARRA: Daryl Melham should be pleased to hear it because he is not the Revesby Workers Club's favourite person at the moment.

The Hon. Lynda Voltz: You love him.

The Hon. MARIE FICARRA: Even though I like him as a friend, he is not doing his job by the Revesby Workers Club community. I turn now to the Gosford area, which has 117,233 club members. There will be a State tax reduction of \$5.185 million, facilitating a donation increase of \$1.6 million. In Monaro, the Hon. Matthew Mason-Cox and the Hon. Steve Whan will be delighted to hear that there are 38,486 members of the club movement.

The Hon. Dr Peter Phelps: I'm delighted too, Marie.

The Hon. MARIE FICARRA: Of course the Hon. Dr Peter Phelps, our illustrious Government Whip, is also from the Monaro region and is delighted to hear that the clubs will receive a reduction in taxes of \$2.82 million, with an increase of \$820,144 in community grants. The list goes on and on. I could read many more onto the record but I will refrain from doing so. The changes introduced by the Government will also result in an increased percentage of club profits going directly to community organisations such as Father Chris Riley's Youth Off The Streets; police and community youth clubs, which do a sterling job; the Salvation Army; Westpac Rescue Helicopter; Westmead Children's Hospital; the surf life saving movement; Meals on Wheels; and so many other worthwhile community services and volunteer organisations that are the backbone of our Aussie communities, as I am sure all honourable members would acknowledge.

It is also important to note that clubs mobilise 44,000 volunteers, provide 1,550 bowling greens, 366 golf courses, 163 playing fields, 80 gymnasiums and 66 swimming pools for communities around this State. Also of great importance is the welcome news to those seeking employment in this State that the legislation will generate a further 2,000 jobs over four years. I am a member of Cronulla RSL, which also does a sterling job.

Dr John Kaye: Do you declare an interest?

The Hon. MARIE FICARRA: I will declare an interest. In 2011 Cronulla RSL gave \$65,000 in community grants to organisations such as St Andrews Church Cronulla, War Widows, St George Legacy, Wanda Surf Club, Camp Quality, Sailability Cronulla, Calvary Hospital, YMCA Caringbah, Cronulla School of Arts, Cronulla Baptist Church Revive Program, Elouera Surf Live Saving Club, St Aloysius Church—I again declare my interest as I am a member—Cronulla RSL Youth Club, Cronulla RSL Sub Branch Relief Fund, Cronulla Day Care and the Stroke Recovery Group. I congratulate Cronulla RSL on all the great work it does.

Fairfield City has so many good clubs, for example, Assyrian Sports and Culture Club, Cabramatta Bowling and Recreation Club, Cabramatta Rugby League Club, Cabra-Vale Ex-Active Servicemen's Club Ltd, Canley Heights RSL and Sporting Club, the City of Fairfield RSL Memorial Club, Club Marconi—which is a wonderful club—King Tomislav Croatia Club Ltd, Lansvale Uniting Sports Club, Leo McCarthy Memorial Smithfield RSL Sub-branch Club, Mount Pritchard and District Community Club, St Johns Park Bowling Club, St Johns Park Panthers Community Club and the Mekong Club. Each year the registered clubs of Fairfield City provide more than \$1 million to local organisations for community development projects. I commend all of them. I could speak of so many communities and great community volunteer organisations that will continue to benefit in a great way from this legislation. The New South Wales Liberal-Nationals Government is committed to delivering real relief and benefits to the clubs industry in line with the memorandum of understanding signed with ClubsNSW in October last year by the Hon. George Souris. I commend the bill to the House.

Dr JOHN KAYE [3.53 p.m.]: On behalf of The Greens I speak in debate on the Gaming Machine Tax Amendment Bill 2011. This legislation needs to be considered in context. It is the payment of \$300 million in public money by the Coalition for political services rendered. In return for the clubs industry delivering a glowing report to the voters on the Coalition, the industry is now being paid \$200 million in revenue through tax changes. If one has any doubt about the deal that was cut, one has only to refer to the memorandum of understanding. If people have any doubts about where the pay-off came from, they should look at the October 2010 edition of *Club Life*, which is entitled "Strong clubs, Stronger communities"—coincidentally the same title given to the memorandum of understanding between the Liberal-Nationals on the one hand and ClubsNSW on the other.

The Hon. Dr Peter Phelps: I do not think it was coincidental.

Dr JOHN KAYE: There is no coincidence. I refer to the issue of *Club Life* dated October 2010, volume 26, No. 09. It is fascinating that it contains very flattering photos of Solar Stoner—I am sorry, Mr Andrew Stoner—then Deputy Leader of the Opposition, and Barry O'Farrell, then Leader of the Opposition. The first substantive page is an editorial, which says unpleasant things about The Greens but lovely things about the Coalition. The chairman says, "The Liberal-Nationals Coalition has outlined its clubs policy". On the next page the chief executive officer says it will "strengthen the New South Wales clubs industry". Guess what? The magazine then states, "The NSW Liberal-Nationals has put forward its plan". The next page reads, "Up-front an election to remember for the wrong reasons", and again says some unflattering things about The Greens and some very nice things about the Coalition. The next page is headed, "Clubs welcome Coalition plan to strengthen industry", and the article continues for three pages. This document should have been authorised by the Liberal Party.

[Interruption]

I am sorry—by the Liberal Party and The Nationals. If this document had been written as part of the Liberal Party's advertising campaign and authorised by Ben Franklin it could not have been a more inaccurate, disingenuous piece of Coalition advertising. I will give it to Hon. Matthew Mason-Cox but he has to promise to give it back or get his own copy—after all, the clubs are Parliamentary Secretary's mates so he should have received a copy. Perhaps they were embarrassed to do so. This is an appalling case of policy for sale using public funds. It is unusual because this extraordinary deal is in writing and was made public through the memorandum of understanding. It is an agreement signed by the now New South Wales Government that is not only about delivering tax cuts—which is what this legislation is about—and giving clubs the opportunity to use what should be public money as promotions money to run their own public relations campaign but about removing approximately 1,000 public sector jobs in New South Wales. It contains many hidden nasties.

The section headed "Gambling policy" states that the agreement between the clubs and the then O'Farrell-Stoner Opposition, now Government, is to "maintain existing statewide and venue caps". There was an agreement before the election not to make any moves against gambling. The Government agreed to support a system of voluntary precommitment. That means the Coalition is locked into a system of regulating problem

gambling that has proven ineffective. Does a problem gambler say, "I want to have my gambling controlled"? The evidence is strong and it says that precommitment must be mandatory. The document talks about removing limitations on installing multi-terminal gaming machines in clubs. A deal was struck whereby unlimited numbers of multi-terminal gaming machines, effectively electronic casinos, are to be installed in clubs.

The document has another section headed "Facilitate the introduction of new technology and games". The Coalition has signed up to allow new technologies without knowing what they are. Under the section "Restrictions on smoking in clubs" there is a promise from the Coalition not to further restrict smoking in clubs. This is despite the fact that 5,000 people die each year from smoking and that young people who go to smoking venues get entirely the wrong message, and despite the ongoing detrimental impact on the poor club employees who are exposed to side-stream smoke. Similarly, there is an agreement to "increase competition in the provision of workers compensation insurance by allowing the club industry to establish its own specialised workers compensation insurance scheme."

What is that in reality? It is the beginning, the thin edge of the wedge for undermining the workers compensation rights of people employed by the clubs movement. This was a recipe that was written by the clubs industry. It was a recipe written to allow that industry to continue to expand, to continue to exploit problem gamblers, to capture 40 per cent of its gambling revenue of \$800 million a year from people who have no control over their instinct to gamble, to continue to allow smoking to occur in inappropriate places, and to allow it to gather the most regressive form of revenue on the surface of the planet, that collected from gambling.

The payoff for this measure was big; it was, effectively, the endorsement of the Coalition Government by ClubsNSW. This legislation delivers about \$300 million in payments for services rendered. Those dollars did not come from the prodigious fundraising of the Liberal Party and The Nationals. No, those dollars come from the back pockets of the people of New South Wales. Those dollars come out of public sector employment; \$390 million over four years means about 1,000 fewer public school teachers, or nurses, or community development workers or police. It is an attack on public sector provision—nothing more, nothing less. The proposed legislation will deliver \$200 million in tax relief. I was fascinated to hear the Hon. Marie Ficarra say this legislation threw a lifeline to the struggling clubs in the sector.

The Hon. Marie Ficarra: Hear, hear!

Dr JOHN KAYE: The member indicates that is what she said. Unfortunately, and clearly, the member had not had a close look at the tax scales set out in the memorandum of understanding and hence in the bill. A club that is truly a struggling club, if it is making only \$200,000 a year, gets no relief. In fact, a club that is making less than \$1 million does not get any tax relief. The really struggling clubs—those in small towns around New South Wales with a turnover of less than \$1 million a year—get nothing. Their net benefit from this package of legislation is zero, zip—nothing. Those that make the big revenue gains from this tax relief are the clubs that are turning over \$20 million a year. I do not think a club that turns over \$20 million a year can be described as a struggling club.

It is clear who ClubsNSW is sticking up for here. It has cut a deal for the big end of its industry, for the whopping end of its industry—the mega clubs that are turning over \$20 million and more each year. But for clubs that have a turnover of less than \$1 million, there is nothing in it for them. They will not get any tax scale relief whatsoever. So it is disingenuous of the member to say that this was a lifeline. It is not. It is a cash injection into the wealthy end of the clubs industry. This is a hugely regressive tax cut for clubs that earn \$20 million or more a year. It is clear who calls the shots at ClubsNSW.

The other provision of the legislation is to rename the Community Development and Support Expenditure Scheme the ClubGRANTS Scheme. I think that speaks volumes for what this legislation is all about. Putting the word "Club" next to the word "GRANTS" shows what this legislation is really about, and shows why this was the second-most important commitment in the memorandum of understanding. The first commitment was the tax scales. The second commitment was renaming the Community Development Support Expenditure Scheme as ClubGRANTS. Why is that? What is the reality of the ClubGRANTS program? It is less than 1.2 per cent of the \$5.4 billion revenue earned by clubs in New South Wales. It is a very cheap, highly cost-effective advertising and promotions program for ClubsNSW.

ClubsNSW is busy getting tax relief for the money it spends to promote itself. In effect, every household in New South Wales is supporting the clubs industry to do its own promotions and its public relations work, to buy its indulgence for the massive crime of collecting 40 per cent of its gaming machine revenue from those who

are addicted. People can say all they like about the lovely clubs here and the lovely clubs there, but every club in New South Wales has admitted the following tragic fact: 40 per cent of their gaming machine revenue comes from people who are problem gamblers. This is an industry that survives on the misery of individuals and their families who are deprived of their capacity to have an ordinary life by their addiction to gaming machines. I heard the shadow Minister say that what I said is wrong. The figure of 40 per cent comes from Productivity Commission reports. In response to her inquiry whether I have been to any clubs I say, yes, I have been to clubs. It has been admitted by ClubsNSW that it is a fact that \$80 million a year is being collected. This has been admitted to me. People in the gallery are shaking their heads, Mr Deputy-President, but it has been admitted to me by people in ClubsNSW that they accept that 40 per cent of their revenue comes from problem gamblers.

The Hon. Sophie Cotsis: What about the club workers?

Dr JOHN KAYE: We will talk about club workers in a minute.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Dr John Kaye will not address members in the gallery; he will address his remarks through the Chair.

Dr JOHN KAYE: I accept your ruling, Mr Deputy-President. The reality is that moneys paid by the taxpayers of New South Wales, the working households of this State, the struggling households of New South Wales are being used to buy the indulgence of the community for the crime that 40 per cent of gambling revenue of clubs comes from people who are addicted to gambling. Some \$63 million a year, less than 1.2 per cent of the \$5.4 billion revenue, is a very cheap public relations exercise, and we are paying for it.

The third item I wish to refer to relates to increased rebates on money that was put into what was the Community Development Support Expenditure Scheme. That is now \$90 million, up from about \$35 million previously. That is a massive increase in rebates. The Government argues that there are community benefits. There are benefits from that money; nobody can deny that. But the question put by the Hon. Amanda Fazio is: Who should determine where public moneys go? Should that be determined by the clubs industry, or should that be determined by the Parliament?

In effect, this legislation hands over \$90 million to the clubs industry, saying, "You can use that money, you can determine where it goes." That money should be directed to the public sector; this Parliament should be determining where that money is to be spent. Some \$390 million over the next four years equates to approximately 1,000 public sector school teachers, or 1,000 public sector nurses, or 1,000 community development workers, or 1,000 social welfare workers. That is 1,000 jobs that are ripped out of the public sector, with the money saved being handed over to the clubs industry. The memorandum of understanding shifts control over tax dollars and over public money to the clubs, to use to promote themselves. This proposed legislation, as I have said, is a payback.

The Government claimed, and the Minister claimed in his second reading speech, that for every dollar spent by the clubs there is a \$2 community benefit. Well, that is terrific, that is really nice. But according to a report done by Allen Consulting for the previous Government, for every dollar put into the TAFE system there is a \$6.40 benefit; that is, there would be a 3.2 times greater benefit from spending that money in the TAFE sector. Handing dollars back to the clubs industry might earn a \$2 community benefit—and it sounds great when you say that in public—but the reality is that a two-fold increase in community expenditure is not a big amount of money; it is not a big multiplier when compared to public sector activities like TAFE where the multiplier is 6.4—a far greater increase in value than a two-fold increase. That \$2 figure was based purely on research done by the clubs. The Government, as is typical of what we have heard throughout the debate about clubs, has been happy to hand over policy making to the club sector.

A lot has been said in back-chat in this Chamber about workers in the club industry, and it is important that we secure a strong future for those workers. They have a difficult job and I pay my respects to them. I have eaten many meals at clubs and I have had a number of soft drinks at clubs over the years.

The Hon. Dr Peter Phelps: No doubt subsidised by pokies.

Dr JOHN KAYE: That is correct, they are subsidised by the pokies and that is one of the major problems with the clubs industry, because 40 per cent of that subsidy—

[*Interruption*]

Mr Deputy President, I cannot even complete my sentence because of the wailing of Government members.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! Members will come to order.

Dr JOHN KAYE: As I was saying, 40 per cent of those subsidies come from the pockets of people who are workers themselves, people who are hopelessly addicted to gambling and are in an appalling situation and whose families are in an appalling situation. It is great that there are jobs in clubs and that clubs exist, but we have to find an alternative for the future of clubs. And continuing the addiction of clubs to poker machines—

The Hon. Dr Peter Phelps: He said we have to find an alternative to the clubs.

Dr JOHN KAYE: I did not say that. I am enjoying this conversation but I have one minute and forty seconds remaining in which to complete my speech and then, if the Government Whip has something he wishes to say about the taxation system, he should seek the call and say it. The member does not listen. I said that we have to find an alternative financial base for the clubs industry to support those workers. We have to make sure that workers in the clubs industry do not suffer, but we also have to balance their rights against those of people who are becoming hopelessly addicted to gaming machines and whose quality of life, and that of their families and members of the community, is being compromised by gaming machines. I was asked whether I had been to any clubs. I have been to a number of clubs recently and every time I go into a club the first thing that hits me is the number of poker machines. The second thing that strikes me is the number of people sitting in front of those machines feeding money into them that clearly they cannot afford to lose.

The Hon. Charlie Lynn: And they are being forced to do that.

Dr JOHN KAYE: That is a very unkind remark; it shows a complete lack of understanding of addiction and the way addiction works. I acknowledge the interjection because the member who made it should be ashamed of himself and because it is obvious that he and the Government have completely failed to understand the nature of addiction. The Coalition lives in its own north shore ivory tower. Its members should take the time to talk to families affected by this addiction. They should talk to the families of those whose lives have been ruined by problem gambling. *[Time expired.]*

The Hon. JOHN AJAKA (Parliamentary Secretary) [4.13 p.m.]: I support the Gaming Machine Tax Amendment Bill 2011. At the outset, I should declare an interest. I am a very proud supporter of clubs in New South Wales and a very proud member of a number of New South Wales clubs, in particular the St George Leagues Club. What a great club.

The Hon. Sophie Cotsis: Hear, Hear!

The Hon. JOHN AJAKA: I acknowledge that interjection. The bill arises as a result of the Government's honouring an election promise. Interestingly, members opposite have acknowledged on a number of occasions that the bill is the result of an election promise by the Coalition and that it is a good bill. Indeed, they support it. However, with the members opposite there is always a "but"—each and every time. Members opposite cannot leave it at that; they cannot simply stand up and say that they do not oppose the bill. They always have to have a "but". They are seeking to interject as I speak because they do not want to hear this. What is the reason for the "but"? In summary, Opposition members said in their contributions to this debate, "It is an election promise, and we honour and support it", and then they asked why the Government brought in the bill. There is a simple answer to that question. It was brought in because it was needed and because those opposite failed to do so when they should have prior to the last election. We introduced this bill, as promised, because slow-drip legislation of the previous Government was designed to bring down clubs in New South Wales and cause them to close.

The Hon. Helen Westwood: You don't understand anything.

The Hon. JOHN AJAKA: I acknowledge that interjection. Well, I can tell the member that I do understand and that understanding comes from personal experience. Prior to being elected a member of this House I had the honour, as a lawyer, of representing a number of clubs, including regional clubs in New South Wales. The main brief I received from clubs after Labor's legislation was to arrange refinancing. The clubs were being put to death. They were running out of money. They could not continue with their everyday funding arrangements because of ongoing taxation increases; they were forced to mortgage property, borrow funds and

pay interest. And who ultimately suffered as a consequence of that? Ultimately the community that relied upon the grants from these clubs suffered. I witnessed that firsthand. As a councillor on the Rockdale council I witnessed the closure of a number of clubs when Labor introduced its legislation. Clubs that used to support community sporting organisations had to close because they were no longer able to meet their day-to-day expenses. Clubs had to terminate the employment of their staff when administrators were called in. So, members opposite should not say that I do not understand. I do understand because I witnessed firsthand the difficulties that some clubs experienced. I say shame on members opposite for not congratulating the Coalition Government for bringing in this necessary bill. Registered clubs are not-for-profit organisations; they do not pocket financial windfalls. The money they receive is returned to the community through sporting and youth organisations. That is where the money goes; they do not the money in their pocket.

Dr John Kaye: Which money, John? Which money?

The Hon. JOHN AJAKA: Dr John Kaye knows perfectly well which money. Profits are directed towards providing and maintaining club facilities for the benefit of members of clubs and communities, who ultimately, in effect, own the club property. Club profits are used also to support the local community through the provision of facilities and services to a wide range of groups, including those for youth, the elderly and the disadvantaged.

The bill will help clubs to continue and to strengthen the vital support they provide for their members and the community. The bill reduces club gaming machine tax rates, strengthens the viability of clubs and enables more funds to be allocated towards the provision of services and facilities. I repeat: the bill will reduce a tax that was imposed by the former Government. The members opposite gain came up with a "but", and then ask Why did the Government do this? They do not understand the concept of reducing taxes. The bill will reduce club gaming machine tax rates. The Government acknowledges the unique and substantial economic and social contribution that clubs make to the State. According to the Allen Consulting Group, the social contribution of clubs in 2007 amounted to \$811 million. At that time clubs also employed approximately 43,000 people and engaged around 44,000 volunteers to assist in club operations and activities.

According to ClubsNSW around 96 per cent of registered clubs provide sporting infrastructure. In 2007 the Allen Consulting Group found that over 1,500 bowling greens, 366 golf course, 81 gymnasiums, 66 swimming pools and 163 sporting fields have been provided and are supported by clubs. That reflects the wide cross-section of sporting interests and age groups to which registered clubs cater. Clubs are the backbone of many communities, particularly in regional areas. They are often the focal point in a community for providing sporting facilities and social activities to harness community spirit and bring individuals together. The enhancements to the ClubGRANTS Scheme in this bill will give clubs greater flexibility to better target their expenditure to benefit communities and members alike. Clubs support our children and young people by fostering confidence and enhancing self-esteem, particularly by providing them with the opportunity to participate in sports. Whether it is the provision of critical sporting facilities and infrastructure, donating funds to sporting associations or simply paying for children's sports uniforms, the support of registered clubs is vital to the continuation of children and youth sports each week. Only yesterday I spoke about the Arncliffe Scots Junior Rugby League Football Club, which assists young men and women to become involved in sport and teaches them, as it did me, about good sportsmanship, dedication, involvement and teamwork. That is what clubs in New South Wales represent to young people.

ClubsNSW, as the peak body of the club industry, is a major partner of the New South Wales Institute of Sport: it has given \$1 million annually to the institute since 1995. The enhancements to ClubGRANTS will help the club sector maintain this support. Increasing the amount of funds that can be allocated under category 2 expenditure from 0.75 per cent to 1.1 per cent of profits will provide a greater source of funds for community sporting activities. The introduction of a new category of expenditure in which clubs contribute a minimum of 0.4 per cent of gaming machine profits over \$1 million to a statewide funding pool for large-scale projects or services will also assist to sustain community activities. This new category will see club contributions directed towards large-scale projects associated with health and community infrastructure.

Registered clubs also have their origins in a range of social issues such as the welfare of returned serviceman and women, and the promotion of business, ethnic, political, social and cultural pursuits. These clubs include RSL and service clubs, graphic arts clubs, and religious and political clubs. Clubs also play a vital role in the social fabric of New South Wales, and the Government is proud of that role. Our society is enriched when more people are engaged in the sporting, social, political and cultural activities that are supported by the

club movement. More and more clubs are diversifying their services to better cater for the needs of their members and local communities. This includes the provision of aged care facilities, live entertainment, health and fitness activities, and facilities for children such as school holiday programs.

The amendments in the bill will assist clubs to further diversify and to provide services to local communities that may be lacking or in short supply. Registered clubs are always quick to act to assist victims of natural disasters. They quickly rallied together early this year to help the flood victims of Queensland and northern New South Wales. Clubs and their members have donated about \$1.5 million to assist flood victims. They have also made considerable donations to assist victims of the Victorian bushfires, the 2004 Boxing Day tsunami and the 2009 Samoa and Tonga tsunamis. Clubs also make a significant contribution to supporting our local performing artists by providing a venue for them to perform. The contributions made by entertainers are publicly acknowledged annually by the club sector through the Australian Club Entertainment Awards.

I recently attended the Mo Awards, where I again witnessed the great contribution made by the club industry. Many of the entertainers present that evening said they would have had no future in Australia had it not been for ClubsNSW. The Chief Executive Officer of ClubsNSW also expressed his bitter disappointment in the former Labor Government for its failure to acknowledge continual requests to ease the taxation burden, and he was very appreciative of what the Liberals and Nationals were prepared to do. We understood the plight being faced by clubs and we have responded. But what do we get from those opposite for taking that action? We get criticism. Once again we get the big "but". The Government has been made to feel that in some way it has done something wrong by listening to the needs of a vital sector of the community and responding to those needs. I am proud that the Government listened, I am proud that we have responded, and I am proud to be part of this Government.

At the 2010 Australian Club Entertainment Awards celebrated in March this year 24 award categories recognised achievements such as most outstanding club performer of the year, best new talent, and best original music group, as well as comedy acts and children's shows. These awards reflect the importance that clubs place on fostering local talent and providing an atmosphere for members and guests to come together, socialise and be entertained. One need but turn to the annual club awards of excellence for evidence of the achievements of the club industry in New South Wales. When this event started 28 years ago there were only three award categories; that number has grown to 21. They recognise club achievements in areas such as the provision of dining and function facilities and entertainment, customer service contributions to amateur sport, environmental sustainability and local development. This growth clearly demonstrates the expanding range of services and facilities that clubs provide to local communities. The award categories also reflect the importance the industry places on continually striving to do better, as well as the diverse nature of contemporary clubs.

I have touched upon only a few of the achievements of the New South Wales club industry. Hundreds of clubs and thousands of employees work hard each day to make this State a better place for millions of registered club members, their guests and the community as a whole. The New South Wales Liberal-Nationals Government is proud of the accomplishments of the registered club industry. The Government is committed to helping clubs secure their long-term financial viability and to strengthen their social and economic contribution to the community. As our memorandum of understanding with the club sector states: Strong clubs mean stronger communities. I commend the bill to the House.

The Hon. SOPHIE COTSIS [4.27 p.m.]: I support the Gaming Machine Tax Amendment Bill 2011.

[Interruption]

I gave the Hon. Trevor Khan a chance to speak. I will be returning to some of his comments because what he said about the Hon. Steve Whan was wrong.

The Hon. John Ajaka: Point of order: The Hon. Sophie Cotsis is engaging in conversation with another member across the Chamber. Her comments should be directed through the Chair.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Members will refrain from interjecting. Interjections are disorderly at all times.

The Hon. SOPHIE COTSIS: I am a proud member of the St George Leagues Club, South Sydney Junior Rugby League Club, Kingsgrove RSL Club and Liquor and Hospitality Division, United Voice, and

I support the comments made by my colleague the Hon. Steve Whan about the club industry. The Opposition supports the decent, hardworking Australians who work in the club industry, the millions of members and patrons of the clubs and the recipients of the work done by the club industry. The bill came about because of a commitment made to the club industry by the Liberal-Nationals Coalition in the lead-up to the election. But the Government has its priorities wrong. The Government has indicated that it will be sacking thousands of public sector workers, cutting real wages and conditions and removing the independence of the industrial umpire. The bill will provide tax cuts of the order of \$300 million at a time when the Government continues to perpetuate the false claim of a budget black hole.

The club industry provides important community work, and it has done so for many decades. It supports local community groups, sporting groups and families that are under pressure and whose kids benefit through a number of grants. Clubs help local sporting communities. In some areas the clubs—I witnessed this firsthand when I was an employee representative of club workers—reach out to poor and struggling families when the parents may have lost their jobs and may not be able to afford to pay certain registration fees or buy uniforms, football boots or whatever it may be. The clubs have dug deep to support these families. Earlier the Hon. Trevor Khan made comments about the Hon. Steve Whan.

The Hon. Trevor Khan: Hypocrisy.

The Hon. SOPHIE COTSIS: That is right—the rank hypocrisy to repeat falsehoods. The Hon. Trevor Khan demonstrated once again the Coalition's preference for name-calling and insults instead of facts. He claimed that my colleague the Hon. Steve Whan had not said anything about the Federal Government's poker machine proposals and accused him of scurrying off and hiding instead of fronting up to rallies. That is wrong. In fact, some few weeks ago the Hon. Steve Whan spoke at a rally of south-east clubs in Braidwood and made the Opposition's position clear. Once again the Hon. Trevor Khan repeated falsehoods and spoke complete nonsense. I will return to the good work of club workers.

The Hon. Trevor Khan: You have to do better than that.

The Hon. SOPHIE COTSIS: The Hon. Trevor Khan falsely accused the Hon. Steve Whan of not attending the rally in Braidwood.

The Hon. Lynda Voltz: Point of order: It is impossible to hear the Hon. Sophie Cotsis because of all the interjections made by the Hon. Trevor Khan.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Members will reduce the level of audible conversation to allow other members and the Chair to hear the debate and the contribution of the Hon. Sophie Cotsis.

The Hon. SOPHIE COTSIS: As other speakers have said, approximately 1,500 clubs in New South Wales employ more than 43,000 workers. One of the largest clubs, Penrith Panthers, employs 1,400 people on a full-time, part-time and casual basis. Large clubs employ many casual workers on Friday and Saturday nights when their trade is at its highest. Many clubs own and operate resorts and have accommodation, motels or hotels, attached to them. They do tremendous work for and provide great service to their local areas. The Wests Group in Newcastle employs 1,000 people; the Mounties Group in Rooty Hill employs approximately 400 people; Blacktown Workers Club employs approximately 450 people; and the St Marys Leagues club, Bathurst RSL, Dubbo RSL, the Port Macquarie club and the Lithgow Workers club employ hundreds of people. In the Tweed and Coffs Harbour the Twin Towns Services Club and the Coffs Ex-Services Club are major employers in the Tweed and Coffs Harbour.

The Hon. Jennifer Gardiner: What is Justine Hillier doing about that? Smashing them.

The Hon. SOPHIE COTSIS: No. When I was an official for the liquor and hospitality union I worked closely with club workers on career development and career paths. After a lot of hard work we negotiated for a number of casuals to become part-time and full-time workers. That happened over a long period and after a lot of hard work by the workers and the union movement. As a union official I spent about five years representing club workers in south-east Sydney, north Sydney, the inner west and Sydney city. I established some strong relationships with delegates and workers in the clubs in those areas. I am proud of the work they do, which is

difficult in some instances. These people are at the coalface and on the front line. Many clubs have won customer service awards year in and year out because they have some of the best workers in terms of customer service.

Club workers are on the front line, whether they work in the bar, are cashiers, work on the floor, handle pay-outs, or whether they are cellarman who work in the dungeons, receptionists, administrative staff or people in charge of security. Clubs operate 24 hours a day, seven days a week: as we know, the hospitality industry does not operate on a nine-to-five basis. A high proportion of club workers are women and many of them are casuals who work on Friday and Saturday nights to help their families. Many struggling families rely on weekend penalty rates. Over the past few weeks I have heard Federal Coalition members say that believe that penalty rates should not exist.

As someone who worked with club workers for five years I know that penalty rates are important to hospitality workers. Penalty rates are important to workers who leave their families on a Saturday night, a public holiday or on weekends to work. During the time I was negotiating agreements with clubs most of the clubs supported penalty rates because of the necessity to have staff working on those nights. It is important to ensure that the club industry is committed to penalty rates. The club industry is committed to appropriate allowances and to ensuring that club workers have improved working conditions and wages. During my time as a union official I established some good professional working relationships with club managers, board directors and local community leaders. Some of the negotiations were tough. I will not go into the details, but at times we had to work hard in partnership to ensure that clubs came on board in terms of negotiating better wages and conditions for the workforce.

The Hon. Dr Peter Phelps: Point of order: While this is interesting, the industrial relations situation in clubs is not at issue. What is at issue is the gaming machine tax. While a long discursive argument about industrial relations matters in clubs is well and good, it is probably not the right bill on which to discuss these matters.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! There is no point of order. The member is being generally relevant, and I am sure she will come directly to the point shortly.

The Hon. SOPHIE COTSIS: Absolutely. There are 43,000 workers in the club industry who will benefit from this \$300 million.

The Hon. Matthew Mason-Cox: From this bill.

The Hon. SOPHIE COTSIS: I am not going to counter some of the furphies Government members spoke about and some of the bad practices that I have encountered with some of the clubs. I will not get into that. What I will say is that I have established some very good professional relationships with some of the clubs as well as an understanding of the needs of their communities. I was involved in some of the major reforms of the club industry at a time when some clubs were going through very difficult internal financial management problems. I would be happy to speak to the member outside about this.

However, I add that clubs do great work in the community. I acknowledge a number of clubs that I worked with when I was a union official. One was South Sydney Junior Rugby League Club. I attended a number of disputes. We had our brutal clashes, but every time I raised an issue with them about a staff member who was going through a difficult period, or a staff member whose partner had passed away and who did not have the money for a funeral, or a staff member whose child was going through a difficult illness, the club was willing to put their hand in their pocket to help staff members. I recall the hailstorms we had in 1999 when a number of the clubs in the south-east area—and South Sydney Junior Rugby League Club was one—would provide hospitality for the firefighters, the State Emergency Service personnel and the paramedics. They also accommodated many of the home owners in the locality during that period. I commend the work that clubs did on those occasions.

In conclusion I acknowledge ClubsNSW, the liquor and hospitality division and the club workers, who I am very proud to say are some of the best, most decent, and most hardworking Australian workers this country has. I will never forget their toil and their commitment, their loyalty to their workmates and to the local community. These are people who know the names of their patrons and their issues. They stay very dear to me.

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

TRANSPORT LEGISLATION AMENDMENT BILL 2011

In Committee

Clauses 1 and 2 agreed to.

The Hon. PENNY SHARPE [4.48 p.m.], by leave: I move opposition amendments Nos 1, 2, 3, 7 and 8 on sheet C2011-070B in globo:

- No. 1 Page 14, schedule 1 [27], lines 12–18. Omit all words on those lines.
- No. 2 Pages 14 and 15, schedule 1 [28], lines 19–35 on page 14 and lines 1–23 on page 15. Omit all words on those lines.
- No. 3 Page 18, schedule 1 [29]. Insert after line 14:
 - (c) the person is entitled, on the transfer date, to any conditions of employment applicable to that person under section 67 immediately before the transfer, until such time as further provision is made under this Act or any other law.
- No. 7 Page 34, schedule 1 [64], lines 6–16. Omit all words on those lines.
- No. 8 Page 39, schedule 2 [20], lines 22–25. Omit all words on those lines.

The first and very significant part of this bill, which was almost completely ignored by the Minister in his second reading speech, is the wholesale gutting of entitlements and protections for transport workers in Transport for NSW. The bill gives the power to the director general to be able to transfer any transport agency staff to Transport for NSW. Much has been made by the Minister of the protections in the amendments, including quite a hysterical media release from the Minister for Transport yesterday that verbalised one of our advisers. As the Minister in the other House rushed to give the so-called facts in relation to this legislation she was quick to use political spin to cover the fact that the staff affected will have no right to keep their current entitlements beyond base salary and superannuation. The affected workers will be worse off. They will have no right of appeal and they can be sacked if they refuse to accept a transfer—again, with no right of appeal. The briefing note provided in relation to the bill states explicitly:

... that the inefficient provisions in other transport cluster awards such as "unlimited salary maintenance" and "no in voluntary redundancy" are not carried into the new organisation.

By adopting that approach, the legislation will remove protection enshrined by the Industrial Relations Act from transferred workers. However, if the series of amendments I moved is passed, the rights of workers will be protected under the new arrangements. Opposition amendment No. 1 seeks to delete in schedule 1 item [27] to the bill new section 66 (4) and (5) to ensure that transfers of staff have the protections set out in the Industrial Relations Act. New section 66 (4) and (5) remove rights of transferred workers. The new subsections state:

- (4) The transfer of staff under this Division does not give rise to:
 - (a) a breach of a contract of employment, or
 - (b) any claim based on termination of employment.
- (5) The Industrial Relations Act 1996 does not apply in relation to the transfer of staff under this Division.

This is not acceptable. If amendment No. 1 is not supported, by the stroke of a pen workers in Transport for NSW will lose a range of entitlements that were negotiated over many years. Overnight they will be worse off. It is hardly a good start to the establishment of this new organisation when workers are being dealt with in such a manner.

Opposition amendment No. 2 will omit new section 67 in schedule 1 item [28] to the bill. The Ministers responsible for this legislation have made much of the so-called protections for staff being maintained in this legislation, but that is a furphy. New section 67 will guarantee only the base salary of the worker plus their superannuation, but will exclude any other monetary benefits to which the worker would be entitled. Although it is explicit that they will not be on a smaller wage, they are not guaranteed their current conditions. These transfers are not considered to be termination of employment, so workers will be forced to do the same job for the same money in reduced conditions. This is yet another example of the Coalition, since coming to government, doing everything in its power to remove the hard-won rights, entitlements and protections of public sector workers across this State. The Government's bill will strip the conditions and entitlements of every worker and leave them worse off.

The Opposition does not support the wholesale stripping of workers' rights under the cloak of so-called reform. The amendment seeks to delete new section 67 and preserve the conditions and entitlements of transport workers who will be affected adversely by this legislation. If this amendment is passed it means that workers transferred will be transferred with no loss of terms and conditions as to remuneration, allowances and duration of employment as at their transfer date. There is nothing that prevents the terms and conditions of employment referred to being varied, as is the case through normal and current processes. The amendment essentially seeks to maintain the status quo with respect to the rights and entitlements of workers. Amendment No. 3 inserts a new section into section 68H. It states:

No. 3 Page 18, schedule 1 [29]. Insert after line 14:

- (c) the person is entitled, on the transfer date, to any conditions of employment applicable to that person under section 67 immediately before the transfer, until such time as further provision is made under this Act or any other law.

This amendment ensures that no transferred employee will be worse off. Labor amendments Nos 7 and 8 are consequential upon amendment No. 2 being passed. They also seek to delete provisions in the bill to preserve the status quo rights and entitlements of workers under the new arrangements. In particular, we seek to preserve the rights and conditions of workers who will be transferred from the ports of Yamba and Eden. I commend the amendments to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [4.51 p.m.]: The Government opposes the amendments. The whole philosophy underpinning these amendments—that workers' rights are not protected under the legislation—is a complete furphy. The Government seeks to effect changes to the Act to protect the rights of workers and to allow for continuity and a sensible way in which to address issues with workers from so many different areas. The Opposition has moved amendments Nos 2, 3, 7 and 8 in globo. I will deal with them individually.

The Government opposes Opposition amendment No. 1. The effect of the amendment would be to leave unchanged existing section 66 of the Transport Administration Act that deals with transfers of transport authorities staff. The Government opposes the amendment because the new subsections are necessary to facilitate the transfer of staff from existing agencies, such as the Roads and Traffic Authority, RailCorp and the State Rail Authority, to the new organisation, Transport for NSW. The proposed new subsections provide more clarity and protect both the employee and the organisation at the point of transfer.

The practical effect of the Opposition's amendment would mean that if a staff member from an agency such as the Roads and Traffic Authority, RailCorp and the State Rail Authority were to be transferred to the new organisation, Transport for NSW, an argument could be put that that is a breach of contract or termination of employment, even though the employee is still employed, regardless of the protections provided to the transferring employee. That would expose both the transferring employee and the organisation to unnecessary risk. If a transfer from an existing agency to Transport for NSW is considered by the employee to be a breach of contract or termination of employment, there is a risk of a major payout, which could result in significant expense to taxpayers when there is no loss of a job.

The Government opposes Opposition amendment No. 3. The section is a standard intra-transfer provision that reflects sections 87 and 90 of the Public Sector Employment and Management Act. The Government also opposes Opposition amendment No. 7. New section 67 (1) preserves the legislative position as it stands today for people who transferred before the bill takes effect. New section 67 (2) stops the award introduced under the previous Government to among other things lock in the permanent salary, maintenance and no-forced-redundancy conditions that the Committee already has voted on and brought to an end. The measure is necessary to provide staff members with the flexibility to agree to move to the new transport service award without being in breach of an existing award.

The Government opposes Opposition amendment No. 8. New section 21 in item [20] of schedule 2 to the bill is necessary as stated to place transferred staff from Yamba and Eden ports in the same position as all other transferred staff. The Government opposes Opposition amendment No. 3 because its effect would be to delete the new section 67 from the bill and leave existing section 67 of the Transport Administration Act unchanged. Section 67 of the current Act is headed, "Preservation of remuneration and other conditions of employment on transfer".

The Hon. GREG DONNELLY [4.57 p.m.]: I seek clarification from the Minister in relation to a couple of provisions in Opposition amendments, specifically amendment No. 2 relating to pages 14 and 15 of

the bill. New section 67 (4) refers to the definition of base salary. Base salary seems to be partially but not totally defined. With regard to the current earnings of an employee, base salary covers certain things, but excludes "any other monetary benefits that may otherwise be payable to the staff member". I seek elucidation or an explanation of "other monetary benefits that may otherwise be payable to the staff member". What is being excluded? Can the Minister answer that question now?

The Hon. John Ajaka: No, we cannot answer that.

The Hon. GREG DONNELLY: Section 67 (1) states:

The terms and conditions on which a transferred staff member becomes employed on being transferred by an order under this Division (including terms and conditions as to remuneration, allowances and duration of employment) are, on the transfer date, those applicable to the position to which the staff member is transferred, except as otherwise provided by this section.

New section 67, subsections (2), (3), (4) and (5), preserve for affected employees only the base salary as so defined. In other words, it is clear that there is no saving of employees' conditions. The only thing that is saved or protected is the base salary. I also seek clarification as to whether future wage increases that become available to employees will be paid to the saved or protected employees. Will those increases be fully absorbed in the preserved base rate that could be compared with the new award rate? Is there a capacity by virtue of new section 67 (5) to unilaterally change the terms and conditions of employment of the employees transferred into the new entity?

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.01 p.m.]: In relation to Opposition amendment No. 1, it is clear that the legislation, consistent with the approaches in other legislation introduced by this Government, will try to lock or bar the door to workers who wish to access to an independent industrial umpire in the event of any dispute. I draw the attention of the House to page 14 of the bill, item [27], new section 66 (5), which states:

(5) The *Industrial Relations Act 1996* does not apply in relation to the transfer of staff under this Division.

This means that, consequent upon any transfer under this enactment if workers have legitimate concerns about some of the consequential changes—

Mr David Shoebridge: A reduction in pay.

The Hon. ADAM SEARLE: No, I will come to base pay in a moment. At present if workers experience a reduction in their conditions of employment other than their base pay they can access the Industrial Relations Commission, which can use its expertise to conciliate in an expert fashion in dispute. If the parties are unable to be assisted to a non-litigious resolution it can decide the matter fairly, freely and impartially and on the basis of the evidence put before it by the parties. This will go to matters other than base pay, detrimental changes and other conditions of employment.

The Minister talked in her press release about anomalies in working hours across the transport system. If the resolution of those anomalies is that some workers have their hours of work increased for no additional pay the Government says that they are not financially worse off. However, it is overlooking the fact that there could well be a reduction in the hourly rate of pay. Perhaps the workers are not receiving less money but they are working more hours for it. Changes of that kind that negatively impact on workers across this sector cannot be adjudicated by the independent tribunal. That is the effect of this new section in the bill, and the Opposition's amendments are designed to remedy the situation.

Item [28] is dealt with in Opposition amendment No. 2, which seeks to replace the new section 67 with the status quo. The Government is only guaranteeing the transferred staff members' base salary, not their actual take-home pay. There is no mention in this new section about what happens if staff work shifts and get shift loadings or other allowances. There is no mention about the rostering principles that apply currently to those workers or rostered days off and various other forms of leave that they can access. Nothing is guaranteed other than someone's base salary. It is a big offer of protection when the Government says there will be no net financial detriment but the detail of the bill falls far short of that. During the second reading debate I raised the question of what happens when a worker says, "I have done the maths and I am actually financially worse off; I will be taking home less pay to my family." Where do they go to dispute the matter? They cannot go to the Industrial Relations Commission anymore. The Opposition's amendment does two things: it protects the existing rights of workers and maintains the status quo for those workers. It does not make them better off; it just makes sure that they are no worse off.

The Hon. John Ajaka: Point of order: I am interested in the contribution of the Deputy Leader of the Opposition but I cannot hear him because of the echo coming from behind him.

The CHAIR (The Hon. Jennifer Gardiner): Order! Members will allow the member with the call to be heard in silence.

The Hon. ADAM SEARLE: I ask rhetorically: If the Government's intention is not to detrimentally affect workers—

The Hon. Duncan Gay: Which it isn't.

The Hon. ADAM SEARLE: I acknowledge the interjection of the Minister, who says that it is not the Government's intention. But this part of the bill makes no sense. Why protect only base pay? Why not protect total pay, remuneration or some other concept that comprehends the totality of a worker's current financial situation or benefit derived from employment? Again, it is simply not believable. The Opposition is seeking to persuade members that, for the sake of safety, they should embrace our amendments. Opposition amendments Nos 7 and 8 have the same effect.

Mr DAVID SHOEBRIDGE [5.07 p.m.]: The Greens support the Opposition amendments, which, at their heart, return section 67 to its current simple terms.

The Hon. Duncan Gay: No, they don't; they take it way beyond.

Mr DAVID SHOEBRIDGE: I note the interjection from the Minister. It is unfortunate that he has not come to grips with the effect of the Opposition amendments. The Opposition amendments get rid of this new and novel change—new section 67—that the Government is trying to force on transferred workers. As the Deputy Leader of the Opposition said, it only protects base pay. The amendments get rid of that novel and unfortunate approach to transferred workers in the public service and reinstate the existing provision, which is a good one. Section 67 of the Transport Administration Act states:

- 1) Except as otherwise provided by this Division or the regulations, the terms and conditions on which a transferred staff member becomes employed on being transferred by an order under this Division (including terms and conditions as to remuneration, allowances and duration of employment) are, on the transfer date, those on which the staff member was employed immediately before the transfer.

It is a simple, open-and-shut case—that is the answer. If the existing section 67 is left in the legislation, which is the effect of the Opposition amendments, the transferred employees will keep their remuneration, allowances, duration of employment and existing entitlements. The Government claims that if workers keep their base pay it will devise some set-offs and negotiate some arrangement, but it is promising only that they will keep their base pay—the rest is up for grabs.

As was noted in the earlier contributions, if there is ever a dispute between workers and the Government about that net set-off, the workers have no remedy; they cannot go to the Industrial Relations Commission to have the matter determined. It may be that they could come up with some complicated, equitable remedy, or a Supreme Court remedy at enormous cost to ordinary working people, but they ought not to have to go there. They ought to have their existing remedies through the Industrial Relations Commission, and they ought to retain their existing entitlements.

There is nothing to stop the Government, once it gets a variety of workers from these various positions, negotiating with those workers a new, common-terms award that will apply to their work. That is always open to the Government. It can be entered into by consent. If it cannot be done by consent the parties can go to the Industrial Relations Commission and have the matter settled by arbitration in a fair and open process. That is available to the Government under existing law. The existing law protects transferred employees' entitlements. The Government's proposed law does not do that. The Government says it does but, when the legislation is analysed carefully it can be seen that it is far from protecting existing entitlements. For those reasons The Greens strongly support the Opposition's amendments.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.11 p.m.]: If Mr David Shoebridge were correct, only Opposition amendment No. 2 would be needed. Rarely is the member correct, and this is just another of those instances when he is not correct. Opposition amendment No. 2 seeks to insert in the bill a provision to restore existing rights. Opposition amendments Nos 1, 3, 7 and 8 go much further. It is total rubbish

to say that the amendments are proposed just to protect the status quo. If the Opposition and those who support the Opposition were fair dinkum they would be content to have the Opposition move amendment No. 2—putting all existing rights in the bill. But we know they are not fair dinkum. They are at war at the moment to get the rivers of gold from the union movement. These amendments are a log of claims to get them back in with the union movement. There is abject silence in the Chamber, because those opposite know that what I am saying is 100 per cent correct.

I will detail what the second amendment does. The reason the Government opposes the amendment is that currently the Department of Transport is staffed by employees from across the public sector, including seconded employees from RailCorp, State Transit, the Roads and Traffic Authority, and the Transport Construction Authority. The employing authority varies across those entities, and the employees have a multitude of varied employment conditions. Across the agencies as they stand there are 14 awards and agreements covering staff. This situation perpetuates complex and unwieldy employment conditions that have developed over time, some of which provide flexibility but most of which do not. These factors prevent the implementation of uniform, efficient and modern conditions of employment.

Staff coming into Transport for NSW would be covered by seven of these different awards and agreements if the Government did not introduce the new award, which is what we want to do. New section 67, as proposed by this bill, would enable all employees of Transport for NSW to be employed on the same award, to avoid the current situation where employees are on a multitude of awards. Importantly, new section 67, as originally proposed in the bill, would have protected employees. It explicitly sets out that, once transferred, these employees will be covered by employment conditions set by the Transport Service of New South Wales, with the proviso that transferred staff will not suffer any net detriment following their transfer. Section 68 of the Transport Administration Act 1988 will remain unchanged. This means that transferred staff will maintain leave and other entitlements with continuity of service. But those opposite ignore that. It is also important to note that new section 67 (5) states:

This section does not prevent the terms and conditions of employment of a transferred staff member from being varied.

This provision is also contained in the existing Transport Administration Act 1988, in section 67 (2), which states:

Nothing in this section prevents the terms and conditions of employment referred to in sub-section (1) from being varied.

So it is the existing provision that is being transferred into this legislation. But those opposite are not interested in that; they want to make a point. They want to suck up to the unions and get the rivers of gold. Interestingly, there has been no protest from the union movement about this. The only outpouring of grief is coming from The Greens and their parliamentary colleagues the Labor Party. New section 67 (5) is a standard provision that the Opposition used when it was in government. It allows for the Industrial Relations Commission to approve changes—changes that would be prevented if the provision were not in the bill.

The Chief Executive of the Transport Service of New South Wales will have the statutory power to employ and fix salaries, wages and conditions of staff, and address promotions, appointments and discipline. The Director General of Transport for NSW will be able to transfer into staff from other transport agencies. This is the standard provision applicable to the government service, including health, police and education services—all in bills put in place when the current Opposition was in government. These hypocrites and their Greens compatriots are sitting there with the brand of hypocrisy on them, because they are moving against provisions that they put in place when they were in government. Their friends and colleagues put these measures in place, and some opposite voted for them.

A new award for employees in the Transport Service of New South Wales other than those in the Transport Senior Service will be made in consultation with relevant unions and, if necessary, with the assistance of the Industrial Relations Commission. In establishing the new award it is proposed to establish conditions similar to those available to public servants in the public service and to ensure that inefficient provisions in other transport clusters, such as unlimited salary maintenance and no involuntary redundancies, are not carried over into the new organisation. As I stated earlier in the debate, the Government had made a clear commitment to establish the award through negotiation with the unions and, if necessary, using the standard arbitration procedures in the Industrial Relations Commission, prior to the staff being transferred. The employment provisions in this bill relate to the staff in the new integrated authority, Transport for NSW. They do not change the employment conditions of those continuing to work in the remaining agency.

Unfortunately, Labor has decided to grandstand on this issue. Its desperate fight with The Greens for support from the union movement places us in the position that we are not getting the best possible outcomes for the new organisation. Under Labor's amendments, we will be left in a situation where people coming into the new organisation Transport for NSW sit side by side, but on different awards. One person may have to work 38 hours a week, yet the person next to them will be on a 35-hour week; one person will have 10 days sick leave, and a person two work stations along will have 15 days sick leave. This is a messy situation, which Labor members and their friends The Greens are determined to protect. If we were allowed to proceed it would be much better for the workers. At the end of the day, there will be a messy situation because members opposite have interfered and changed the provisions that they introduced when in government.

Mr DAVID SHOEBRIDGE [5.20 p.m.]: Perhaps the most egregious error in the Minister's response to the amendments was when he said that if the Opposition and those who support the amendments were serious, they would support only amendment No. 2 as none of the others are required. So that the Minister is clear about what may happen to the legislation and can take responsibility for it, I will explain what the package means. Amendment No. 1 makes a change to page 14 of the bill, schedule 1, clause 27, lines 12 to 18. That is the insertion of the new subsections in section 66. The key difficulty with that provision is new subsection (4), which states:

The transfer of staff does not give rise to:

- (a) a breach of contract of employment, or
- (b) any claim based on termination of employment.

New subsection (5) states:

The Industrial Relations Act 1996 does not apply to the transfer of staff under this Division.

Together, those provisions mean that if a worker is disadvantaged in the transfer—if he objects to the lovely "net off" that the Government says it is going to calculate for workers—the worker will have no right to complain about that to the Industrial Relations Commission and have it conciliated or arbitrated. The Government is removing the remedy that workers would otherwise have to have their rights enforced as a result of this transfer. It is a novel and inappropriate insertion into the transfer provisions. Of course workers should have the right to approach the Industrial Relations Commission if they think they are being short-changed by the Government, and if these amendments are approved they will have that right. If the amendments are not approved then they will lose that right. Amendment No. 3—again, for the Minister's benefit—inserts new paragraph (c) in new section 68H (2). It sets out a number of provisions that apply to the transfer of a person under this new section. They are that it is made at the existing level of remuneration and the director general must be satisfied the person possesses certain qualifications. It inserts new paragraph (c), which states:

The person is entitled on the transfer date to any conditions of employment applicable to that person under section 67 immediately before the transfer.

That is important because paragraph (a) talks only about remuneration, but we know the existing section 67 also talks about allowances and other conditions. The new paragraph is required because it ensures that those allowances and other conditions of employment cannot be stripped away in the transfer process as a result of the power under new section 68H. That is very clear and it is required in order to make sure that existing section 67 can continue to do its good work and protect the conditions of employees on transfer.

Amendments Nos 7 and 8 are consequential. One has only to read the amendment to the provision on page 34, clause 187, regarding the transfer of staff. The proposed amendment the Government wants to make refers to "section 67 as in force immediately before the amendment of that section by the amending Act". Obviously if the amendment is removed we cannot have that provision on the statute book; it would be a nonsense to do so. It is nothing other than consequential, and necessary. We cannot have a reference to an amendment that has not been made in an Act. Why the Minister will not open the Act and read it, come to terms with the reality of the Opposition amendments and understand the legislation he is purporting to lead on in the House is a mystery. Amendment No. 2 retains the rights. Amendments Nos 1, 3, 6 and 7 are essential to make sure that those conditions remain in place and also that the Act of which the Minister has carriage does not become a nonsense.

The Hon. GREG DONNELLY [5.24 p.m.]: Earlier I made some specific requests about the impact of particular provisions.

The Hon. Duncan Gay: You don't have to do them again. We'll come to them.

The Hon. GREG DONNELLY: Has the Minister responded to my requests?

The Hon. Duncan Gay: You can do them again.

The Hon. GREG DONNELLY: I will. I turn to the definition of exclusions. New section 67 (4) states, "but excluding any other monetary benefits that may otherwise be payable to staff member". What does that mean? What are we talking about there that will be excluded, which means that the base salary saving rate is not a complete saved rate but a partial saved rate? The next point that I sought clarification on was the future wage increases payable to employees in the new entity. Will saved employees receive those wage increases or will those wage increases be absorbed in what is the preserved or the saved rate?

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.25 p.m.]: I thank the Hon. Greg Donnelly for his question regarding other monetary benefits. The answer is that employees do receive other monetary benefits—for example, overtime, shift allowances, leave, pay, travel allowances, flex time, to name just a few. Those benefits are not included in the legislation because, if they were, any increases or improvements would need an Act of Parliament to vary them. Those monetary benefits will be in the award that will be approved by the Industrial Relations Commission. A draft award has been prepared and will be submitted to the Government for approval and then forwarded to the Industrial Relations Commission. The draft award contains all the usual benefits and entitlements that apply to the public sector, except no indefinite salary maintenance and no restriction on redundancies in the future. Employees will have access to the Industrial Relations Commission, once they have been transferred, and the bill states that. It states in black-letter law in the bill that the employees will have access to the Industrial Relations Commission once they have been transferred. There is a commitment to negotiate awards before the transfer has occurred and we certainly stand by that. We also stand by the assertion that employees will not suffer any loss in their real wages.

The Hon. SOPHIE COTSIS [5.27 p.m.]: The Minister for Roads and Ports just mentioned that there is a draft award. Nobody has seen that draft. We would like the Government to present the draft award so that the employees affected have the opportunity to see it. Their representatives should also have access to the draft award.

The Hon. PENNY SHARPE [5.28 p.m.]: I note the Minister's admission that workers transferring under these arrangements will lose sick leave and will be forced to increase their rate of work but not necessarily receive any increase in pay. I note the Minister indicated that a transfer award has been drafted that no-one has seen, including the workers and their representatives. This is not an Opposition stunt. These amendments are serious. They are about preserving the rights and entitlements of workers across this State—rights and entitlements that this Government has sought to dismantle since 26 March.

The Hon. GREG DONNELLY [5.30 p.m.]: I want the record to be absolutely clear about what the Minister who is leading on this bill has said. At the moment employees are covered by 14 different awards and the wages and conditions of those employees are governed by those 14 awards. A number of employees will be transferred into a new entity, and as employees of the new entity none of their award conditions will be transferred across. All that will transfer across to the new entity will be a preserved base rate of pay calculated using this definition.

The Hon. Duncan Gay: It is exactly the same legislation as you used, and you know it.

The Hon. GREG DONNELLY: No. All that will transfer across to the new entity will be a preserved base rate of pay calculated using this restricted definition of the base rate of pay, and the new conditions will be determined by a new award of which a draft has already been prepared. If I understood the Minister correctly, once the Government is satisfied with that draft it will go to the commission.

The Hon. Duncan Gay: To the unions.

The Hon. GREG DONNELLY: The draft award will go to the unions, but when that draft award is being prepared the only thing that is certain will be a preserved rate of pay, called the base salary. The Government has already formed a view about what the new conditions will be and they are included in the draft award.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.32 p.m.]: The draft award will be discussed with the unions in the next fortnight. It is in draft form—

[Interruption]

I am going to ignore you because you are an idiot.

The Hon. Lynda Voltz: Point of order: I ask the Minister to withdraw his comment. It is extremely unparliamentary to refer to another member in this place in that way. Mr David Shoebridge should be referred to by his correct title. The Minister should not be so insulting.

The Hon. DUNCAN GAY: I withdraw my remark. I will now read a letter onto the record.

[Interruption]

What did you say?

Mr David Shoebridge: I said you are a quality player.

The Hon. DUNCAN GAY: Thank you.

Mr David Shoebridge: And I would not pick you in my first 11, 13 or 15.

The Hon. DUNCAN GAY: At least I can count. I read from a letter from New South Wales Government Transport dated 25 August 2011 addressed to the Minister for Transport, Gladys Berejiklian, and the Minister for Roads and Ports, Duncan Gay, level 35 Governor Macquarie Tower, 1 Farrer Place, Sydney, New South Wales 2000, which states:

Dear Ministers,

I am writing to you in relation to the proposed employment conditions for the staff transferring to the new organisation, Transport for NSW.

I note that yesterday in Parliament the Minister for Roads and Ports assured the Legislative Council that there will be an award for staff employed in the Transport Service of NSW to clearly define workforce conditions and the award will reflect normal conditions of employment in the public sector.

A draft award is well advanced and I am hoping to obtain the Government's approval to its terms in the next fortnight. The draft award is an amalgam of the other awards and enterprise agreement provisions currently applicable in the portfolio.

I would like to give my personal assurance that the Transport Service for NSW Award will contain, at a minimum, the following terms and conditions for staff covered by the award:

- The award will apply to Transport for NSW staff whose salary is less than \$125,000 per annum.
- Working hours will be 35 hours per week. This will represent a reduction from 38 hours per week for RailCorp and Transport Construction Authority transferees with no loss of base salary.
- Flextime will be available to staff. This is a new provision for Transport Construction Authority transferees.
- The award will preserve leave loadings and the usual public sector leave arrangements.
- Staff will be entitled to 15 days sick leave per annum. This represents an increase from 10 days for the transferees from Federal system.
- The standard public sector overtime arrangements will apply.
- The award will contain a full range of allowances:
 - on call
 - remote locations
 - remote location travel
 - meals and accommodation
 - use of private motor vehicles on Government business.

Yours sincerely

Les Wielinga
Director General.

I seek leave to table that letter.

The CHAIR (The Hon. Jennifer Gardiner): Order! A document cannot be tabled in Committee.

The Hon. DUNCAN GAY: I have read it into *Hansard*. For the most part that answers the concerns that have been raised. The Government is trying to put together something better for the future. The Government is not about making things worse. I suspect that the amendments that have been moved by the Opposition and their mates The Greens will make matters worse for the people who are transferring across.

The CHAIR (The Hon. Jennifer Gardiner): Before proceeding I wish to clarify two matters. First, I ask Mr David Shoebridge whether The Greens intend to proceed with the first three amendments on sheet C2011-071C.

Mr David Shoebridge: I was waiting to see whether the Opposition amendments succeed. If they are successful, that will negate some of our amendments. At least amendments Nos 1 and 2 will be ineffective. However, I intend to move amendments Nos 3 and 4.

The CHAIR (The Hon. Jennifer Gardiner): Second, after the commencement of the Committee stage the Hon. Cate Faehrmann circulated some amendments additional to those that were circulated by Mr David Shoebridge, but they were not provided to the Clerks at the table. They relate to a part of the bill that precedes the clauses sought to be amended by the amendments moved by the Hon. Penny Sharpe. I propose to give the Hon. Cate Faehrmann the opportunity to move her amendments before putting the question on the amendments moved by the Opposition. I ask the Hon. Cate Faehrmann whether her amendments have been circulated to members.

The Hon. Cate Faehrmann: Yes, they have.

The CHAIR (The Hon. Jennifer Gardiner): The member may move her amendments if she wishes.

The Hon. CATE FAEHRMANN [5.39 p.m.], by leave: I move Greens amendments Nos 1, 2, 4 and 5 on sheet C2011-074 in globo:

No. 1 Page 3, schedule 1 [2], line 13. Omit "Customer". Insert instead "Transport user".

No. 2 Page 3, schedule 1 [2], lines 14 and 15. Omit "customer" wherever occurring. Insert instead "transport user".

No. 4 Page 4, schedule 1 [2], line 9. Omit "customers". Insert instead "transport users".

No. 5 Page 5, schedule 1 [4]. Insert after line 25:

transport user means any person or entity that uses the transport system, including (but not limited to) a public transport user, motorist, cyclist, pedestrian and producer such as a farmer or manufacturer.

I thank the Committee for allowing me to move these amendments, and I apologise for upsetting the order of things. These important amendments relate to definitions. The bill provides a new definition for transport users in this State, a new definition of "customer". The Greens have some concerns about that. In the bill a "customer" is defined as "a person, company or entity that buys goods and services". The *Merriam Webster Dictionary* defines "customer" as "one who purchases a commodity or service". The *Oxford Dictionary* defines a "customer" as "a person who buys goods or services from a shop or business". The definition of customer in this bill is important in relation to the people who will be using all the transport services represented in the bill.

I have searched for other Acts with similar definitions. The Victorian Transport Integration Act 2010 is a good example. The purpose of that Act—it is impressive; it has a vision statement and some good objectives, which I will talk about later—is to create a new framework for the provision of an integrated and sustainable transport system in Victoria consistent with the vision statement. The term "customer" is used only once in the Act, and it relates to the function of the Taxi Services Commission and raising the standard of customer service in the commercial passenger vehicle industry. The same Act contains the term "transport system user", not "customer", and a "transport system" is defined as all the components that make up the system for the movement of persons and goods. It then explains all the components of a transport system, and the list is extensive.

The Greens believe that "customer" is not a satisfactory term when cycling and walking are also legitimate and important forms of getting from A to B. Transport planning must consider the needs of cyclists and pedestrians. People do not pay to use a footpath or a cycleway; usually, they do not pay to use infrastructure. As I said in my contribution to the second reading debate, all those activities give great benefits to the State economically in relation to congestion and health. Amendment No. 5 provides a definition of "transport user", who is "any person or entity that uses the transport system, including but not limited to a public transport user, motorist, cyclist, pedestrian and producer, such as farmer or manufacturer". That would clearly incorporate freight as well.

We need to think about how the term "customer" is used in the bill. Instead of a "customer focus", we would have a "transport user focus". An objective in the bill is to "put the customer first and design the transport

system around the needs and expectations of the customer". Ordinarily that implies that the needs of customers who pay for goods and services will be put first. It is important to include pedestrians and cyclists in the definition; at present they do not appear in the legislation. The Minister has assured me that the Government considers cyclists and pedestrians to be customers. However, that is not enough. Pedestrians and cyclists must be included in the definition so that the transport planners, the directors general and the Ministers defining and putting transport plans in place for New South Wales over the next five or 10 years have pedestrians and cyclists front and centre, as well as people who use buses, trains, roads and freight customers. I commend the amendments to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.45 p.m.]: The Government opposes the amendments moved by the Hon. Cate Faehrmann. Amendment No. 1, which would replace "customer" and replace it with "transport user", will narrow the definition of "customer". "Transport user" is too narrow and restricts the definition as it excludes a range of customers and stakeholders of the transport network. For example, parents dropping off their child at a railway station are customers who need consideration in the provision of a safe and convenient interchange point to drop off their child, but they are not a transport user under the proposed definition. The wording of the legislation will set a new tone for transport in New South Wales and send a key message to staff that the customer is at the centre of everything they do. It is important that we drum home the message that customer service is the key driver and focus of these changes. The effect of amendment No. 2 is redundant as we do not support the use of the term "transport user" for the reasons I set out earlier. The Government opposes amendments Nos 4 and 5 for the same reasons.

Mr DAVID SHOEBRIDGE [5.47 p.m.]: I support the amendments moved by my colleague Cate Faehrmann. Far from narrowing the scope of the key term "customer", "transport user" as defined in amendment No. 5 means any person or entity that uses the transport system, including but not limited to a public transport user, motorist, cyclist, pedestrian and producer such as a farmer or manufacturer. The whole purpose of the amendment is to broaden the definition. If the Minister came to grips with what these amendments do, he would realise that they greatly broaden the definition. The mother—the Minister used this example—who drops off her child at the station will not be charged a fee and will not be a customer but a transport user. She is likely to be both a motorist and a pedestrian or a pedestrian and a user of the railway station.

It is probably a philosophical difference with the Government. The Government wants to price and deal with the residents and transport users in New South Wales as economic entities—little economic units that have a price and get valued by the market, and having been valued by the market, they are customers. The concept of a customer is someone who pays for a service—an economic unit that pays for a service. The intent of these amendments is to say that the schoolchild who gets a concession pass and does not pay anything but has the ability to travel from home to school is not a customer. That is not a customer at all; that is a transport user. That is a citizen who has a right to go from home to his or her place of education.

Elderly residents who need a transport system that connects them from their home to a hospital should not be viewed as a customer by our transport system; they should be viewed as citizens or residents who need to have access to transport—quite properly, transport users. Being explicit about ensuring that pedestrians and cyclists, who are a part of the transport network, are taken into account as key stakeholders in the transport system as transport users just broadens the definition. Far from narrowing it, the effect of the amendments, if allowed, will be to get away from that economic rationalist approach of customer to that broader idea of a transport user encompassing people who are not just having a market-based exchange with the transport system.

The Hon. PENNY SHARPE [5.51 p.m.]: The Opposition is willing to support the amendment moved by The Greens. An argument can be advanced about whether we are making the definition narrower or broader. Amendment No. 5 defines "transport user". The Opposition is happy to support the amendments.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.51 p.m.]: I have to correct the record. This bill is about putting the customer first; there is a change of attitude in what we are doing. I was appalled that Mr David Shoebridge should describe the bill as cold, hard and economically rationalist which is completely at odds with what the legislation is all about. That is the very worst definition that could be applied to it. The bill is about customers, and pedestrians, cyclists, people who travel on trains and those who drive on our roads are our customers. They are people who count. To try to suggest that they are not customers is to put a spin on a concept that those opposite did not have the will or the wit to develop.

Question—That The Greens amendments Nos 1, 2, 4 and 5 [C2011-074] be agreed to—put and resolved in the negative.

The Greens amendments Nos 1, 2, 4 and 5 [C2011-074] negatived.

The Hon. CATE FAEHRMANN [5.52 p.m.]: I move Greens amendment No. 3 on sheet C2011-074:

No. 3 Page 4, schedule 1 [2], lines 4–6. Omit all words on those lines. Insert instead:

(g) **Ecological sustainability**

To promote the delivery of transport services consistent with the principles of Ecologically Sustainable Development.

This amendment is about inserting the term "ecological sustainability" into the objectives of Transport for New South Wales. I spoke at some length during the debate on the Infrastructure NSW Bill about the importance of ensuring that the principles of ecologically sustainable development are incorporated in legislation created by this Chamber. I will not go over that again; suffice it to say that all we have at the moment is a very loosely and ill-defined term, "environmentally sustainable". Indeed, it is not defined anywhere so that governments and departments are not really held to account.

The major principle of ecologically sustainable development is used to guide environmental impact assessments. The New South Wales Government in its various State of the Environment reports has suggested the following definition of "ecologically sustainable development": using, conserving and enhancing the community's resources so that ecological processes on which life depends are maintained and the total quality of life now and in the future can be increased. The principles of ecologically sustainable development are also defined in clause 6 of schedule 2 to the Environmental Planning and Assessment Regulations 2000. Because I am not sure that all members in this House understand the precautionary principle I will remind them of it. If there are threats of serious environmental damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. Another important principle is that of intergenerational equity, which means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations. Other important principles of ecologically sustainable development are improved valuation and pricing of environmental resources. The principles of ecologically sustainable development are included in planning legislation. Transport for New South Wales will clearly be building infrastructure, building roads and rail lines, and the principles of ecologically sustainable development when developing these plans will be absolutely critical.

Interestingly, the Victorian Transport Integration Act has a vision statement, objectives and principles. Its vision statement recognises the aspirations of Victorians for an integrated and sustainable transport system that contributes to an exclusive, prosperous and environmentally responsible State. It also defines the term "environmentally responsible", and it includes such matters as reducing greenhouse gas emissions and ensuring that the transport system reduces its greenhouse gas emissions as a requirement of the Act, and that it is constantly trying to do things more sustainably. There is nothing like that in this bill. The term "environmentally sustainable" is too vague. I urge members when debating legislation that will affect the environment as substantially as this legislation will to ensure that the principles of ecologically sustainable development are always included as an objective of the legislation. This important principle should not be forgotten or be allowed to fall by the wayside as we amend important legislation in this Chamber. I commend the amendment to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.57 p.m.]: The Government opposes The Greens amendment No. 3, the effect of which will be to require the delivery of transport services consistent with the principles of ecologically sustainable development. The proposed legislation is designed to deliver on a broad range of high level principles including economic development, efficiency, integration and environmental sustainability. In reality, the existing transport administration legislation upon which this bill rests requires transport agencies to deliver services consistent with the principles of ecologically sustainable development and to amend legislation to replicate this requirement. So this amendment is unnecessary.

Mr DAVID SHOEBRIDGE [5.58 p.m.]: I support the amendment moved by Cate Faehrman. The need to put the issue of ecologically sustainable development before Transport for New South Wales when it is making its strategic decisions seems to me fairly plain. Having it in the key legislation as is intended by this amendment would be an improvement on the legislation. But I do say that when this bill was first presented about 24 hours ago now, maybe a little longer, one of the first things I did was read its objectives because the previous infrastructure bill that was presented to the Parliament contained very few positive objectives. It was all about economic efficiency and economic delivery. So I was pleased to see this positive development. There is the inclusion at least of the term "environmental sustainability" in this bill as well as social benefits in the objectives—the reference to the delivery of social benefits for customers including greater inclusiveness, accessibility and quality of life.

Where there is an improvement in the approach being taken by the Government in the objects, we are willing to acknowledge that, and on behalf of The Greens I do acknowledge that. The objects have broadened here and are superior for this Act. Indeed, the amendment moved by my colleague the Hon. Cate Faehrmann would be a further refinement. However, I acknowledge this bill has a better set of objects than the legislation on infrastructure that came before the Committee.

The Hon. PENNY SHARPE [6.00 p.m.]: The Opposition will support the Greens amendment. We are comfortable with what they are trying to achieve with respect to the objects of the Act. I acknowledge also the broadening of things to be taken into account when putting in place this Act. The Opposition supports the amendment.

Question—That The Greens amendment No. 3 [C2011-074] be agreed to—put and resolved in the negative.

The Greens amendment No. 3 [C2011-074] negatived.

The Hon. CATE FAEHRMANN [6.00 p.m.]: I move Greens amendment No. 1 on sheet C2011-075:

No. 1 Page 5, schedule 1. Insert after line 25:

[5] Section 3 (1) definition of "customer"

Insert in alphabetical order:

customer means any person or entity that uses the transport system, including (but not limited to) a public transport user, motorist, cyclist, pedestrian and producer such as a farmer or manufacturer.

This amendment inserts a definition of "customer" into the Act. The definition of "customer" means any person or entity that uses the transport system, including but not limited to public transport user, motorist, cyclist, pedestrian and producer such as the farmer or manufacturer. The attempt to get "transport user" into the bill failed. If this definition of "customer" had been in the bill, many of my arguments for "transport user" would stand, so that we will know a customer is not just somebody who pays for goods and services, but is also, as defined in the Act, a cyclist or pedestrian.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [6.02 p.m.]: The Government opposes the amendment.

The Hon. PENNY SHARPE [6.02 p.m.]: The Opposition supports the amendment. There is currently no definition of "customer" set out in the legislation. The amendment inserts a sensible definition of "customer", which is "any person or entity that uses the transport system, including (but not limited to) a public transport user, motorist, cyclist, pedestrian and producer such as a farmer or manufacturer." That is a very wide definition. It makes clear that under this system one does not have to purchase something to be considered a customer. We see no reason why the amendment cannot be supported.

Mr DAVID SHOEBRIDGE [6.03 p.m.]: I support The Greens amendment, but only to address the cogent argument delivered by the Minister; and I have done that. It would be good to know also what the Government intends by the term "customer". It may well be a term that is contested at some point; it may be a term requiring some guidance from this Chamber about what is intended by the term "customer". That may be of use to people who have to deal with this legislation. The Greens have put forward an amendment that populates the term "customer" with a definition that is broad.

If the Government's response is that it is not required because it is already encompassed and in the minds of the Government and the Parliament all those elements are already covered in the definition of "customer" without being specified, it would be good if the Minister would state that. If the Government's answer is that when it says "customer" it means pedestrian, cyclist, woman pushing a pram, a schoolkid going to school on the bus, all those things, that it is already picked up and is not needed because it is intended by the Government's use of the term "customer", then I ask the Minister to clarify that by reading that onto the record. I ask him to state that it is not required because the term "customer" encompasses all these things. I would appreciate that response from the Government.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [6.05 p.m.]: My answer is very similar. Despite the fact that this has a definition that includes a number of things, within that definition is "transport user". We ruled that out earlier with respect to other amendments, which is the reason the Government does not accept this amendment.

The Hon. CATE FAEHRMANN [6.06 p.m.]: The explanation of the Minister for ruling out support for the definition of "customer" because the bill includes "transport user" is incredible to say the least, given that "customer" now includes "transport user". The objectives of Transport for NSW include customer focus, so what is the focus for Transport for NSW when we refer to customers? Why do we not define that term?

The classic definition of "customer" is somebody who pays for goods and services. We seek to broaden the definition in the Act to ensure that in the future cyclists and pedestrians are catered for by Transport for NSW. When the Minister make plans with departmental staff, they will include customer focus, recognising that cyclists and pedestrians are included in customer focus, and there will be a definition. It will not just be people who purchase tickets. This amendment is non-controversial. I am surprised the Government will not support it. It simply broadens the definition of "customer" to ensure that it is all the things we have discussed, including that just one part of it is a transport user.

Question—That The Greens amendment No. 1 [C2011-075] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2011-075] negatived.

Question—That Opposition amendments Nos 1, 2, 3, 7 and 8 [C2011-070B] be agreed to—put.

The Committee divided.

Ayes, 19

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

Noes, 17

Mr Ajaka	Mr Green	Mr Mason-Cox
Mr Blair	Mr Harwin	Mrs Mitchell
Mr Clarke	Mr Khan	Mrs Pavey
Ms Cusack	Mr Lynn	<i>Tellers,</i>
Ms Ficarra	Mr MacDonald	Mr Colless
Mr Gay	Mrs Maclaren-Jones	Dr Phelps

Pairs

Mr Primrose	Mr Gallacher
Mr Roozendaal	Mr Pearce

Question resolved in the affirmative.

Opposition amendments Nos 1, 2, 3, 7 and 8 [C2011-070B] agreed to.

Mr DAVID SHOEBRIDGE [6.16 p.m.]: I move The Greens amendment No. 3 on sheet C2011-071C:

No. 3 Page 16, schedule 1 [29]. Insert after line 10:

- (3) The powers of the Director-General under subsection (1) are subject to section 67 and the provisions of the Industrial Relations Act 1996.

This amendment is consequential upon Opposition amendments that have been adopted—amendments that will ensure new section 67 will protect the entitlements of transferred employees. The very real concern of The Greens about section 68D is that in very plain terms it gives the director general power to fix the salary, wages and conditions of employment of staff employed under this part, insofar as they are not fixed by or under any

other law. It contemplates being able to enter into an agreement with basically a trade union for members or for classes of members, but the provision in section 68D gives that absolutely plenary power to the director general. The only qualification on that power to fix the wages, salaries and conditions of employment of staff is if there is a restraint in another law. There has been a great deal of argument and contest about the provision that will be in this law that protects the entitlements of transferred employees. Unless The Greens amendment that inserts new subsection (3) is adopted, the absolute power that is given to the director general under subsection (1) has the very real legal capacity of overriding the protection that we have just debated to ensure that it remains in section 67. I commend The Greens amendment to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [6.20 p.m.]: This amendment would create more repetition. Section 68D (1) already provides for the fixing of salaries and conditions of employment only insofar as they are not fixed by or under any other law. This picks up the operation of the Industrial Relations Act. This is an unnecessary amendment, as it is already provided in proposed section 68D.

The Hon. PENNY SHARPE [6.21 p.m.]: The Opposition supports the amendment. It is additional to the provision moved in the previous amendment, and the Opposition is happy to support it.

Question—That The Greens amendment No. 3 [C2011-071C] be agreed to—put.

The Committee divided.

Ayes, 17

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

Noes, 19

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

Pairs

Mr Primrose	Mr Gallacher
Mr Roozendaal	Mrs Pavey

Question resolved in the negative.

The Greens amendment No. 3 negatived.

The Hon. PENNY SHARPE [6.28 p.m.]: I move Opposition amendment No. 4 on sheet C2011 070B:

No. 4 Page 18, schedule1 [29], lines 15–18. Omit all words on those lines.

Opposition amendment No. 4 will delete what is one of the most insidious parts of the bill. The Government seeks to include in section 68H the ability for any worker who refuses transfer to be dismissed. Currently, section 68H (3) provides:

If a person refuses a transfer under this section, the Director-General may, if satisfied that the person has no valid reason for refusing the transfer, dismiss the person from the Transport Service.

With this part of the bill, the Government is going down the well-trodden path of anti-worker conservative parties across the world—the core belief being that workers should simply be happy that they have a job; that the munificence of their employer means that the rights and conditions should be set by the employer; and if that employee does not like it, too bad, that worker is sacked.

With 68H (3) in the bill, the Government gives the director general the right to summarily dismiss public sector transport workers, employees who have worked as dedicated servants of the people of New South Wales for many years—workers who over the course of those years have had the right to negotiate with their employer, to be treated with respect, and not be forced to accept new positions with loss of entitlements and conditions. Labor's amendment to the bill, if passed, will guarantee that those staff cannot be summarily sacked. Opposition amendment No. 4 is an obvious and simple amendment that is intended to delete an appalling and insidious provision in the bill.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [6.29 p.m.]: This amendment would see new section 68C (3) omitted. If a person refuses to transfer under this section, the director general may, if satisfied that the person has no valid reason for refusing the transfer, dismiss the person from the transport service. If both amendments to this new section are accepted new section 68H will read:

Transfer of staff within the Transport Service

- (1) The Director-General may, subject to this section, transfer a member of the Transport Service to another position within the Transport Service, following consultation with the member of staff.
- (2) The following provisions apply to the transfer of a person under this section:
 - (a) the transfer is to be made at the person's existing level of remuneration, unless the person consents to the transfer at a lower level of remuneration,
 - (b) the Director-General must be satisfied that the person possesses the essential qualifications specified for the other position and the work assigned to the other position is appropriate to the skills and qualifications of the person,
 - (c) the person is entitled on the transfer date to any conditions of employment applicable to that person under section 67 immediately before the transfer until such time as further provision is made under the Act or any other law.

We oppose both Labor's amendments to new section 68H because if, they were accepted, this would not reflect standard public service provisions for the director general or the chief executive of major agencies. As the Opposition will be aware, these powers are always executed in the appropriate manner. It is important to emphasise that the director general cannot act unless the person has no valid reason. This test demands an appropriate process. New section 68H is consistent with provisions in other public sector Acts. New section 68H is replicated in section 90 of the Public Service and Employment Management Act. Once again, those opposite are opposing what they did when they were in government, just to get ahead of The Greens.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [6.33 p.m.]: What the Minister just indicated is not correct. It means that if a person refuses a transfer the director general may, if satisfied that the person has no valid reason, terminate. It does not mean they have no valid reason; it means only that the director general must be satisfied in accordance with the criteria that the director general—the holder of that office—used to judge the matter. Of course, the director general will approach the matter from the employer's perspective and may not totally comprehend or accept the premise of an affected employee's argument. The other insidious effect of this provision is that it completely undercuts and circumvents industrial rights under the Industrial Relations Act and the ability of the Industrial Relations Commission to adjudicate on a dispute of this nature and it would be contrary to the recent vote in this House to retain the jurisdiction of the Industrial Relations Commission. Therefore, it would nullify that earlier decision. It would be consistent with that earlier decision to remove this provision, and the House ought to do so.

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

The Committee continued to sit.

Mr DAVID SHOEBRIDGE [6.35 p.m.]: I rise on behalf of The Greens to support the Opposition amendment. There are already management structures and industrial methods to allow for the negotiation of transfers of employees in the public service. There are well-accepted methods whereby, if a transfer is imposed upon a public service employee, they have established rights. They include the ability to contest the transfer if it affects their family or carer responsibilities. Workers also have the capacity to go to an independent tribunal if the transfer is being forced upon them and if they are not willing to consent to the transfer in those circumstances. This bill is novel—it is not, as the Minister says, a standard term. The bill provides that if it is the opinion of the director general that the worker has no valid reason for refusing the transfer, then that is it.

Anyone who has studied employment law or dealt with these kinds of disputes knows that when you are acting for an employee and contesting what they believe is a deeply unfair transfer—for example, they may have children in a school in Port Kembla and they are told to transfer to this department and to work from Sydney—they may have many reasons to contest the transfer, including family commitments, children in school, day-care arrangements or the work commitments of their spouse. But what if the director general says, "I have looked at the train timetable and it is just an hour and three quarters back and forth, so what is the problem? I don't think that is valid. You don't have to relocate"? If subsection (3) finds its way onto the statute books and the director general forms that opinion, that will be the end of it. All is required is for the director general to form that opinion. The bill does not allow an employee to contest the merits of the director general's view. Unless it is so unreasonable that no reasonable person could form that opinion, the opinion is conclusive if you want to test it anywhere. That is bad law—it is anti-worker law. It is law that will set workers back substantially if they want to contest an unfair transfer. It is for those reasons that The Greens support the amendment.

Question—That Opposition amendment No. 4 be agreed to—put.

The Committee divided.

Ayes, 18

Ms Barham	Dr Kaye	Ms Westwood
Mr Borsak	Mr Moselmane	Mr Whan
Mr Brown	Mr Searle	
Mr Buckingham	Mr Secord	
Ms Cotsis	Ms Sharpe	<i>Tellers,</i>
Mr Donnelly	Mr Shoebridge	Ms Fazio
Ms Faehrmann	Mr Veitch	Ms Voltz

Noes, 16

Mr Ajaka	Mr Green	Mr Mason-Cox
Mr Blair	Mr Harwin	Mrs Mitchell
Mr Clarke	Mr Khan	
Ms Cusack	Mr Lynn	<i>Tellers,</i>
Ms Ficarra	Mr MacDonald	Mr Colless
Mr Gay	Mrs Maclaren-Jones	Dr Phelps

Pairs

Mr Foley	Mr Gallacher
Mr Primrose	Mrs Pavey
Mr Roozendaal	Mr Pearce

Question resolved in the affirmative.

Opposition amendment No.4 agreed to.

Mr DAVID SHOEBRIDGE [6.44 p.m.]: I move Greens amendment No. 4:

No. 4 Page 18, schedule 1 [29]. Insert after line 29:

- (2) This section does not prevent a member of the Transport Service from making an application under Part 6 of Chapter 2 of the Industrial Relations Act 1996 in respect of a retirement under this section.

This amendment introduces clarity of industrial entitlements for a worker retired for purported unfitness or incapacity. New section 68I gives the director general the power to cause a person to be retired if a person is thought to be unfit or incapacitated and that unfitness or incapacitation is of a permanent nature. The amendment makes it clear that such a person has the right to apply for unfair dismissal in those circumstances. As the law is currently drafted, most cases that seek to contest this kind of provision are brought in the declaratory jurisdiction of the Industrial Relations Commission. That is a cost jurisdiction, where the worker bears not only his or her costs but potentially, if they lose, the costs of the State of New South Wales. On one

view that might be a good thing for barristers, but it tends to take the matter outside the ordinary ambit of industrial advocates and the like, therefore making the litigation substantially more expensive than a simple arbitrated or conciliated unfair dismissal dispute.

The Hon. Adam Searle: And more interesting.

Mr DAVID SHOEBRIDGE: I note the interjection of the Hon. Adam Searle. It may make for a more interesting legal case for a worker to run a declaratory application under section 154 than it would be to run a fairly simple unfair dismissal case, but no worker wants to have an interesting case—they all want to have a simple and straightforward case. If a dispute does arise this amendment will allow the worker and the State to engage in a simple, low-cost dispute about retirement under the unfair dismissal provisions, and not engage in complicated and expensive litigation.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [6.46 p.m.]: The effect of introducing this new subsection is to duplicate the impact of existing legislation contained in the Industrial Relations Act. New section 68I is a replication of a standard provision under the principle public sector employment Act—section 25 of the Public Sector Management Act. It does not have a subsection (2) as The Greens have proposed. The Industrial Relations Act will operate in its own way. The Government opposes The Greens amendment.

The Hon. PENNY SHARPE [6.47 p.m.]: The Opposition supports The Greens amendment No. 4.

Mr DAVID SHOEBRIDGE [6.47 p.m.]: It is precisely because of the operation of section 25 of the Public Sector Management Act that The Greens are seeking this alternative provision. The Greens are putting in place this amendment to make a low-cost—in fact, no-cost for some workers—alternative. Low-cost litigation would benefit both the State and workers as a way of contesting this issue.

Question—That The Greens amendment No. 4 be agreed to—put and resolved in the negative.

The Greens amendment No. 4 negatived.

The Hon. PENNY SHARPE [6.48 p.m.], by leave: I move Opposition amendments Nos 5 and 6 in globo:

No. 5 Page 22, schedule1 [45], lines 25 and 26. Omit all words on those lines.

No. 6 Page 22, schedule1 [46], lines 27–34. Omit all words on those lines.

The Opposition is seriously concerned about the amendments to new section 99D of the legislation. These amendments, if passed, will remove the current priority given to passengers and prioritise instead freight services on our rail network. Currently, the Transport Act requires RailCorp and the Country Rail Infrastructure Authority to give priority to passenger rail services when undertaking service planning. That means that when developing timetables and train-path allocations passenger services on CityRail and CountryLink must be the first priority in decision-making.

The change in this bill will, at the stroke of a pen, relegate the one million rail passengers from priority to—I quote the bill—"reasonable priority". Reasonable priority in this context means that freight will come first and passengers will come second. The Government has talked endlessly about its so-called commitment to the customer and customer service and to placing passengers at the centre of the system. Indeed, in his second reading speech the Minister said:

These objectives are putting the customer first and ensuring that the transport system is designed around the needs and expectations of the customer ...

Transport for NSW will be responsible for making the customer's trip as easy and as comfortable as possible. The provision in this bill makes the talk of improving services to passengers a sham. This move was previously rejected by the Labor Government because of the devastating effect it would have on train reliability. This is a grave error in judgement that will hurt commuters. It is common sense that CityRail and CountryLink trains carrying hundreds of passengers should be given priority over freight trains. If all the fine words of the Government about the customer experience and putting passengers at the centre of transport are to mean anything, the Government needs to make good on its promise to put passengers first and to dump these changes now.

The Labor Government refused to make this change because we knew that disruptions would occur on the rail network and the impact that would have on people trying to get work, school and home again. We refused this because passengers must be the priority. Under the current legislation, they are the priority. Unless these amendments are passed, passengers will no longer be the first priority. Anyone with any knowledge of the current arrangements knows that even with the priority measures in place for passenger services at the moment it is not unusual for CityRail trains to be delayed by freight cargo on the tracks. These changes will make it harder for trains to run on time. If these amendments are not supported, passengers will spend more time on the train, facing more delays than ever. That has nothing to do with putting the passengers and customers first. I urge the Committee to support these amendments.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [6.51 p.m.]: The Government opposes these amendments. The whole reason for the legislation is putting the customers—passengers—first. The Opposition wants the status quo. The status quo is why the people of New South Wales changed the Government. In the minds of members opposite, the status quo is the same minutiae, the same rubbish, the same old stuff that got them into trouble and caused these problems. We oppose these amendments because much of the existing rail network is a shared rail system. The movement of both passengers and freight is important to the success of our community and its economic good. It is important that we encourage appropriate investment in our train system by freight providers. If they were to make that investment—we are talking about new lines—and provide additional infrastructure, it would be reasonable that a new freight rail infrastructure give at least some consideration to freight movement.

It is a nonsense to imply that any sensible administration of a railway system should not give consideration to both passenger movement and freight movement, with reasonable priority to passenger movement. We are about growing our transport systems and encouraging the participation of stakeholders. Our networks have suffered from a lack of investment and we want to provide the framework to maximise this opportunity. The Government will give appropriate reasonable priority to passenger movement, but it will also develop our economy. The previous Labor Government was not able to come to an arrangement with the Federal Government to invest \$840 million in the northern Sydney freight corridor, because of the current limitations in the Transport Administration Act 1988 that mandate priority for passenger rail services at the expense of freight services. We oppose the amendments.

The Hon. CATE FAEHRMANN [6.53 p.m.]: The Greens support these amendments. We are concerned about the Government's attempt to remove the priority that passengers have in our rail system. As the Hon. Penny Sharpe said, in the original Act passengers have always had priority, and I am sure there was a good reason for that. The Transport Administration Act 1988 has always provided that a body responsible for network control, first, give priority to rail passenger services; and, second, subject to giving priority to those services, promote and facilitate access to the part of the New South Wales rail network for which it is responsible in accordance with the current New South Wales rail access undertaking, that is, subject to giving priority to passenger services. This is a worrying move by the Government. We accept that freight and getting freight on rail are important, but surely we need to prioritise passengers. If that means freight moving at different times of the day or duplicating tracks so that freight is moved separately to passengers, that is what we need to do. The Greens support the amendments.

The Hon. PENNY SHARPE [6.55 p.m.]: These amendments are a simple choice for the Government: either it does or does not believe that passengers should come first when we are looking at sharing the rail. Nothing in these amendments says that we do not support freight or that freight should not be part of the shared service. That is the current situation. What has always been supported is the fact that when there is a choice to be made passengers are picked over freight. The Government must pick the hundreds of people trying to get home every day and trying to get around the city to a variety of things, be it health appointments, work or school, and make them the priority, not the freight trains. The Government must look for ways to manage a shared service. It must look for ways that do not disrupt the lives of a million commuters every day on the basis of freight trains. These are simple amendments. Members either say that passengers are the priority or support what the Government is trying to do, which is to say that passengers are a reasonable priority, thereby downgrading their priority. It is a farce that the Government, for all its words about this bill, of which it is proud, snuck into the legislation a provision that basically downgrades passengers.

The Hon. JOHN AJAKA (Parliamentary Secretary) [6.56 p.m.]: These are simple amendments. This is a simple bill. There is no situation—

The CHAIR (The Hon. Jennifer Gardiner): Order! The Hon. John Ajaka has the call.

The Hon. JOHN AJAKA: The bill clearly states that reasonable priority is given to passengers. Nowhere in the bill does it state that priority or reasonable priority is given to freight. The bill is clear: in all circumstances reasonable priority—

[Interruption]

The Hon. Penny Sharpe has asked the question and I thought she would like to hear the answer. Clearly, reasonable priority is given to passengers. There are clear circumstances when new rail may be created or may become available, Federal funding may be available, and investors who are prepared to create new rail for freight may be available. In those circumstances reasonable priority will still be given to passengers. It will be additional rail. That is what the Opposition is not taking into account. I am surprised by The Greens. The party that has been screaming about taking freight off the roads and onto rail is objecting to the Government's bill. The Greens are saying that they want more freight on trucks. That is exactly what they are saying.

The Hon. PENNY SHARPE [6.58 p.m.]: What the Parliamentary Secretary said is amazing. He said that unless passenger priority is downgraded the Government is incapable of negotiating for additional freight rail. The Government needs to sell out passengers so that it can get freight, because it is incapable of negotiating both things. The choice is simple: either the Government makes passengers the priority, as they should be—the previous Labor Government gave passengers priority—or it gives them reasonable priority. If that is not a downgrade I do not know what is.

Mr DAVID SHOEBRIDGE [6.59 p.m.]: The argument of the Hon. John Ajaka is this: Unless the Government has the ability to deprioritise millions of passengers on the rail passenger network—unless it can take passengers from having priority to having just reasonable priority—it will not get its objectives under Transport for NSW. The Government's argument comes down to that. If that is the choice it is giving to millions of commuters, who already face overcrowded, often late-running services on passenger networks—if the Government is telling passengers that it will deprioritise them even further; it will reduce their priority because it wants to put more freight on the rail lines—when there is a contest between passengers getting home at night or a coal train or freight train getting through, the priority of passengers will be lesser as a result of the changes in the legislation because that is what it says. They are not coming out and being honest about the impact of the bill. The Greens of course support an expansion of the rail freight network. There should be additional funds to expand the rail freight network. We have said it time and time again.

[Interruption]

The Minister is somehow trying to link this transport bill with the inheritance tax. Through what diseased form of reasoning the Minister gets to that point is probably more testament to the hour of the day than to any logic that lies behind his argument. But the simple fact is that regional passengers particularly in the Illawarra, the Hunter and the Blue Mountains know that on restricted trunk lines there is already a real contest between coal trains on those restricted trunk lines in the Hunter, the Blue Mountains and the Illawarra. Passenger services are already fighting for track time with primarily coal trains in those three areas, and the Government is intending to reduce the priority for passenger services. That means for those residents in Hamilton at the moment who are facing—

The Hon. Duncan Gay: Come on, mate. You are not getting paid by the minute anymore.

Mr DAVID SHOEBRIDGE: Another quality interjection from a quality Minister. Those residents in Hamilton are for example in Newcastle. They are already concerned about what the impact of the expansion of the Newcastle port will have upon their suburban rail lines. They have already been told there are plans before the department of planning to drive freight trains, thousand of freight trains through the heart of suburban Newcastle with the expansion of the Newcastle port; they should be very worried that at the same time the Government has come in here and saying they are going to give even less priority to passenger services. Those passengers who are already waiting quite substantial times on their passenger service link between Wollongong and Sydney, because they are waiting for coal trains to go past because there is already limited main line services on that southern railway line, should be very worried that this Government is reducing their passenger priority.

Those passengers can often wait hours for a reasonable service in the Blue Mountains because of the same constrictions on that main western trunk line across the Blue Mountains because the coal trains are taking up substantial track time and already seeing passengers getting less priority than they should have. They should

be greatly worried that the Government is reducing their priority. This was not announced to the people of New South Wales. There has not been even five days' notice given of this comprehensive change to a key part of rail passenger service in New South Wales. The people of the Blue Mountains, the people of the Illawarra and the people of the Hunter in particular should be very concerned that with no notice this fundamental change to their passenger rail service had been foisted upon them under this so-called notion of transport improvement. This is a very dangerous step for this Government.

Dr JOHN KAYE [7.03 p.m.]: The amendments in this bill to section 99D are the lazy way out. They are the way to resolve constraints on a network when one could not be bothered to borrow money for or to build building new capacity. They are the way out when a government says, "Well, we have lines particularly in the Illawarra, the Hunter and up to the Blue Mountains that are constrained with coal and we have a choice between downgrading coal and passengers if we do not build more capacity. I know what we will do, we will downgrade passengers." It is the lazy way out. It has been tried elsewhere in the world always with one final result: passenger services decline and disappear off many lines. Whenever governments put freight in any form—whether it be bulk freight like coal or container freight—ahead of passengers because of the different speeds and the acceleration rates of the two modes we inevitably end up disadvantaging passengers. During the last State election campaign we heard lots from Barry O'Farrell, Gladys Berejiklian and members of this House that a Coalition government would fix the rail network and resolve Sydney's transport problems. Well, let me tell you, an amendment that downgrades passenger transport against—

The Hon. Duncan Gay: Passenger transport is not going to be downgraded.

Dr JOHN KAYE: It is. I take the Minister's interjection and I respond to it. As paragraphs (a) and (b) of section 95D (5) are written, passenger service has priority. It goes from "priority" to "reasonable priority"—modified priority. That is a downgrading. This Government did not have the courage to go to the last election and say as much to the voters in the marginal seats along the Blue Mountains line to Sydney. And what about the people of the Central Coast in the electorate of Gosford? Did Coalition members say, "Look, I am sorry but freight is going to have increased priority under an O'Farrell-Stoner Government"? No, they never said that. This was another one of those hidden policies. This might make their mates in the freight industry and the coalmining industry happy, but it will be a disaster for public transport. There is of course an urgent priority to get more freight on to rail. There is also an urgent priority to get more passengers on to rail. Both motor vehicle transport and motor transport of freight are unsustainable, and increasing the amount of both on rail is essential. That can be achieved to some extent by small improvements to increase the carrying capacity of the rail network.

The Hon. Robert Brown: Faster trains; faster coal trains.

Dr JOHN KAYE: Faster trains require greater capacity lines on the network. But what is urgently needed here is large-scale investment in the rail network. If the Government does not want to do that, it can always fiddle around by squeezing passengers out, and that is exactly what this bill will do. I defy the Government and the Minister to show us where in the Coalition's election material there was talk about taking passenger priority away and turning it into reasonable priority. The Greens support the amendment.

Question—That Opposition amendments Nos 5 and 6 be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham
Mr Buckingham
Ms Cotsis
Mr Donnelly
Ms Faehrmann
Dr Kaye

Mr Moselmane
Mr Searle
Mr Secord
Ms Sharpe
Mr Shoebridge
Mr Veitch

Ms Westwood
Mr Whan
Tellers,
Ms Fazio
Ms Voltz

Noes, 18

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

Mr Gay
Mr Green
Mr Harwin
Mr Khan
Mr Lynn
Mr MacDonald
Mrs Maclaren-Jones

Mr Mason-Cox
Mrs Mitchell
Tellers,
Mr Colless
Dr Phelps

Pairs

Mr Foley	Mr Gallacher
Mr Primrose	Mrs Pavey
Mr Roozendaal	Mr Pearce

Question resolved in the negative.

Opposition amendments Nos 5 and 6 negatived.

Schedule 1 as amended agreed.

Schedules 2 to 5 agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Duncan Gay agreed to:

That the report be adopted.

Third Reading

Motion by the Hon. Duncan Gay agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

FINES AMENDMENT (WORK AND DEVELOPMENT ORDERS) BILL 2011**CROWN LAW OFFICERS LEGISLATION AMENDMENT (RETIREMENT AGE) BILL 2011**

Bills received from the Legislative Assembly.

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

Motion by the Hon. John Ajaka agreed to:

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

Bills read a first time and ordered to be printed.

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

GAMING MACHINE TAX AMENDMENT BILL 2011**Second Reading**

Debate resumed from an earlier hour.

The Hon. CHARLIE LYNN (Parliamentary Secretary) [7.20 p.m.]: I support the Gaming Machines Tax Amendment Bill 2011. After hearing the contributions of other members I could not help but reflect on the town in Victoria in which I grew up. It did not have a café let alone a club, but even if it did we would not have gone there simply because my father could not afford to take his family out for dinner. That was the story of country towns in Victoria. Our sporting fields had to be funded by working bees and so forth. I realise that nowadays members of the Opposition comes from the privileged class, and it obvious that the Hon. Walt Secord

was brought up in a town that had a very good café, but I can assure members opposite that there was no café in Orbost. Last Monday night I attended St Marys Leagues Club to address approximately 30 young people who are being sponsored by that club under a leadership program. RSL and leagues clubs have wonderful facilities and they do work in the community that cannot be done by either government or business. They are owned and managed by the community for the community. They provide facilities and welfare that government cannot afford to provide.

In the past financial year clubs allocated more than \$63 million to a diverse range of community projects and services for a variety of groups, including for the disadvantaged, the aged, youth and persons with a disability, and for volunteer emergency services. That amounted to \$25.3 million more than eligible clubs were required to contribute under the existing Community Development and Support Expenditure Scheme. This clearly demonstrates the generosity of the club industry and the crucial role clubs play in providing and supporting social infrastructure in New South Wales. This investment supports social cohesion and community well-being for the millions of people that directly or indirectly benefit from the club industry.

In addition to the substantial financial and in-kind support provided by clubs, they also make a significant contribution to local economies by providing employment and economic opportunities for local businesses. The New South Wales Liberals-Nationals Government recognises this and that is why it has committed to a range of reforms to help secure the long-term financial viability and sustainability of New South Wales clubs. The Gaming Machines Tax Amendment Bill 2011 delivers key elements of the Government's policy agenda for the registered club industry. The bill will reduce gaming machine taxation rates and expand and rename the Community Development and Support Expenditure Scheme. The scheme will be known as ClubGRANTS. This new name more accurately reflects the origin of contributions under the scheme. It will assist club members and the wider community to have a greater understanding of the origin of funds provided for development and support purposes.

The amendments to gaming machine taxation in this bill will benefit registered clubs by approximately \$300 million over four years to 2015. This is made up of more than \$200 million resulting from tax rate changes and a further \$90 million associated with the ClubGRANTS Scheme. Almost 500 registered clubs—which is approximately one-third of all clubs in New South Wales—will benefit from these taxation reforms. The effect of these amendments will be that amounts equalling 2.25 per cent of the profits of registered clubs over \$1 million in every tax year will be available as community support expenditure through ClubGRANTS. According to ClubsNSW modelling completed by KPMG, every dollar of tax relief given to clubs can create \$2 worth of benefits to New South Wales. The ClubsNSW modelling shows that tax relief will help to boost the social contribution of clubs by \$272 million and gross State product by \$261 million through to 2015. And it will help to create an extra 2,000 jobs each year.

A significant proportion of the clubs that will benefit from these taxation reforms are situated in the State's regional and rural areas and many of these clubs already make a substantial contribution to their local communities. These amendments will provide further financial security to country clubs and allow them to enhance their social and economic contribution and increase contributions through ClubsGRANTS. Clubs already provide funding for vital programs and volunteer services, such as meals-on-wheels, as well as funding for disability networks, women's and men's shelters, camps for troubled or disadvantaged youth, Aboriginal cultural initiatives, medical research institutions, Rotary, Lions and Legacy clubs, bushfire and State Emergency Services and other community education programs and enterprises. The list goes on and on.

Most clubs throughout New South Wales, particularly RSL and ex-services clubs, support our annual Anzac Day commemoration services. Without the support of these clubs the Anzac commemoration services as we know them could not be held in many areas. Clubs are a very important part of the social fabric of our communities. Some of these programs would simply cease to exist were it not for the goodwill and generous donations of sponsorships and ClubGRANTS contributions from country clubs. The impact of the loss of these programs and services would be devastating for regional and rural communities. The New South Wales Liberals-Nationals Government is committed to supporting clubs so they can continue their community work. The action that this Government is taking in partnership with the registered club industry will ensure that such programs and volunteer services will continue to exist and provide for country communities and individuals well into the future.

Registered clubs are also the backbone of many regional and rural communities in a social interaction sense. They foster community spirit and bring individuals together, thereby building social cohesion. Clubs are often the focal point of a country town, providing support and developing vital infrastructure for recreational

and other social purposes. Strengthening the ability of clubs to remain financially viable will protect this vital infrastructure and help to maintain the social well-being of country towns and the individuals and families that live in those towns. Clubs are a central meeting point during times of celebration and crisis. Whether it is celebrating Australia Day or extending comfort to people affected by severe floods, drought or bushfires, clubs are at the forefront of leading celebrations or responding to emergency situations in country towns. And let us not forget about Anzac Day and Remembrance Day: two of the most important days of the year.

The support of clubs to memorials, parades and other remembrance events in country towns is unparalleled. This is fitting, given the significant number of ex-service and current serving defence force personnel and their families who call regional and rural New South Wales home. Clubs are also often one of the largest employers in country towns. The wide range and significant number of employment opportunities provided by clubs is vital to the growth and prosperity of local economies. Every job saved in a registered club through the assistance provided by this bill will result in more money spent in local businesses and more people choosing to live and raise their family in regional areas. A significant number of local businesses will continue to benefit from the club industry and the financial security that this bill will provide.

Economic growth and prosperity of the club industry in country towns contributes to the growth and prosperity of other local businesses such as those in the catering, cleaning, health, trade, legal, consultancy, accounting, real estate and entertainment industries. This is also why it is vitally important that the financial viability and sustainability of the club industry is secured, particularly in regional and rural communities. Clubs have helped us forge a meaningful and purposeful identity—a unique and caring identity—in all communities across New South Wales, including regional and rural areas. As our memorandum of understanding with the club industry states: Strong clubs mean stronger communities.

I said earlier that I grew up in a town that did not have a club, and when I visit clubs nowadays in western Sydney and rural and regional areas I am pleased to see pensioners and elderly and working-class people in those clubs. They are people who, like my family, cannot afford to eat in a café or local eatery but can afford to eat at their local club. Clubs provide them with a sense of community and security—an entitlement for which they have spent their entire lives working. I commend the bill.

The Hon. HELEN WESTWOOD [7.30 p.m.]: I am very pleased to join in debate on the Gaming Machine Tax Amendment Bill 2011. As my colleagues have acknowledged, the Opposition will not oppose the bill: However, some points should be made. I will address some comments made by Government members during this debate. It is important to acknowledge the great contribution that clubs make to our communities. As a result of my experience of clubs in my local community and of those that I have visited throughout New South Wales, the benefits of clubs are clear: They are social and recreational centres; they provide affordable entertainment; they provide great assistance to sporting organisations and community groups; they certainly provide jobs; and they also provide facilities which, as other members have said, may not have been available in some communities if it were not for the investments that clubs make in providing services and building social and recreational infrastructure. As the Hon. Charlie Lynn said, clubs provide affordable meals. In some communities the club is often the only place where people can get an affordable meal or go to for a night out. We must acknowledge that.

We must also acknowledge that there are great differences in the services and facilities provided by clubs, and that those differences are governed by size, location and competitors. My father was a foundation member of Birrong Bowling Club. My mother has been a director of that club over the years, and still plays bowls there. I recall the building—in those days an old Sydney Water building—being moved from the site at Potts Hill to a site owned by the local council. That property is still owned by the council, even though the club is built on it. I can still see the building on a truck coming down the street and eventually being turned into what were the only licensed premises in the small suburb of Birrong. The club survived over the years until recently when Bankstown Sports Club took it over, as it has a number of other clubs, including the Bankstown Bowling Club and the Yagoona Bowling Club, which site they eventually treated as a development opportunity. So over the years I have seen clubs that of necessity have closed, but I will return to that point a little later. Some reasons given by Government members for some club closures were inaccurate. We need to be honest about this. Quite frankly, a number of closures are unavoidable.

Other clubs that I have been involved with include the Chester Hill RSL Club. I am quite proud to be associated with that club; I am its patron. One of my branch members, Mick Simpson, is a director of the club. In fact, one of my branch members, Alan Rawlinson, was treasurer of Birrong Bowling Club, a position he held until the club was not able to survive autonomously and was taken over by the Bankstown Sports Club. The

Bankstown Sports Club, Revesby Workers Club and Bankstown RSL Club are great clubs in the local community. However, it is a fact that a number of clubs have quite different structures and different experiences affecting their economic sustainability.

The Bankstown Sports Club is one of the largest employers in the area. It offers a range of top-quality restaurants and affordable bistros, as well as meeting spaces, function rooms and a grand ballroom, and it continues to grow. It has a large motel, which brings people into the city. The contribution of Bankstown Sports Club to the economy of Bankstown can never be underestimated; it is very significant. The same applies to the Revesby Workers Club. It is a huge club, and I have watched it grow and seen the change in the direction of the club. Much of that is about good management of the club and a really good business plan that fits both the local economy and changing demographics. That is a capacity that the larger clubs have but that some smaller clubs do not.

Other clubs that I have had the opportunity to visit include the Demo Club and the Musicians Club at Broken Hill. Those clubs have had a significant impact on the local community. Many of us would know that Blackie's favourite was the old Sturt Club. Those clubs have competed with many hotels, but over the years the hotels diminished in number. But the clubs of Broken Hill provide facilities and services, entertainment and affordable meals for not only the locals of Broken Hill but also for tourists. Those clubs play a very important role in the local economy. Tradies is another large club in the Sutherland shire, and it too is growing. I went there not long ago. It is currently undergoing reconstruction and expansion. We have the St George Leagues Club, of which my very dear aunty was a faithful member until her death last year.

What has not been acknowledged by those opposite are the reasons that a number of clubs have been closing, particularly the smaller clubs. It is not about the tax they pay. When random breath-testing was introduced, along with other changes to drink-driving laws, all licensed premises experienced a significant decline in the number of patrons—hotels and clubs. The clubs got smart and now provide bus services or other transport to and from the club from within their local areas. That was one way in which clubs addressed that issue.

One of the biggest changes that have resulted in a decline in the number of people visiting clubs, and certainly a decline in those who play gaming machines for hours, has been brought about by legislation regarding smoking. Not only has that smoking legislation reduced the number of people attending clubs and playing machines, but it has cost clubs a lot of money in building modifications. A number of clubs that have made the modifications are now finding that those modifications have not been sufficient to make them compliant with the law, and therefore have to spend more money on further modifications to meet the conditions of various regulations and licences. That is not something that governments can address. We have all accepted the very serious consequences of passive smoking, and no government in this country will want to go back to allowing smoking in clubs, hotels, workplaces or certain other premises. We have to be honest and acknowledge that as one change that altered things dramatically for clubs, yet no-one has spoken about it. Ask the directors of large and small clubs when they experienced big decreases in the number of people attending their premises and large declines in revenue, and they will tell you it was following changes to smoking laws.

The other matter that members have not acknowledged is changing demographics. Many smaller inner-city clubs closed because people do not go there anymore. Alternative entertainment venues, restaurants and cafes, particularly in the inner city, have really changed club life in those areas. Petersham Bowling Club has taken a different approach. This local bowling club was in serious decline. Development applications to council were not approved so the local people took the club back. It is now a smoke-free and poker machine free environment, and is surviving. Locals run the club, which they now see as an entertainment hub in the inner city, and a place that provides affordable meals as well as a bowling venue. Some clubs are looking at alternative ways of operating that meet the challenges they face that have been imposed by changing demographics.

The other area that presents a problem—and I know this was an issue at Birrong and in a number of the clubs in my local community—is security. A number of clubs that frequently were held up reached the point at which their insurance premiums became unaffordable. There were really serious occupational health and safety issues of workers during hold-ups. The clubs had to expend a lot of money and that has been a real problem for clubs in isolated locations. They do not have the same capacity to employ or engage security as do larger clubs, and when they do provide security it becomes quite expensive. It is dishonest of Government members not to acknowledge the challenges that have led to the demise of many clubs. It has been a changing world. I will not re-examine the history of licensed clubs in this State, but I do not think that the whole story has been told during

this debate. Clubs did not just happen in the last 10 or 20 years. Registered clubs have been around for some time. Of course gaming licences are integral to their survival and their history. It is important that people are honest about that.

It is a privilege to hold a gaming licence so there is an obligation on holders of licences to return something to the community. Whether the obligation is recognised by tax or levies, there is an obligation. That was the way it was seen by the governments that created gaming licences. I have a view about the day gaming machines were allowed to go into pubs—and I will not express it now—but that also changed things. We had pubs complaining that the clubs had a benefit. Then the clubs complained that the pubs had a benefit. Each was claiming they were disadvantaged. They were all dealing with things such as random breath-testing, changes from 0.08 per cent blood alcohol content in our drink driving laws, and changes to laws to prohibit smoking. There was less revenue for venues because fewer people were visiting them.

I will deal now with the Community Development Support Expenditure scheme. I acknowledge that the Government went to the election with a policy to support clubs, and it has a mandate to introduce legislation to achieve that objective—the Opposition acknowledges that. But it is important to be honest about the way clubs have supported various sporting events, community events and funded community organisations. While it is true that clubs have done that in the past, when the Community Development Support Expenditure scheme was introduced, our experience in Bankstown was that the clubs always were generously supporting the community, but the process for determining which group was supported and with how much often was determined by the historical support given by the club or the person who had connections with the club and the experience of board members. That is not a just and fair way to distribute the revenue from a real privilege—the ownership of a gaming licence. Governments have a responsibility to ensure that the benefits arising from licences are fairly distributed in line with community need.

One of the things I have noticed over the years is the demographic of people playing the machines, the people whose money goes into the machines—those who were creating the profits. They were not the groups receiving grants, benefits or funding for their community events, their local teams or a new facility. It was the people who had connections back to the club board or who were well known in the area who benefited. Something we have talked about is boards that are not representative of the community. Many of the boards of clubs in New South Wales are comprised of all male members. Many do not reflect the ethnic diversity of either the communities in which they are located, the club's membership or the people who are paying to play the machines and who contribute most to the profits of clubs. None of that is addressed in the legislation before the House.

The board of directors of ClubsNSW is comprised of all male members and all board members are from Anglo backgrounds. That is hardly representative of the membership of clubs throughout the State, which is why it is imperative that any taxes or levies are distributed in a way that addresses social needs of our communities. That is what we did at Bankstown. We had a great relationship with our clubs. They worked with us on our Sister City Program. The Bankstown Sports Club and the Revesby Workers Club worked with us and helped to fund that program so that children could be brought from Broken Hill to Sydney and in the following year the destinations would be reversed. That was a great partnership between the clubs, councils and the community.

The same could be said in relation to the Community Development Support Expenditure scheme. We brought all the local clubs together and they were willing to work with us on addressing local social needs. That was done through a proper social planning process. We consulted the community and came up with identified needs and then devised programs and projects to address those needs. The council administered the scheme. The applications came through council and we would consult with the clubs in assessing the applications. The clubs had input, but we made sure funds were allocated on the basis of need. It was interesting to see the diversity of the groups that were funded. We ended up with projects for local indigenous communities, for Muslim women participating in sport, and for domestic violence remediation projects. Before those schemes were put in place, the programs did not happen. It is a nonsense to suggest that that was the practice before the scheme was implemented. It was not. Funds went to well-known groups in the area that had connections to the clubs.

While that may be understandable, it is up to governments to ensure that the benefits of a gaming licence reach the whole community and not just a privileged or connected few. I remember when the tax was introduced. At that time we were about to have a local government conference and there were a number of motions relating to that tax. I expected that councillors from regional areas would be jumping up and down about the tax that the Government was about to introduce, but they did not. They did not get support for it. It

was interesting when I heard views expressed because many people were saying, as I have said, that in their local communities those clubs were not giving back to the whole community. I know of examples from places where predominantly it might be Indigenous people who were spending their money on poker machines, yet not one cent was going to an Indigenous group, a sporting group, or a community service group. To my surprise a number of local government councillors in regional New South Wales would not support a motion in opposition to the tax because they thought it was not being shared fairly or allocated on the basis of need, but rather on the basis of mates and connections. People were not happy about that.

I accept that the Government has a mandate to introduce this legislation. I look forward to seeing whether the Government's funding is allocated as fairly as funding has been distributed in the past. I also have to say that at the Community Development Support Expenditure cheque presentation ceremony that a number of members and I attended last week, it was disappointing that the Minister, Mr Souris, and the Chairman of ClubsNSW turned it into a political event. It was just an extension of ClubsNSW campaigning for the Liberal-Nationals but it was a community event that was owned by the community, and it should have stayed that way.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [7.50 p.m.], in reply: I thank members for their contributions to debate on this bill, which is an important first step in implementing the memorandum of understanding between the New South Wales Liberal-Nationals Coalition and Clubs NSW. At the heart of that memorandum of understanding is the principle of "Strong clubs, stronger communities". The reforms presented in this bill will assist in achieving that outcome by increasing the capacity of clubs to provide direct support to their members and to the communities they serve. It was heartening to hear the warm comments made by members who shared their experiences of local clubs. It demonstrates how important our clubs are to local communities.

Dr John Kaye made some comments about problem gambling. That is an important issue and I will briefly outline some of the steps the Government is taking in that regard. The Government is dedicated to reducing problem gambling through its network of face-to-face telephone and internet problem gambling counselling and support services. Those measures are complemented by some of the strictest in-venue gambling controls in Australia. The latest research shows that 0.4 per cent of people in New South Wales are problem gamblers, which represents a decrease from 0.8 per cent in the previous study and is the lowest rate in Australia. Front-line counselling and support services to address problem gambling will receive a record \$10.2 million this financial year from the New South Wales Government. This funding will support approximately 150,000 counselling hours annually in a service delivered by 44 face-to-face services operating out of more than 200 separate locations throughout the State.

In addition to that, this financial year \$780,000 has been allocated towards a 24 hours a day, seven days a week gambling helpline. An amount of \$218,000 has been allocated towards the national gambling help online service, which provides live online and e-mail counselling 24 hours a day, seven days per week. All of those initiatives complement the strict in-venue controls that exist in New South Wales, which include patrons having access to problem gambling counselling services and self-exclusion schemes, venue staff being trained in the responsible conduct of gambling, mandatory gaming machine shutdown periods as well as bans on gaming machine advertising and credit card cash withdrawals from automatic teller machines in gaming venues. Gaming venues also are required to install clocks. Gambling helpline information must be placed on every gaming machine. The Government will soon introduce further reforms to enhance the viability and sustainability of registered clubs as it implements the measures outlined in the memorandum of understanding. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Matthew Mason-Cox agreed to:

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Order of the Day No 5 postponed on motion by the Hon. Duncan Gay.

GRAFFITI LEGISLATION AMENDMENT BILL 2011**Second Reading**

Debate resumed from 11 August 2011.

The Hon. DAVID CLARKE (Parliamentary Secretary) [7.55 p.m.], in reply: I thank members for their contributions to this debate. Before concluding I will address some particular matters raised during debate. The Deputy Leader of the Opposition expressed concern that in regional areas, where formal graffiti clean-up programs do not exist, young offenders will not be able to be sentenced to a community service order and consequently magistrates may consider imposing a custodial sentence rather than dealing with them by way of caution or referral to a youth justice conference. When the imposition of a graffiti clean-up condition is not reasonably practicable, magistrates have the option of imposing a community service order without a graffiti clean-up condition, so the offender would simply be required to perform some other form of community service. Magistrates will recognise the subjective circumstances of each offender. This Government trusts magistrates to exercise their discretion with skill and expertise when sentencing young offenders.

Concern was raised about the possibility of secondary offending as a result of the introduction of driver licence orders. I am aware of general concerns regarding secondary offending when a person who has had their licence suspended, continues to drive and, as a result, commits a further offence. This bill minimises the risk of secondary offending by ensuring that licence suspension is one of a number of penalty options that can be applied. By allowing the court to extend the period for which a person is subject to either a learner licence or provisional licence, or to reduce the number of demerit points an unrestricted licence holder is allowed to accrue, the bill ensures that the risks of secondary offending are minimised. Drivers in those circumstances will still be allowed to drive, albeit under the restrictions applying to those types of licence.

Concern also was expressed about the availability of diversionary schemes for young offenders. The Government is committed to reducing reoffending and to keeping young offenders out of the criminal justice system. The bill still provides for cautions and diversion into a youth justice conference after a young offender has appeared in court. The purpose of the Government's proposal is to ensure that young offenders realise that graffiti damage is not a trivial matter; it is a serious and costly offence. By requiring a young offender to appear before a court, that young person will understand the gravity of what they have done. The Opposition has claimed that the Government does not trust the judgement of police on the ground. That is clearly incorrect. The Government trusts police to decide in the first place whether or not to charge an offender with a graffiti offence. If no charge is laid, the young offender will not proceed to court. As to cautions and youth justice conferences, the bill restricts these options to courts because of the need to reiterate to young offenders the seriousness of these offences. It is not a question of any lack of trust in police officers. It is a question of requiring these offenders to move to the next more serious forum for a response to this crime.

Concern also was expressed that the reforms in this bill would not deter graffiti offenders. The Government believes that tougher sanctions of having to go to court and not getting off with a caution from police, the possibility of having a driver's licence suspended and the mandatory clean-up work required as part of any community service order will be effective to deter graffiti crime. The Legislative Assembly's Standing Committee of Public Works in its 2010 *Report on Graffiti and Public Infrastructure* noted that it received many submissions expressing frustration at the level of penalties for graffiti vandalism. The committee recommended that the New South Wales Government should consider increasing current penalties for graffiti offences, given the large financial and social cost of graffiti. The Government has worked to change the sentencing options available to courts to provide a more effective response to graffiti crime.

Mr David Shoebridge commented that the community does not want graffiti left in place for months while the courts go through their processes and then impose a graffiti clean-up condition. In response to Mr David Shoebridge, I note that the subject of a graffiti clean-up condition does not have to clean up the same graffiti they created and there is nothing in the bill that suggests that that would be the case. The provisions in this bill give effect to commitments that the Government made during the election to target graffiti vandals. The

bill strengthens the penalties available to courts when sentencing graffiti offenders, provides courts with an increased range of sentencing options for graffiti offenders and ensures that young offenders have to appear before a court when charged with graffiti offences. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.03 p.m.]: I seek leave to move Opposition amendments Nos 1 to 7 on sheet C2011-047B in globo. On the sheet as circulated, there are instructions indicated by an asterisk to take a certain course of action to the question put. I will not take up the time of the Committee by speaking for the full allotment given to me under the current standing orders. The proposed exclusions deal with the licence sanctions. For the reasons I outlined in my contribution to the second reading debate, the Opposition thinks these sanctions are unlikely to achieve the stated intent. Imposing driver licence sanctions has failed when it comes to fine enforcement for younger people. Sanctions of this kind may work for relatively stable, employed middle-class adults, but young people who commit graffiti offences are likely to be marginalised persons in our community and licence sanctions will only exacerbate their hardship. We also think such sanctions are counterproductive in that some people who commit these offences will not have licences, so the sanctions will have no practical effect. In addition, we query the logic of having sanctions connected to licences for offences that are unrelated to the purposes for which the licence is given. The Opposition is also concerned about the removal of pre-court diversion. I propose that all amendments, including those indicated by an asterisk, be moved in globo.

Mr David Shoebridge: Point of order: I understand the urge for economy by moving all the amendments in globo, but it is out of order to include the three points marked with an asterisk in globo. They can only be put in response to the question having been put by the mover, and the question needs to be put before the answer can be given. Obviously I do not object to leave being given to move amendments Nos 1 to 7 in globo.

TEMPORARY CHAIR (The Hon. Paul Green): Order! The advice I have just received confirms the position as stated by Mr David Shoebridge. I ask the Deputy Leader of the Opposition to move amendments Nos 1 to 7 and then we will come back to the three points marked with an asterisk.

The Hon. ADAM SEARLE: By leave, I move Opposition amendments Nos 1 to 7 on sheet C2011-047B in globo:

- No. 1 Page 3, schedule 1, line 1. Omit "and Regulation".
- No. 2 Page 11, schedule 1.7 [2], line 35. Insert "that is the second or subsequent graffiti offence committed or alleged to have been committed by the child concerned" after "offence".
- No. 3 Page 12, schedule 1.7 [3], line 6. Insert "that is the second or subsequent graffiti offence committed or alleged to have been committed by the child concerned" after "graffiti offence".
- No. 4 Page 12, schedule 1.7 [7], line 20. Insert "that is the second or subsequent graffiti offence committed or alleged to have been committed by the child concerned" after "graffiti offence".
- No. 5 Page 12, schedule 1.7 [8], line 22. Insert "that is the second or subsequent graffiti offence committed or alleged to have been committed by the child concerned" after "graffiti offence".
- No. 6 Page 12, schedule 1.7 [10], lines 25-28. Omit all words on those lines.
- No. 7 Long title. Omit "the Graffiti Control Act 2008 and other". Insert instead "certain".

These amendments go to two areas of the legislation of which the Opposition is critical. The first area is the proposal to remove the power for police to deal with young offenders who have committed graffiti offences by way of a caution, a warning or youth justice conferencing. We are gravely concerned about that because it has

the ability to undermine the effectiveness of the young offender's arrangements in this respect. Where there is a second or subsequent graffiti offence, we are seeking to maintain the discretion for police officers and other persons who are the gatekeepers at this point. We think the removal of pre-court diversion is contrary to the principle that criminal proceedings should not be instituted against a child or young person if there is an alternative and appropriate way of dealing with the matter.

Having young persons charged with graffiti offences necessarily appear in court for a first offence will increase the financial and social costs of responding to alleged young offenders in that it is well known that once a person has been brought into the court system they are more likely to end up there again. The second area relates to mandating that community service orders to clean up the graffiti will have to be used on every occasion. That is a difficulty. I addressed that area in my contribution during the second reading debate so I will not take up any more time of the Committee in relation to these amendments.

The Hon. JAN BARHAM [8.08 p.m.]: I support the amendments as I recognise that they will go some way to ameliorate some of the profound concerns about the Graffiti Legislation Amendment Bill 2011 that have already been voiced in this Chamber. As I missed the interesting debate on the bill, I want to make a few comments. I feel that, despite it being a Government pre-election commitment—certainly, a lot of the media enjoy whipping up this issue and engaging the community regarding the disastrous nature of graffiti and how we deal with it and the criminal perpetrators—none of the evidence tells us that this is a good way to proceed.

This approach might be attractive to those in the mainstream media when public property is damaged or as a way to appease people whose properties are affected. I read with interest the speech by my colleague in the lower House, the member for Balmain, who spoke about damage to heritage buildings. That is a great shame. My colleague in this place Mr David Shoebridge spoke eloquently about criminalising graffiti and how the bill does not establish a fair and just system.

Wearing my Arts shadow portfolio hat, I point out that the bill is subjective. There is no real definition of graffiti. The bill defines graffiti as the damaging or defacing of property. Surely that is subjective—and therein lies the problem. The subjectivity in this area is problematic. For example, in the city of Sydney a Banksy artwork was removed in response to complaints. In my shire of Byron in the 1980s, which was well before I was on council, a Brett Whiteley drawing—one of his works hangs in this wonderful Parliament building—was removed from a public place because workers considered it to be graffiti vandalism. If that drawing were there today it would be a major tourism attraction of some value.

The Hon. Matthew Mason-Cox: What was it a picture of?

The Hon. JAN BARHAM: It was a line drawing of a woman—a very beautiful piece—and it was removed because it was viewed as vandalism. It was the unapproved marking of a public structure so a diligent worker removed it. Mention has been made about the beautiful photograph the foyer of Parliament House that won the plein-air photography prize. I attended the presentation that day, as did the President, the Speaker from the lower House and the arts Minister. There was a little surprise when the second prize was awarded to the beautiful photograph of graffiti around Newport. The artist, Louise Whelan, was probably as surprised as everyone else that her photograph was awarded second prize—I think she received \$3,000. It is entitled "Graffiti Landscape" and is in the Parliament House foyer for all to see. It is a beautiful piece.

Louise was aware of the current hot political thinking around graffiti, and was surprised by her win. Mark Tedeschi, QC, was one of the judges and I mentioned to him the irony of the Parliament acquiring a photograph of graffiti while this debate was going on. The Government made a genuine pre-election commitment to the people of New South Wales that it would impose harsh penalties for graffiti vandalism. But, as I have said here before, what are we responding to in this bill? Look at the evidence. The Institute of Criminology has investigated the issue. We do not seem to ask why graffiti happens. Is it not a cry for help? Does it not send signals that the millions of dollars—someone said billions of dollars—that are spent—

Mr David Shoebridge: It kept getting bigger during the debate.

The Hon. JAN BARHAM: Mr David Shoebridge is correct: the figure kept growing. It went up and up until it reached the billions of dollars. When I read the *Hansard* transcript of the debate in the lower House I wondered whether anyone had stopped to consider whether the removal cost compares in any way to the money that might be invested in youth programs. We know that graffiti is mainly perpetrated by young people, and the Institute of Criminology tells us the motivations and the reasons for that. Unfortunately, those issues do

not seem to be addressed. We all know where criminalising young people leads: they enter the court system, establish a relationship with police, there is fear and loathing, and they are turned into criminals. Instead, we should say, "Hey, you have some concerns".

I say proudly that in my local area, as in some others—it seems to correlate with where there are a number of Greens councillors—we approach the issue differently. Strangely, we are a little more tolerant and understanding of the psychological reasons why people respond and react in this way to what is going on in society. As I said to the Hon. David Clarke, I will refer to some of the interesting historical comments he made about a former member of this place, the Hon. Ian Cohen. Graffiti is a statement. We often take too much notice of what the media say—the commentators, shock jocks and the *Daily Telegraph*—instead of considering what young people in our society are saying. Are they telling us that something is going on? It is a cry for help? It is a "look at me" moment. They are saying, "See what I can do to really annoy you?" It tells us that there is something going on.

Many children who paint graffiti come from disadvantaged communities. Over time, I will try to illustrate that it is directly related to lack of funding and resources in these areas to support young people. We do not understand the disadvantage. I do not want to detain the Committee, but I want to address the points made in the debate and some of the quite ferocious comments made about The Greens. The generalisations made in this place are sometimes amazing. But I will go—

The Hon. Matthew Mason-Cox: Point of order: We are dealing with amendments in Committee and the member is making a speech more suited to the second reading debate. While we are happy to give her some latitude in this regard, I ask that the Temporary Chair draw the member back to the amendments.

The Hon. Lynda Voltz: To the point of order: The Hon. Jan Barham said at the beginning of her speech that she would address the amendments that go to the heart of the legislation. She cannot address those issues without referring to the legislation.

Mr David Shoebridge: To the point of order: One of the key issues of these amendments is ensuring that a first offence does not attract the quite harsh and draconian aspects of the legislation. In speaking to the amendments, it is necessary to address the substance of the legislation. I note that the Hon. Jan Barham has only 6½ minutes remaining in which to speak and she would like to deal with the impacts of the bill. I hope that other members will permit her to do that.

The Hon. Matthew Mason-Cox: Further to the point of order: The Hon. Jan Barham was about to refer to commentary about The Greens, which has nothing to do with the amendments before the Committee.

TEMPORARY CHAIR (The Hon. Paul Green): Order! I remind the Hon. Jan Barham that she should speak to the amendments before the Committee.

The Hon. JAN BARHAM: I will be relevant; I thank the member for that reminder. I was making a point about the important issue that is addressed by the amendments: it is improper and immoral to allow first offenders to be captured in this way. It is a very dangerous move. Apart from the additional costs that will be incurred, it is unfair. I am reminded of the many stories of people who, for the good of the country and of society, engaged in political activism. I listened to the Hon. Helen Westwood's contribution to the previous debate. She spoke about clubs and how times have changed. In less than 20 years, we have seen amazing changes in society. For example, views about smoking have changed totally. Smoking is no longer allowed in clubs. The Hon. David Clarke referred to the group BUGA-UP, which, under the helm of Bill Snow, took to the streets to make political statements. Thank goodness its members were not caught or subjected to these laws. Only the amendments will address what is wrong with the bill.

People had the right to make comments because governments were not doing the right thing and we should never stop that expression, because it is from the streets that we stay informed. People were willing to go out there and do what the Government was not doing. We are not taking the lead because of tobacco funding or alcohol funding. Sometimes people put constructive, political commentary in public places for the good of the nation and because it shows the lack of leadership of our politicians. I go back to the point that the definition in this bill is flawed. It is wrong that we should capture first offenders. I applaud the Opposition for moving an amendment that addresses that. It is an absolute shame and it would be horrific to think of how many young people's lives would be ruined, and how many young people would be caught up in the criminal system unnecessarily, rather than be treated with the respect they deserve and the tolerance and understanding they might need after a year of enforcing this legislation.

The Hon. DAVID CLARKE (Parliamentary Secretary) [8.20 p.m.]: The Government will not support the amendments proposed by the Deputy Leader of the Opposition. The amendments relating to second or subsequent graffiti offences would change the requirement in the bill that all young offenders charged with graffiti offences should appear before a court. They would limit this requirement to offenders who have committed or are alleged to have committed a second or subsequent graffiti offence. The proposed amendments would allow first-time young offenders to avoid going before a court and to get off with a caution or a warning from the police. It was an election commitment that juvenile graffiti offenders would be brought before the court. This reinforces the seriousness of their offending behaviour and is aimed at reducing reoffending. The Opposition thinks that the bill encourages juvenile offenders to be caught up in the criminal justice system. This is clearly not the case, as the court will still have available to it the full range of sentencing options, including issuing a caution. The Government is committed to reducing reoffending and keeping young offenders out of the criminal justice system. The bill provides for cautions and diversion into a youth justice conference after a young offender has appeared in court. The purpose of the Government's proposal is to ensure that young offenders realise graffiti damage is not a trivial matter, but a serious and costly offence. Requiring a young offender to appear before the court will make that young person understand the gravity of what they have done. The Government does not support these amendments.

Mr DAVID SHOEBRIDGE [8.22 p.m.]: On behalf of The Greens I support these amendments. The amendments will knock off some of the unnecessarily harsh aspects of the Government's legislation. Essentially, it means that police can keep their existing broad discretion in dealing with juvenile offenders who are found to have committed a graffiti offence or are found with a graffiti implement. The amendments will give the police that discretion, to give offenders a warning or a caution or send them to some sort of diversionary program rather than send them straight to court. The Government says it does not want to get juveniles involved in the criminal justice system and that is why it is bringing forward legislation to compulsorily send them to court. That is a bit like saying war is peace. The argument has no logic. The Greens would welcome any legislation the Government brings forward to try to ensure that juveniles do not get caught up in the criminal justice system.

On statistical averages, tonight some 405 juveniles will be detained in New South Wales jails; unfortunately more than half of them will be Aboriginal kids. These kinds of laws criminalising juvenile conduct have a harsh impact on some of the most vulnerable people. These kinds of laws that do not allow for any police discretion will have an even more significant impact on those kinds of vulnerable populations. The amendments will relieve some of the harsh consequences of the bill so that the compulsory referral to court will happen only on a second or subsequent offence. That is marginally better than the Government's bill. It is still poor legislation that takes New South Wales backwards. The Greens also support the no vote to schedules 1.4, 1.5 and 1.6. Using the driver licence system as a form of criminal penalty is both novel and inappropriate.

The driver licence system should be used to make sure our roads are safe and that drivers comply with licensing obligations. To turn them into a de facto punishment program for juveniles is utterly unprincipled. I recognise that the Government may say it is a better option than another form of criminal sentence but The Greens believe that the Government is providing a sweetener to the bitter pill of dragging more juveniles before courts by providing courts with the non-custodial option of cancelling offenders' driver licences. That shows how wrong in principle it is to drag so many more juveniles before the courts. The Government's solution to the problem it creates is penalties for unrelated issues relating to driver licences. That is a wrongheaded approach to dealing with juvenile justice and, as the Hon. Jan Barham said, a wrongheaded approach to dealing with social exclusion that many juveniles feel and which is often expressed through graffiti.

The Hon. SCOT MacDONALD [8.26 p.m.]: I support the esteemed Parliamentary Secretary for Justice—

The Hon. Michael Gallacher: The learned.

The Hon. SCOT MacDONALD: I support the learned Parliamentary Secretary. The amendments cannot be supported. We gave a firm commitment during the election campaign. I was with a number of candidates who campaigned on this approach. The community voted overwhelmingly for it in the 26 March election. Graffiti impacts on places like Armidale, where I live. The Armidale council spends \$25,000 a year on graffiti. It has reduced the cost from \$65,000 a year through a program of removing graffiti within 24 hours. Nevertheless, \$25,000 for a council like Armidale council is significant. I conclude by reinforcing what the learned Parliamentary Secretary said, that the amendments cannot be supported and we should accept the bill.

Question—That Opposition amendment No. 1 [C2011-047B] be agreed to—put.

The Committee divided.

[*In division*]

Mr David Shoebridge: Point of order: The Opposition moved amendments Nos 1 to 7 in globo, so we should have only the one division. Temporary Chair, you put only amendment No. 1. I ask that you re-put the question to include amendments Nos 1 to 7 in globo.

TEMPORARY CHAIR (The Hon. Paul Green): Order! I have put the question on amendment No. 1. I will then put a question on amendments Nos 2 to 7, and then I will put questions relating to the amendments indicated by an asterisk.

The Hon. Adam Searle: The lower House managed to deal with amendments Nos 1 to 7 in globo.

TEMPORARY CHAIR (The Hon. Paul Green): Order! I have received advice that we need to deal with each of the matters systematically because some members wish to vote against different parts of the schedule. Accordingly, the division will proceed on the question that Opposition amendment No. 1 on sheet C2011-047B be agreed to.

Ayes, 18

Ms Barham	Dr Kaye	Ms Westwood
Mr Borsak	Mr Moselmane	Mr Whan
Mr Brown	Mr Searle	
Mr Buckingham	Mr Secord	
Ms Cotsis	Ms Sharpe	<i>Tellers,</i>
Mr Donnelly	Mr Shoebridge	Ms Fazio
Ms Faehrmann	Mr Veitch	Ms Voltz

Noes, 16

Mr Blair	Mr Gay	Mr Mason-Cox
Mr Clarke	Mr Harwin	Mrs Mitchell
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Lynn	<i>Tellers,</i>
Mr Gallacher	Mr MacDonald	Mr Ajaka
Miss Gardiner	Mrs Maclaren-Jones	Dr Phelps

Pairs

Mr Foley	Mr Colless
Mr Primrose	Mrs Pavey
Mr Roozendaal	Mr Pearce

Question resolved in the affirmative.

Opposition amendment No. 1 [C2011-047B] agreed to.

TEMPORARY-CHAIR (The Hon. Paul Green): Order! The question now is that Opposition amendments Nos 2 to 7 on sheet C2011-047B be agreed to.

Question—That Opposition amendments Nos 2 to 7 [C2011-047B] be agreed to—put.

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

The Committee divided.

Ayes, 18

Ms Barham	Dr Kaye	Ms Westwood
Mr Borsak	Mr Moselmane	Mr Whan
Mr Brown	Mr Searle	
Mr Buckingham	Mr Secord	
Ms Cotsis	Ms Sharpe	<i>Tellers,</i>
Mr Donnelly	Mr Shoebridge	Ms Fazio
Ms Faehrmann	Mr Veitch	Ms Voltz

Noes, 16

Mr Blair	Mr Gay	Mr Mason-Cox
Mr Clarke	Mr Harwin	Mrs Mitchell
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Lynn	<i>Tellers</i>
Mr Gallacher	Mr MacDonald	Mr Ajaka
Miss Gardiner	Mrs Maclaren-Jones	Dr Phelps

Pairs

Mr Foley	Mr Colless
Mr Primrose	Mrs Pavey
Mr Roozendaal	Mr Pearce

Question resolved in the affirmative.

Opposition amendments Nos 2 to 7 [C2011-047B] agreed to.

TEMPORARY-CHAIR (The Hon. Paul Green): I will now put a question relating to the instructions on sheet C2011-047B that are each indicated with an asterisk.

Question—That schedules 1.4, 1.5 and 1.6 be agreed to—put.

The Committee divided.

Ayes, 15

Mr Blair	Mr Harwin	Mrs Mitchell
Mr Clarke	Mr Khan	
Ms Ficarra	Mr Lynn	
Mr Gallacher	Mr MacDonald	<i>Tellers,</i>
Miss Gardiner	Mrs Maclaren-Jones	Mr Ajaka
Mr Gay	Mr Mason-Cox	Dr Phelps

Noes, 18

Ms Barham	Dr Kaye	Ms Westwood
Mr Borsak	Mr Moselmane	Mr Whan
Mr Brown	Mr Searle	
Mr Buckingham	Mr Secord	
Ms Cotsis	Ms Sharpe	<i>Tellers,</i>
Mr Donnelly	Mr Shoebridge	Ms Fazio
Ms Faehrmann	Mr Veitch	Ms Voltz

Pairs

Ms Cusack	Mr Foley
Mrs Pavey	Mr Primrose
Mr Pearce	Mr Roozendaal

Question resolved in the negative.

Schedule 1 as amended agreed to.

Title as amended agreed to.

Bill reported from Committee with amendments, including an amended long title.

Adoption of Report

Motion by the Hon. David Clarke agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [8.57 p.m.]: I move:

That this bill be now read a third time.

Question put.

The House divided.

Ayes, 29

Mr Ajaka
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Ms Cotsis
Mr Donnelly
Ms Ficarra
Mr Gallacher
Miss Gardiner

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

Mr Searle
Mr Secord
Ms Sharpe
Mr Veitch
Ms Voltz
Ms Westwood
Mr Whan
Tellers,
Ms Fazio
Dr Phelps

Noes, 5

Mr Buckingham
Ms Faehrmann
Dr Kaye
Tellers,
Ms Barham
Mr Shoebridge

Question resolved in the affirmative.

Motion agreed to.

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.06 p.m.]: I move:

That this House do now adjourn.

CARDIOVASCULAR DISEASE

The Hon. PAUL GREEN [9.06 p.m.]: I draw to the attention of the House the various burdens that cardiovascular disease places on the citizens of New South Wales. In 2007 alone the Australian Institute of Health and Welfare and the Australian Bureau of Statistics cited 16,000 deaths due to cardiovascular disease in New South Wales. Cardiovascular disease accounted for nearly 40 per cent of all deaths in New South Wales, or one death every 32 minutes. In New South Wales, there were more than 150,000 hospitalisations due to cardiovascular disease. This represents a huge burden on our hospital system. Fourteen per cent of the New

South Wales population, or one million people, had a long-term cardiovascular disease or condition. The economic costs are exceedingly high. A report found that in the year 2004 alone, cardiovascular diseases cost the nation \$5.9 billion, or 11 per cent of allocated health expenditure.

The awful part of this huge problem is that most cardiovascular disease is preventable. Health and medical research has advanced our knowledge of the causes, prevention, management and diagnosis of cardiovascular disease. The last 20 years of research have helped to reduce deaths associated with cardiovascular disease and also incidence rates. That has resulted in direct improvements in healthcare outcomes. Certain preventative strategies already have been shown to work in the fight against cardiovascular disease.

The effects of smoking on cardiovascular disease are well known. Smoking and exposure to second-hand smoke are major risk factors for cardiovascular disease. Evidence shows that the effect of passive smoking is nearly as large as active smoking. Important steps have been taken in New South Wales to ban smoking in most enclosed public places. However, substantial loopholes remain in areas such as private workplaces, private gaming areas and crowded outdoor areas. As a result, numerous New South Wales employees are still being exposed on a daily basis to smoking in their workplace. Families also are regularly exposed to cigarette smoke when they choose to eat out, catch public transport or visit a local playground.

Trans fats are another contributor to cardiovascular disease. Trans fats are similar to saturated fats and increase the bad, or low-density lipoprotein [LDL], cholesterol-causing blockage of blood vessels. This in turn increases the risk of many forms of cardiovascular disease. A number of countries already have restrictions on the use of trans fats by food manufacturers. For example, the United States of America and Canada require food manufacturers to show the level of trans fats in foods, which has resulted in a reduction of their use. Since as much as a quarter of all Australians' trans fats come from takeaway foods, food outlets are an important target for intervention. Nearly one-third of all Australian meals are eaten out of the home, so this is an important issue.

The Heart Foundation suggests that promotion of a healthy lifestyle is another important issue in the battle against cardiovascular disease. Between 2001 and 2008, an increased number of people in New South Wales were classed as overweight or obese. There also was an increase in the number of people described as sedentary. More people are drinking alcohol at risky or high-risk levels. It is important to note that only half of the New South Wales adult population is currently meeting the recommended level of 30 minutes of physical activity on most weekdays to obtain health benefits. Some groups with the least physical activity include females, low socioeconomic groups, and people over the age of 45 years.

It is clear that a dependence on car usage and increased sedentary recreational activities, such as watching television or using computers, also is reducing physical activity levels in children. In New South Wales the number of children being driven to school has doubled since 1981. The number of children walking or riding a bike to school during the same period halved. It is not surprising that a quarter of school children are now classed as obese or overweight. Current estimates suggest that this generation may have a shorter life expectancy than their parents.

The role of State and local governments is vital in addressing this crisis. It requires development of legislation, policies and strategies that will encourage more people to be more active more often. It also requires government to implement practical strategies, such as providing walking and cycling paths, better public transport, greater active leisure opportunities, promotion of good quality food, and an increase in the number of campaigns to educate New South Wales citizens to take care of their health.

STATE ECONOMY

The Hon. SOPHIE COTSIS [9.11 p.m.]: This evening I want to speak about the Government's manipulative approach to managing the State budget and economy and the links this has with slashing the pay and conditions of New South Wales workers. Since its election the Government has thrown itself into a frenzied attempt to talk down the State's finances and with them the New South Wales economy. Since 26 March, all we have heard is doom and gloom—fictional black holes, made-up deficits and generated crises. Many public commentators have pointed out the true nature of this false narrative. It has been correctly characterised as a purely politically driven attack.

Because the Government has no vision for the State, instead of fighting for people's future it would prefer to relive old battles. But there is a further and darker motive to the Government's habit of talking down

the State's finances and economy. As is so often the case with the Liberals and The Nationals, it is all about undermining the pay, conditions and rights of working men and women. As we all know, since being elected the Government has sustained a major assault on the pay and conditions of the State's workers. It has brought in WorkChoices-style laws that force nurses, teachers and fire-fighters to choose between sacrificing hard-won conditions or copping a pay cut in real terms.

And what has been the Government's justification? It is the supposed state of the budget and the State economy—the Government's fictional black holes, its made-up deficits and its generated crises. All have been used to justify an attack on workers' pay and conditions. But, as do many obsessions and habits, the Government's determination to go after workers is impacting on other areas. Make no mistake: Talking down the State, its finances and the economy is bad for New South Wales. It destroys confidence and undermines certainty. As such, it has a strange way of becoming self-fulfilling. If people are constantly told by their Government that the State is going to hell in a hand-basket, they will start to believe it. They will be less reluctant to invest, become overly risk-averse, be reluctant to spend money, and will put off taking on more staff. This affects regional communities, rural communities and local small businesses. And investors will be more likely to take their businesses interstate.

We all know how much the Liberals and The Nationals used to like talking down the State's economy when they were in opposition. But we could at least understand the opportunistic motivation. What is truly extraordinary though is seeing the Liberals and The Nationals, now that they are in government, continuing to talk down their own finances, and with it the state of the economy—and all because of this damned and dogged obsession with cutting the pay and conditions of workers. The people of New South Wales expect their Government to support the State's economy, to talk it up and express confidence. They expect their Government to expand opportunities for investment, jobs and new business. Instead, this Government keeps talking down the State's finances, and with it the economy. This is an agenda that can only end in reduced investment, further job losses and diminished prosperity. The people of New South Wales deserve better.

AUSTRALIAN POWERCHAIR FOOTBALL ASSOCIATION

The Hon. NATASHA MACLAREN-JONES [9.16 p.m.]: Tonight I will speak on the Australian Powerchair Football Association. On 14 August I had the pleasure of representing the Hon. Graham Annesley, Minister for Sport and Recreation, at the opening ceremony of the first Australian Powerchair Football Association Development Workshop and National Championship. Powerchair football is one of the fastest growing sports for power wheelchair users. The sport was originally developed in France in the early 1970s and was introduced to the United States in the early 1980s. Since then, many countries created their own version of the sport, and that led to the creation of an international organisation in 2005, the Federation International de Powerchair Football Association, and rules for the competition.

Powerchair football is a competitive team sport designed and developed specifically for electric wheelchair users. These participants include persons with quadriplegia, multiple sclerosis, muscular dystrophy, cerebral palsy, head trauma, stroke, spinal cord injury and other disabilities. Powerchair football combines the skill of the wheelchair user with the speed and power of the chair itself to participate in an extremely challenging game similar to that of able-bodied football. The game is played indoors on a basketball court, in two halves of 20 minutes each, by two teams of four players, with three field players and a goalkeeper. Having watched the kick-off, I was extremely impressed by the skill and speed of the athletes.

I acknowledge the incredible contribution by Matthew Cross, who is President of Australian Powerchair Football Association, and his team for their work in making this sport possible in Australia and their efforts to encourage participation. Less than two years ago Matt and Martin Dalrymple—Martin is the current vice-president—sought to identify another sport in which wheelchair athletes could participate. In early 2010 they met with the International Federation of Powerchair Football Association to initiate a New South Wales organisation. In June that year the first competition was held in Mount Druitt with four teams battling it out. Before long powerchair football established a Western Sydney District League, a premiership and a second playing division with a more recreational focus.

With hard work and determination, we now have a national organisation, the Australian Powerchair Football Association, and other State organisations in Victoria and Western Australia, with Queensland and South Australia working towards developing the sport in their States. The Australian Powerchair Football Association Development Workshop was held at the Sydney Academy of Sport and Recreation. This was a great opportunity for international instructors, players and officials to work with and train our players in the lead-up to

the World Cup and the Regional Championships. Launching the first National Championships for Australia was an excellent opportunity to recognise and highlight the ability of these inspirational athletes and the ongoing support of the many volunteers who make this all possible.

For the vast majority of people, participation in sport is simply about having fun, enjoying the health benefits and developing skills, whilst competing with their peers. Sport has an astonishing power to enrich our lives as individuals and can make a significant contribution to our society. Sport, more than any other activity, can bring people together regardless of ability and social differences and it strengthens our sense of community globally, nationally and locally. This event highlighted these relationships. All sporting activities depend on a core group of volunteers. I acknowledge the commitment of families, friends, volunteer coaches, officials and administrators who make it all possible. The success of Powerchair Football in Australia is a credit to all involved.

As parliamentarians it is vital that we encourage individuals to take up these essential supporting roles in all sports and to educate and retain them. I am pleased to say that the Government provides funding through the Sport Development Grant Program, with the aim of developing and growing the sport in New South Wales. I congratulate the Australian Powerchair Football Association on taking up this great initiative and wish Matthew Cross and the Australian Powerchair team the best of luck in the upcoming World Cup, which will be held later this year in Paris.

GREY NURSE SHARK PROTECTION

The Hon. CATE FAEHRMANN [9.20 p.m.]: Last Monday I had the extreme pleasure of diving with grey nurse sharks off Fish Rock at South West Rocks on the mid North Coast of New South Wales. I have recently learned to dive because I wanted to dive with grey nurse sharks and to see the impacts, if any, of fishing on them. In my contribution to the second reading debate on the Marine Parks Amendment (Moratorium) Bill I said that divers had told me that it was difficult to find a shark that had not been hooked. On my dive I noted that 25 to 30 per cent of sharks had hooks. Although the comment I made previously in the House was correct—divers had told me it was difficult to find a shark without hooks—in fact, I did see sharks without hooks. I dived with an experienced diver and lying underneath 20 to 30 sharks was an incredible experience. They are magnificent creatures that have been around much longer than we have.

A sad aspect of my dive was that Fish Rock is the largest aggregation site for sharks off the New South Wales coast. Yet the Minister responsible for Primary Industries recently rescinded fishing restrictions that had been put in place to protect the grey nurse shark. The grey nurse shark is a critically endangered species and has been listed as protected from fishing since 1984. A population of about 1,500 grey nurse sharks are located off the east coast. When a species such as the grey nurse shark numbers under 5,000, it is at the brink of extinction. Every death of a grey nurse shark is critical to the survival of the species. I saw new fish hooks in sharks and I also saw a fishing boat directly over the top of the grey nurse shark aggregation site.

A great deal of research that has been undertaken suggests that grey nurse sharks take bait and as they move along the water they accidentally rub against hooks and get hooked. I do not suggest that the fishers I saw were deliberately fishing for grey nurse shark; they were not. However, the threat exists of accidental hooking. The Government has released a discussion paper. The Government rescinded fishing restrictions for three months and that three months has now passed. Submissions on the discussion paper close tomorrow. The Government has to examine the submissions and then make a decision as to whether to reinstate fishing restrictions. The science is clear and many government scientists have said that the way to protect grey nurse sharks in New South Wales is to take away the biggest threat to their survival, that is, accidental hooking from bait fishing. However, the Government has once again allowed boats to fish directly over the top of the largest aggregation site for grey nurse sharks in New South Wales, which is distressing.

This Government and the previous Government have before them for many years good research into the grey nurse shark. As the species has been endangered for a long time, the Government has undertaken a great deal of research on the issue. We need 1,500-metre sanctuary zones around the 16 critical habitat areas for grey nurse sharks. Critical habitat areas have been identified as areas where the grey nurse shark goes to feed and breed. Fish Rock is one of them. The 16 critical habitat areas do not represent much of the State. I hope that I will be able to continue to dive with grey nurse sharks and watch these magnificent creatures in the ocean and that in 50 or 60 years time people will still be able to do so. If fishing restrictions and sanctuary zones are not put in place, these magnificent animals will become extinct in our lifetime.

ANDREW CHAN AND MYURAN SUKUMARAN DEATH SENTENCES

The Hon. SCOT MacDONALD [9.25 p.m.]: I bring to the attention of the House the current issue of two New South Wales residents who currently are facing the gruesome prospect of death by firing squad for their convictions in 2005 on drug smuggling charges in Bali, Indonesia. Both Andrew Chan and Myuran Sukumaran are from Sydney. Andrew was born in Sydney in 1984 and is from a very hardworking family. He attended Homebush Boys High School and Belmore Boys High and is known to friends and family for his sense of humour and his passion for sports. Myuran, whilst born in London in 1981, is an Australian citizen who migrated to Australia with his family in 1985. Having grown up in the western suburbs of Sydney, Myuran also attended Homebush Boys High School where he became friends with Andrew. After high school, both Andrew and Myuran entered the workforce and held several jobs in Sydney.

In 2005 Andrew and Myuran were among seven others who were arrested in Bali for attempting to traffic heroin to Australia. They were both tried and convicted in Denpasar District Court and in 2006 were sentenced to death by firing squad for their crimes. Both men lost two appeals in 2006, following which they both made attempts to turn their lives around whilst being held in Kerobokan Prison. Andrew now acts as a mentor to other inmates, counselling and assisting them through difficult times. In addition, he has found the Christian faith after a period of deep self-reflection and is currently taking a course in theology and studying to become a pastor. He also runs the English Language Church Service in the prison and has stated that his Christian faith has helped him to cope with life in prison. Andrew has been described by the prison's Governor Siswanto as a model prisoner who has had an extremely positive effect on other inmates. Myuran also aims to give back to the Indonesian community and is currently teaching computer and graphic design courses at the prison, which are essential job skills. He is also in the process of establishing a drug counselling program in the prison.

Most recently, both Andrew and Myuran lost their final right of judicial review conducted by the Indonesian Supreme Court on 6 July 2011, which confirmed the death sentence for the two convicted men. At that final appeal Governor Siswanto gave evidence that he believed Myuran to be a well-behaved prisoner who has turned over a new leaf and was unlikely to commit similar crimes in the future. He asked that Myuran be spared from the shocking execution of death by firing squad. Andrew and Myuran's last chance for survival now rests in the power of Indonesian President Susilo Bambang Yudhoyono to grant clemency. As an admirer of the proud, successful sovereign nation of the Republic of Indonesia, I acknowledge that the crimes committed by both Andrew and Myuran are a great insult to both Indonesia and Australia and, clearly, are deserving of a long period of imprisonment. I respectfully ask, however, that a grant of clemency be extended to Andrew and Myuran so that they may be spared the painful execution of death by firing squad.

Both men have admitted to committing the crimes for which they have been convicted and have admitted to acting in selfish and greedy ways in the past. As I stated, both men have reformed and are now doing all they can to reform others. This is clear evidence of their dramatic self-transformation, which cannot be denied. I strongly believe that the right to life must not be ignored or taken from anyone and that a non-violent crime should certainly not be met with an extremely violent and tortuous execution. Their deaths undoubtedly will cast a shadow over our shared history and would be inconsistent with the Indonesian focus on law and order and the significant value of clemency, particularly given the obvious reformation of both Andrew and Myuran. In the interests of justice and humanity, I ask that the lives of Andrew and Myuran be spared and a grant of clemency be granted. I acknowledge Melissa Ardita, the intern who helped to prepare this speech.

MINTO MALL

The Hon. WALT SECORD [9.30 p.m.]: Before being elected Barry O'Farrell and his candidates said they would help small business. They claimed to be the party for small business. In fact, supporting small business was the centrepiece of their so-called contract with New South Wales. Today I speak on behalf of some small business people from south-west Sydney. Recently I spent an afternoon at Minto Mall where I met with some small business people who are in desperate need of support from the State Government. Minto Mall has stood for 31 years; in its heyday it was the town centre. It once housed many of the major stores, including Video Ezy, Lowes and the St George Bank. Today it is a commercial graveyard. I visited the mall on Saturday 13 August at around 1.30 p.m. At that time only 15 of the 73 shops were still operating, and I counted only 16 vehicles in a car park with 500 car spaces. The same sad story was told inside the mall with handwritten signs in shop windows apologising to customers for businesses having to leave the centre. Those signs spoke of businesses abandoned and those who had held on for as long as they could. These are not stories of quitters but of determined business people who gave all they could for as long as they could.

The optometrist left the Minto Mall after 28 years of service. Coles pulled out three months ago. Australia Post and Kmart are gone. But a few tough businesses are still clinging on because they are locked into leases and they will face punitive costs if they move. Small business people like Mr John Ma need and deserve the Government's support. Mr Ma, who has been at the centre for 12 years, described his rent situation as similar to being held on a tight leash. Mr Ma is chained to the mall. Members might ask, "Surely there is a contract?" Yes, there is but the business people of Minto Mall are realistic. They are happy to honour a contract that is met by both sides but one side has failed to uphold its end of the bargain—namely, to market and service Minto Mall to drive trade to these businesses.

The mall has been passed from owner to owner with each one failing miserably, and small business continues to suffer and pay. Over time the situation has worsened but the rent still has to be paid. The escalators and the air-conditioning in the mall were left broken for six months but the rent still has to be paid. Patronage to the mall has dived to near zero but the rent still has to be paid. Mr Ma is worried about the customers he has grown to know over the years, in particular, the elderly who are unable to travel to Campbelltown. I spoke at length to the owner of J J Kebabs who is known to the locals as Sam. For the past five years Sam has worked from 9.00 a.m. to 6.00 p.m. for seven days each week. Sam, who is a father of three, has never taken a holiday because he cannot afford to hire anyone to work in his shop. He cannot leave and he cannot stop working. The demise of the mall has also affected the local community. Its emptiness provides opportunities for criminals and sends a signal of hopelessness to local youth.

What is the party for small business doing about Minto Mall? The Premier was asked at the Campbelltown Community Cabinet in May what he was going to do. Plenty of platitudes were given but three months later nothing has happened: the Government is silent. The urgency of the situation at Minto Mall is obvious to everyone in the area but with the election done and dusted the O'Farrell caravan has moved on. It continues to ignore the situation and it continues to forget the promise that it made to help small business. Those opposite will remind me that last month, with great fanfare, the Government appointed Ms Yasmin King as the State's first Small Business Commissioner. As the spin went, she will be the great saviour of small business.

The Hon. Matthew Mason-Cox: A marvellous woman.

The Hon. WALT SECORD: I suggest that she should start at Minto Mall. This afternoon I wrote to Ms King. I asked her to take up the plight of the businesses at Minto Mall. I asked her to go to the Minto Mall to see for herself what those small businesses face and how much help they need. I have also asked a series of questions on notice of the Premier, the Deputy Premier, the Minister for Finance and Services and the Minister for Small Business to establish what they can do to help the small businesses at Minto Mall. I eagerly await their responses as do the small business people of Minto Mall.

QUEENSLAND HOUSE FIRE DEATHS AND SMOKE DETECTORS

The Hon. LYNDIA VOLTZ [9.35 p.m.]: No-one could possibly understand the heartbreak and anguish that is being experienced by the family members of those 11 children and women who tragically perished in a house fire at Logan recently. At this sad time our hearts go out to the Queensland Polynesian community. It is timely to take this opportunity to remind everyone of the importance of regularly checking home smoke detectors. The cause of the fire at Logan is not yet known but it is well-known that smoke detectors make a significant difference in saving lives when a fire breaks out in a house. On behalf of all members in this place I send our condolences to the members of this family and to the Queensland Polynesian community.

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

Motion agreed to.

The House adjourned at 9.36 p.m. until Friday 26 August 2011 at 9.30 a.m.
