

LEGISLATIVE COUNCIL

Thursday 8 September 2011

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

The President read the Prayers.

COURTS AND OTHER LEGISLATION FURTHER AMENDMENT BILL 2011

APPROPRIATION BILL 2011

DUTIES AMENDMENT (FIRST HOME—NEW HOME) 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. Michael Gallacher 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.

RESIDENTIAL PARKS AMENDMENT (REGISTER) BILL 2011

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

PETITIONS

Coal Seam Gas Exploration

Petition requesting that the House put communities 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 impacts of coal seam gas development, received from the **Hon. Jeremy Buckingham**.

BUSINESS OF THE HOUSE

Postponement of Business

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

SELECT COMMITTEE ON THE KOORAGANG ISLAND ORICA CHEMICAL LEAK

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held on 7 September 2011, the Hon. Robert Borsak was elected Chair and the Hon. Cate Faehrmann was elected Deputy Chair of the Select Committee on the Kooragang Island Orica Chemical Leak.

STANDING COMMITTEE ON STATE DEVELOPMENT**Membership**

The PRESIDENT: I inform the House that, on 7 September 2011, the Clerk received advice that the Hon. Steve Whan will replace the Hon. Amanda Fazio as an Opposition member on the Standing Committee on State Development.

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

The Hon. RICK COLLESS [11.21 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. 241 outside the Order of Precedence, relating to the budget for the Department of Primary Industries, be called on forthwith.

The Hon. Michael Gallacher: That is long overdue. The Opposition asked us to bring it on yesterday.

The Hon. RICK COLLESS: That is exactly right. This matter is urgent as a lot of concern has been expressed in regional New South Wales about some comments been made by various members of the Opposition relating to cutbacks in the Department of Primary Industries that were supposed to be announced in the budget. I have a lot of contacts in the department around New South Wales: Years ago I worked in the Soil Conservation Service, which was a separate organisation from the Department of Primary Industries.

The Hon. Penny Sharpe: Point of order: The honourable member is nowhere near establishing why this motion is urgent relative to other matters listed in the *Notice Paper* today. Mr President, I ask you to direct him to address urgency.

The PRESIDENT: Order! I remind all members that they should confine their remarks to the procedural motion that standing and sessional orders be suspended to allow a motion to be moved forthwith.

The Hon. RICK COLLESS: I appreciate the Opposition's concern in this regard because I suspect they do not want this brought on as a matter of urgency, despite the fact that yesterday the parrots on the backbench were screeching, "Bring it on, bring it on." We will accommodate them; we will bring it on. The matter is urgent because there is a great deal of fear in the community. We must ensure the issue is debated today to clarify it. I commend the motion to the House.

Dr John Kaye: Point of order: My point of order relates to Standing Order 92, specifically the issue of anticipation. I note that the budget is listed in today's *Notice Paper*. If the motion moved by the member is agreed to, the House will begin a debate on matters relating to the budget. I refer in particular to paragraph (a) of the motion, which notes that the New South Wales 2011-2012 Budget confirms certain things. That would require us to talk about the budget before it has been brought on for debate and dealt with by the House. Therefore this motion is dysfunctional because, if it is agreed to, it will require members to engage in anticipation.

The Hon. RICK COLLESS: To the point of order: Nothing could be further from the truth. This motion is about the activities of a certain member of this House and has nothing to do with the budget. We will not be debating the budget under this motion. The motion relates the activities of a certain member of the House who has been scaring members of the community and the need for him to apologise.

The Hon. Greg Pearce: To the point of order: This is quite an important ruling. I believe similar rulings have been made on previous occasions. The member cannot use the anticipation rule in relation to the budget. The budget covers the entire activities of the Government. It would be nonsense to suggest this sort of motion was anticipating something in the budget.

The Hon. Amanda Fazio: To the point of order: I believe this motion anticipates debate on the budget, particularly paragraph (b). Consequently it is clearly out of order to bring it on for debate prior to consideration of the budget. This is clearly a case in which the Hon. Rick Colless has shot himself in the foot in his wording of the motion.

Dr John Kaye: To the point of order: The Minister for Finance and Services is absolutely correct to say the anticipation rule should not be used with respect to the budget to stop conversations in this House that relate to a broad range of matters. That is a sensible proposition. However, motion No. 241 clearly refers to the budget itself and invites us to comment specifically on the budget. Although paragraphs (a) and (b) note certain things, specific issues relating to legislation are listed on the *Notice Paper* and will come before the House. In the narrowest possible sense it would be an act of anticipation of the budget if we were to have this debate. We could not have the debate that the urgency motion invites us to have without discussing what is in the budget. That is the substance of the motion. Therefore it is clear that the Minister's motion is completely out of order.

Mr David Shoebridge: To the point of order: It is of course a matter for you, Mr President, to rule whether Standing Order 92 applies, but the test is whether in your opinion there is no likelihood of debate on the budget being called on within a reasonable time. If it is your opinion that there is a reasonable likelihood that debate on the budget will be called on within a reasonable period—which is clearly the case because the Government obviously wants the Appropriation Bill passed, it is on the *Notice Paper*, and it will be called on within a reasonable period—this motion is out of order. Unless you form the opinion that the Government will not call on the budget debate within a reasonable period, this motion clearly anticipates that discussion and is out of order.

The Hon. Michael Gallacher: To the point of order: If this motion was about debating the budget then the rule governing anticipation would apply, but it is not. It relates to the comments of a member of this House anticipating what he thought would happen in the future. It relates to his comments alone and the impact on the community at the time. It is not about the budget. We will not be debating the budget or the contents of the budget. The debate will be purely about the comments of the member anticipating what may or may not happen, which has turned out to be wrong.

Reverend the Hon. Fred Nile: To the point of order: The Hon. Michael Gallacher has summarised the point I was about to make. This motion provides information. Paragraphs (a), (b) and (d) simply note. The substance of the motion is dealt with in paragraphs (c) and (e). Paragraph (c) "condemns" and paragraph (e) "calls on Mr Whan to apologise". That is the substance of the motion. It is not a substantive motion dealing with the budget.

The PRESIDENT: Order! As the Appropriation Bill 2011 has been set down for consideration at a later hour, debate on the substantive motion would amount to anticipation of the bill. I therefore uphold the point of order and rule out of order the motion to suspend standing orders to bring on the substantive motion.

Motion ruled out of order.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Conduct of Business

Mr DAVID SHOEBRIDGE [11.32 a.m.]: I move:

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

My motion is urgent because it seeks to have the President leave the chair at midday today, thereby suspending the business of the House until 2.30 p.m. to allow parliamentary staff and members to attend the stop-work meeting and protest rally organised to commence at 11.30 a.m. This motion is urgent because today at the back of Parliament House thousands of public sector workers are rallying to have their fundamental rights at work respected—their right to a fair wage for a fair day's work. Officers and staff in this place wish to be a part of that rally and exercise their legitimate industrial and democratic right to participate in the rally. Suspension of the sitting of the House will facilitate staff members—and indeed members of this House who wish to participate in the rally—being able to participate in genuine industrial democracy. Members of the House who wish to attend the rally will be able to make a statement in support of hundreds of thousands of public sector workers who are facing a wage freeze under this Government. That can happen if we suspend the sittings of the House.

The Hon. Dr Peter Phelps: That's a lie.

Mr DAVID SHOEBRIDGE: I acknowledge the interjection made by the Government Whip that what I have said is a lie. The big lie that has been spread around by the Government is that this is just a one-off 2.5 per cent wage cap, but the legislation goes much further than that. That is what the protesters are talking about today.

The Hon. Robert Brown: Point of order: My point of order relates to the content of the contribution. Mr David Shoebridge appears to be drifting from establishing priority. Mr President, I ask you to direct him to confine his remarks to the leave of the motion.

The PRESIDENT: Order! I remind Mr David Shoebridge and other members who may wish to contribute to this debate of the ruling I made earlier. All comments should be directed to establishing the priority of the matter.

Mr DAVID SHOEBRIDGE: I note and accept your ruling, Mr President. I should not have responded to the interjection made by the Government Whip.

The PRESIDENT: Order! I call the Hon. Dr Peter Phelps to order for the first time.

Mr DAVID SHOEBRIDGE: Right now thousands of public sector workers, their friends, their families and their supporters are gathering outside Parliament House to make a strong statement against legislation, supported by regulations, for which the Minister for Finance and Services, and Minister for the Illawarra is responsible. From today that legislation will operate to suppress their wage increases to less than increases in the rate of inflation. Every day this legislation remains on the statute books, New South Wales public sector workers will see their wages and conditions frozen and attacked by this Government. It is absolutely urgent for this House to speak in solidarity with public sector workers and to recognise the real pain that the Government's draconian industrial relations legislation will inflict.

The Hon. Michael Gallacher: Point of order: Again Mr David Shoebridge is straying from establishing priority. We are hearing draconian expressions and extensive political hyperbole. I ask you to direct him to confine his remarks to establishing priority.

The PRESIDENT: Order! The member is beginning to stray from establishing why standing and sessional orders should be suspended. I direct him to confine his remarks to the leave of the motion.

Mr DAVID SHOEBRIDGE: As this debate is taking place teachers, public sector workers—the nurses, firefighters and clerks who are the glue and backbone of the public service that enables front-line public sector workers to do their work efficiently—are gathering outside Parliament House to democratically make a statement against this Government's industrial relations legislation. To facilitate members of staff of Parliament House, such as Hansard staff and other officers of the House, participating in a great moment of industrial democracy, this House obviously should adjourn. I urge members to consider respecting hundreds of thousands of public sector workers and support the motion. Millions of people across New South Wales who will have services and wages cut are gathering today to speak out in that public protest. I commend the motion to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.37 a.m.]: The Opposition supports the motion for urgent debate for the reasons outlined by Mr David Shoebridge. Clearly the Government benches were prepared to waste the time of this House on the motion for which Hon. Rick Colless sought urgent debate. Clearly the Government does not have sufficient real business with which to take up the time of the House. For the reasons that Mr David Shoebridge and others have stated, this is an important motion. The Opposition supports the motion for urgent debate of this matter.

The PRESIDENT: Order! For the information of the House, I clarify that the purpose of this motion is to allow members to debate whether standing and sessional orders should be suspended in relation to the conduct of business, not to debate an issue as a matter of urgency. Earlier I referred to urgency. The issue is not urgency but rather the conduct of business.

Dr John Kaye: I seek clarification: We are not debating urgency but rather the suspension of standing orders?

The PRESIDENT: Order! That is right, yes. It may seem to be a fine distinction but it is technically correct. Members should speak about whether standing and sessional orders should be suspended rather than the urgency of the matter.

Dr JOHN KAYE [11.39 a.m.]: Mr President, I support the motion to suspend standing orders to bring on for debate a motion to have you leave the chair at noon and return at 2.30 p.m. on the ringing of a long bell to

allow parliamentary staff to attend a stop-work meeting and protest rally that is organised to commence at 11.30 a.m. Clearly this matter is very important. Standing orders should be suspended because right now there are probably tens of thousands of people who have gathered outside Parliament.

[Interruption]

By their interjections Government members are displaying a high level of innumeracy. Apparently they cannot count and cannot see that there is an overwhelming movement in Australia and beyond, particularly among public sector workers, to have work no-choices overturned.

The Hon. Dr Peter Phelps: Point of order: The member is straying from the substance of the issue. I ask you to direct him to return to the issue of why standing orders should be suspended.

Dr JOHN KAYE: To the point of order: I was debating the importance of suspending standing orders.

The Hon. Matthew Mason-Cox: No you weren't.

Dr JOHN KAYE: I was. I was giving evidence that there is a wave of people in New South Wales who are demanding that this Parliament pay attention and reverse those laws that are devastating public sector services and the pay and conditions of public sector workers.

The Hon. Dr Peter Phelps: Further to the point of order: If that argument were to be the case, then we would be debating as a matter of urgency a motion for repeal of the Act rather than the suspension of standing orders so that members opposite can toddle down and try to suck up to left wing unions.

The PRESIDENT: Order! I remind members that the issue before the House is that standing and sessional orders be suspended to allow a motion to be moved forthwith relating to the conduct of the business of the House this day. Matters that are raised in this debate should be directed towards that motion.

Dr JOHN KAYE: Thank you, Mr President. Suspension of standing orders is important. As the motion states, its purpose is to allow parliamentary staff to attend a stop-work meeting. It is unreasonable to deny Hansard, who work very hard for us, the ability to exercise their industrial rights.

The Hon. Michael Gallacher: John, you know we are not going to do that, so wrap it up.

Dr JOHN KAYE: But this will be the last debate we have on this motion. There is no other motion.

The Hon. Michael Gallacher: I will allow urgent debate. You are taking up time.

Dr JOHN KAYE: Okay. This motion is important and should be supported. We ought to support the industrial rights of the people who work in Parliament and the industrial rights of all public sector workers in New South Wales.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [11.42 a.m.]: Mr President, for the information of members, I state at the outset that the Government will not oppose the motion for urgent debate so that the House will have an opportunity to debate it, but I will say something about the substantive debate.

Dr John Kaye: There is no substantive debate yet.

The Hon. MICHAEL GALLACHER: No, but there will be on the issue of The Greens wanting to take away from the Government the right to adjourn the House. That is a central issue. The Greens talk about upholding the standards of the House, which is a matter with which I will deal in more detail later.

The Hon. Matthew Mason-Cox: Only when it suits them.

The Hon. MICHAEL GALLACHER: It is a case of sheer hypocrisy. Quite simply, The Greens could have spoken to the Government about this instead of taking away from the Government the right to determine the adjournment of the House. It is absolute hypocrisy on the part of The Greens to do that. But be that as it may, as I indicated earlier I will allow the motion to be debated as a matter of urgency.

Dr John Kaye: There is no proposal to do that.

The Hon. MICHAEL GALLACHER: The Greens want to adjourn the House.

The PRESIDENT: Order! I inform the House of the procedure applying to this matter. We are discussing the motion for suspension of standing orders. If the motion is carried, a substantive motion will then be moved, which is a motion that can be debated. I state that to ensure that the matter is crystal clear.

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

Motion agreed to.

CONDUCT OF BUSINESS OF THE HOUSE

Mr DAVID SHOEBRIDGE [11.44 a.m.]: I move:

That the President leave the chair at 12 noon this day, thereby suspending the business of the House, until the ringing of a long bell at 2.30 p.m. to allow parliamentary staff and members to attend the stop-work meeting and protest rally organised to commence at 11.30 a.m.

I stated the arguments in favour of this motion at an earlier stage. It is good that the Government and the Opposition will support the motion moved by The Greens. As I stated earlier, industrial democracy is an important part of our social fabric. The ability of staff members of this Parliament and working people across the State to publicly express their concerns about industrial matters and participate in public protests to ensure that their industrial rights can be protected through their public voice is an essential part of democracy. Sometimes it is clear that this Government overlooks key elements of our democracy.

[Interruption]

The Hon. Scot MacDonald interjects to state, effectively, that democracy begins and ends in Parliament. Of course, democracy is much more than just this Chamber. Democracy is a far broader tool than a group of elected parliamentarians assembling to discuss issues. Today democracy will be having its say outside this Chamber as much as inside this Chamber. That concept of industrial democracy, foreign though it may be to the Government Whip and other members of the Government, is one of the key social safeguards in New South Wales. When thousands of teachers, nurses, firefighters and other public sector workers gather together in public to state their opposition, the House ought take account of that.

It is good that this House will take note of that simple statement of industrial democracy that is happening on the streets of Sydney today—and of course the House should take note of that industrial democracy. Respecting the right of the staff of this Chamber to participate and express their industrial rights publicly is an essential part of a functioning democracy. I commend the motion to the House. I commend the response of the Government to the motion and allowing debate to occur. I look forward to other members supporting the motion.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.48 a.m.]: I will briefly state that the Opposition understands that in the ordinary course of events the Government has the right to run the business of the Chamber, but the industrial rights of working people that have been trampled on by this Government are more important. The Opposition supports the motion.

The Hon. Melinda Pavey: You are supporting The Greens. Is that what you are saying?

The Hon. ADAM SEARLE: On this occasion, yes.

The Hon. Penny Sharpe: We are supporting the workers of this Parliament.

The Hon. ADAM SEARLE: We are supporting the workers of New South Wales. We are supporting the 400,000 public sector workers whose rights to have a fair hearing have been trampled on by this Government.

Dr JOHN KAYE [11.49 a.m.]: This is an important matter. I appreciate the precedent of the Government controlling the sitting and adjournment of the House. But a lot of precedents have been overthrown

since this Government came to power, including unlimited time for debate in this House and representation of Opposition and crossbenches on committees. While I acknowledge that all traditions have been overthrown, I nonetheless appreciate that the Government has indicated its intention to comply with the substance of the motion but not allow the proposal to overturn tradition.

This is a very important matter. It lies at the heart of what this State Government does, which is the quality delivery of public sector services. A substantive issue that is being debated outside this Chamber today is how to ensure that quality public sector services are maintained. The overwhelming majority of people who work for the public sector will be saying today that quality healthcare, quality public education and quality ambulance services are not maintained by trampling on public sector workers' rights. I support the motion.

The Hon. ROBERT BROWN [11.50 a.m.]: I just hope that members of this House will remember this the next time that the Shooters and Fishers Party have 87,000 people outside Parliament in Macquarie Street.

Dr John Kaye: Eighty-seven thousand?

The Hon. ROBERT BROWN: Yes, 87,000, my friend, in 1996. And the crowd at the 1987 rally was even larger than that. I hope that when that occasion arises, this House similarly will allow the very many members of staff and members of the House who are licensed firearm owners to participate in that rally.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [11.51 a.m.]: The precedent and proposition that the Government controls the sitting hours of the House is extremely important. Certainly in the 16-year term of the previous Government, we as an Opposition always respected that right. It would be a great pity if the current Opposition were to support a motion that portends to take away that right of the government of the day. It would set a very difficult and untenable precedent, particularly when it is a matter of supporting The Greens. Since the election The Greens have become the de facto Opposition.

The Hon. Matthew Mason-Cox: Sad.

The Hon. GREG PEARCE: That is a sad thing for all of us.

Dr John Kaye: Wait until we get to win government.

The Hon. GREG PEARCE: I acknowledge the interjection. Hansard has had a particularly difficult time since Parliament was reconvened following the March election with The Greens and their six-hour befuddled so-called speeches.

The Hon. Matthew Mason-Cox: Ramblings.

The Hon. GREG PEARCE: Yes, ramblings, which was entirely inappropriate. Yesterday during question time I mentioned that when Mr David Shoebridge says "please", we try to accommodate him.

Mr David Shoebridge: Would you please stop now?

The Hon. GREG PEARCE: We "try" to accommodate him. At 11.00 a.m. I looked out the window of my office in Parliament House across the Domain. I was trying to find anyone who was going to attend this march. I counted them. At that stage there were 24 people over there. By my reckoning, if we were to allow the House to adjourn to enable all the members on the Opposition benches to go to the Domain, they would almost double the whole attendance. What I did notice was that there are dozens and dozens of lovely colourful banners that were lying all over the ground. They were spread out all over the place. They also had a band, and there were more people in the band than there were protestors. It was incredible. I wanted to go and listen to the band. Such was the desperation of the organisers they had to hire a band to get anyone to come along to the protest. But what sort of protest has a band? When I think of protests, I think of angry people who are marching and burning my effigy. I could happily go out there and wave.

The Hon. Sophie Cotsis: You're not that good.

The Hon. GREG PEARCE: The Hon. Sophie Cotsis says that I am not that good, and I agree. But what I want to know is this: Where is the Leader of the Opposition on this important day? He is out there

waving a flag. He probably has a flag in each hand because it will give the impression of more people attending the rally than are actually there. That will be the message for the protestors: "Each one of you grab two flags and wave them so that we can do a count on the flags." That way, it will really look as though the rally is well attended.

The Hon. AMANDA FAZIO [11.54 a.m.]: I will speak briefly to the motion. While the Opposition concedes that the Government usually has the right to determine these matters, when we were in government for 16 years we never trashed the traditions of the House like Coalition members have done. Applying the gag was a disgrace.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [11.55 a.m.]: I must follow up on that pinocchio-esque contribution. Talk about a boy made of wood! I reiterate the point I made earlier about the traditions of the House and the role of the Government maintaining control, determining the sitting hours and, in that context, the agenda. To assist and suit the convenience of members, Mr President I suggest that you do now leave the chair and cause the bells to be rung at 2.30 p.m.

[The President left the chair at 11.56 a.m. The House resumed at 2.30 p.m.]

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

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

TERRORIST ATTACKS ON THE UNITED STATES OF AMERICA TENTH ANNIVERSARY

The PRESIDENT: This week marks the tenth anniversary of the September 11 terrorist attacks in the United States of America. Tomorrow a commemorative book will be made available in the members' lounge for members to sign. The book will then be moved to the Fountain Court for the public to sign until Friday 16 September 2011. Members may wish to sign this book as a mark of their respect for all those Australians and others from around the world who lost their lives and their loved ones on September 11 2001.

QUESTIONS WITHOUT NOTICE

PUBLIC SECTOR INDUSTRIAL ACTION

The Hon. LUKE FOLEY: My question is directed to the Minister for Finance and Services. Does the Minister endorse the comments of the Government Whip, who called the tens of thousands of public servants in the Domain today, including our wonderful Hansard staff, "mostly bearded weirdos, union hacks and women with grudges"?

The Hon. GREG PEARCE: As we know, the Leader of the Opposition was missing from the Chamber this morning. Clearly, he was out getting a bit too much sun because he is a little delusional. The Government Whip is an incredibly articulate man. However, he respects the New South Wales public servants who give their time and efforts to provide greatly needed services to the people of New South Wales and, in particular, Hansard. I know how difficult it has been for Hansard since Parliament has resumed, with The Greens leading for the Opposition. I know what happens. Every time The Greens get their instructions from their North Korean commanders, they have to do the translation. We know now that the coded instructions from the North Korean controllers come through in Christmas cards. They can then combine red and green and no-one is suspicious. I believe that the real reason The Greens get their coded instructions from their North Korean commanders is so they get the discounted Christmas stamps. The post office gets more Korean Christmas cards—

The Hon. Adam Searle: Point of order: Clearly, the Minister for Finance and Services has had too much sun as it has affected his mind. He is not coming within a bull's roar of relevance in answering the question.

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

The Hon. GREG PEARCE: Let us compare what we on this side say and do for our valued public servants.

The Hon. Duncan Gay: There is the leader.

The Hon. GREG PEARCE: There he is. Jeremy is stretched by the English language at the best of times, but when the instructions come through—

The Hon. Adam Searle: Point of order: The Minister should refer to the member by his proper name and honorific. Too often the Minister, in his unbridled enthusiasm, refers to people outside of his own party by their first name. I know he is a friendly kind of fellow, but when possible he should use the proper honorific for members.

The PRESIDENT: Order! I remind members of the importance of all members being referred to by their correct titles.

The Hon. GREG PEARCE: I apologise to the entire House because I occasionally get enthusiastic. The problem the Hon. Jeremy Buckingham has is that the instructions are translated into code from Korean in North Korea. When they reach Australia in the Christmas cards they are translated from code to Korean and then from Korean to English. The Hon. Jeremy Buckingham has a second staff member who is a Korean translator because he needs to get his instructions. However, when the instructions are translated from Korean to code, code to Korean, and then to English it all gets scrambled. That is what the Hon. Jeremy Buckingham usually delivers to us.

The Hon. LUKE FOLEY: I ask a supplementary question. Will the Minister elucidate his answer with particular reference to the comments made by the Government Whip? Does he endorse those comments?

The Hon. GREG PEARCE: I endorse the comments of the member for Wollongong. This morning she was quoted in the *Illawarra Mercury*—

The Hon. Luke Foley: Point of order: My point of order is relevance. The Minister had four minutes to answer my question.

The Hon. Duncan Gay: He did very well.

The Hon. Luke Foley: He did not. My supplementary question asked whether the Minister endorses the comments of the Government Whip. He is avoiding my question and referring to something completely unrelated.

The PRESIDENT: Order! The Minister had not sufficiently advanced his answer to the supplementary question for me to form a judgement as to relevance.

The Hon. GREG PEARCE: The member for Wollongong launched a blistering attack on her enemies and denied that she is a liar, cheat or fraud. That would have convinced all of us, would it not?

The Hon. Adam Searle: Point of order: With the greatest goodwill in the world, what the member for Wollongong may or may not have said has nothing to do with the question, which was whether the Minister endorses the comments of the Government Whip. The Minister is not even being generally relevant at any level of generality.

The Hon. GREG PEARCE: To the point of order: The question asked me about the public sector.

The PRESIDENT: Order! I remind Ministers of the need for them to be generally relevant in their answers.

The Hon. GREG PEARCE: Noreen Hay, the member for Wollongong, said that the media and, in particular, the *Illawarra Mercury*, pick their horse—

The Hon. Adam Searle: Point of order—

The PRESIDENT: Order! The Minister will resume his seat. His time for speaking has expired. Does the Deputy Leader of the Opposition wish to pursue his point of order?

The Hon. Adam Searle: Only to say that the Minister clearly was flouting your ruling about relevance. He flouted the ruling openly and with some disdain. He should be remonstrated for that.

The PRESIDENT: Order! I thank the member for his suggestion.

FIRE AND RESCUE NSW

The Hon. CATHERINE CUSACK: My question is addressed to the Minister for Police and Emergency Services. Will the Minister further update the House on new Fire and Rescue NSW fire stations to be built under a Liberal-Nationals Government and provide details of major fire station upgrades?

The Hon. MICHAEL GALLACHER: I thank the member for her relevant question. Last night I had another chance to review the great work by the Liberals and The Nationals in delivering our commitment to the people of New South Wales. I enjoy taking time to convey—

The Hon. Amanda Fazio: Point of order: I was interested in the question that the Hon. Catherine Cusack was asking. However, the Minister started to answer it before she concluded asking it.

The PRESIDENT: Order! I know that Opposition members had a bit of fresh air at lunchtime. However, their exuberance makes it difficult for me to hear the question and the answer, which in turn makes it hard for me to make any determination on points of order. I request that the Minister conform to the forms of the House.

The Hon. MICHAEL GALLACHER: I am happy to answer that part of the question that deals with fire station upgrades. I am sure the member will raise other matters, which I will have an opportunity to reflect on—probably even today. Last night I had an opportunity to consider, review and look at the great work done by the Treasurer and the Minister for Finance and Services in delivering their commitment and the commitment of this Government to emergency services in New South Wales. I enjoy taking the time to convey to the House the first Liberals and Nationals budget. In doing so, I want to further update the House about the substantive investment we have made in this area. The Liberals and Nationals understand how essential it is that our firefighters have the best of resources available to them. It shows their commitment when 30 of them can turn up with their facilities at one event. We want our firefighters to get on with the job they do best: putting out fires.

That is why this financial year we are investing more than \$10 million in upgrading fire stations across this great State. We are fixing stations from Banora Point fire station in the north, Unanderra fire station in the south and Parkes fire station in the west. Our commitment is to provide great facilities, not only to city stations but to fires in the regions as well. That is in clear contrast to the mob opposite. For example, Jerilderie has waited for years for its old and completely unsuitable fire station to be replaced. The former Minister for Emergency Services—whose name escapes me right now—was found so Whan-ting by the Monaro electorate that Labor had to parachute him into the one place he never wanted to be. He left firefighters at Jerilderie in the lurch for years. I am pleased to remind the House that this year this Government—a Liberals-Nationals Government—will be investing \$788,000 in a new building at Jerilderie. I am sure that this new facility—*[Time expired.]*

The Hon. CATHERINE CUSACK: I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. MICHAEL GALLACHER: The new facility, which will be built on the same site as the current station, will provide a massive boost for the whole town. Likewise, the current Brewarrina station does not provide basic amenities for the retained staff. It is difficult for them at the moment—as it is for members opposite, and will be for many years to come. Brewarrina has difficulty organising basic training; the Opposition has difficulty with basic skills. We are investing \$700,000 to improve their working conditions. In addition, we are investing \$500,000 at Banora Point. As a result, the permanent firefighters at that location will get facilities and improved access to basic amenities. That is not all. Others include: Cardiff, \$887,000; Huntingwood, \$370,000; Parkes, \$758,000; Hornsby, \$899,000; Grenfell, \$570,000; Fairfield, \$946,000; Tea Gardens, \$793,000; and Unanderra, \$505,000. What have we heard from those opposite? Absolutely nothing. Firefighters are delighted with our budget. The Fire Brigade Employees Union country secretary, Tim Anderson, said this on radio:

It is basically creating 10 extra jobs for Bathurst and obviously all the advantages this brings with it: the extra dollars into town, 10 extra people living in town, 10 extra houses that will be occupied in town. So, yes, it is definitely a benefit for the Bathurst community.

That quote was from a union member talking about our commitment to Bathurst and the hard work of the new local member, Paul Toole. This Government is committed to ensuring that our firefighters have the best equipment and facilities we can give them.

COUNCIL RATES

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Finance and Services, representing the Minister for Local Government, and follows on from an answer provided by the Minister for the Environment. Is it a fact that when State Government buys rateable property for inclusion in the national park the relevant local council is expected to amend its rating structure to ensure that its overall rate income levied on remaining ratepayers remains the same? Are there any State Government funded mechanisms available to local government to maintain their existing overall rate income without increasing rates on remaining individual ratepayers?

The Hon. GREG PEARCE: That is the type of question we would hope to get from the Opposition occasionally.

The Hon. Duncan Gay: They would be too embarrassed after what they have done.

The Hon. GREG PEARCE: Absolutely, that is right. That question shows that the member is interested in local communities. I do not know the answer to the question. I will obtain an answer for the member. I will be impressed when I get the answer to learn the outcome.

ILLAWARRA ADVANTAGE FUND

The Hon. ADAM SEARLE: My question is directed to the Minister for the Illawarra. Given that the Illawarra Advantage Fund delivered more than 3,500 jobs to residents of the Illawarra over its life and that severe job losses have been felt in the area recently, why has the Government discontinued this program?

The Hon. GREG PEARCE: That is a good question. I am happy to report to the House on the actions of the Government in relation to the Illawarra. The Illawarra Advantage Fund, as the member would know, was not a fund that was there forever. The fund had to be looked at in the context of all the State and regional development priorities of the new Government. We have established significant funds statewide which will allow for applications from the Illawarra for businesses in the Illawarra. There is a \$53 million fund in addition to the \$30 million fund that has been announced as a joint Federal-State fund, with the assistance of BlueScope Steel, to address the BlueScope problems in the Illawarra. We are keen to provide assistance and funding in the Illawarra. We are doing that in the most efficient and financially accountable way that we can.

STATE BUDGET AND PRINCES HIGHWAY

The Hon. JOHN AJAKA: My question is directed to the Minister for Roads and Ports. Will the Minister update the House on the funding for the Princes Highway in the 2011-12 State budget?

The Hon. DUNCAN GAY: I thank the honourable member for his work and for his important question. This morning—while members opposite were out getting a touch of the sun and inciting strike action across the State—I was inspecting the Princes Highway at Mount Pleasant with the hard-working member for Kiama, Gareth Ward. The contrast could not have been greater: the new Government wanting to get the State back on track by committing to critical infrastructure, while the failed Labor was yearning for the return of the bad old days. The bad old days of broken promises, cost blowouts and fiscal recklessness.

There is no greater example of a broken Labor promise that has the fingerprints of the Hon. Walt Secord all over it than the Princes Highway Gerringong to Bomaderry upgrade, an upgrade the former member for Kiama gleefully promised back in 2006. Last night, the night after the budget, was the anniversary of Captain Underpants' strike. Sadly for taxpayers of this State, Matt spent too much time dancing and not enough time delivering new road upgrades for his constituents. Five years after Matt's promise not a centimetre of new bitumen had been laid. My visit to Mount Pleasant this morning follows the Government's budget announcement on Tuesday to invest more than \$100 million this year to upgrade the Princes Highway. The Opposition does not like good news.

This investment includes an initial \$25 million to be spent on completing preconstruction activities and starting major work on the Gerringong upgrade between Mount Pleasant and Toolijooa Road. This year work

will start on widening the highway to two lanes in each direction between these two roads. Better still, in line with our election commitment, the work on the first stage of the Gerringong to Bomaderry upgrade will be completed by 2015. Unlike the mob opposite, we have skin in the game. We have committed to start dates and completion dates. All they ever committed to was issuing glossy brochures and press releases. The only thing the king of Cecil Hills High School committed to was spin, spin, spin.

The Hon. Greg Donnelly: You can do better than this.

The Hon. Adam Searle: No, he can't.

The Hon. DUNCAN GAY: I am about to. The Government will continue planning works for stages two and three of the upgrade, with \$9.5 million to continue planning and preconstruction activities for the Foxground and Berry bypasses and \$1 million to continue planning the upgrade between Berry and Bomaderry. This is a very solid start on delivering our election promise to invest \$500 million towards the Gerringong to Bomaderry Princes Highway upgrade in our first term of Government.

Reverend the Hon. Fred Nile: Hear! Hear!

The Hon. DUNCAN GAY: That expression of agreement comes from a member who travels that highway and knows the problems. Unlike Labor, we are committed to delivering for the motorists and freight operators of the Illawarra. That was proved this week with our 10 per cent increase in roads funding for the Illawarra region. Funding has increased from \$93 million to \$103 million, representing more than a 10 per cent increase to the Illawarra, something those opposite never did. [*Time expired.*]

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

The Hon. DUNCAN GAY: I would love to. There is too much good news. Other long-awaited upgrades to the highway that will benefit this year from our \$100 million commitment include \$18 million to start work at south Nowra between Kinghorne Street and Forest Road and \$17 million to start major work on the realignment of the Princes Highway at Victoria Street—

The Hon. Mick Veitch: Victoria Creek.

The Hon. DUNCAN GAY: Victoria Creek.

The Hon. Walt Secord: You know nothing about country New South Wales.

The Hon. DUNCAN GAY: I know a lot about it. We are improving roads in so many places in the State it is understandable that I get confused.

The Hon. Mick Veitch: Point of order: The Minister has a note written on his papers, "Don't respond to interjections." If all interjections are disorderly, why is he responding?

The PRESIDENT: Order! That is not a point of order. The Minister is in order. The Hon. Mick Veitch will resume his seat.

The Hon. DUNCAN GAY: More good news: Our \$100 million commitment also includes \$10 million to start major work on the Bega bypass and \$1 million to continue planning for the realignment of the Princes Highway at Dignams Creek. It is all good news across the State and the Opposition does not like it. Shane O'Brien was probably in the Domain with the Public Service Association today. I suspect he would be avoiding Steve Whan like the plague because Steve Whan led him up a dry creek, told fibs and destroyed his credibility. The member should be careful about these matters. [*Time expired.*]

MACLEAY RIVER CONTAMINATION

The Hon. JEREMY BUCKINGHAM: My question without notice is directed to the Minister for Finance and Services, representing the Minister for the Environment. The Minister would be aware that antimony is a highly toxic metal. Last week the Office of Environment and Heritage found traces of arsenic, copper and zinc had leaked from the old Hillgrove antimony and gold mine into the Macleay River near Armidale. The Minister also would be aware that past operations at the Hillgrove mine have seriously

contaminated 100 kilometres of the Macleay River. Given the recent announcement of Ancoa's intention to purchase the Hillgrove mine and reopen it, what will the Government do to ensure no further leaks or contamination into the Macleay River?

The Hon. GREG PEARCE: I have to make an admission: the Government helped the Hon. Jeremy Buckingham with his question. That is why it is comprehensible and I am able to answer it. The Office of Environment and Heritage was notified that stormwater was overflowing from a dam at the Hillgrove mine, east of Armidale, at 11.45 a.m. on Monday 29 August 2011. The mine is currently not operating but is in care-and-maintenance mode. The spill occurred after continued wet weather produced excess stormwater which exceeded the amount of water that could be stored in the dam. When the mine is operating the stormwater normally would have been used for mineral processing.

As a result, staff of the Office of Environment and Heritage in Armidale notified NSW Health, the Premier's regional coordinator and, subsequently, Kempsey Shire Council and appropriate district emergency officers, and began an investigation into the incident. Run-off from goldmines can contain heavy metals. Therefore, both the company Straits (Hillgrove) Gold Pty Ltd and NSW Health undertook water quality monitoring to provide information to inform the appropriate response. I am advised that historic mining from more than 100 years ago and erosion of highly mineralised soils have deposited a plume of material containing heavy metals in the river system from the Hillgrove area to the Pacific Ocean, an area of approximately 200 kilometres. That is quite a plume. I am further advised that the plume will continue to release elevated levels of heavy metals through physical, biological and chemical processes for millennia.

I am advised that the monitoring data from the company and NSW Health indicate that water quality immediately downstream in Bakers Creek and at the overflow of the Bellbrook water treatment plant, which is 117 kilometres downstream, remained within the usual background range for heavy metals. I am advised that on 1 September 2011 NSW Health notified by phone approximately 20 downstream landowners of the incident. The Office of Environment and Heritage is continuing its investigation and has required Straits (Hillgrove) Gold to implement measures to reduce the likelihood and volume of overflows from continuing wet weather.

Regulatory agencies, including the Office of Environment and Heritage, are requiring current operators to implement world's best practice environmental management to minimise the likelihood of further discharges and continue to support research into technology to minimise any adverse effects from plume already in the river system. The Office of Environment and Heritage takes any environment incidents very seriously. It will continue to monitor the spill and require Straits (Hillgrove) Gold to examine every option to prevent further spills. The Government welcomes The Greens giving us information of any spills or concerns they have. If they do so in the way that Mr David Shoebridge does—that is, by saying please—we will always try to help them.

PUBLIC SECTOR INDUSTRIAL ACTION

The Hon. SOPHIE COTSIS: My question without notice is directed to the Minister for Finance and Services. Will the Minister listen to the tens of thousands of nurses, teachers, firefighters, police and other public sector workers who gathered outside Parliament House today and overturn the Government's industrial relations laws, which forces workers to sacrifice conditions, agree to cost cutting or cop a pay cut in real terms?

The Hon. GREG PEARCE: No, we will not reverse the wages policy, which the previous Labor Government introduced. The reason the previous Labor Government introduced the wages policy was that, after 16 years under Labor, the New South Wales budget was unsustainably spiralling downwards.

The Hon. John Ajaka: Point of order: It is impossible to hear the Minister's answer because of all the interjections coming from the other side.

The PRESIDENT: Order! There was a great deal of interjection from the Opposition benches. I remind members that interjections are disorderly at all times.

The Hon. GREG PEARCE: The reason we have to do this is that the previous Labor Government was irresponsible and let down the people of this State. Labor let down the public sector. They are the ones who drove this State budget to a position of being about to lose our triple-A rating. They are the ones who did not replace infrastructure.

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

The Hon. GREG PEARCE: They are the ones who did not deliver the services that the people of New South Wales wanted. They are the ones who have caused the people of South Wales to throw them out comprehensively. The people of New South Wales expect us to take the tough decisions that are required to turn the budget around and we expect to do that whilst at the same time respecting and looking after the good public servants who work so hard for the people of this State. That is why our policy is to maintain real salary levels over time.

The Hon. Adam Searle: Point of order: The Minister is perhaps unwittingly misleading the House. The Government wages cap policy is 2.5 per cent and inflation is more than that. That is not maintaining real wages.

The PRESIDENT: Order! There is no point of order. The Deputy Leader of the Opposition will take a point of order, not make debating points.

The Hon. GREG PEARCE: The Deputy Leader of the Opposition should have used the past few months to get his facts right. I would be pleased to take him aside at any time and explain consumer price index figures over the last 15 years and what is happening at the moment. I am very happy that today public servants were able to exercise their democratic right. I hope they took leave or were otherwise lawfully at the rally. I am sure that all the teachers, to avoid breaching their contracts which is something the Industrial Relations Commission indicated they should not do, would have taken leave.

While the rally was underway I walked through the dining room and saw that most of the Labor caucus also was in the dining room, which I thought was quite interesting, so I joined a few of them and had a look out of the window. I must have seen a maximum of 500 protesters plus about 4,000 or 5,000 members of The Greens—I could tell that by the colour of their T-shirts and the banners they were holding. I noticed they had taken my advice and that most of them were holding two banners. I thought that made a really good spectacle. *[Time expired.]*

WOLLONGONG AND SHELLHARBOUR CITY COUNCIL ELECTIONS

The Hon. MARIE FICARRA: My question is directed to the Minister for Finance and Services, and Minister for the Illawarra. Will the Minister update the House on the Government's action in restoring local democracy in the Illawarra?

The Hon. GREG PEARCE: I am pleased to report back to the House on the Government's actions to restore local democracy in Wollongong and Shellharbour. I am sure Labor members opposite will be glad to know that last week the Prime Minister joined me in the Illawarra for a roundtable discussion of BlueScope Steel job losses. On Thursday I attended the official opening by the Premier of the University of Wollongong's new innovation campus building, which is occupied by a number of companies including Emphasis, an Indian-based information technology company. The Opposition has not picked up that an Indian information technology company is located in Wollongong. We are bringing jobs from India to Wollongong.

Last week the O'Farrell Government provided the opportunity for the people of the Illawarra to make their way to the polls to elect local government representatives for the first time since 2009. I inform the House that the election provided some telling results. After taking Wollongong and the region for granted for so many years, Labor was resoundingly rejected by the people it had neglected.

The Hon. Robert Brown: We got 250 votes.

The Hon. GREG PEARCE: Really? The people used that opportunity to express their disgust at the way Labor managed Wollongong and Shellharbour councils in the past. Independent candidate Gordon Bradbery was elected Lord Mayor of Wollongong, securing 33.9 per cent of the vote, the Liberal candidate, John Dorahy, came second in the primary vote with 23.3 per cent of the vote and Labor came a humiliating third—just ahead of the informals. Wollongong was Labor's last stronghold of support, its last bastion of defence, and now an endorsed Labor candidate can secure only third place in the primary vote for mayor.

The people of Wollongong and the Illawarra passed judgement on Labor. Of the 30 booths in ward one, the Liberals won 22 and secured 29.3 per cent of the vote as opposed to Labor's 25.7 per cent. In ward two, the Liberals won all but one booth, securing 36.6 per cent and 1.8 quotas, resulting in the election of both John Dorahy and Michelle Blicavs. I pay a special tribute to Bede Crasnich in ward three. He is the youngest person elected to the council, securing 27.4 per cent of the vote and easily gaining a quota.

This Government committed itself to bringing democracy back to Wollongong and Shellharbour councils. We committed to allowing elected representatives, rather than government-appointed administrators, to lead the council's long-term community strategic plan, resourcing strategy and delivery program. The new council structure that has been delivered by this Government has put an end to the two-member ward, winner-take-all system that existed primarily to deliver an optimal result for Labor. In Shellharbour the Liberal Party secured two seats, Labor secured two seats and the remaining three seats were taken by independent councillors. For far too long Labor denied the residents of Wollongong and Shellharbour elected council representatives. I am proud that this Government has restored democracy to the people of Wollongong and Shellharbour. But what was the response of the Labor Party to this result?

The Hon. MARIE FICARRA: I ask a supplementary question: Will the Minister elucidate his answer on democracy in the Illawarra?

The Hon. GREG PEARCE: Yesterday the member for Wollongong relied on parliamentary privilege to deliver a verbal assault on newly elected Lord Mayor Gordon Bradbery and spewed on his pro bono lawyers, Jane Healey and David Swan. The member for Wollongong labelled the lawyers "incompetent" after Labor's bid to overturn her narrow State election victory was thrown out of court on a technicality. The *Illawarra Mercury* quotes her as follows:

The media, and in particular the Illawarra Mercury, picked their horse and they backed it to the very end, while the motley crew of discontents, Australian Labor Party rejects, union wannabes and apprentice kingmakers threw money, time and lies into a campaign that can only be described as disgraceful.

I have been involved in politics for a long time and I have never seen a dirtier campaign than the one conducted by Gordon Bradbery and his team.

Is that envy? What a disgraceful thing for her to say. The *Illawarra Mercury* went on to quote Ms Hay as follows:

There were lies, there were smears and then there was the misconceived legal challenge.

The people of Wollongong have responded to Ms Hay. One comment on the *Illawarra Mercury* website states:

In my opinion, to make such statements hiding behind the protection of parliamentary privilege is an abuse of that power. This gutless attack for a personal agenda hasn't smeared the name of those she had mentioned in her speech to me. If she believes in what she said, repeat them outside of parliament.

There also is a great comment posted by Blackie. Remember Blackie? Blackie says, "As useful as she's been for the ALP, poor Noreen has never been one of the boys." [*Time expired.*]

PORT BOTANY EXPANSION

The Hon. CATE FAEHRMANN: My question is directed to the Minister for Roads and Ports. Why has the Government dropped one of our State's most important targets—transporting 40 per cent of 20-foot equivalent unit containers out of Port Botany by rail by 2016—only to replace it with a much weaker target of simply doubling container freight movement by rail through New South Wales ports by 2020? Considering that the rail modal share out of Port Botany is declining and that the Government has no stated plans for duplicating the Port Botany freight line, what message does the Minister have for the many thousands of residents who will have to put up with even more truck movements through the streets of Botany as well as a consequential increase in air pollution and noise in Botany and in many other parts of Sydney?

The Hon. DUNCAN GAY: I genuinely thank the member for the question. It is an important question. Frankly, it is a question one would expect from the Opposition—although perhaps not; they would be mightily embarrassed about the reason. The premise of the question is correct. The fact is that we were left in a situation of the previous Government's aspirations not being achievable. We are working to put a proper process in place. Part of that process is the privatisation process.

The Hon. Steve Whan: I thought it was a lease.

The Hon. DUNCAN GAY: It is a lease. The leasing of Port Botany will free up resources to provide infrastructure that will help to deliver that rail network. Opposition members keep calling it a privatisation. They deliberately try to confuse the issue. It is a lease. Everyone except the Opposition knows it is a lease. The Government is about putting proper infrastructure in place to get as much freight as possible onto rail.

The concerns that Ms Cate Faehrmann expressed on behalf of the people of Botany are genuine concerns and concerns that I share. There is an airport and a seaport in the Botany Bay area and the integrated transport we put in place will facilitate links to those ports. When I was recently asked about three things I needed to fix in the port, I replied that infrastructure is the key to getting the 20-foot equivalent units in and out of the ports. Port infrastructure is my number one, two and three priority. We should transport freight by rail instead of road whenever possible and that is where the modal links come in. The lease will liberate funds so the infrastructure can be provided. However, that will be more difficult than previously envisaged owing to hindrance associated with staff coordination following amendments to the legislation that were supported by The Greens, the Labor Party and others.

REGIONAL JOBS GROWTH

The Hon. MICK VEITCH: My question is directed to the Minister for Finance and Services, and Minister for the Illawarra. What plan does the Government have to grow jobs in regional New South Wales, given that it has cut small business and regional development funding by \$11 million?

The Hon. GREG PEARCE: I love the questions asked by the Hon. Mick Veitch. I looked at one yesterday about tree deaths in pinus radiata plantations.

The Hon. Amanda Fazio: Point of order: My point of order is relevance. The question was about growing jobs in regional New South Wales. It is not appropriate for the Minister to begin reading a question on notice as his answer to the question that has been asked.

The Hon. GREG PEARCE: To the point of order: I had not yet reached the point of talking about the important role of Forests NSW plantations in terms of regional jobs, which I think is directly relevant to the question.

The PRESIDENT: Order! It was not immediately clear that the Minister was not going to give a generally relevant answer. The point of order might have been premature. I encourage the Minister to be cognisant of the standing orders and the need for him to be generally relevant in his answers.

The Hon. GREG PEARCE: As I was about to say, the Forests NSW plantations form an important part of regional jobs. The Hon. Mick Veitch wanted to know how many trees had died in each financial year from 2001-02 to the present.

The Hon. Penny Sharpe: Point of order: The Minister is now flouting your ruling. He is not even close to being generally relevant. If the Minister wants to talk about Forests NSW, he should get someone to ask him a Dorothy Dixier.

The PRESIDENT: Order! I did not uphold the previous point of order. Therefore, the Minister was not flouting my ruling. I ask the Minister to take note of my general remarks about the need for him to be relevant in his answers.

The Hon. GREG PEARCE: I am trying to provide an answer in specific detail in relation to one area of regional jobs. First of all, how would anyone know how many trees died?

The Hon. Mick Veitch: They do an assessment. It is actually quite important.

The Hon. GREG PEARCE: If they do an assessment, why did the Hon. Mick Veitch not know? Is he not aware that his Labor was in government in 2001-02? He was a member of the Labor Government for the years he cited in his question, so why did he not know the answer? Labor members had 16 years to address the jobs issue in forests but the Hon. Mick Veitch did not bother to ask the question when Labor was in government. Does the Hon. Mick Veitch think that not knowing, and for nine years not asking the relevant question, is not neglect of matters of fundamental importance, such as regional forest jobs?

The Hon. Lynda Voltz: Point of order: The Minister is debating the question.

The PRESIDENT: Order! I think the Minister is debating a question that the member asked on notice as opposed to the question before the House. There is no point of order. The Minister's time for speaking has expired.

STATE BUDGET AND THE HUNTER REGION

The Hon. DAVID CLARKE: My question is addressed to the Minister for Police and Emergency Services, and Minister for the Hunter. Will the Minister update the House on the Government's ongoing commitment to the Hunter?

The Hon. MICHAEL GALLACHER: I thank the Hon. David Clarke for his excellent question about the Government's ongoing commitment to the Hunter region. In March this year the people of the region put great faith in a Liberal-Nationals Government. Unlike the past Labor Government, we do not intend to take the region for granted. The last budget shows that our commitment to the region works on three levels: rebuilding the economy after it was left to stagnate under the previous Government, caring for the community by investment in community services, and restoring confidence in State Government to the people of the Hunter. Labor's performance in that region when it was in government was an absolute disgrace. If members opposite do nothing else, they should focus on trying to restore the confidence of people who backed Labor for a hundred years. Labor treated them very poorly—absolutely dreadfully. The Government is working to restore people's confidence. Let us examine a snapshot of the budget: it shows commitment to an area much in need of support.

There is \$770 million for major road infrastructure projects, \$133 million to maintain existing road infrastructure, \$21 million for regional road safety initiatives and \$7 million to improve the traffic network. A further \$570 million has been allocated to the Hunter expressway. The budget provides \$1.7 million for 107 extra nurses in the Hunter New England Local Health District. We are also committed to providing \$7 million annually to open 22 new subacute rehabilitation beds in Kurri Kurri and Belmont hospitals. I remind members of the Labor Party about Kurri Kurri. Kurri Kurri does not have a representative on the Government side of the Chamber, but in our first budget we gave something back to the people of Kurri Kurri. We say to the people of Kurri Kurri that we were mindful of their difficulties with the previous Government in relation to having their health needs met. We stick to our commitments. We are providing facilities to Kurri Kurri and we have made sure the money is there.

We have committed \$328 million in the budget for improved services for people with a disability, their families, carers and older people in the Hunter region. Public housing does not miss out. An additional \$29 million has been allocated to the region. This is a budget that recognises the need to put people first. We are providing money for much-needed infrastructure. When members opposite were in government they ignored the problems of the area. They were too focused on themselves and the factional games between the Left and the Right to see who would hold onto control. We saw what the right wing did to the left wing in Newcastle and we saw what the people of Newcastle did to the Labor Party for ignoring them for far too long. Look at the shift in the region. We will continue to deliver for this area—and the people will continue to show us the support they gave us in March.

ADULT LITERACY AND LIFE SKILLS SURVEY

The Hon. PAUL GREEN: In directing my question to the Minister for Roads and Ports, representing the Minister for Education, I point out that in 2006 the Adult Literacy and Life Skills Survey was conducted in Australia as part of an international study to identify and measure literacy. The study found approximately 46 per cent of Australians aged 15 to 74 years had low level scores on the prose and document scales, approximately 53 per cent of Australians had low level scores on the numeracy scale, and approximately 70 per cent of Australians had low level scores on the problem-solving scale. Given those findings, will the Minister outline how he will ensure that New South Wales adults will have sufficient language, literacy and numeracy skills that are necessary to cope with the complex demands of life?

The Hon. Amanda Fazio: Including some of your Cabinet colleagues.

The Hon. DUNCAN GAY: When the member was reading out that list of scores for numeracy and literacy, I thought he was talking about the Opposition. This serious question involves a great deal of detail. I will be the first to admit that although I do not have any of that detail to hand, I am certainly willing to contact the Minister and obtain a detailed answer. I am reminded that I was asked a question earlier about freight rail entry into Port Botany.

The Hon. Lynda Voltz: Point of order: My point of order is relevance. The Minister's answer has nothing to do with the question that was asked.

The PRESIDENT: Order! I uphold the point of order. I remind the Minister of the need for him to be relevant in his answer.

The Hon. DUNCAN GAY: The member asked me a question about numeracy and earlier I was asked a question about percentages on rail. I was merely highlighting the concern I have about that.

The Hon. Lynda Voltz: Point of order: The Minister is flouting your ruling about being relevant.

The PRESIDENT: Order! I refer the Minister to my previous ruling.

The Hon. DUNCAN GAY: My answer stands. The hypocrisy of The Greens and the Opposition is there for anyone to see.

NATIONAL THREATENED SPECIES DAY

The Hon. AMANDA FAZIO: My question is to the Minister for Finance and Services, representing the Minister for Environment, and Minister for Heritage. Will the Minister advise the House how the Minister for Environment and Minister for Heritage marked National Threatened Species Day yesterday?

The Hon. GREG PEARCE: I know a lot of things, but I do not have the diaries of all Ministers with me. What I do have are some questions that the Hon. Steve Whan has placed on notice, such as question No. 227.

The Hon. Lynda Voltz: Point of order: My point of order again relates to relevance. The Minister is referring to questions on notice that have nothing to do with the question asked by the Hon. Amanda Fazio.

The PRESIDENT: Order! It is not immediately clear to me that the answer has nothing to do with the question. However, I remind the Minister that his answers must be generally relevant.

The Hon. GREG PEARCE: My point was that I do not have all Ministers' diaries at hand. What I do have is a question asked by the Hon. Steve Whan that is pertinent to the point. The question refers to my great Parliamentary Secretary, the Hon. Matthew Mason-Cox.

The Hon. Amanda Fazio: Point of order: I knew I was taking a risk asking the Minister to give me a serious answer to a question, but my question was very specific. I asked what the Minister for the Environment and Minister for Heritage did yesterday to mark National Threatened Species Day. The answer the Minister is giving is in no way relevant to the question. I do not care about questions that other members have placed on notice; they are not relevant to the question I asked. If the Minister does not know the answer, all he has to say is that he does not know. I want to know what the Government did to mark National Threatened Species Day. Did the Minister even leave her office yesterday? What happened?

The PRESIDENT: Order! I uphold the point of order. If the Minister has nothing relevant to add to his answer, he will resume his seat.

ROADS BLACKSPOT FUNDING

The Hon. SARAH MITCHELL: My question without notice is directed to the Minister for Roads and Ports. Will the Minister please update the House on funding in this financial year to help fix blackspots and reduce traffic congestion on the State's roads?

The Hon. DUNCAN GAY: I am pleased to do that.

Dr John Kaye: It's a hard question.

The Hon. DUNCAN GAY: No, it is not a hard question, it is a great question because I will be able to tell The Greens good news—and they do not like good news. They do not like to be reminded of their hypocrisy when it comes to rail transport. They wanted to move an amendment to try to stop rail transport going to Port Botany. The Greens and the Labor Party wanted to stop rail transport—

The Hon. Penny Sharpe: Rubbish.

The Hon. DUNCAN GAY: You did. You wanted to move an amendment to our bill that would have—

The Hon. Amanda Fazio: Point of order: My point of order is relevance. The Hon. Sarah Mitchell asked a question about funding to eliminate road blackspots. That is an important issue, and one I am interested in hearing about. I ask you to direct the Minister to answer the question he was asked.

The PRESIDENT: Order! I encourage the Minister not to respond to interjections from Opposition and crossbench members.

The Hon. DUNCAN GAY: Thank you, I am sorry I was distracted. The New South Wales Liberal Party and The Nationals made a clear election commitment to deliver an additional \$200 million over four years to help improve road safety and reduce traffic congestion. I am pleased to report that in this year's budget we are delivering almost \$41 million to meet these commitments. Some of the projects to receive funding this year include \$1 million for road upgrades as part of a \$2 million commitment; \$1 million for the Woy Woy Road upgrade as part of a four-year, \$30 million commitment; \$1 million for the Princes Highway Heathcote safety upgrade as part of a \$3 million commitment; \$1 million for the Victoria Bridge widening as part of a four-year, \$20 million commitment; \$4 million for the Allawah Bridge upgrade; \$1 million for the Cargo Road Bridge as part of a four-year, \$1.5 million commitment; \$200,000 for road upgrades in Cessnock as part of a four-year, \$1.2 million commitment; and \$3 million for the Monaro Highway overtaking lanes as part of a \$6 million commitment.

Further projects this year include \$5 million for Newell Highway overtaking lanes as part of a \$10 million commitment; \$2 million for Wyong Road intersection upgrades as part of a four-year, \$8 million commitment; \$1 million for the Manilla Road upgrade at Oxley Vale as part of a four-year, \$2 million commitment; \$1.3 million for the Ballimore turning lane; \$100,000 for the Forbes turning lane as part of a four-year, \$250,000 commitment; \$1 million for the Narellan Road upgrade as part of a four-year, \$15.4 million commitment; \$14 million for Picton Road safety upgrades; \$3.2 million for the Stingray Creek Bridge; \$300,000 for the Troy Junction rail crossing as part of a four-year, \$3 million commitment; and \$1.5 million for the Warrington Arterial, which includes Federal funding as part of a four-year, \$10 million commitment. Unlike Labor, which ran the State into the ground with its neglect and mismanagement, we are working to secure the State's future.

The Hon. MICHAEL GALLACHER: If members have further questions, I suggest that they place them on notice.

MOTHERSAFE PROGRAM

The Hon. MICHAEL GALLACHER: On 4 August 2011 the Hon. Paul Green asked me, representing the Minister for Health, a question about the MotherSafe Program. The Minister for Health has provided the following response:

In 2010-11, NSW Health and the South Eastern Sydney Local Health District provided \$422,000 to support the operation of the MotherSafe Program.

The Department of Health, in conjunction with the South Eastern Sydney Local Health District, is reviewing the MotherSafe program at the Royal Hospital for Women to inform future service delivery options.

LOCAL GOVERNMENT FUNDING

The Hon. MICHAEL GALLACHER: On 4 August 2011 the Hon. Jan Barham asked me, representing the Minister for Tourism, Major Events, Hospitality and Racing, a question regarding local government funding. The Minister for Tourism, Major Events, Hospitality and Racing has provided the following response:

I thank the honourable member for her question.

In our first 100 days, we commenced implementation on our election promises to double overnight visitor expenditure in New South Wales by 2020 and to build a world-class convention centre.

Destination NSW combines the State's events and tourism resources into a new, single statutory authority governed by a Board of Management.

As you would know, another election commitment that we have met in the budget is to provide Regional Tourism Organisations with an extra \$5 million on top of the existing regional tourism budgets to develop local tourism infrastructure.

This funding will equate to \$250,000 each with a balance available for joint projects. We strongly encourage local councils to work with the Regional Tourism Organisations to cooperatively develop priorities for the expenditure of our funding boost.

Questions without notice concluded.

CONDUCT OF BUSINESS OF THE HOUSE

Mr DAVID SHOEBRIDGE: Given that the substance of the motion I moved earlier has been dealt with, I seek leave to withdraw the motion I moved relating to the adjournment of the House.

Motion, by leave, withdrawn.

COURTS AND OTHER LEGISLATION FURTHER AMENDMENT BILL 2011

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.35 p.m.]: I move:

That this bill be now read a second time.

Parliamentary Secretary the Hon. David Clarke will make a comprehensive speech on the Courts and Other Legislation Further Amendment Bill 2011. The objects of the bill are to amend the Civil Procedure Act 2005 to defer the application of part 2A of that Act with regard to civil proceedings; and to amend the Guardianship Act 1987 to allow for the delegation of the Attorney General's power to approve the place in which a person may be placed in the care of the director general under that Act. Further, the bill will amend the Land and Environment Court Act 1979 to confirm that certain appeals brought by Aboriginal land councils are within class 3 of the Land and Environment Court's jurisdiction and will, finally, limit the types of conviction in respect of which a victim's compensation levy is payable under the Victims Support and Rehabilitation Act 1996. The Government has been considering these matters for some time. They are quite sensible changes to New South Wales legislation. I particularly want to focus on the amendment to the Victims Support and Rehabilitation Act 1996. That support mechanism is an important part of our system of looking after victims of crime. Item [1] of schedule 4 will insert new subsection 78 (3), which states:

... **conviction** does not include an order made under section 10 (1) (a) of the Crimes (Sentencing Procedure) Act 1999 in relation to an offence that is not punishable by imprisonment (whether or not it is also punishable by some other penalty).

Item [2] of that schedule contains savings, transitional and other provisions. The purpose of the bill is to make miscellaneous amendments to legislation affecting the operation of the courts of New South Wales and other legislation administered by the Attorney General, and Minister for Justice. The bill is part of the Government's regular legislative review and monitoring program and will amend a number of Acts to improve the efficiency and operation of our courts as well as the operation of agencies within the Department of Attorney General and Justice.

I will now turn to each of these amendments in turn. In doing so I will take a bit of the load off the Parliamentary Secretary, and I thank members for allowing me to make some opening comments. The bill contains an amendment to the Civil Procedure Act 2005 to postpone by up to 18 months the commencement of part 2A of that Act. Part 2A contains measures to encourage the early resolution of civil disputes, including a requirement that parties take reasonable steps to resolve a dispute by agreement or to narrow the issues in dispute before commencing court action. These requirements were enacted in late 2010. Since the 2011 State election a number of stakeholders have expressed mixed thoughts about part 2A.

Whilst the policy intention underpinning the provisions has received generous support, concerns have been raised about its practical implementation. In particular, senior members of the judiciary, the legal profession and industry groups have expressed concerns that part 2A as currently drafted could lead to increased costs and delays in resolving disputes for litigants and the courts. A particular concern raised by stakeholders was that the reforms could give rise to satellite litigation about what constitutes reasonable steps. Part 2A

contains examples of reasonable steps that could be taken before commencing court action but it does not prescribe specific steps that must be taken, nor does it make any particular step mandatory, such as mediation. Another concern is that the reforms will add to the cost of litigation both in the pre-commencement phase as a result of the requirement to take pre-litigation action, and due to satellite litigation after proceedings have commenced.

Similar issues prompted the Victorian Parliament in March this year to repeal equivalent provisions enacted in that State. Whilst the Government has carefully considered and appreciates the concerns raised, it is not proposed that part 2A be repealed at this time. The Government remains supportive of the overarching policy objectives in part 2A—that is, there is merit in seeking to find new ways to reduce the demand on court resources by encouraging parties to resolve their dispute or to clarify the real issues in dispute before commencing litigation. The court should be reserved generally for those cases that are most deserving of judicial resources, and justice should be delivered in these cases as efficiently as possible. However, it would be perverse if the reforms contained in part 2A actually led to a lengthening of disputes or an increase in costs, as predicted by some stakeholders. Accordingly, the Government believes it is appropriate to defer the application of part 2A until there is an opportunity to consider how similar pre-litigation measures work in practice elsewhere in Australia.

In March 2011 the Commonwealth Parliament passed similar provisions to part 2A. Those provisions commenced on 1 August 2011. Therefore, it is proposed that the application of part 2A be postponed to allow the equivalent Commonwealth provisions to be evaluated. This is expected to take approximately 12 to 18 months. Evaluation of the equivalent Commonwealth provisions will provide an evidence base to inform future decisions about part 2A. In particular, the evaluation period will provide an opportunity to test whether concerns raised by stakeholders will be realised in practice. Postponement is supported by the Chief Justice, the Chief Judge of the District Court and the Chief Magistrate. It is supported also by the Law Society of New South Wales and the New South Wales Bar Association. To ensure that part 2A does not rest on the statute books indefinitely, the bill provides that part 2A will apply to civil proceedings commenced 18 months after the postponement provisions take effect or such sooner date as set by proclamation.

The proposed amendment to the Guardianship Act 1987 will enable the Attorney General as Minister responsible for the Act to delegate the power to approve premises under section 13 of the Act as premises where a person may be placed in the care of the Director General of the Department of Family and Community Services. Approved premises are used to place people who have been removed from other premises under order of the Guardianship Tribunal under section 11 of the Act, or removed from premises by police under section 12 of the Act. Following the transfer of responsibility for the Guardianship Act 1987 from the Minister for Disability Services to the Attorney General in June 2011 an issue was identified concerning the responsible Minister's power of delegation. Previously, the Minister for Disability Services as Minister responsible for the Guardianship Act 1987 had the power of approval under section 13 of the Act and was able to delegate this power under the provisions of section 5 of the Community Welfare Act 1987.

However, no such power of delegation has passed to the Attorney General, notwithstanding that he is now the Minister responsible for the Guardianship Act 1987, and the previous delegation to officers of Ageing, Disability and Home Care is now defunct. The Attorney General's urgent approval of premises under section 13 of the Guardianship Act 1987 has recently been sought prior to Guardianship Tribunal hearings. Previously, such decisions about the approval of premises had been delegated to officers of Ageing, Disability and Home Care who are in a position to properly evaluate the suitability of such premises. This amendment will ensure that the Attorney General as Minister responsible for the Guardianship Act 1987 will be able to delegate the power of approval, as was previously the case for the Minister for Disability Services.

Schedule 3 to the bill contains an amendment to the Land and Environment Court Act 1979 that will clarify that appeals by an Aboriginal land council against a refusal of a land claim will fall within class 3 of the Land and Environment Court's jurisdiction. Section 36 (7) of the Aboriginal Land Rights Act 1983 provides the Land and Environment Court with jurisdiction to hear and determine any appeal made to it by an Aboriginal land council against a refusal of a land claim that council has made. The court's practice has been to allocate such appeals to class 3 of its jurisdiction, which is concerned with land tenure, valuation, rating and compensation matters. However, section 19 of the Land and Environment Court Act, which lists those matters falling within class 3 of the court's jurisdiction, does not expressly refer to these appeals.

The Chief Judge of the Land and Environment Court has written expressing concern about this issue, particularly because on one view of the legislation an appeal under section 36 (7) of the Aboriginal Land Rights

Act 1983 could fall within class 4 of the court's jurisdiction. The implications would be significant if, contrary to usual practice, these appeals were treated as class 4 matters, which relate to environmental planning and protections laws. Importantly, unlike class 4 matters, class 3 matters are hearings de novo, meaning that appeals are heard by way of re-hearing and fresh evidence may be considered. The Land and Environment Court Act 1979 also provides that class 3 matters are to be conducted with minimal formality and technicality, and enables commissioners with specialist knowledge of matters concerning land rights for Aborigines to assist the judge in hearing these matters. This manner of conducting proceedings would not be available if appeals under section 36 (7) of the Aboriginal Land Rights Act 1983 were treated as falling within class 4 of the court's jurisdiction. The bill will include such appeals in the list of class 3 matters referred to in section 19 of the Land and Environment Court Act 1979 in order to dispel any doubt that this is the correct approach.

The proposed amendments to the Victims Support and Rehabilitation Act 1996 concern the circumstances in which the Victims Compensation Court levy is imposed. Under the Act the levy applies to all offences where a conviction is recorded, except those exempted by regulation. The levy is \$67 for summary offences and \$153 for indictable offences. The levies are directed to a fund from which all payments of statutory compensation to victims of crime, approved counselling services and other victims services related costs are paid. Under the proposed amendment the victims levy will not apply where a charge is dismissed under an order made pursuant to section 10 (1) (a) of the Crimes (Sentencing Procedure) Act 1999, except where an offence is punishable by imprisonment. Section 10 (1) (a) orders are made where a court finds a person guilty of an offence but because of extenuating circumstances, such as a good criminal or driving record, directs that the charge be dismissed.

Several people have argued that the current situation is unduly harsh where a person still has to pay the levy after a summary offence charge has been dismissed as the offence in most cases is minor and the person otherwise has a history of good behaviour. The Government also wishes to ensure that vulnerable people such as the homeless and mentally ill do not face undue financial pressure because they have to pay the levy even when a charge has been dismissed, and that such people are not discouraged from attending court in relation to offences alleged by penalty notice. The amendments contained in the bill have been the subject of thorough consultation with stakeholders. I thank members for allowing me to make some opening comments on this legislation. I am sure the Hon. David Clarke will give a far more detailed explanation if he sees the need; if not, he probably will allow my presentation on this legislation to stand. I thank members for giving me the opportunity to say a few words. I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.49 p.m.]: I lead for the Opposition in debate on the Courts and Other Legislation Further Amendment Bill 2011. The Opposition does not oppose the bill. The bill's objects, as the Minister outlined, are to amend the Civil Procedure Act 2005, to defer the application of part 2A of that Act, to amend the Guardianship Act 1987 to allow for the delegation by the Attorney General of his power to approve a place in which a person may be placed in the care of the director general under the Act, to amend the Land and Environment Court Act to confirm that certain applications by Aboriginal land councils are within class 3 of the Land and Environment Court's jurisdiction, and to limit the types of compensation in respect of which a victims offences levy should be paid.

The deferral of part 2A of the Civil Procedure Act is probably the most substantive public policy in the bill. That was contained in the Courts and Crimes Legislation Further Amendment Bill 2010 and introduced in this place by the previous Attorney General, John Hatzistergos, on 24 November last year. It was an innovative scheme with much to recommend it. The aim of the legislation was to encourage people to resolve disputes prior to litigation while still ensuring that access to the courts remained. It is clearly of benefit to the State and the community generally if court resources are used for cases where such resolution is not possible. As well as benefiting the State and the public by minimising the public resources used on courts, it clearly benefits the parties involved if they can resolve matters without the need for litigation. The parties were required to take reasonable steps to resolve civil disputes or at least to narrow the issues before commencing court proceedings. The then Attorney General, when introducing the legislation, referred to the Government's alternative dispute resolution blueprint released in 2009 and stakeholder submissions from senior representatives of the Supreme Court, the District Court and the Local Court, as well as representatives of the Bar Association, Law Society, Legal Aid New South Wales and other representatives groups.

Schedule 1 provides that part 2A of the Civil Procedure Act only applies to proceedings commenced 18 months after the bill before the House comes into effect or such earlier date as may be proclaimed. The implementation is now being deferred by up to 18 months. In introducing this bill in the other place the Attorney General indicated there were concerns about the practical implementation of the scheme and pointed out those

similar procedures in Federal legislation came into effect on 1 August this year. A delay of 12 to 18 months is said to be appropriate to evaluate how the legislation is implemented and to test whether concerns that have been raised are realised in practice. The Attorney General noted that the postponement is supported by the Chief Justice, the Chief Judge of the District Court, the Chief Magistrate, the Law Society and the Bar Association.

The Opposition is supportive of the previous Government's initiatives on the early resolution of civil disputes. However, we will not oppose this bill because of what I understand to be the Government's position—that is, it still supports the principle enshrined in part 2A and sees merit in encouraging parties to resolve their disputes without litigation. The issue here is one of postponement and not relocation to see what issues or practical problems may arise from similar Federal provisions and presumably to sort them out so that when the legislation is implemented the same problems, if any, are not encountered. The second proposal in this bill relates to one of the powers given by statute to the Attorney General and his power to delegate.

Responsibility for the Guardianship Act has recently been transferred from the Minister for Disability Services to the Attorney General. Prior to this transfer, the Minister For Disability Services had a power under section 13 of the Guardianship Act to approve a place in which a person could be placed in the care of the director general—at present the Director General of the Department of Family and Community Services. These premises were used for the placement of persons removed from premises by order of the Guardianship Act or removed under section 12 of the Act by police. The Minister for Disability Services was able to delegate his power of approval to officers of what is now Ageing, Disability and Home Care. This occurred under the Community Welfare Act. No such provision relates to the delegation of what are now the Attorney General's powers in this regard. This legislation fills that lacuna in the legislation.

The third category of changes relates to appeals over land claims by an Aboriginal land council to the Land and Environment Court. These are applications pursuant to the Aboriginal Land Rights Act. Such proceedings are of great importance under the land rights legislation and have recently generated High Court authority in the Wagga Wagga case. The importance of the regime established by the 1983 legislation was emphasised by Justice Kirby when he described it in that case as "almost revolutionary". Certainly, as recently elected New South Wales Aboriginal Land Council chair Councillor Ryan has noted, this is the best land rights regime in the country. It certainly delivers more real benefits to Aboriginal people than have flowed from the Mabo decision and legislation. This amendment seems to put in statutory form what everyone had assumed to be the case—but is no less important for that.

It clarifies that claims by Aboriginal land councils, either the New South Wales Aboriginal Land Council or local Aboriginal land councils, against determinations about land claims are to be heard in class 3 of the Land and Environment Court jurisdiction. This is the current procedure but it is not expressly referred to in the legislation. The bill before the House makes that clear and clarity in the law about such matters is very important. I note that the shadow Attorney General in the other place sought advice from the registrar of the Aboriginal Land Rights Act, Mr Stephen Wright, who indicated that not only was the amendment in this respect unobjectionable but it had been suggested by the Chief Justice of the Land and Environment Court in the interests of the proper administration of justice. Certainly in that situation we have no argument with it.

The final element of this bill is an amendment to the Victims Support and Rehabilitation Act. This follows from amendments made by the Courts and Crimes Legislation Further Amendment Bill 2010. That legislation introduced a number of changes. Most significantly, the legislation extended the victims compensation levy to all offences. Prior to that the levy was only payable by people convicted of offences punishable by imprisonment and dealt with by particular courts. The levy was \$148 if the first offence was indictable and \$64 otherwise. The 2010 legislation extended the levy to all offences. It was estimated that this would yield an additional \$2.91 million per annum to the Victims Compensation Fund.

There was discussion at that time of the financial pressures on the scheme. The Attorney General in the other place has announced a review into the Victims Compensation Fund and we will see where that leads. This legislation winds back the 2010 legislation somewhat and will reduce the income flowing to the fund. The Opposition does not oppose this because in practice the financial impact is most likely to be minimal. The current levy is \$67 for many offences and \$153 for indictable offences. This amendment removes the obligation to pay the levy from those matters dealt with under section 10 (1) (a) of the Crimes (Sentencing Procedure) Act 1999 and which are not punishable by imprisonment. Section 10 deals with instances where the facts established that an offence is proven but does not record a conviction and dismisses the charge. For older lawyers—and I am not necessarily looking at the Parliamentary Secretary in that regard—it is the contemporary incarnation of

section 556A. It seems unobjectionable in principle to exclude such offences from obligation to pay the levy. Section 10 orders for such offences are not that frequent as to significantly impact the level of moneys flowing to the fund. The Opposition will not oppose the bill.

Mr DAVID SHOEBRIDGE [3.58 p.m.]: On behalf of The Greens I speak in debate on the Courts and Other Legislation Further Amendment Bill 2011. The Greens support all but one small aspect of the bill and we will not oppose it. I will deal briefly with that aspect. Schedule 1 makes amendments to the Civil Procedure Act 2005 providing that the newly inserted part 2A, which has put in place a series of compulsory pre-litigation steps—compulsory in 95 per cent of circumstances—is to have deferred commencement. As the Minister said in his second reading speech, the mirror provisions in the Commonwealth arena are now more than one month old. Substantial notice has been given to the legal profession about the commencement of part 2A.

The Greens believe that pre-litigation requirements that are sensible and work to reduce the amount of costly litigation engaged in between parties in civil litigation are meritorious. Little rational reason has been given as to why these procedures can commence at a Commonwealth level but not at a State level. The Government's argument is that it wants to see the Commonwealth provisions in operation before commencing the State provisions 12 months later. That is an unconvincing argument. If litigants are in a position to comply with the provisions when they engage in Commonwealth-related civil litigation, they would be in a position to comply in New South Wales. A great deal can be said for unanimity in civil procedures at the State and Commonwealth levels, particularly when the procedures are aimed at reducing expensive litigation. The Greens are not persuaded by the Government's arguments to delay the commencement of these provisions.

The Greens note that the Law Society and Bar Association have supported deferment. Some may say this is one of those occasions where the legal profession has an interest in litigation. Their arguments seem to be based on principle in terms of the practical workings of the pre-litigation requirements. The pre-litigation requirements are a little cumbersome, requiring certificates and the like to be filed. The Greens have a slight concern that they may add costs to litigation in some circumstances. We look forward to the review of the Commonwealth legislation and the Government's support of pre-litigation requirements that are aimed at reducing costs and resolving matters. No-one wants litigants engaging in a pointless paper procedure, which only adds to litigation expense.

The amendments to the Guardianship Act are entirely appropriate in that they allow the Attorney General to delegate limited power. The Greens support those amendments. The amendments to the Land and Environment Court Act clarify an issue which most litigants thought was already the case—that is, that claims made by Aboriginal Land Councils in respect to Crown land are heard within class 3 of the Land and Environment Court's jurisdiction. Class 3 in the Land and Environment Court relates to land tenure, valuation, compensation matters, rating matters and so on. Therefore, it is the appropriate jurisdiction for these types of proceedings. A set of practice notes that relate to class 3 proceedings indicate that proceedings instigated by Aboriginal Land Councils are best dealt with within that jurisdiction of the court. The Greens support that amendment.

The amendment to the Victims Support and Rehabilitation Act as proposed in schedule 4 is strongly supported by The Greens. The Greens spoke against the amendment moved by the previous Government, which greatly expanded the reach of the provisions of the Victims Support and Rehabilitation Act. It expanded them to an extent where a blanket provision applied to any conviction. It applied to even the most modest convictions where persons were found guilty of offences that did not carry a penalty of imprisonment. It even applied to circumstances where a conviction was proved but the charges were dismissed under section 10. Those minor convictions were wrapped up in Labor's previous effort. They roped everyone into the provisions of the Victims Support and Rehabilitation Act. When one considers that all those minor offences had to provide a \$67 payment to the fund, the administrative costs involved in issuing notices and chasing up payments would have exceeded the \$67 that was recovered in due course.

The Greens spoke against those provisions when they were introduced by the previous Labor Government and The Greens now support the removal of them in relation to proceedings where an offence is dismissed under section 10. The Government's removal of totally unnecessary and inequitable provisions from the Victims Support and Rehabilitation Act is a good step forward. I note that the only position put by the Labor Opposition was on the question of costs and how it would affect the fund. I believe when a person has a charge dismissed under section 10 and the substance of the charge does not carry a penalty of imprisonment a matter of principle is involved.

That issue was not addressed by the Deputy Leader of the Opposition. He did not address whether it was appropriate to levy a charge under the Victims Support and Rehabilitation Act in such cases. The Greens strongly believe it is not appropriate and, clearly from this bill, the Government believes that these types of proceedings should not invoke the charge. Unfortunately, the Deputy Leader of the Opposition did not address the question of principle. Again, I believe Labor is trying to be a small target on issues of crime and where questions of principle are involved in deciding the appropriate criminal penalties to be applied. It is gratifying to see that the Government has moved these amendments. The Greens support the bill.

The Hon. JOHN AJAKA (Parliamentary Secretary) [4.06 p.m.]: I support the Court and Other Legislation Further Amendment Bill 2011. The bill makes a number of amendments to several Acts for the purpose of enhancing the efficiency and operation of our courts and other agencies. The proposed amendments include: first, an amendment to the Civil Procedure Act 2005 to postpone the commencement of the pre-litigation requirements contained in part 2A of the Act by up to 18 months; second, an amendment to the Guardianship Act 1987 to enable the Attorney General to delegate the power to approve premises under section 13 of the Act, as the Minister previously responsible for the Guardianship Act was able to do; third, an amendment to the Land and Environment Court Act 1979 to make clear that appeals by an Aboriginal Land Council against a refusal of a land claim fall within class 3 and not class 4 of the Land and Environment Court's jurisdiction; and, fourth, an amendment to the Victims Support and Rehabilitation Act 1996 to limit the types of convictions in respect of which a victims compensation levy is payable under the Victims Support and Rehabilitation Act 1996.

Today I speak to the postponement of the part 2A provisions in the Civil Procedure Act and the amendment to the Victims Support and Rehabilitation Act. Schedule 1 to the bill amends the Civil Procedure Act 2005 by postponing the application of part 2A of the Act by 18 months. The pre-litigation requirements contained in part 2A were enacted late last year with the passing of the Courts and Crimes Further Amendment Act 2010. Part 2A is intended to encourage the resolution of civil disputes before they reach the courtroom and to help reduce the length of proceedings that have already commenced. It requires parties involved in a civil dispute to take reasonable steps to resolve the dispute by agreement or to clarify and narrow the issues in dispute before commencing court action. This may be achieved by, for example, taking part in alternative dispute resolution processes.

As we acknowledged at the time of the enactment of part 2A, requiring parties to litigation to take measures before commencing proceedings in order to reach agreement on some if not all of the issues in dispute can be a useful tool for reducing the length and cost of proceedings. This, in turn, can improve the efficiency of the justice system by freeing up the courts to focus on disputes for which other forms of resolution have not been effective. It also may enhance access to justice by minimising or eliminating court costs for some parties. Clearly, these are valuable goals and it is important to pursue them. However, imposing pre-litigation requirements will not in and of itself achieve these goals if the requirements imposed are not effective. Real doubts have arisen about the effectiveness of part 2A in this respect.

Concerns have been raised by members of the legal profession and the judiciary that part 2A, as it is currently drafted, may actually have the effect of lengthening proceedings, thereby increasing costs for the parties involved. In particular, there are concerns that these provisions will promote satellite litigation about what constitutes "reasonable steps". It is important that pre-litigation requirements in New South Wales are effective. Postponement will give the Government time to resolve potential problems with the drafting of part 2A, to consult with stakeholders and, most importantly, to learn from the experience of similar provisions at a Commonwealth level. In the meantime, the Government continues to support a range of other alternative dispute resolution mechanisms and initiatives.

Community justices centres, which are fully funded by the New South Wales Government through the Department of Attorney General and Justice, are key drivers of alternative dispute resolution in New South Wales. Community justice centres provide free mediation and conflict management services across New South Wales in relation to a wide range of disputes, including neighbourhood disputes, small business disputes, civil and small claims matters, and non-industrial workplace matters. In 2010-11 community justice centres handled almost 5,000 disputes and conducted 1,722 mediations, with a very high settlement rate of around 80 per cent. The postponement of part 2A will not prevent the excellent work of community justice centres in this regard.

New South Wales courts have also continued to implement their own alternative dispute resolution programs and to encourage parties to resolve disputes before reaching the courts. For example, in the past five years the use of the New South Wales Supreme Court's mediation program has nearly tripled—719 mediations

were listed before a registrar in 2010 compared with 250 in 2005. A further 423 cases involved either a private mediation referral order or a timetable embodying mediation. In addition, since 2009 the Supreme Court has referred all family provision matters to mediation before considering the application, unless there are special reasons not to.

Another jurisdiction in which there has been significantly increased use of alternative dispute resolution in recent times is in the care jurisdiction of the Children's Court. This has been done through the introduction earlier this year of dispute resolution conferences, which occur once a care application has been filed. They are available throughout New South Wales and are conducted by children's registrars trained in alternative dispute resolution. The Land and Environment Court also continues its strong track record of mediation and conciliation, with more than half of the matters during 2009 being resolved without the need for a judicial determination.

Section 56 of the Civil Procedure Act provides that the overriding purpose of the Act and of the rules of the court is to facilitate the "just, quick and cheap resolution of the real issues in dispute". While the Commonwealth's own pre-litigation requirements are observed over the next 12 to 18 months, the initiatives I have outlined today will continue to assist in preventing lengthy and costly court proceedings and will help to ensure the just, quick and cheap resolution of court proceedings. I hope some of this information responds to matters raised earlier by Mr David Shoebridge.

Schedule 4 to the bill ensures that a person will not have to pay a victims compensation levy under the Victims Support and Rehabilitation Act 1996 where he or she obtains an order under the Crimes (Sentencing Procedure) Act 1999 that directs the charge for an offence to be dismissed if the offence to which the order relates is not punishable by imprisonment. The victims compensation levy, currently payable in respect of most offences, was established in order to assist in funding the New South Wales victims compensation scheme. This scheme provides compensation to individuals who have been injured by an act of violence—such as an assault, a robbery, a sexual assault or domestic violence—which took place in New South Wales. Compensation can also be claimed by those who are injured as a result of witnessing an act of violence or while trying to prevent someone from committing an act of violence, and by parents or guardians of children who are injured as a result of learning about the act of violence.

The victims compensation scheme is an important mechanism for compensating victims of violent crimes in New South Wales. However, it is important that the scheme operates at a reasonable cost to the community. In particular, it seems unreasonable to apply the levy in situations where a court has seen fit to dismiss the charges pursuant to an order made under section 10 (1) (a) of the Crimes (Sentencing Procedure) Act. Section 10 (1) (a) orders are made where a court finds a person guilty of an offence but, because of extenuating circumstances—such as a good criminal record or driving record—directs that the charge be dismissed.

The proposed amendment will require that the levy is not applied to matters where a section 10 (1) (a) order is made, except where an offence is punishable by imprisonment. This means that the levy will generally not apply where charges have been dismissed for relatively minor offences, such as minor traffic or dog-walking offences, but the levy will continue to apply to offences of a more serious nature, such as assault, which are punishable by imprisonment, even if a court has dismissed the charges. I note the comments of Mr David Shoebridge in regard to the Government moving for this amendment. The Government considers that this amendment strikes the right balance between providing adequate funding for victim-related services and ensuring that the compensation levy is not imposed unfairly. I commend the bill to the House.

The Hon. PAUL GREEN [4.15 p.m.]: The Christian Democratic Party supports the Courts and Other Legislation Further Amendment Bill 2011, particularly schedule 3, which puts certain appeals in the right class and will hopefully quicken the outcomes of those sorts of issues, particularly with local government. Local governments seem to encounter a hurdle when these cases are appealed and having them in the right class will certainly help get the answers that many local government areas need and the answers that land councils need to bring certainty about tenure of land.

The Hon. TREVOR KHAN [4.16 p.m.]: The Courts and Other Legislation Further Amendment Bill 2011 amends four Acts. Schedule 1 to the bill provides for an amendment to the Civil Procedure Act 2005 to defer for up to 18 months the application of part 2A of that Act to civil proceedings. Schedule 2 to the bill provides for an amendment to the Guardianship Act 1987 to allow for the delegation of the Attorney General's power to approve the place in which a person may be placed in the care of the director general under that Act.

Schedule 3 to the bill provides for an amendment to the Land and Environment Court Act 1979 to confirm that certain appeals brought by Aboriginal land councils are within class 3 of the Land and Environment Court's jurisdiction. Schedule 4 to the bill provides for an amendment to the Victims Support and Rehabilitation Act 1996 so that the victims compensation levy does not apply to matters where charges are dismissed under section 10 (1) (a) of the Crimes (Sentencing Procedure) Act 1999, except where an offence is punishable by imprisonment.

I refer particularly to two items: the amendment to the Guardianship Act and the amendment to the Land and Environment Court Act. In respect to the Guardianship Act 1987 amendments dealt with in schedule 2 to the bill, the amendments allow for the delegation of the Attorney General's power to approve the place in which a person may be placed in the care of the director general under that Act. Individuals are required to be placed in the care of the director general under the Guardianship Act for two reasons. First, an individual may be placed in the care of the director general if he or she is removed from premises pursuant to a guardianship order. Guardianship orders may be made by the Guardianship Tribunal under section 14 of the Guardianship Act if the tribunal finds that a person, because of a disability, is totally or partially incapable of managing his or her person—that is, that the person requires a guardian to make health and welfare decisions on his or her behalf.

If an application for a guardianship order has been made with respect to a person, the Guardianship Tribunal may, if it considers it to be appropriate in the circumstances of the case, make an order under section 11 of the Guardianship Act for the removal of the person from any premises. An authorised officer or a member of the Police Force may, pursuant to the order, enter the premises, search the premises for the person and remove the person from the premises.

Secondly, individuals may be removed from premises and placed by police into the care of the director general pursuant to a search warrant under section 11 of the Guardianship Act. This may occur if the police have reasonable grounds for believing that there is in any premises a person who appears to be in need of a guardian and is either being unlawfully detained against his or her will, or is likely to suffer serious damage to his or her physical, emotional or mental health or well-being unless immediate action is taken. When individuals are removed from premises either pursuant to a guardianship order or a search warrant, that person must be placed in the care of the director general at a place approved by the Attorney General as the Minister responsible for the Guardianship Act. At present the Attorney General cannot delegate that power.

This is a troubling situation. Individuals removed from premises pursuant to a guardianship order or a search warrant are vulnerable and in need of urgent care. Decisions about their care and the premises in which they may be housed while in the care of the director general need to be made promptly and without delay. Requiring that every such decision be made by the Attorney General self-evidently impedes the speedy resolution of this issue and is challenging, to say the least, at an operational level. As such, it is clearly appropriate that the Guardianship Act be amended so that vulnerable individuals who have been placed in the director general's care can be placed in appropriate premises as quickly as possible. The proposed amendment would bring the Attorney General's powers of delegation in this respect in line with those previously exercised by the Minister for Disability Services when that Minister had responsibility for the Guardianship Act.

Schedule 3 of the bill deals with amendments to the Land and Environment Court Act. Schedule 3 contains an amendment to the Land and Environment Court Act 1979 to clarify that appeals by Aboriginal land councils against a refusal of a land claim fall within class 3 of the jurisdiction of the Land and Environment Court rather than class 4. The Land and Environment Court Act establishes that court as a superior court of record and vests powers in the court to determine a wide range of environmental, development, building and planning disputes. Sections 17 to 21C of the Land and Environment Court Act set out the legislation pursuant to which the court has jurisdiction and divides that jurisdiction into eight different classes. That court does not have the power to determine issues outside of its jurisdiction, but it has the power to resolve issues ancillary to the matter relating to its jurisdiction.

Proceedings in the Land and Environment Court fall into three general categories reflecting the mixed jurisdiction of the court. Firstly, there is the administrative or merits review where the court rehears the merits of an administrative decision by the original decision-maker. The court's merits review function enables it to review the decisions of government bodies and officials in a range of planning and environmental matters. Second, there is the enforcement of the environmental and planning legislation. This can be done by way of civil enforcement proceedings commenced by government authorities to remedy or to restrain breaches of planning and environmental laws. Alternatively, there may be judicial review proceedings lodged by individuals or companies for judicial review of administrative decisions under planning and environment laws or criminal

enforcement proceedings for offences brought against an individual or a company. Third, there is appeal proceedings. The court also hears appeals against convictions or sentences for environmental offences from the Local Court and appeals from decisions of commissioners of the court under section 56A of the Land and Environment Court Act.

As could be expected from the wide range of matters heard by the Land and Environment Court, the distinction between different classes is significant and is a matter of considerable interest. As I have mentioned, the jurisdiction of the court is divided into eight different classes as provided for by the Land and Environment Court Act. Each class of jurisdiction applies to different types of matters. The class of jurisdiction applying to a particular matter has implications on the manner in which the matter is conducted. Class 3 matters arise under a range of different Acts and include land tenure, valuation, and rating and compensation matters, among others. Class 3 matters typically involve merit review of State Government decisions, but some are original proceedings in the Land and Environment Court. The types of matters that may be categorised as class 4 matters include civil enforcement proceedings to remedy or restrain breaches of planning and environment laws and proceedings lodged for judicial review of administrative decisions made under planning and environmental laws.

Class 3 and 4 matters differ not only in the type of matters that fall into each class but also in the way proceedings are conducted. Class 3 appeals are heard by way of rehearing, and fresh evidence may be considered. The court hearing the appeal sits in the place of the original administrative decision-maker and re-exercises the administrative decision-making functions. The Land and Environment Court Act requires that class 3 matters are also conducted with minimal formality and technicality. The court in such matters is not bound by the rules of evidence and commissioners may assist the court.

On the other hand, class 4 matters are significantly different to class 3 proceedings. For instance, the Land and Environment Court Act provisions which require that proceedings are conducted with less formality and technicality do not apply to class 4 proceedings. Nor can commissioners assist the court in class 4 matters; only a judge can exercise the court's jurisdiction in such matters. Relevantly for appeals by an Aboriginal land council against a refusal of a land claim, this deprives the court of the benefit of commissioners who have been appointed to the court on account of their knowledge of matters concerning land rights for Aborigines and Aboriginal communities and the suitability of their qualifications and experience for the determination of disputes involving members of the Aboriginal community.

The proposed amendment was suggested by the Land and Environment Court, taking into account its experience in these matters. It will therefore ensure that appeals under section 36 (7) of the Aboriginal Land Rights Act 1983 are dealt with as class 3 matters rather than class 4 matters, which complies with the Land and Environment Court's current practice. I commend the bill to the House.

The Hon. DAVID CLARKE (Parliamentary Secretary) [4.27 p.m.], in reply: I thank honourable members for their contribution to the debate. This bill contains miscellaneous amendments arising from a regular review of court-related legislation and other legislation administered by the Department of Attorney General and Justice. The amendments will ensure that court procedures continue to be as effective as possible. The amendments will also support the effective administration of justice in New South Wales. 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. David Clarke, on behalf of the Hon. Michael Gallacher, 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 Orders of the Day Nos 2 to 4 postponed on motion by the Hon. David Clarke.

Private Members' Business item No. 3 in the Order of Precedence postponed on motion by the Hon. Dr Peter Phelps, on behalf of Mr David Shoebridge.

NORTH WEST RAIL LINK

Debate resumed from 26 August 2011.

The Hon. MARIE FICARRA (Parliamentary Secretary) [4.29 p.m.], in reply: It gives me a great deal of pleasure to reply to debate on the motion, which congratulates the O'Farrell Government on fast-tracking the North West Rail Link. I thank all members who contributed to the debate. I have to say that the amendment moved by the Hon. Penny Sharpe is a bit disingenuous by being critical of certain aspects of our plan to date and our submissions to Infrastructure Australia. I will refer to that in more detail shortly. To demand that we start building the Epping to Parramatta rail link is also disingenuous and hypocritical.

The reason Labor was trounced so severely on 26 March after 16 years in government was basically its failure to develop transport infrastructure. There could have been other reasons, such as mismanagement and lack of ethics, but the main reason was Labor's failure in relation to transport infrastructure. Premier Barry O'Farrell and his team went to the election with a clear commitment to build the North West Rail Link and on 26 March our election promise was backed by a huge mandate. We make no apology for getting on with the job. We believe the Opposition should stop putting up roadblocks and criticising our infrastructure plans. They should get on board and be supportive.

In the budget that was brought down on Tuesday this week, 6 September, the Liberal-Nationals Government firmly backed its commitment to building the North West Rail Link and the South West Rail Link, allocating more than \$600 million to continue work on the two projects. The budget confirms that the Government is getting on with the job. The generous level of investment allows work on the North West and South West rail links to progress quickly. It illustrates to industry and the Sydney community our unwavering and rock-solid commitment to building these projects. It will cost \$314 million to develop the 23-kilometre North West Rail Link between Epping and Rouse Hill, including \$222 million to buy land.

Since the election the Government has made good on its promise to fast-track the North West Rail Link by establishing a project team, a community information centre and awarding tenders. We also have held industry briefings. Community information sessions for listening to the community's views on the project have been held along the route. We have backed up that work with \$314 million that will be spent over the next year to buy land and prepare for the commencement of construction in this term of government.

In relation to Infrastructure Australia, we have told the Federal Government time after time that the North West Rail Link is our public transport priority. Naturally a detailed submission is being prepared and it is very close to being finalised. The Minister met with the Federal Minister for Transport and informed him of our determination to deliver. Minister Berejiklian wrote to the Federal Minister for Transport asking that he join us in finding a way for the Commonwealth to fund this vital rail link. She wrote to the Chairman of Infrastructure Australia informing him that the North West Rail Link is a priority. A very detailed submission will be presented. The Chair of Infrastructure NSW already has met with the chair of Infrastructure Australia on this point. The Premier met with the Prime Minister to outline that the project is a priority and the Premier also wrote directly to the Prime Minister. The Director General of Transport met with the Chair of Infrastructure Australia and again outlined this as a top priority. So the Opposition's amendment is very disingenuous.

The Epping to Parramatta rail link is still on the drawing board. Of course it is important. We won the seat of Parramatta so of course we are never going to neglect that electorate. Once the North West and South West rail links are underway and we are delivering, we will revisit the Epping to Parramatta rail link, to which members opposite devoted five lousy pages in their submission to Infrastructure Australia when they were in government.

The Hon. Penny Sharpe: You dumped the project and left them high and dry.

The Hon. MARIE FICARRA: Don't be sanctimonious. Members opposite had no intention of ever building it.

Question—That the amendment of the Hon. Penny Sharpe be agreed to—put.

The House divided.

Ayes, 18

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

Noes, 19

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

Pair

Mr Roozendaal

Mr Gay

Question resolved in the negative.

Amendment of the Hon. Penny Sharpe negatived.

Motion agreed to.

FAIR WORK AUSTRALIA EQUAL PAY CASE

The Hon. AMANDA FAZIO [4.45 p.m.]: I move:

1. That this House:
 - (a) notes that on 16 May 2011, Fair Work Australia (FWA) ruled that the Australian Services Union (ASU) and its equal pay case partners proved that social and community service workers in the not-for-profit sector are underpaid and that at least part of the reason for that underpayment is gender,
 - (b) congratulates the ASU and other unions involved in this case because the decision is a significant victory for workers in the social and community services industry, and
 - (c) welcomes the decision of FWA to accept the key arguments of the applicant unions which has resulted in changes to the law regarding how equal pay cases can be run, especially that it is no longer necessary to point to male comparator groups or prove discrimination against women workers.
2. That this House calls on the O'Farrell Government to fully fund any resultant pay increases for social and community services workers who are employed by non government agencies, handed down by FWA to compensate for the gender gap.

On 16 May 2011 Fair Work Australia handed down a historic full bench decision on the equal remuneration case brought by the Australian Municipal, Administrative, Clerical and Services Union, the Health Services

Union, the Australian Workers Union of Employees Queensland, United Voice and the Australian Education Union. I commend these unions for making that important application for an equal remuneration order under part 2-7 of the Fair Work Act 2009. The order applied to all employees of non-government employers in the social, community and disability services industry throughout Australia and sought an equal remuneration order applying to employees in that industry nationally, based on the wage rates and classification structure in the Queensland award.

The Australian Municipal, Administrative, Clerical and Services Union urged Fair Work Australia to reject the submission made by the Victorian Government among others that the application of part 2-7 of the Act requires the identification of a comparative group of male employees with which comparisons of remuneration can be made. The union argued successfully that if the submission were to be accepted, a female-dominated industry for which there was no male comparator could not bring a claim for equal remuneration. In its decision, Fair Work Australia noted:

A number of employer bodies and some Governments submitted that it is implicit in the terms of Part 2-7, and in the terms of s.302 (2) in particular, that in order to establish the necessary grounds for an equal remuneration order the applicants must identify a relevant male comparator group for the purpose of establishing undervaluation. On that approach a comparison is required between work performed by women in a female dominated industry or occupation and work performed by men in a male dominated industry or occupation.

Further, Fair Work Australia found that a male comparator group is not required and that it is not necessary to establish that rates have been established on a discriminatory basis. That finding received some reinforcement from the following passages in the explanatory memorandum of the Act:

1191. The principle of equal remuneration for men and women workers for work of equal or comparable value requires there to be (at a minimum) equal remuneration for men and women workers for the same work carried out in the same conditions. However, the principle is intentionally broader than this and also requires equal remuneration for work of comparable value. This allows comparisons to be carried out between different but comparable work for the purposes of this Part. Evaluating comparable worth (for instance between the work of an executive administrative assistant and a research officer) relies on job and skill evaluation techniques.

1192. The bill also removes the current requirement for the applicant to demonstrate (as a threshold issue) that there has been some kind of discrimination involved in the setting of remuneration. Instead, an applicant must only demonstrate that there is not equal remuneration for work of equal or comparable value.

This is a historic decision and one that should be warmly welcomed by all fair-minded people. There were three other aspects of the application that deserve to be mentioned. Firstly, the application includes more generous payments for employees who are required to sleep over as part of their duties, with payments based on provisions in the Crown Employees (New South Wales Department of Ageing, Disability and Home Care) Community Living and Residential Award. Secondly, employees with tertiary qualifications would commence at higher pay points than under the modern award and would be entitled to an extended incremental scale. Those provisions had their origin in the terms of the Social and Community Service (Queensland) Award 1996. Thirdly, disability support workers with Certificate III and IV qualifications would be entitled to higher commencement rates as specified in the modern award based on the relevant provisions of the Social and Community Services Employees (State) Award New South Wales.

The application was supported by a number of bodies including the Australian Council of Trade Unions, the Australian Council of Social Service, the Queensland Council of Social Service Inc., Jobs Australia Limited, National Disability Services Limited, and the National Pay Equity Coalition, and the Women's Electoral Lobby which was jointly referred to as the Women's Organisations in the determination. A number of individual employers also supported the application and included Mind Australia, Lifeline Community Care Queensland, Blue Care, Koomarri and On-Focus Inc. However, in nearly all cases the support was said to be subject to the resolution of funding issues, and in almost all cases support was on the basis that the increases should be phased in over a number of years. Not surprisingly, a number of employer bodies opposed the application. They included the Australian Industry Group, the Australian Chamber of Commerce and Industry, Australian Business Industrial, the Australian Federation of Employers and Industries, the Chamber of Commerce and Industry of Western Australia, and Aged Care Employers which is a group of State and Territory peak employer bodies in the aged care sector.

The Commonwealth and a number of State and Territory governments made submissions, all of which dealt with the operation of part 2-7 of the Act—the approach to be taken in deciding the claim on matters of principle. The Commonwealth indicated that it is firmly committed to pay equity and acknowledged that those workers who care for our most vulnerable community members have been undervalued. It also made

submissions about the proper approach and drew Fair Work Australia's attention to the matters it considered should be taken into account. The Commonwealth further submitted that it would be appropriate to phase in any increases resulting from Fair Work Australia's decision. The South Australian Government supported the applicant's approach to the application of the equal remuneration provisions in part 2-7 of the Act. The New South Wales Government indicated that New South Wales had long supported the principle of equal pay for work of equal or comparable value.

The Australian Services Union contended that Fair Work Australia should take up the approach adopted in the Queensland and New South Wales jurisdictions that comprises two stages. The first stage requires finding that the social and community services industry is female dominated, that work in the social and community services industry is undervalued, and that the undervaluation is referable to the social and community services industry being a female-dominated industry. The second stage involves identifying the steps to be taken to ensure that industry workers receive equal remuneration for work of equal or comparable value. The Australian Services Union pointed out that the work of the social and community services industry is carried out in sectors, many of which can be further broken down into distinct areas. It referred also to the great diversity of services provided by the sector and described the interaction with providers of similar services in State and local government.

The Australian Services Union submitted that the first stage of the examination involved three propositions: that the social and community services industry is female dominated, that the work in the industry is undervalued and that there is a causal relationship between those two propositions—that is, the undervaluation arises because it is a female-dominated industry. More than 80 per cent of employees in the industry are female. The Australian Services Union produced Australian Bureau of Statistics census data indicating that the weighted average proportion of females in various occupations typical of the industry is 85.8 per cent. Professor Meagher, Professor of Social Policy at the University of Sydney, estimated that the dominance of females in the social and community services industry is even higher than these figures suggest and reported:

The most striking characteristics of the care workforce in community service industries is its gender profile. Fully 88.1 per cent of all those recording a primary job in a caring occupation in a community service industry were female in 2006, compared to 46.1 per cent in the workforce overall.

The Australian Services Union submitted that pay in the social and community services industry is low, that the pay level does not properly reflect the skills and qualifications held by employees and the conditions under which the work is performed. It submitted that the range of salaries in State awards and agreements reaches a maximum of \$64,000 per annum "whereas many experienced workers with tertiary qualifications and supervisory responsibilities described salaries in the low to mid fifty thousand dollars" in the social and community services industry. The Australian Services Union submitted that Fair Work Australia should adopt the indicia approach to determining whether the undervaluation is gender based. This approach is outlined in the following passage of the New South Wales pay equity inquiry report:

On the basis of the selected industries and occupations, it would seem that a profile which, prima facie, could indicate the possibility, or even the probability, of an undervaluation of work based on gender, would include the following elements:

- female dominated;
- female characterisation of work;
- often no work value exercise conducted by the Commission;
- inadequate application of equal pay principles; weak union;
- few union members;
- consent award/agreements, and
- large component of casual workers;
- lack of, or inadequate recognition of, qualifications (including misalignment of qualifications);
- deprivation of access to training or career paths;
- small workplaces;
- new industry or occupation;
- service industry;
- home based occupations.

The Australian Services Union demonstrated that each of the abovementioned indicia is present in the social and community services industry and, therefore, that the undervaluation is gender based. The Australian Services Union argued that the first indicium already had shown that the industry is female dominated, and turned its attention next to female characterisation of the work. The Australian Services Union listed some 18 different tasks that are performed by employees in the industry and that were said to have a female characterisation. It was submitted that the characterisation of work in the social and community services industry was caring work performed by females can lead to undervaluation of the complexity of the skills required. Professor Meagher commented:

As these female roles are devalued culturally, the skills associated with them are similarly devalued or rendered invisible. Instead of being recognised as skills that some have or have learnt, they are assumed to be natural. Because they are associated with, or replace care tasks that might have previously been offered, unpaid, within religious or voluntary organisations, on the basis of love, altruism, duty or personal pleasure rather than money, these skills are consequently valued and paid less than skills associated with men.

Relying on Professor Meagher's evidence, the Australian Services Union argued that the devaluation of caring work is a phenomenon observed by academics in other countries and recognised in the New South Wales Pay Equity Inquiry as a matter that is not adequately dealt with by job evaluation principles traditionally applied by industrial tribunals. Although there had been State award coverage of the emerging community services sector in Victoria since 1968, the growth in award coverage in other States commenced in the 1990s. The development of award coverage in the disability sector is more varied and complex. The first award appears to have been the Welfare and Voluntary Agencies Award made by the Tasmanian Industrial Commission in 1975, which later became the Disability Service Providers Award.

I recall that when I worked in the Commonwealth Department of Community Services in the early to mid-1980s it took some time in this emerging field to include workers' entitlements in funding bids and approvals, especially basic entitlements such as long service leave. No wonder the concept of equal pay for equal work has taken so long to be established in this sector. The general view in the sector was that people should accept some disadvantage in the workplace because they were working in the community sector and should do so out of the goodness of their hearts. This attitude ignored the fact that these workers deserve fair pay and conditions for carrying out sometimes very challenging work. It was demonstrated that union membership in the social and community services industry is as low as 20 per cent, due to high staff turnover and the difficulty of organising multiple small workplaces, and that there were limitations on enterprise bargaining.

Many employees understood the funding limitations their employers faced and this is the reason that most enterprise agreements deliver salary packaging or minimal salary improvements only. The applicants submitted that the undervaluation of work in the social and community services industry has a number of undesirable effects: individual workers and their families suffer the effect of low pay and attraction and retention of staff is difficult, which in turn impact on service delivery now and in the future. There are wider economic impacts if wages do not adequately reflect the value of the work, including negative effects on female workforce participation rates.

Consistent with this evidence, it was submitted that employees are leaving the industry to seek better-paid employment, often in State and local government. Organisations are experiencing difficulty with recruitment and retention, service delivery is suffering and impacting adversely on clients and employees and, given the age profile of employees, there is a real risk of severe shortage of employees in the medium term. In broad terms, the applicants submitted that, while Fair Work Australia should take into account the impact of any decision made on service delivery and that governments ultimately must fund the increases, none of the governments appearing in the proceedings suggested that funding would not be available to cover any wage increases. The Australian Council of Trade Unions stressed that as equal remuneration is an established right, Fair Work Australia was bound to make an order to remedy the full extent of any existing gender-based undervaluation.

It also submitted that alternative provisions of the Act, such as those dealing with enterprise or low-paid bargaining, are unlikely to provide a remedy because the employees have low bargaining power and employers have limited capacity to bargain, given the funding arrangements. Even a low-paid determination would not guarantee equal remuneration because of the statutory criteria governing such a determination. The Australian Council of Trade Unions submitted that capacity to pay is not a relevant consideration. It asserted that the position of employers or funders is irrelevant under section 302 of the Act. Further, the Australian Council of Trade Unions argued that the employer groups have not provided evidence in relation to incapacity to pay.

Fair Work Australia visited a number of establishments in the social and community services industry, as well as some State and local government establishments providing services similar to those offered in parts of the social and community services industry. The visits assisted the Full Bench in gaining a better understanding of the nature and range of social and community services industry services, and the environments in which the services are provided. The tribunal met and spoke with many dedicated people in a variety of roles, many of whom also provided statements as to their duties and responsibilities. In paragraph 285 of its determination Fair Work Australia stated:

We record our view, reached on the material before us, that for employees in the social and community services industry there is not equal remuneration for men and women workers for work of equal or comparable value by comparison with state and local government employment.

Fair Work Australia then required the applicant unions to file any further written submissions they wished to make by 10 June 2011. The Commonwealth was to file its further written submissions by 30 June 2011 and other interested parties were to file their further written submissions by 21 July 2011. The applications were listed for further hearing before the Full Bench at 10.00 a.m. on 8, 9 and 10 August 2011 in Melbourne and it advised that in the meantime it encouraged the parties to hold discussions about the matters addressed in this decision with a view to reaching agreement on the matters or at least narrowing the area of disagreement. The amount of the pay increases to be awarded is still being determined by Fair Work Australia. The decision was welcomed by the Australian Council of Trade Unions, which stated:

Women who have been traditionally underpaid are a step closer to achieving wage justice thanks to Fair Work Australia's landmark recognition of the need for equal pay for the nation's social and community sector workers.

The case is the first to test the new pay equity provisions of the Fair Work Act, which acknowledge the right of men and women to be paid equally for work of comparable value. We are talking about workers who are mostly women and who look after the homeless, the disabled, refugees, domestic violence victims, children at risk and other vulnerable people in our society. This is difficult and demanding work, yet this female-dominated industry is one of the lowest paid in Australia because it has been historically viewed as "women's work". The skills and professional judgement of these 200,000 workers deserve to be recognised and valued properly. The awarding of equal pay will help establish a standard for other industries, and that is a win for the hundreds of thousands of workers right around Australia whose work has been undervalued for too long. Fair Work Australia noted in its determination that:

The New South Wales Government, which came to office following the election of 26 March 2011, submitted that while it supports equal pay for work of equal or comparable value we should adopt a cautious approach because this is the first case under part 2-7. It indicated that if an order is made it would seek efficiencies in non-Government service delivery to offset the cost and may also be forced "to choose from any or a combination of the following: cutting expenditure on existing Government services, forgoing recurrent or capital expenditure directed at enhancing service delivery and increasing taxation revenue and risking harm to the State's economy".

Now it is necessary to turn to the response of the O'Farrell Government to this historic decision by Fair Work Australia. It has indicated to Fair Work Australia that its estimated impact on the New South Wales budget would be around \$774 million over the next five years. On 9 August the Minister for Finance and Services stated to this House:

As I have said on a number of occasions, the O'Farrell Government values the work of those in the social and community sectors and their contribution to New South Wales, and I welcome them to the Ministers' chambers. We support the principle of equal remuneration for male and female workers for work of equal or comparable value.

He went on to say:

Why should the States have to front up with the money anyway? In our latest submission we have called on the Federal Government to make a definitive commitment to provide full funding supplementation for its share of the budgetary and fiscal impact of any wage increases flowing from an equal remuneration order.

The Minister has been very critical of the Commonwealth Government in respect of funding any pay increases awarded by Fair Work Australia but still declines to indicate that the O'Farrell Government will commit to fully fund any of the increases flowing from this historic decision. Frankly, it is time the State Government did so. It cannot keep looking for excuses. The Government cannot say that it supports equal pay for work of equal or comparable value then say that it is not going to stump up the necessary money. The Government cannot say that if it does pay it will fund the payments by cutting expenditure elsewhere. That is not good enough. The people who work in the social and community services area have very difficult jobs with a difficult client base. They perform work that we all say should be done. We all believe there should be improved services for people

with disabilities, we all say that people who are aged should receive adequate care and we all say that people fleeing domestic violence should be given sensitive, good-quality care. The Government cannot say it supports equal remuneration for work of equal value if it does not support providing funding increases to allow this to happen.

For this reason I urge all members to support the motion, particularly paragraph 2, in which the House calls on the O'Farrell Government to fully fund any pay increase handed down by Fair Work Australia for social and community services workers who are employed by non-government agencies to compensate for the gender gap. I congratulate the Australian Services Union and the other unions that joined it in bringing this historic case to Fair Work Australia. They smashed the paradigm that said you had to have a male comparator to work out whether women deserved equal pay. If there is no male comparator then Fair Work Australia has said that workers can still demonstrate that they deserve equal pay. I think it would be shameful if anyone in this House said that women do not deserve pay that is equal to men for work of equal value. I urge everyone to support the motion.

The Hon. LYNDIA VOLTZ [5.05 p.m.]: Paragraph 1 (a) of the motion states:

On 16 May this year Fair Work Australia ruled that the Australian Services Union and its equal pay case partners proved that social and community service workers in the not-for-profit sector are underpaid and that at least part of the reason is gender.

This is an important victory for the Australian Services Union and its partners that was made possible by the Federal Labor Government's Fair Work reforms. Under the mate-against-mate world of WorkChoices such a victory would not have been possible. In 1994 the first equal pay amendments were made to Federal workplace law, giving effect to several international conventions. But over the years these provisions have proved totally insufficient. In this time 16 applications for equal pay have been lodged in the Federal system for a grand total of zero successful outcomes. Under WorkChoices, the Australian Fair Pay Commission had authority to rule on the basis of equal pay for work of equal value. This was a very narrow test that did not consider properly the non-economic value of work. The Fair Work Act addressed this problem by expanding the test to equal pay for work of equal or comparable value. So while this is the worker's victory, Federal Labor levelled the playing field when it tore up WorkChoices.

I have supported and fought for pay equity my entire life, so when I was asked last year by community workers to sign a pledge to support equal pay I had no hesitation. I view it as my business in this place, as a Labor member, to do my utmost to support workers in their battles for better rights and pay, and there is hardly a more deserving lot than community sector workers. The average weekly earnings figures from the Australian Bureau of Statistics indicate that Australian women in the community sector earn 17.6 per cent less than men in weekly terms. This is the biggest gap in pay we know of and we are aware that 87 per cent of community sector workers are women. Community workers do phenomenal work uplifting people's circumstances by injecting dignity, respect and learning into the lives of those they care for. Everyone knows that community workers do not get paid a wage that reflects the enormous time and energy they put into their work. Everyone also knows that if they did not make this choice to commit themselves to public service our society would struggle to cope with the needs of the vulnerable members of our society. This is why the Fair Work Australia ruling is an important win for the sector as well.

The under-remuneration of these workers leaves many with no choice but to find a different occupation as they find they simply cannot afford to stay in the community sector. The average salary of a community sector worker with years of experience is less than \$45,000 a year. As a result, community organisations have found it more and more difficult to recruit and retain staff, especially those with greater experience and higher qualifications. The decision of Fair Work Australia will boost the capacity of community organisations to recruit and retain qualified and experienced staff. To support the decision the Gillard Government has committed to working through its implementation, in particular working through funding indexation arrangements so that community organisations have the capacity to pay wage increases without diminishing services.

The decision of Fair Work Australia is also a win for the national economy. The National Centre for Social and Economic Modelling has found that pay inequity costs the Australian economy \$93 billion per year, or 8.5 per cent of gross domestic product [GDP]. This finding largely derives from lost productivity and workforce participation gains that flow from the efforts of community workers. Every time a disability support officer supports a young woman with Down syndrome to find a lasting job, the economy benefits. Every time a not-for-profit organisation coordinates an art recreation program for disabled adults so that their parents are free to work or participate in the community, the economy benefits. Community workers contribute to economic growth in thousands of ways.

I will have more to say in this place about my support for a national disability insurance scheme. I look forward to the O'Farrell Government undertaking to fully fund any resultant pay increase for social and community service workers who are employed by non-government agencies, as handed down by Fair Work Australia, to compensate for the gender gap. I remind the Government that, apart from redressing the injustice of unequal pay for women, equal pay is important for the sustainability of vital community work and has the potential to unlock huge economic gains.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [5.10 p.m.]: I state at the outset that the Government opposes this motion. It is useful in the context of the motion to give some history about the case, which has been done extensively in this Chamber during debate on previous motions. On 11 March 2010 the Australian Services Union lodged its first application for an equal remuneration order with Fair Work Australia. The application sought a wage increase for employees in the social and community services sector, which provides support services for vulnerable members of our society. The case is ongoing and the New South Wales Government has been an active participant in those proceedings. We have made submissions and sought to assist Fair Work Australia with evidence about the likely impact on the State budget of possible increases to wages in the sector. Nevertheless, the Government continues to be criticised in some quarters for not committing dollars-and-cents funding for any outcome of the union's claim.

Let me be absolutely clear: The New South Wales Government acknowledges the valuable contribution made by workers in the social and community services sector and their important role in delivering much-needed services to the New South Wales community, particularly to its most vulnerable members. Furthermore, the Government supports the principle of equal remuneration for male and female workers for work of equal or comparable value, and accepts the finding of Fair Work Australia that there is not equal remuneration for workers in the social and community services sector. At the same time, it must also be recognised that providing funding for the New South Wales social and community services sector is the shared responsibility of the New South Wales and Commonwealth governments and an essential part of responsibly managing the outcomes of this case.

For this reason the Government recently called on the Commonwealth to identify the level and proportion of funding it will commit to any wage increase handed down by Fair Work Australia to remedy the gender pay gap that exists in this sector. The New South Wales Government has taken a responsible position in seeking a commitment from the Commonwealth that it will maintain at least its current proportionate share of funding. Such a commitment will put our Government in a better position to determine the true impact in New South Wales of any equal remuneration order made by Fair Work Australia. It is a matter of record that the Australian Services Union in its current claim, which was filed on 23 June 2011, has substantially changed the basis upon which it is seeking an order from Fair Work Australia and significantly increased the quantum of wage increases sought. It clearly would be in the interest of all parties in this matter for the Australian Services Union to clarify once and for all the exact extent of wage increases it is seeking. The Government will continue its full participation in the proceedings before Fair Work Australia and looks forward to the tribunal's historic decision in due course.

The Hon. HELEN WESTWOOD [5.14 p.m.]: I am pleased to speak on this vital motion. I commend the Hon. Amanda Fazio for bringing this motion before the House because it is of the utmost importance. I begin by expressing my solidarity with the Australian Services Union and its members, in particular, those valuable community workers who are employed under the social and community services award. I was employed in that sector and can recall our first award. It was only 25 years ago that the social and community services award was won. Prior to that, those of us who worked in the community services sector had individual job contracts with our employers. This sometimes created injustices within workplaces, depending on the management of the community organisation or non-government organisation. Most of them were decent and ethical employers who supported their workers. They realised the value of the work performed by community services workers and understood its importance in supporting local communities and addressing social problems. Much of the work of community services workers is about preventing problems from being magnified and having a domino effect.

Irrefutable evidence has previously been put before the House about the low-paid status of community sector workers. It was proven and accepted by Fair Work Australia in a decision handed down on 16 May 2011 that these workers were undervalued and underpaid and that this occurred on the basis of gender. Those who know the history of this sector know the reason for this inequity. Much of the work performed by community workers was seen as caring for the community, work that could be done by volunteers and charities. It is a fact that the work carried out by carers in the caring professions is predominately done by women. It is a feminised

sector. No-one would argue otherwise—although the Government made a feeble attempt to do so. In fact, one of its first acts when it came to office was to argue against the principles put before Fair Work Australia in this equal pay case that these workers were underpaid and their work was undervalued. It also argued that they were not underpaid on the basis of gender. Thankfully, Fair Work Australian decided otherwise.

I commend the Australian Services Union for its excellent work in this case. It put forward a comprehensive and well-argued case. I congratulate it on this win. A distressing finding was that a large part of the underpayment was on the basis of gender. As I said, that is very much related to the history of the sector and the way in which our society has undervalued the work of the caring professions. That view is changing, and it is cases such as this that will change the attitude of our society and the attitude of governments towards those who care for the most vulnerable in our community. The applicants called on evidence from a number of employees currently or formerly employed in the social and community services industry. Some of those witnesses held management positions. The employees' evidence covered a range of different parts of the industry and a range of positions. The evidence detailed the responsibilities of the individuals concerned, their work history, their current terms and conditions of employment and the types of services their organisations provided.

A number of employees commented on the different level of pay compared with social and community services provided by State and local governments. Employees in senior roles gave evidence about the problems in attracting and retaining employees within their organisations. I experienced that myself when I was involved with local community organisations and medium-size non-government organisations. I have served on management committees for youth services, refuges, women's refuges, neighbourhood centres and disability services, and there is no doubt that it is very difficult to retain workers when they are underpaid. Often an employee starts work at an organisation immediately following completion of a TAFE or university course. It is their first paid position. They may work for the organisation for a couple of years and in that time acquire further skills and knowledge, have a great relationship with the community and do great work. But there comes a time when people need to be able to plan for their futures.

Workers need to know that they will not have a lifetime of being underpaid. They know that their qualifications and skills are more highly remunerated in other sectors, particularly in the government sector and by some private corporations, and so community organisations end up losing those workers to other sectors. That disadvantages the local community as well as the organisations that lose those workers. Because community organisations are so reliant on government funding and grants they do not have the resources to train someone else when they lose a worker to another sector. That was one of the difficulties I experienced, and I know community organisations continue to face that problem. Another difficulty is that there is no career path for workers. People leave university with a social science degree and qualifications equal to those of a social worker or a community worker and go to work in the community sector, while others with similar qualifications seek employment in the public or the private sector and have a career path that will afford them opportunities to earn higher wages and attain more senior positions. Many smaller community organisations are not able to offer workers in the community services sector similar opportunities.

It is worth noting the types of organisations whose employees were willing to give evidence in the equal pay case. The workers who gave evidence came from disability services; youth and children's services; community centres; women's services; family support services; community legal centres; home and community care services; drug and alcohol services; community housing services; specialist health services; peak organisations; Indigenous services; tenancy services; and mental health services. A number of the sectors can be broken down further into other distinct areas. Disability services include such services as residential accommodation, which can be either permanent or respite; day services; home-based services; and case management. Youth and children's services include activities in disadvantaged areas; out-of-home care; supported accommodation and community social housing; domestic violence counselling and support; resilience building programs in schools; and health services. Women's services include health and legal services; sexual assault counselling; support for women escaping domestic violence, including accommodation; and support for women transitioning from prison.

Despite the diversity of services, there is significant interaction between the sectors in the industry as well as between the sectors and State and local government bodies delivering similar or complementary services. I am sure members acknowledge that the types of services I have described require workers to have an extensive skills set and that their work is important. Supporting women who are escaping domestic violence is very difficult. Workers in that area have a very stressful but important role in ensuring the safety of women and their children. Making sure that women have a warm bed and their children can have breakfast safely the next morning

without fear of violence is a vital service for women and children in the community, and they need workers who are committed, caring, compassionate and skilled. Those workers do not deserve to be underpaid for that work. Their work is as important as that of a doctor in the local hospital. I believe their work is more important than the work we do in this place, but those workers receive significantly less pay than we do. In fact, I doubt whether there are part-time employees in this place who receive less than the workers who do that very vital work.

Those who work with children and adults with severe disabilities, particularly intellectual disabilities, require a great deal of skill, care and compassion. Yet as a community and as a State we are asking those workers to do this vital work for a pittance compared with what other workers in the government or private sectors throughout this State are paid. There is an onus on us all to ensure that these workers are paid what they are worth. I know people in the community services sector—many of my friends work in that sector. I know they are committed and that they want to make a difference. They want to help people change their lives for the better and they want to support those who, for whatever reason, are not able to support themselves. But those workers pay for their commitment with a lifetime of low wages, which also means they acquire very small amounts of superannuation compared with the rest of the workforce. These committed, caring people end up spending their retirement in poverty, which is absolutely unacceptable.

We must all do everything we can to ensure that these workers receive the pay and the conditions to which they are entitled for the valuable work they do. I hope that when the final decision is made in the equal pay case the Government has the guts to admit that it has to pay the greatest proportion for these services. The overwhelming majority of the services are funded by the State Government, not the Federal Government, and the State Government must provide the funding to ensure that these workers get a fair go.

Mr DAVID SHOEBRIDGE [5.29 p.m.]: The Greens support each element of this motion. There is no doubt that work that is and always has been done predominantly by women has been undervalued and underpaid in Australia. Last year the gap in average weekly earnings of men and women rose in Australia with women earning 18 per cent less than men. In relation to lifetime earnings and particularly superannuation, that gap produces the entrenched poverty particularly in retirement that the Hon. Helen Westward spoke about. It is noticed in retirement when people see their much diminished superannuation entitlements.

Female workers in the social and community services sector earn some 30 per cent less than comparable workers in the public sector. The Australian Services Union has lodged an equal pay case with Fair Work Australia on behalf of some 200,000 community and disability workers to seek to establish equal pay for that sector for the first time in its history. That is a sector that does the caring work. It does the work that is traditionally seen as feminine work and has traditionally been undervalued for that reason. This is a chance to break with that historical unfairness and to finally give equal pay to women for an equal day's work.

More than two years ago the Federal Government was fully aware of the costings involved and signed an agreement to fund the outcome of the equal pay case of the Australian Services Union. It was with that commitment that the union commenced the equal pay case. We have never got that commitment from any New South Wales Government. Overall in the sector the funding is roughly 50:50 from the State Government and the Federal Government, although it may be slightly more from this State. Unless there is full Federal Government and State Government support for the cost impact of the equal pay case the principle of equality will be lost regardless of the legal outcome of the case before Fair Work Australia. Unless there is a commitment to funding at a State and Federal level, services in the sector will dramatically reduce because the cost impact of the wage increase will fall on the sacked sector employers and their clients. That will impact the female workers who this case is intended to assist.

Without that commitment to fully fund the equal pay case, the community and disability sector will be forced to reduce employee numbers or cut standards of care and limit the range of services it has traditionally offered to some of the most marginalised members of the community. This is not an academic debate; this is a real debate about real services provided by 200,000 hardworking women, and some men, across Australia for hundreds of thousands of Australians who need this caring and skilled work provided to them by the sector.

On 16 May this year Fair Work Australia accepted the case of the Australian Services Union. It is an historical change in the way the Federal industrial tribunal assesses equal pay cases. The tribunal has said it no longer needs a specific male comparator but will look at the structure, history and demographics of the industry. Based on those indicators, without the need for a perfect male comparator, the tribunal can determine whether an industry has unequal pay due to gender. It has looked at the community and disability sector in Australia and decided that it is undoubtedly historically underpaid by reason of gender.

That is what Fair Work Australia did on 16 May 2011. It is quite right that this House should do as the motion states and note that the case had that conclusion. Indeed, we should also do as the motion states and congratulate the Australian Services Union and the other unions involved in this case because it is a significant victory for workers in the social and community services industry. We should welcome this change in the way Fair Work Australia looks at equal pay. It has broadened the scope for equal pay cases. It will mean that further cases can be brought by other industries seeking gender equity in pay. That is a good, principled outcome. It is all thanks to the Australian Services Union and the other unions that had the courage and commitment to fund and run the case.

The rubber really hits the road at paragraph 2 of this motion, which calls on the O'Farrell Government to fully fund any resultant pay increases handed down by Fair Work Australia to compensate for the gender gap experienced by social and community services workers employed by non-government agencies. I read that motion as calling on the O'Farrell Government to fully fund its proportion and I am sure that is how the motion is intended to be read. Obviously The Greens support that. If there is a pay rise—and let us hope that pay rise happens sooner rather than later—to the extent that the State Government funds those services the State Government should fund that pay rise. That is clearly a matter that should be supported by this House. In November last year The Greens moved a motion seeking almost exactly the same thing. When Labor was in Government The Greens moved a motion to:

- (a) support the ASU's Equal Pay case before Fair Work Australia on behalf of community and disability sector care workers;
- (b) acknowledge the importance of the Equal Pay Case to address pay discrepancies;
- (c) increase funding to the Social and Community Services sector; and
- (d) commit to funding the outcome of the ASU's Equal Pay case.

Consistent with the approach of the Coalition, Labor opposed that motion. That is what The Greens have come to expect on equal pay issues from the Coalition. At least the Coalition has been consistent in that regard. The Coalition opposed that commitment to fully fund the Australian Services Unions equal pay case in November and it looks like it will oppose it again today. However, what did Labor do last year when it was in government? Did it support The Greens motion calling on the then Government to commit to the full funding of the outcome of the equal pay case? I note that Reverend the Hon. Fred Nile is here. He supported that motion. Gordon Moyes, Robert Borsak, Robert Brown and my Greens colleagues also supported it. But Labor joined together with the Coalition to amend the motion. Labor and the Coalition amended The Greens motion to gut the call on the Government to commit to funding the outcome of the case by the Australian Services Union.

Labor and the Coalition amended the motion in a generic and bland form simply to note that the New South Wales Government provides annual indexation to its funding to assist the sector to meet the cost of future wage increases. They were talking about a 2 per cent indexation; not the 30 per cent increase that is required to fully fund the wages. Labor members wanted to note a 2 per cent indexation and the Coalition joined with them and gutted the motion. Labor urged Fair Work Australia to have regard to equal remuneration and other conditions in New South Wales, but then noted that over the past three to four months the Keneally Government had engaged in intensive community consultation on the future direction of disability services—fine words, but not a commitment to funding.

Then Labor noted that the Premier had committed to making a funding announcement before the end of the year. Labor gutted the commitment to fund when it had the capacity to make the decision to put the money aside. When Labor had control of the Treasury benches it could have put the money aside and supported The Greens motion to fully fund the equal pay case, but instead it squibbed on it. The former Labor Government amended the motion and gutted any commitment to full funding. Now that Labor is in opposition and it does not have to put the money aside it comes up with the motion that The Greens wanted it to commit to when in government in November last year. We now join with Labor to support the very motion that we moved to fully fund this case when it was in government.

In handing down the budget this week the Coalition talked about having a very slender surplus two years from now. When the equal pay case was handed down in May, the Hon. Greg Pearce, the Minister for Finance and Services, announced there would be a \$998 million commitment over five years if the Government were to fund the case. There is no allowance in this budget to fund it. Not one dollar has been set aside by the Coalition Government to fund the equal pay case. Consistent with Labor before it, there are lots of highfalutin

words about equal pay and a statement of general principles, but when it comes to putting money aside in the budget to fund equal pay not a single dollar was put aside by Labor and not a single dollar has been put aside by the Coalition.

Two conclusions can be drawn from the Coalition not putting money aside in the budget to fund equal pay and both are equally damning of this Government. The first conclusion is that the Government will come good and fund equal pay in due course. Let us hope that is right. If that is the case and the Hon. Greg Pearce was honest about it costing \$998 million over five years, the great surplus the Government was trumpeting to the people of New South Wales when it handed down its budget just two days ago is not true; it is inaccurate. It cannot be, because the \$998 million that the Minister for Finance and Services said is required to fund the equal pay case will blow the surplus out of the water. There will be no surplus if the Government commits to funding the equal pay case and we can trust the figures given to us by the Minister about how much it will cost. That is the first conclusion: the surplus is untrue because there is a commitment to fund the equal pay case and we can believe what the Minister for Finance and Services said about the cost implications.

The second conclusion, which is perhaps even more damning of this Government, is that there is no commitment to fund the equal pay case. The Government is so committed to having a surplus and so committed to dealing with Moody's and having its triple-A credit rating that it is never going to put the money aside to fund the equal pay case. As soon as it meaningfully puts money aside to fund it the surplus will be gone. Is this Government really saying that it is willing to see this notional surplus in future years go in order to fund equal pay? The Greens firmly believe that this is a Government where the bean counters and those who are committed to triple-A funding are going to override the better angels in the Coalition—to the extent that they are there—who will be calling for equal pay.

The Hon. Melinda Pavey: We are here.

Mr DAVID SHOEBRIDGE: I hear one piping up from the backbench. They will be outnumbered. Both conclusions are damning of the Coalition. Either it will not fund equal pay and has not put the money aside to fund it or it will fund it and what it said to the people of New South Wales a couple of days ago about having a surplus in future years is simply untrue. The Greens are happy to support the Opposition's motion. It is unfortunate it did not put forward the same motion when it was in Government and had charge of the Treasury benches. Consistent with our position in November and our continual position on equal pay, The Greens call on the Government to fund the equal pay case and to fund this sector. We call on the Government to at least say how it will go about funding the equal pay case. What strategy does the Government have in place, because with no strategy and no plan it is looking very much like those hardworking men and women—those 200,000 workers across Australia and the thousands in New South Wales who do this quality work—will not get the equal pay they deserve.

The Hon. SOPHIE COTSIS [5.43 p.m.]: I congratulate my colleague the Hon. Amanda Fazio on her dedication, commitment and hard work in this area. She is not a Johnny-come-lately like some people. She and my colleagues the Hon. Helen Westwood and the Hon. Lynda Voltz have been campaigning for years and years. They have run many campaigns and have been at the forefront, particularly for many women in the Labor Party. They have worked hard to ensure that equal pay is on the Labor Party's agenda. The Labor Party is and always will be committed to fair and equal pay, particularly for women workers. This year 1 September was Equal Pay Day. Last year it was celebrated on 4 September and the New South Wales Labor Government organised a number of events. I note that this year no events were organised by this Government, which is a shame and a disgrace because there is a 17 per cent wage gap between men and women and it is growing. That is astounding. According to the latest statistics that affects billions of dollars of productivity in our economy.

A number of longitudinal studies have been conducted and will be conducted in the next few years to compare pay rates, particularly of women in low-paid sectors. When they reach retirement age they have minimal superannuation. Many women are about to embark on retirement over the next five to 10 years and it is very sad that their retirement funds will be between \$8,000 and \$15,000. That is shameful. It is something we must act on today. This Government should stand up for the social and community sector workers of this State and be bold and visionary. They should stand shoulder to shoulder with those workers. I note that the motion moved by my colleague the Hon Amanda Fazio states in paragraph (a):

... notes that on 16 May 2011, Fair Work Australia [FWA] ruled that the Australian Services Union [ASU] and its equal pay case partners proved that social and community service workers in the not-for-profit sector are underpaid and that at least part of the reason for that underpayment is gender ...

As members will know, in New South Wales there are 30,000 social and community service sector workers, 87 per cent of whom are female. A high proportion of them—about 60 per cent—hold a university degree. They have studied for three or four years. I have met a number of community sector workers in recent months who have two degrees. I met a community sector worker last week who had a doctor of philosophy degree. Do members know what she is earning? It is \$46,000. That is a disgrace. Someone in the finance or accounting sector, blokes who have PhDs, would be on a six-figure salary. This is a disgrace. We need to do something about it now.

The Hon. Dr Peter Phelps: I got less than that as a staffer.

The Hon. SOPHIE COTSIS: You cannot compare that with the work that these community sector workers do for the community. They underpin the fabric of our society and the most vulnerable in our society. They are the saviours; they are there night and day. They are there at 4 o'clock in the morning when unfortunately women in the community are bashed and violated and have nowhere to turn. Those women go to their local crisis centre or their local community neighbourhood centre, if it is a 24-hour service. Last week I talked to some community sector workers on Equal Pay Day when I visited the St George Migrant Resource Centre.

I also went to the Pole Depot Neighbourhood Centre at Penshurst, which has a number of programs that help youth in the St George community. The people there talked to me about a number of projects they are undertaking with business partners in the community. They know and the local community knows that if we have community sector workers at the coalface with the most vulnerable in our society we can save them in the long run. We can save these women, we can save the youth and we can save the most vulnerable. Community sector workers who look after people with disabilities do an amazing job. They go to people's homes to look after them.

Last Friday the Hon. Helen Westwood and I visited the Katoomba Neighbourhood Centre, the Blue Mountains Women's Health and Resource Centre, and Blue Mountains Family Support. We spent a day talking with and listening to community sector workers. One worker told us that the night before a family comprising a mother and father and two teenage kids was in crisis and had been evicted from their home. They had nowhere to go, no money, no clothes and no food. The only place they could get assistance was from one of these community resource centres. The community sector workers were able to reach out and get some crisis accommodation for them.

The workers talked about the increase in hidden poverty, families living in their cars and vulnerable young people. They talked to me about single women with small children, afraid to go back home and with nowhere else to go. The workers stand shoulder to shoulder with these women, but if they do not get this pay rise over the next four or five years those services will be cut. The workers are afraid of what will happen in the next few years. These people can coordinate any type of service at the drop of a hat. They work economically; they are good with budgets. They are involved in every aspect of their communities. In a civil democratic society it is our role to ensure that these people are paid accordingly, considering their professions and what they have studied.

We all know it is expensive to live in Sydney, Wollongong and the Hunter, where many of these workers live. It is difficult to live there on \$45,000 or \$50,000. Many start work, after completing a four-year degree, on \$35,000. In a number of professions, after gaining a four-year degree, workers would start at \$55,000 or more—much higher than in the community sector. Community service organisations are lucky to keep these workers after four or five years. There is a high turnover and that affects service provision. On 29 April 2011 National Disability Services provided a media release in support of social and community sector workers, which stated:

... the Chief Operating Officer of National Disability Services, Patrick Maher, today called on the O'Farrell Government to reconsider its submission on the Equal Remuneration Order (ERO) to Fair Work Australia and to express support for wage rises for low paid workers in the community sector.

Mr Maher said ...

"The O'Farrell Government has shown positive support for the disability and community care sector by committing to a five year plan, properly funded, to build capacity in the sector ... to ensure people not getting the services they need will have better

access, and to working towards the development of a national scheme designed to provide all essential support needed for all people with disability in Australia."

The release continued:

"We have been working closely with the Unions, State Government, Ageing Disability and Home Care and Employer Representative bodies to make sure we all understand the challenges around this issue and to understand that we must work as one to obtain an equitable outcome which does not penalise people with disability, their families and carers, and those who work to provide essential support.

Mr Maher went on to say that it is important to keep workers in this sector as they underpin and support those most vulnerable—people with disabilities and families in crisis. Some time in the future our families, our friends or our neighbours may have to access these services, whether it be for counselling, youth services or crisis services. We need to support these workers. I hope the Government reconsiders. This is an opportunity for the Premier and the Government to take these workers and the work they do seriously. I am happy for anyone from the Government to come with me and my colleagues when we continue our visits to community sector workers. I hope Government members take on the challenge and come with us to listen to what those workers have to say. They are amazing community people. The Government has the opportunity to be bold and to make a commitment to these social and community sector workers. I commend the motion. I thank other members for their support of the motion.

Debate adjourned on motion by the Hon. Dr Peter Phelps and set down as an order of the day for a future day.

MARINE PARKS AMENDMENT (MORATORIUM) BILL 2011

Message received from the Legislative Assembly returning the bill without amendment.

ORICA PLANT INCIDENT

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 25 August 2011, documents relating to the chemical release from Orica Ltd, Kooragang Island site, received this day from the Director General of the Department of Premier and Cabinet, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

ADJOURNMENT

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [6.00 p.m.]: I move:

That this House do now adjourn.

DUBBO COLLEGE

Dr JOHN KAYE [6.00 p.m.]: In June 2011 the Minister for Education, Adrian Piccoli, decided to ignore the advice of the overwhelmingly majority of Dubbo's education professionals and the community. He announced, with no public consultation, that the Dubbo college model would be retained with the minor variation of moving year 10 to the senior college. Dubbo teachers and many members of the community are outraged and demanding that the decision be reversed.

The extensive professional experience of the hardworking teachers is being ignored completely. Dubbo College was established in 2003. It is the only public high school in the area. The college's Delroy and South campuses each offered years 7 to 9, and the senior campus offered years 10 to 12. Community concern with unacceptable academic standards, the drift to the private sector turning into a haemorrhage and poor retention rates led to the former Labor Government commissioning the Kennedy inquiry, which process extensively engaged teachers and the local community. The broad consultation was as comprehensive as it was intensive. The explicit advice of the community consultation report stated:

Any amended junior/senior campus model (such as the returning of year 10 to the junior campuses) will not resolve the divisive issues at the centre of this dispute.

The report clearly reflected the expert advice that the collegiate model was not working and could not be fixed without returning to a comprehensive model of three high schools offering years 7 to 12. High staff turnover is one major problem. To date, lack of opportunity for secondary teachers to teach across all years of high school has resulted in a high staff turnover. Multicampus teaching has not worked. High rotation of teaching staff

undermines student outcomes. The new model to be implemented will make no substantial contribution to reversing this trend. In general, academic outcomes have been in decline since the inception of the collegiate model. In 2009 Dubbo College's Higher School Certificate results in the band for below minimum standards for core subjects were 10 per cent compared with the statewide average of only 4 per cent.

According to National Assessment Program—Literacy and Numeracy test results, Aboriginal students at Dubbo College achieved on average lower results than their counterparts across all other parts of New South Wales. The collegiate model also has produced declining enrolments. Prior to the introduction of the collegiate model, enrolments in public schools in Dubbo were 2 per cent higher than the statewide average. In 2009 this figure was 4.8 per cent below the statewide average. Arguably community concerns about a range of issues affecting Dubbo College has driven up enrolments in private schools and decreased enrolments in the public system. Dubbo has three private schools—Dubbo Christian School, St John's College and Macquarie Anglican School. All have entered periods of sustained growth since the introduction of the collegiate model. The Kennedy report noted an increase in enrolments at these schools over the period that enrolments at Dubbo College have declined.

Increased subject choice was a major reason behind the implementation of the collegiate model in 2003. Despite the claimed advantages, students report myriad limitations in subject choice and availability. In response to the Kennedy commission's overwhelming findings, the previous Labor Government decided in October 2010 to partially abandon the model by creating one stand-alone years 7 to 12 school to complement the existing collegiate structure. South campus would become a separate years 7 to 12 comprehensive high school, while Delroy campus would remain with years 7 to 9 and the senior campus would remain with years 10 to 12. This was considered a step in the right direction for at least providing one comprehensive choice for the region, but it was an imperfect solution.

Even this small advance was abandoned in June 2011 when the current Minister announced the retention of the two junior and one senior high schools, with Delroy and South campuses extended to include year 10 alongside a senior secondary campus for years 11 and 12. The suggestion that three campuses will operate as one school by sharing resources and staff has been greeted with derision. Cross-campus teaching has not worked with teachers complaining of travel time burdens, and the loss of staff continuity and out-of-class access to students. The Government has justified its announcement by arguing that there are not enough students to support three stand-alone high schools. This is simply not true. If the drift to the Catholic and independent sectors were reversed, there would be more than enough students to run three comprehensive public high schools providing years 7 to 10. The hardworking teachers of Dubbo have been deserted by a Minister who does not talk to them and listens only to campus senior administration. It is time he started listening to the educational professionals and the Dubbo community and returned the three years 7 to 12 high schools to Dubbo.

AUSTRALIA NEW ZEALAND SCHOOL OF GOVERNMENT

The Hon. CATHERINE CUSACK [6.04 p.m.]: The Australia New Zealand School of Government is a unique educational institution dedicated to outstanding public sector leadership and policy development in the public interest. The Dean of the Australia New Zealand School of Government is Professor Alan Fels, AO—an outstanding Australian. The Australia New Zealand School of Government is a not-for-profit company established in 2002 with the vision of creating a world-leading educational institution that teaches strategic management and high-level policy to public sector leaders. It has 16 university and business school members and 10 government partners, including the New South Wales Government.

In July this year the Director General of the New South Wales Department of Premier and Cabinet, Mr Chris Eccles, announced the appointment of Mr Gary Sturgess, AM, as the Premier's inaugural Australia New Zealand School of Government Chair in Public Service Delivery at the University of New South Wales. Professor Fels and the Vice-Chancellor of the University of New South Wales, Professor Fred Hilmer, AO, issued a statement to welcome the initiative:

The establishment of this ANZSOG Chair reflects the high priority given to improving service delivery by the New South Wales Government and ANZSOG's growing interest in the challenges involved in the implementation of Government policies and the day-to-day operation of front line services.

The appointment of Mr Sturgess as an Adjunct Professor of public service delivery attached to the Australian School of Business at UNSW will provide a focused academic resource in this area. Over the next eighteen months, research will focus on the role of front-line managers in service delivery, the science of service design and the development of a customer service culture in public administration.

Mr Sturgess will work with the New South Wales Public Service Commission in the development of a research agenda that will be of practical value to policymakers and front line public servants. Prof Fels commented "this research will potentially have national application, and we are looking forward to Mr Sturgess' contribution to ANZSOG's national research and teaching agenda".

Eight ANZSOG Chairs have now been created at ANZSOG's member universities. Prof Fels commented "Mr Sturgess' work will be of interest to ANZSOG's other Government members and I will be seeking ways to make this work more generally available".

Prof Hilmer said: "This is a very significant appointment. Gary's breadth of expertise in the area of public administration will increase UNSW capabilities in this area, building on the work already being undertaken by the Centre for Social Impact. The new Chair will also enable UNSW to play a larger role in ANZSOG, of which we are a founding member."

I concur with those comments about this exciting initiative and appointment. I welcome Mr Sturgess's return to New South Wales, which will immeasurably strengthen the necessary reform agenda to make New South Wales number one again. On 27 and 28 of July I attended the Australia New Zealand School of Government annual conference in Sydney. The theme was "Putting Citizens First", which is very much in keeping with the objectives of the O'Farrell Government.

With the tenth anniversary of September 11 only days away, I will reflect on a conference workshop entitled "Dilemmas of engagement seriously empowering our community", which exposed me to an important anti-terrorism initiative being pursued by the Victorian police. New South Wales can gain insights and learn lessons from this initiative. The workshop presenter was Senior Sergeant Dr Joe Ilardi of the Victorian Police, and the innovative program is "Countering Violent Extremism". Its focus is preventative and the objective is to address causes of terrorism by diminishing the pool of potential recruits. Senior Constable Ilardi commented, "This is not a problem we can arrest our way out of."

The program seeks to identify people at risk of being radicalised at the pre-activism stage. The Victorian Police have extensively researched the characteristics of those at risk of recruitment—often young men experiencing an identity crisis, an identity shift, or developing an escalating pattern of violent behaviour. "Countering Violent Extremism" seeks to intervene to address the reasons for social disengagement, whether it is a young person who is falling through the cracks or a convicted terrorist who is at risk of reoffending. The program seeks to de-radicalise and disrupt ideological views that would otherwise become more entrenched. The police are immensely respectful and appreciative of the Islamic community's engagement in the initiative. They have enlisted Imams to address the ideas for debate and provide religious and social support to assist alienated clients to make the transition to their communities.

This engagement involves trust and information-sharing on a scale that is probably counterculture for most police forces. Imam workshops give insight into police operations to empower Imams and communities to play a proactive role. A major challenge is that a person suspected of terrorism is quickly ostracised by other members of their community who fear associating with known terror suspects. While this is understandable, it is vital that at-risk people not be further alienated. Victorian Police are finding it challenging to secure long-term commitments from communities due to local politics and old grievances. To elicit support and build trust and relationships, the project is making a heavy investment in time, research and patience. It is ambitious and expensive because they are trying to build social capital—something we all aspire to. That involves risks but the rewards that will come with success are simply enormous, such as diverting people away from radical action, including terrorism, by enriching their lives and offering worthwhile alternatives through community partnerships.

TRIBUTE TO SABINA VAN DER LINDEN-WOLANSKI

The Hon. LUKE FOLEY (Leader of the Opposition) [6. 90 p.m.]: I pay tribute to Sabina Van Der Linden-Wolanski who passed away on 23 June aged 84. Earlier this year I addressed the Jewish Board of Deputies luncheon club. A woman approached me and introduced herself. We chatted and she promised to send me her memoirs. They arrived a few days later along with a lovely note. Sabina Van Der Linden-Wolanski's autobiography *Destined to Live: One Woman's War, Life, Loves Remembered*, is an unforgettable story of suffering, survival and the human spirit. Sabina was born to Jewish parents in 1927 in Boryslaw in that part of Poland that today forms part of Ukraine. It was her fate as an adolescent girl to confront the worst manifestation of evil in human history. In August 1942 Sabina held her mother's hand until the Nazis separated them. Her mother was sent to the Belzec death factory where she and 5,000 other Jews from the same transport were gassed to death.

Sabina's book led me to the selection of stories, journalism and essays by the great Ukrainian writer Vasily Grossman—the Tolstoy of the Soviet era—that were published last year. Grossman's mother also was murdered by the Nazis. Grossman's *The Hell of Treblinka* was written in September 1944. It is probably the first detailed account of the systematic mass murder of Jews that has been published in any language. Grossman stared into the abyss and documented the structure and functioning of the Treblinka death camp based on the

reports of a handful of survivors. Grossman walked all over the camp just 13 months after the last transport of prisoners to the "conveyor-belt executioner block" occurred. The soil under Grossman's feet seemed to tremble. He then saw a mass of human hair on the ground. Grossman wrote:

And it feels as if your heart must come to a stop now, gripped by more sorrow, more grief, more anguish than any human being can endure.

While still a teenage girl, Sabina Van Der Linden-Wolanski's heart was gripped by more sorrow, more grief and more anguish than any human being should ever endure. Her father and brother built a bunker in the forest to hide her. Whilst Sabina hid, her father and brother were murdered by the Nazis—17 days before the Red Army liberated Boryslaw. Boryslaw's pre-war Jewish population was 15,000, but by the end of the war only a few hundred people had survived. Sabina was one of them: She was 17 years old and totally alone. In 1950 Sabina and her then husband came to Bondi, Australia, as assisted migrants. In 1967 she gave evidence in Germany at the trial of the former *schutzstaffel* officer who had ordered the killing of her father and brother. Sabina came face to face with the man's daughter. They talked and then corresponded for four decades. Sabina maintained that the children of killers are not killers.

Sabina lived in New South Wales for 61 years. She was a mother and grandmother, a successful businesswoman and philanthropist. In May 2005 Sabina Van Der Linden-Wolanski was invited to speak on behalf of the six million victims of the holocaust, including all holocaust survivors, at the opening of the Memorial to the Murdered Jews of Europe in Berlin. She said:

I am the only one of my family who survived. I am a witness to unbearable crimes against humanity. What have I learned from my bitter experience? I have learned that hatred begets hatred. I have learned that we must not remain silent and that each of us as an individual must fight the evil of racism, discrimination, prejudice, inhumanity. It has been the lot of our people to confront the worst manifestation of evil in human history, and yet our oppressors have perished and we have survived. And from this perspective we face our future, confident in the ultimate triumph of the human spirit over brute force.

Vasily Grossman wrote:

The power of life, the power of what is human in man, is very great, and even the mightiest and most perfect violence cannot enslave this power; it can only kill it. Life's destruction, even in our iron age, is not its defeat. We will say, "There has been no time crueller than ours, yet we did not allow what is human in man to perish". We preserve our faith that life and freedom are one, that there is nothing higher than what is human in man. This will live forever and triumph.

Sabina's life story is remarkable. Each one of approximately 15,000 holocaust survivors who came to Australia has a remarkable story to tell of survival and renewal. I extend my condolences to Sabina Van Der Linden-Wolanski's husband, children and grandchildren. May you find comfort among the mourners of Zion. May she rest in peace.

FATHER'S DAY

The Hon. PAUL GREEN [6.14 p.m.]: In the light of Father's Day last Sunday, I will speak about the role and value of fathers. Most of us would have certain thoughts about our fathers. My memory of the good times with my dad was catfishing up at Dingo Creek; we also did some shooting and land clearing. Probably our best time was playing cricket at twilight during daylight saving after having finishing milking the cows. Many of us think that our dads should be perfect, but when I became a father, no instruction manual was handed to me at the birth of my children by the midwife or the doctor.

In recent times for various political reasons, the role of fathers has been somewhat diminished. It was interesting that after the recent London riots the Prime Minister of England, Mr Cameron, stated that "a wake-up call" was needed. The British Broadcasting Corporation reported that Mr Cameron's list of what he believed had gone wrong in parts of England included schools without discipline, communities without control, and children without fathers. Mr Cameron stated, "The broken society is back at the top of my agenda." He further stated that people were "crying out" for the government to act. The evangelist Billy Graham said about the role of fathers in society:

A child who is allowed to be disrespectful of his parents will not have true respect for anyone.

He also said:

A good father is one of the most unsung, unpraised, unnoticed, and yet one of the most valuable assets in our society.

Indeed, the value of a good father as a role model has been recognised from ancient times to modern times. The ancient Greek poet Homer stated, "It is a wise child that knows his father." In the Middle Ages George Herbert stated, "One father is worth more than a hundred schoolmasters." Closer to our time, Mark Twain humorously stated:

When I was a boy of 14 my father was so ignorant I could hardly stand to have the old man around. But when I got to be 21, I was astonished at how much the old man had learned in seven years.

At times, the hustle and bustle, stress and expectations of modern-day life can interfere with fatherhood. Many dads feel they do not have enough time for family because of their work, not to mention the sometimes busy social lifestyle of our children. At times we have to resort to avenues such as Facebook to catch them on the run and send a quick message—probably like I do. I often send a little message saying, "I am proud of you and I love you", and signed, "Dad".

According to the Raising Children Network, Australian Bureau of Statistics show the average Aussie dad spends about four hours a day with his children—about two hours caring for his children and two hours playing or talking. The Raising Children Network further suggests that children whose dads are involved and interested in their lives are more likely to feel secure, confident and happy. Warmth and physical affection from fathers is associated with higher self-esteem and fewer social and emotional problems in children. A recent Australian survey found that while around 87 per cent of fathers found parenting to be significantly demanding, about the same number found parenting to be tremendously rewarding and fulfilling.

The Greek word for honour is "timao" which means "to honour, to have in honour, to revere, to venerate." It is the same word Jesus used when He said in John 8:49, "I honour my Father". In the light of Father's Day it is a good time to ask some questions: Are we honouring our fathers? As politicians, what are we doing to strengthen and support the role of fathers in our society? For those who do not or have not had a good experience or memory of their dad, every sitting day we acknowledge in the House our heavenly Father. I can vouch for His love being a great fatherhood standard to begin with. I have found His love to be totally trustworthy and very helpful. The kind of father I want my kids to remember long after I leave this earth is modelled on Him.

Recently I had a chance to visit my biological father. It was a rich moment after 40 years of his absence in my life. I was able to extend my forgiveness for what was barely memorable. We had a chat, said a prayer and I left on good terms. Forgiveness is a powerful thing. I would encourage anyone to extend this sort of forgiveness to their father if it is needed. Fathers are not perfect; they are just people journeying through life like you and me. Happy Father's Day, and may God bless our fathers.

KOKODA TRAIL

The Hon. CHARLIE LYNN (Parliamentary Secretary) [6.19 p.m.]: Since I first trekked across the Kokoda Trail 20 years ago, there has been much speculation about the official name of the native tracks that cross the Owen Stanley Ranges between Owers Corner and Kokoda in Papua New Guinea. While some veterans have used the term "Kokoda Track" since World War II, it became an issue of intense debate after former Prime Minister Paul Keating kissed the ground at Kokoda on the fiftieth anniversary of the campaign in April 1992. This was accompanied by much talkback noise about "trail" being an American term and "track" being the language of the Australian bush. This suited Keating's agenda for an Australian republic at the time. It also suited those in the Australian commentariat who harboured a strong anti-American bias. They have ensured that Kokoda Track has emerged as the more politically correct term.

The origin of the official name "Kokoda Trail" dates back to 1947 when an Australian Battles Nomenclature Committee was established to define the battles in the Pacific. Its final report in 1958 adopted Kokoda Trail as the official Commonwealth battle honour, which was awarded to 10 infantry battalions and the Pacific Islands Regiment. During its investigations it discovered that all the Australian Survey Corps maps printed in late 1942-43 named it the Kokoda Trail and that in 1932 the wife of a planter on the Sogeri Plateau had written a book about the mountain trail which she named *The Kokoda Trail*.

The Chief Minister of Papua New Guinea, Michael Somare, who was sworn into office on 23 June 1972, designated the name "Kokoda Trail" in Papua New Guinea's *Government Gazette* No. 88 of 12 October 1972 at page 1362, column 2, "Notice 1972/28 of the Papua New Guinea Place Names Committee". Today the official title "Kokoda Trail", as gazetted, is recognised by the national government of Papua New Guinea and

the Returned Services League of Australia which is the national representative body for ex-service men and women. A recent motion requesting the national RSL to lobby the Australian Government to have the Kokoda Trail renamed the Kokoda Track was defeated at the RSL national congress held in Dubbo on 14 and 15 September 2010. The name "Kokoda Trail" is also recognised by the Australian War Memorial, which is the custodian of our military heritage.

The Australian War Memorial adopted the name "Kokoda Trail" for its World War II galleries because of the official battle honours awarded in that name. That name is recognised by the official battle honours of all 10 Australian units who fought in the Kokoda campaign as well as the Pacific Islands. Stuart Hawthorne is the author of the most definitive history of the Kokoda Trail that was published in 2003 by the Central Queensland University Press, *The Kokoda Trail—A History*. Recently he wrote on the Australian War Memorial blog:

Exploration and development of the early parts of the overland route near Port Moresby began about 130 years ago. In this light, the campaign constitutes a very small part of the track's history (about a third of one percent) yet the importance ascribed to the WW2 period often assumes a considerably high significance. Of course the Kokoda campaign is very important in Australia on many levels but notwithstanding this, I often wonder whether the presumption that our Australian perspective displaces all others and borders on the arrogant.

Major General Kingsley Norris, Medical Director of the 7th Division during World War II traversed the Kokoda Trail more than any other person while setting up rest and dressing stations for the wounded. He wrote of it:

Time, rain and the jungle growth will eventually obliterate this native pad; but forever more will live the memory of weary men who have passed this way and ghosts of glorious men who have gone, gone far beyond the Kokoda Trail.

I accept that individuals of some units in Australia refer to it as the Kokoda Track. I am a board member of the Kokoda Track Memorial Walkway at Concord. I have no issue with references to the Kokoda Track in Australia because no-one could win an argument in Australia whether it should be "Track" or "Trail". However, in view of the impending seventieth anniversary of the War in the Pacific, I call on the Australian Government and government officials to respect the sovereign right of the independent nation of Papua New Guinea to name its own geographical features and to accept the combined wisdom of our wartime leaders by awarding battle honours in the name of the Kokoda Trail.

CENTRO PROPERTIES GROUP

The Hon. HELEN WESTWOOD [6.24 p.m.]: I believe it is imperative to speak out about injustice whenever we hear about it. This week I was appalled to learn of the lenient treatment that was handed out to a group of current and former directors of the debt-laden shopping centre owner Centro Properties Group for what can only be described as deceptive corporate behaviour. The level of tolerance for white-collar crime by our judicial system is absolutely deplorable. The group, which is commonly known as Centro, is an Australian company that provides retail property ownership and management services. It is a listed company, with securities traded on the Australian Securities Exchange. In a landmark Australian legal decision in June 2011, the Federal Court of Australia found that eight executives and directors of Centro breached the Corporations Act by signing off on financial reports that failed to disclose billions of dollars of short-term debt. Centro wrongly classified more than \$2 billion of debt as non-current in its accounts and it failed to disclose a \$2.8 billion debt guarantee that was used to buy a United States shopping centre portfolio.

Legal action was commenced by the Australian Securities and Investments Commission, which sued Andrew Scott, the former chief executive officer; Brian Healey, former chairman; Paul Cooper, current chairman; Romano Nenna, ex-chief financial officer; former non-executive directors Peter Wilkinson, Sam Kavourakis, Peter Goldie and Jim Hall. Jim Hall remains on the board. In short, the Federal Court found the current and former directors of Centro guilty of breaking the law by approving incorrect financial accounts. It was reported that losses incurred were over \$5 billion in share value—or, should I say, other people's money—almost causing the collapse of the company. It is incomprehensible that the penalties for such unlawful conduct are completely disproportionate to the crime and are grossly inadequate. What were the penalties imposed? One could hardly call them penalties.

Former chief executive officer Andrew Scott was fined a paltry \$30,000. This person was paid \$2.86 million in his final year at Centro, including 100 per cent of a performance bonus. It is likely that Mr Scott has purchased jewellery worth more than the amount he was fined. As Michael West wrote in a *Sydney Morning Herald* article "Centro sentence a crying shame", Mr Scott probably has bottles of wine in his cellar worth more than \$30,000. What happened to the other directors? Michael West, one of the few business writers to criticise

this judgement, wrote, "Well, they got off scot-free". It was deemed that the embarrassment they had suffered was enough. Investors lost billions of dollars. Some people lost their retirement incomes and suffered immense financial losses. Yet no financial penalty was imposed on those directors.

Let me put this in context. The directors were all paid fees of \$1.1 million that particular year, not to mention the \$2.85 million aggregate in fees over three years prior to the deception. They get to keep all of those fees. The court case cost taxpayers and shareholders in excess of \$3 million. To demonstrate the injustice, in his article Michael West made the comparison between a man who broke into his local club, stole 30 cans of alcohol, caused \$5,900 worth of damage and was jailed for 18 months. I am sure he would be willing to swap some jail time for a spot of shame. He no doubt would have fared a little better if he had shareholders to fund his legal team of Queen's Counsels. The distinction here is that the Centro case was a civil matter and the latter was before a criminal court. It demonstrates that the more money people have, the better they are treated by the judicial system.

Let me be clear why these Centro directors are celebrating their great escape. They would have received harsher penalties from the Australian Taxation Office for not disclosing information on their tax returns. The ramifications of their illegal actions have been far and wide. Many people have lost thousands of dollars. Ordinary Australians from all walks of life have been affected. Even the Federal Court judge, Ray Finkelstein, had to disqualify himself from presiding over any trial because of losses of almost \$20,000 that he incurred from Centro shares. Some people have lost their lifetime savings.

I can only hope that investors will receive some remedy from a class action commenced in the Federal Court against Centro Properties Group and its auditors PricewaterhouseCoopers seeking \$200 million in damages due to alleged deceptive conduct and breaches of continuous disclosure obligations. I sincerely worry about the message that this clear lack of penalty sends to the corporate world. It clearly says that directors, chief executive officers or chief financial officers who act deceptively and unlawfully in their corporate role and who cause losses worth in excess of \$5 billion can expect their penalty to be public embarrassment. That is injustice and it makes a joke of the legal system.

COMMUNISM IN AUSTRALIA

The Hon. Dr PETER PHELPS [6.29 p.m.]: I want to correct the record. Last night I said that two of Dr John Kaye's favourite songs were the *Internationale* and the *Red Flag*. That is incorrect. Dr John Kaye informs me that the *Red Flag* is one of his two favourite songs. He finds no appeal in the *Internationale*.

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

Motion agreed to.

The House adjourned at 6.30 p.m. until Friday 9 September 2011 at 9.30 a.m.
