

LEGISLATIVE COUNCIL

Wednesday 2 May 2012

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

The President read the Prayers.

ROAD TRANSPORT (GENERAL) AMENDMENT (VEHICLE SANCTIONS) BILL 2012

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

TRIBUTE TO MR ARTHUR BEETSON

Motion by the Hon. LYNDA VOLTZ agreed to:

That this House notes that:

- (a) Mr Arthur Beetson, the first Indigenous Australian to captain a national sporting team and a pioneer for Aboriginal athletes, passed away on 1 December 2011,
- (b) Mr Beetson started playing professionally in the Brisbane Rugby League competition in 1964 before joining the Balmain Tigers in 1966, and
- (c) Mr Beetson is often regarded as Australia's best ever forward, and played a huge part in revitalising the Queensland-New South Wales rivalry with the concept of the State of Origin.

WORKCOVER PROSECUTIONS

Production of Documents: Tabling of Report of Independent Legal Arbiter

Motion by the Hon. Adam Searle agreed to:

- 1. That the report of the independent legal arbiter, Sir Laurence Street, dated 17 April 2012, on the disputed claim of privilege on documents relating to an order for papers regarding WorkCover Prosecutions, be laid on the table by the Clerk.
- 2. That, on tabling, the report is authorised to be published.

LIONS CLUB OF SYDNEY

Motion by the Hon. MARIE FICARRA agreed to:

- 1. That this House notes that:
 - (a) on 8 February 2012, the Lions Club of Sydney held a special event in New South Wales Parliament House welcoming the International President of Lions, Dr Wing-Kun Tam, and to celebrate the inauguration of their newest club, Sydney Selective Inc.,
 - (b) the Lions Club of Sydney was established in 1952 to encourage people to serve their community and encourage high ethical standards in commerce, industry, professions, public works and private endeavours,
 - (c) among the attendees were Ruth Chong and Jonathan Yee who both received the Melvyn Jones Fellowships in recognition of their contributions to the community and Lions Club International,
 - (d) Ruth is a third generation Australian born Chinese from Gunnedah,
 - (e) among Ms Chong's many professional endeavours she has worked as a freelance press photographer and social editor for several publications, in addition to her small-business ventures with her husband in wholesale seafood, clothing and real estate,
 - (f) since 1979, Ms Chong has worked to assist Chinese immigrants leading to the founding of the Ethnic Communities Council,

- (g) for these efforts, Ms Chong was awarded an Order of the British Empire [MBE], becoming the first Australian woman of Chinese origin to receive this honour,
 - (h) in 1987, Ms Chong was awarded the Medal of the Order of Australia for her charitable activities and efforts in promoting multiculturalism in Australia, and
 - (i) Ms Chong also helped to establish the first Chinese Australian Lions Club in 1994.
2. That this House congratulates the Lions Club of Sydney for their efforts in promoting public service and the highest ethical standards of working professionals, particularly the work of Ruth Chong and Jonathan Yee for their contributions to the community, Lions Club International and the betterment of our society.

AUSTRALIAN SIKH GAMES

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:
- (a) the 25th Australian Sikh Games were hosted by Sydney from Friday 6 to Sunday 8 April 2012 at the Crest Sports Complex, Bankstown, and
 - (b) over 1,000 athletes from around Australia and other countries including New Zealand, Singapore, Malaysia and Indonesia attended.
2. That this House commends and congratulates the Organising Committee of the 25th Australian Sikh Games, comprising:
- (a) Avtar Singh Sidhu, President,
 - (b) Mohan Singh Dhanoya, Chairman,
 - (c) Amarjit Singh, Vice President,
 - (d) Sukha Singh, Vice Chairman,
 - (e) Ranbir Singh Atwal, Secretary,
 - (f) Michael Singh, Treasurer,
 - (g) Mohinder Singh, Assistant Treasurer,
 - (h) Talwinder Singh Gill, committee member, and
 - (i) Jarnail Singh Sidhu, committee member.

AUSTRALIAN MEN'S AND MIXED NETBALL REPRESENTATIVES

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that at the recent Australian Men's and Mixed Netball Championships held on the Gold Coast the following New South Wales players were selected to represent Australia at the 2012 Trans Tasman Men's and Mixed Netball Championships to be held in New Zealand:
- (a) Australian Open Team: Valance Horne and Roger Quayle,
 - (b) Australian Open Mixed Team: Brad Halton,
 - (c) 23 and under: Aidan Kelly, Steven Philpot, Matt Porter and Michael Zylstra,
 - (d) 19 and under: Tory Allen,
 - (e) Open Reserves (non touring): Brent Ferguson, George Hirst and Richard Bracken, and
 - (f) 17 and under (non touring): Josh Byron and Josiah Toft.
2. That this House notes the following umpires have been selected to officiate at the Trans Tasman:
- (a) Miss Clare McCabe: AA Badged Umpire,
 - (b) Mr Joel Owen: A Badged Umpire,
 - (c) Mr Chris Hall: A Badged Umpire, and
 - (d) Mr Stewart Ting: A Badged Umpire.

3. That this House notes that Mrs Dallas Horo has been selected as Manager of the Australia 23 and under team.
4. That this House congratulates and commends players and officials selected to represent Australia at the 2012 Men's and Mixed Netball Trans Tasman Championships to be held in New Zealand.

NATIONAL CYSTIC FIBROSIS DAY

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House acknowledges that:
 - (a) 25 May 2012 is National Cystic Fibrosis Day, a time to raise awareness and support for the families, patients and organisations that are bravely fighting this terrible disease,
 - (b) Cystic Fibrosis New South Wales is a leading organisation for cystic fibrosis [CF] awareness, support, advocacy and research,
 - (c) Cystic Fibrosis New South Wales is a national not-for-profit organisation founded in 1967 with a mission of improving the quality of life for people living with this disease and supporting education and research for a cure,
 - (d) cystic fibrosis is one of the most life threatening, recessive genetic conditions affecting Australian children,
 - (e) symptoms may include poor weight gain, troublesome coughs, repeated chest infections, salty sweat and gastrointestinal complications,
 - (f) cystic fibrosis is a genetic condition that affects several different organs in the body, particularly the lungs and pancreas, by clogging them with thick, sticky mucus,
 - (g) repeated infections and blockages may lead to irreversible lung damage and death,
 - (h) infections of the pancreas have the potential to prevent the release of enzymes needed for the digestion of food,
 - (i) cystic fibrosis is an inherited condition from a child's parents who only need to be genetic carriers of cystic fibrosis, but not necessarily have cystic fibrosis themselves, and
 - (j) there is no known cure for cystic fibrosis, but with the support of organisations like Cystic Fibrosis New South Wales, doctors and researchers are exploring new ways of repairing or replacing faulty genes.
2. That this House congratulates the fine work undertaken by Cystic Fibrosis New South Wales in supporting patients and their families through advocacy, fundraising and research, and thanks the organisation for its commitment to medical research and the betterment of our society.

AUSTRALIAN MEN'S AND MIXED NETBALL CHAMPIONSHIPS

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that at the recent Australian Men's and Mixed Netball Championships:
 - (a) the New South Wales Open Mixed Netball Team were runners-up and consisted of: Fran Liddle (Co-Coach), Genevieve Page (Co-Coach), Michelle Aladini (Manager), Catherine Kennedy (Captain), Brad Halton (Vice Captain), Eliza Long, Andrew Rayner, Kacy Mazzini, Anthony Tucker, Nathan Ryan, Megan Arndell, Dianna Haggerty, Andrew Kennedy, Belynda Loveday, Nadja Kundrus-Litte and Anthony Scoon,
 - (b) the New South Wales Men's Open Reserve Team were runners-up and consisted of: Kelli Douglas (Coach), Robyn Hayward (Manager), Richard Bracken (Captain), George Hirst (Vice Captain), Thomas Horo, Brent Ferguson, Reg Maynard, Tim Wotherspoon, Marcel Verdi Crus, Tusyan Lawless and Clint James, and
 - (c) the Umpires that officiated at the Championships were: Maureen Stephenson, OAM, (Director of Umpiring), Clare McCabe, Joel Owen, Chris Hall, Stewart Ting, Deborah Seiler, Elle Bonasia-Hamilton, Kylie Brown, Sean Steel, Cheryl Van Drummell, Lesley Musch, Amy Winchcombe, Deborah Tapper, Lisa Harm, Allison Davidson, Sue Floro, Kylie Pearce, Ian Thomas, Laura Hay, Kim Cullen, Brian Cooper, Tracey Luck, Clare Sonter, Zac Dawes, Felicity Mears, Tamara Gibson, Stephanie Wilson, Philip Axsel, Yvette Mackay-Paine, Mark Cockerell, Sue Holden, Vicki Harding, Amy Brook, Denise Dawson and Linda Gilboy.
2. That this House:
 - (a) commends the outstanding work carried out by the Sunshine State Men's and Mixed Netball Association and those that assisted with the organisation of the Championships, including Carolyn Sweet, Tamara Holcroft, Ray Holcroft, David Mills, Allyson Atkins, Karen Newman, Sharon Arnold, Casey Papa-Coombes, Jaz-Marie Menzies and Anabelle Wessling,

- (b) commends the Australian Men's and Mixed Netball Association Executive for their continued outstanding service to men's and mixed netball, including Grant Crocker (President/Treasurer), Tahli Shields (Vice President), Kelli Douglas (Secretary/International Director), James McCallum (Domestic Director), Maureen Stephenson, OAM, (Director of Umpiring) and James Morrison (Public Officer), and
- (c) congratulates and commends all players and officials for their hard work and achievements at the 2012 Australian Men's and Mixed Netball Championships.

UNIVERSITY OF SYDNEY COCKATOO WING-TAGGING PROJECT

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:
 - (a) the University of Sydney is currently undertaking a project assessing population size, site loyalty and movements of urban sulphur-crested cockatoos, known as *Cacatua galerita*, aiming to increase understanding of the ecology of these native birds, ensure the conservation of these birds and their habitat into the future, and promote the importance of urban wildlife within cities,
 - (b) Mr John Martin from the Royal Botanic Gardens and Domain Trust, Mr Adrian Davis from the University of Sydney and Dr Charlotte Taylor from the University of Sydney commenced the project in October 2011,
 - (c) attaching individually numbered tags to the birds enables the scientists to assess the population size of the flock within the Royal Botanic Gardens, their loyalty to the site and their movements within, and potentially beyond, the Sydney region, and also investigate breeding behaviour,
 - (d) despite being large in number and having an affinity for human interaction, there is little scientific information known about the sulphur-crested cockatoo, particularly within urban environments,
 - (e) early data suggests that site loyalty to the Royal Botanic Gardens seems to be high, the majority of the cockatoos are frequently sighted within the gardens or in the surrounding suburbs of Potts Point and Woolloomooloo, several cockatoos are regularly seen in Mosman and there have also been reports of sightings from Revesby and Como,
 - (f) this is the first project ever undertaken in tagging and monitoring sulphur-crested cockatoos in Sydney and to date, 33 sulphur-crested cockatoos have been tagged and released within the Royal Botanic Gardens, there have been over 400 community reports via the project's dedicated email address and Facebook page, and an iPhone application of their movements has recently been developed, and
 - (g) there is overwhelming community interest in the project which currently has over 880 members of the community following the progress of the cockatoos via Facebook and the phone application.
2. That this House commends Mr John Martin from the Royal Botanic Gardens and Domain Trust, Mr Adrian Davis from the University of Sydney and Dr Charlotte Taylor from the University of Sydney for their initiative and work with this excellent scientific project to protect these birds and their habitat.

PHOTOGRAPHS OF LEGISLATIVE COUNCIL

The PRESIDENT: I inform members that a photographer will be present in the Chamber from 2.30 p.m. to take photographs for education purposes and for use in official publications of the Legislative Council.

UNPROCLAIMED LEGISLATION

The Hon. Greg Pearce tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 1 May 2012.

WORKCOVER PROSECUTIONS

Production of Documents: Disputed Claim of Privilege and Report of Independent Legal Arbitrator

The Clerk tabled, pursuant to resolution, a report of the independent legal arbitrator dated 17 April 2012 on the disputed claim of privilege on papers relating to WorkCover prosecutions.

PRIVILEGES COMMITTEE

Report: Citizen's Right of Reply (UNSW)

The Hon. TREVOR KHAN [11.12 a.m.]: I move:

That the House adopt report No. 60 of the Privileges Committee entitled "Citizen's Right of Reply (UNSW)", dated April 2012.

Dr JOHN KAYE [11.13 a.m.]: I thank the University of New South Wales for putting its case on the record in this way, but I make the following important observation: senior management at the University of New

South Wales still refusing to acknowledge that the way in which they victimised Professor Paul Barach after he spoke the truth about the son-in-law of the vice-chancellor not only is deeply unjust but also exposes a culture of bullying and nepotism amongst the senior ranks of the university. I will address in detail each of the 12 points raised by Ms Carol Kirby on behalf of her employer, the University of New South Wales.

In each point the facts as revealed in documents uncovered either as part of the protracted court actions between Dr Barach and the university or uncovered by freedom of information and Government Information (Public Access) applications and in the lengthy court cases show that the university is being less than truthful about its dealings with Paul Barach and the matters surrounding Vice-Chancellor Fred Hilmer's son-in-law Andrew Macintosh. In each point the university is either twisting the truth to protect the reputation of its senior officers or simply posing untruths. I have no objection to the motion before the House and The Greens will support it. It is the right of every citizen and organisation to have their case heard. But this should not be an opportunity for the university propaganda machine to yet again defame Paul Barach and disguise its own malign actions in respect of him.

Members will recall the basic case outlined in my adjournment speech of 22 November 2011 to which the university is seeking a right of reply. In late November 2008 complaints began to surface in respect of Associate Professor Andrew Macintosh and the management of the Children's Gait Laboratory at the University of New South Wales which served as a research facility shared with Sydney Children's Hospital and the Children's Hospital Westmead, and importantly provided the only State-supported motion analysis service for children with cerebral palsy that informed subsequent surgical interventions in New South Wales.

The nature of some of the allegations was extremely serious. One related to the failure to secure informed consent from patients and their carers for the use of their data for research purposes. Another was the absence of appropriate ethical approval for research involving patients, including children. Third was the absence of child protection certification as required under part 7 of the Commission for Children and Young People Act 1998. Fourth was the personal behaviour of and in particular bullying by Associate Professor Andrew Macintosh raised by Sydney Children's Hospital and Children's Hospital Westmead clinicians, University of New South Wales students and employees of the laboratory.

In late 2008 then acting head of the School of Risk and Safety Science, Professor Paul Barach, responding to the request of then dean of the Faculty of Science, Mike Archer, conducted an investigation which he reported on in writing to the Deputy Vice-Chancellor of Research, Professor Les Field, on 10 Feb 2009. On 19 May 2009, after three months of inaction on the matter, Paul Barach wrote again to Professor Archer. On 2 June 2009 Paul Barach was told of protected disclosures raising issues of his own fitness to serve. Then on 22 June 2009 he was dismissed by email. Since then Paul Barach has sought relief through court action.

At item 1 of the university's reply to my original speech the university denies having sacked Paul Barach because he dared to speak the truth about the vice-chancellor's son-in-law. Instead it reiterates the claim that the employment of Paul Barach was terminated on the basis of his being "not a suitable person" to hold a senior office at the university in that he provided inaccurate information in his July 2007 job application and subsequent grant applications in respect of his qualifications, employment history and publications.

Dr Barach holds a doctor of medicine [MD] qualification from the Hebrew Hadassah Medical School, an extraordinarily well-respected institution which does not hand out qualifications as a doctor of medicine lightly. It is a degree with a substantial research component, which in Dr Barach's case resulted in a number of refereed publications in international journals. In every aspect the qualification is the equivalent of or superior to many PhDs from both American and Australian universities. A typographical error in an Australian Research Council application prepared by Paul Barach's assistant and later missed at the checking stage by Paul Barach—and by University of New South Wales officials at the research office charged with double-checking applications—listed his qualification as a PhD, doctor of philosophy. Subsequently in the same application he referred to his qualification as a doctor of medicine several times.

Clearly, there was no intent to deceive the grants agency; nor was there anything to be gained from doing so. The error is minor and, given the life of a busy international highflyer like Paul Barach, quite understandable. Paul Barach was overseas and representing the university when the application was submitted. The university makes menacing references in its response such as, "In grant applications to the ARC and the NHMRC, he claimed appointments variously as professor and visiting professor at the University of South Florida, which was false."

On 18 June 2009, which is before the final termination of the employment of Professor Barach, at the request of Paul Barach and in response to the University of New South Wales notice of intention to dismiss him, Professor Jay Wolfson, who is the associate vice-president of health, law and policy and safety at the University of South Florida, wrote the University of New South Wales Deputy-Vice Chancellor—Academic, Richard Henry, a 3½ page letter outlining the involvement of Paul Barach with the University of South Florida. The letter details a number of different appointments. Many of them are at the rank of professor. The letter states, "Dr. Barach's research professorship was a real position in that he is participating in specific research and programmatic responsibilities that are expressly articulated in federal and state grants and contract proposals and for which compensation was afforded consistent with the time he was assigned to funded projects." In other words, a senior official of the University of South Florida told the University of New South Wales before it dismissed Paul Barach that indeed he did hold a real position as a professor.

In 2007 Paul Barach was told by the deans of the school of medicine at the University of South Florida that he would be promoted to the rank of professor in the faculty of medicine at the university. Professor Wolfson glowingly referred to Dr Barach's contributions to the field of shared research and to the University of South Florida. The university made similar claims in respect of Professor Paul Barach's relationship with the university medical centre at Utrecht. They likewise are disproved by letters of 18 June from Professor M. F. Miedema, the dean of the faculty of medicine, and from the professor of anaesthesiology, Cor Kalkman, on 21 August 2009.

The University of New South Wales also claims that Paul Barach "included in his curriculum vitae at the time of his appointment to the University of New South Wales and in grant applications to the ARC and the NHMRC claims of authorships of certain books". As far as I can ascertain, this relates to one publication cited in Paul Barach's 62-page curriculum vitae dated 10 July 2007 as "TeamSTEPPS: Team Strategies and Tools to Enhance Performance and Patient Safety, CD/DVD, Curriculum Kit, AHRQ Publication No. 06-0020-3, 2006". Nowhere in that citation does Professor Barach quote himself as an author of the publication. He identifies the publication as being by TeamSTEPPS, not himself.

A letter to the university dated 30 June 2009 from Heidi King, who is the acting director of the Patient Safety Program for the Department of Defense and program manager for the health care team coordinator program, identified Dr Barach as "instrumental in the development of TeamSTEPPS" and "an integral member of the original team". Her letter points out that Paul Barach is identified in the material as a contributor to TeamSTEPPS. In other words, Professor Barach did not identify himself as an author.

It is clear that Paul Barach was not identifying himself as a sole author or even as a named author but, rather, as part of a team that became TeamSTEPPS and that authored the document. The University of New South Wales has wilfully chosen to ignore the reality of modern collaborative research, of which it should be acutely aware, in which many investigators contribute to large projects. The absence of Paul Barach's name as an author was on display when the university recruited him, based on the same curriculum vitae, yet the university went ahead with the appointment. It was not an issue then. The question that the university has not addressed is: Why did it become an issue 18 months later and several weeks after Paul Barach brought to the attention of Richard Henry, the Deputy Vice-Chancellor—Research, serious concerns about Andrew McIntosh?

There are no grant applications by Paul Barach of which he was the lead or chief investigator that contained any of the purported errors because he supervised the entire production and was responsible for it. In each of the cases relating to the degree, the publications and the positions the university has manufactured a case from either a minor typographical error or minor confusions of titles across different academic traditions, or the complexity of collaborative work. In each case the university has abandoned any pretext of objectivity to rely on evidence that does not in any reasonable sense support the conclusion that "he was not a suitable person to hold a senior position" within the university. It becomes an inescapable conclusion that Paul Barach was victimised because he dared to speak the truth to powerful people and to criticise the son-in-law of the vice-chancellor: thus he offended the ruling clique that runs the University of New South Wales. In particular, why has Barach never been given a fair hearing by the university? Why was the fact that the evidence had been evaluated by his direct supervisors and two deans completely ignored?

Point 2 of the university's submission notes that, "The Vice-Chancellor had no role in any decision-making process regarding Andrew McIntosh." At no stage have I suggested that Professor Hilmer played any direct role—but what I did say, and what is absolutely true, is that those about him who are deeply loyal to him, including Professor Richard Henry, most certainly did suggest that. This is the Murdoch defence and it does not wash. Hilmer is a powerful man and those about him know his wishes even if he did not express

them directly. The recent events at the University of Queensland, where the vice-chancellor and deputy vice-chancellor were removed, bear out the powerful influence of vice-chancellors in undermining due process when that is done in an underhanded manner. It stretches belief beyond its elastic limits to suggest that there was no malice in the termination of Paul Barach and no favouritism in the treatment of Andrew McIntosh, the vice-chancellor's son-in-law.

The university refers to "an independent external investigator, who made no finding of misconduct" in respect of Andrew McIntosh. Continually throughout the document the university relies on that independent external investigator. The identity of the reviewer, his or her terms of reference and the report itself remain a secret document, despite requests for the analysis to be shared. References to it are meaningless unless it is put in the public domain, where it can be tested against the known facts. The publicly available evidence in respect of Professor Andrew McIntosh makes a compelling case that the gait laboratory was poorly managed and that many important laws of this State and policies were completely disregarded. That has put patients and the community in harm's way. It is now clear that the first time that any employee of the gait laboratory received clearance from the police to work with children—children were clad only in underwear or swimmers—was on 17 June 2009, which was 15 days after Paul Barach was notified of the complaints against him, and 10 long years after the laboratory started operations. For 10 years care was provided to those children in violation of the laws of New South Wales.

The relationship between Andrew McIntosh and clinical professionals from Westmead and the Sydney Children's Hospital was addressed in an independent report by Richard Baker, who is the National Health and Medical Research Council [NHMRC] practitioner fellow in the musculoskeletal disorders team at the Murdoch Children's Research Institute, and Professor Peter Milburn, who is the head of the school of physiotherapy and exercise science at Griffith University in Queensland. On 23 June 2009 they reported to the university. The terms of reference were extremely narrow and did not go to the matters of child protection. However, in the report Milburn and Baker addressed the breakdown of professional relationships that had characterised the operation of the gait laboratory under the supervision of Andrew McIntosh. They concluded, "... the reviewers do feel that a disproportionate component of the problem lies in the attitudes and behaviour of Associate Professor Andrew McIntosh". They recommended in recommendation 3.4:

That the UNSW give serious consideration to whether Associate Professor Andrew McIntosh is now an appropriate person to represent their interests in relationship to this collaboration.

Even given the report's own very narrow terms of reference, it is deeply scathing of Andrew McIntosh. The university also suggests that the vice-chancellor played no role and stated:

The complaints process involving Andrew McIntosh was overseen and endorsed by the Chair of the Audit Committee of Council.

It must be noted at this point that the chair referred to is a longstanding member of that council, and not an independent expert. I do not seek to cast doubt on that individual, but it is simply not good enough to suggest that probity in a matter relating to the son-in-law of the vice-chancellor can be dealt with by a member of a council that clearly is dominated by Professor Fred Hilmer and his allies. Point 3 of the university's claims states that the matter was reported to council, which, "resolved to not intervene." I would have thought the Government Whip, as a former academic, would be interested in these matters but clearly he was the type of academic who turned his back on injustice when it occurred.

The PRESIDENT: Order! I advise the member to ignore interjections, which are disorderly at all times.

Dr JOHN KAYE: I will take your advice, Mr President, and I appreciate it. The matter the university resolved not to intervene in involved the loss or potential loss of millions of dollars of university resources, including the \$1 million invested in the gait laboratory; the millions invested in the Injury Risk Management Research Centre, to which Barach was recruited as the international star to run and which was shut down in 2010 to cover up the malfeasance of Andrew McIntosh; and the estimated \$1.5 million subsequently spent on stopping Paul Barach having a fair go. As of today, the University of New South Wales has lost six Supreme Court hearings against Paul Barach and is yet to file a defence. It even hired a private investigator to dig up dirt on Paul Barach and made assertions that he was stealing money, kidnapping his son and yet more salacious falsehoods that do not bear repeating.

Mr David Shoebridge: All with public money.

Dr JOHN KAYE: As Mr David Shoebridge says, all using public money. It beggars belief that the council decided not to intervene. The University of New South Wales council has been derelict in its duties. Based on reports I have seen, there was no debate and attempts to raise the matter were given extremely short shrift by the vice-chancellor and the chancellor, David Gonski, and those who support him. At point 4 of the university's rebuttal the university denies, as I alleged in November, that:

Senior academic managers, including Professor Richard Henry, acted to protect Associate Professor McIntosh ... Instead they colluded to smear and victimise Dr Barach.

In a letter dated 29 September 2009 and marked "Strictly private and confidential" the executive director of university services, Mr Neil Morris, engaged the services of a Miami private investigator, Harold Karaka, in the matter of Paul Barach. The letter was only uncovered as part of subsequent court hearings. The clear intention was to dig up dirt on Professor Paul Barach for the purposes of smearing his reputation. A private investigator would not be required to sustain the official University of New South Wales accusations made against Paul Barach in respect of his qualifications, his former academic position and his publications. These are all matters of public record and should be dealt with and dismissed by an independent inquiry.

It is noteworthy that more than a dozen academics at the university—including Paul Barach's direct bosses, Professor Mike Archer and Professor Dawes, chair of the Injury Risk Management Research Centre board, Gillian Calvert, and many other eminent professors from overseas—sent pleas to both the vice-chancellor, Fred Hilmer, and the chancellor, David Gonski, to demand an independent investigation. In contravention of University of New South Wales policies, Professor Richard Henry chose to make a decision by himself, ignoring these requests. The sole purpose for engaging a private investigator on a strictly confidential basis can only be a smear. It is a misuse of the university's resources and public money to pursue a vendetta against an extremely fine academic. Clearly, after it sacked Professor Barach the university was trying to dig up dirt to smear his reputation after the event in order to justify its witch-hunt against him.

At point 5 the university makes the claim that Mike Archer was not dismissed as the Dean of the Faculty of Science. Indeed, Mike Archer did stand aside in the context of a review of the Faculty of Science. I note the Faculty of Science was the only faculty at the University of New South Wales to be reviewed. As he stood aside, he stated that his desire was to allow his successor a free hand to implement the findings of the external review of the Faculty of Science. However, this also occurred in the context of his public support for Paul Barach and his concerns in respect of the allegations against Andrew McIntosh. It is impossible for the university to escape the implication that Fred Hilmer was looking for a more compliant dean who would not question either resourcing the Faculty of Science or the university's processes with respect to Andrew McIntosh and Paul Barach. Mike Archer had been investigating Andrew McIntosh for many years in respect of bullying complaints. Despite their severity—including one student, Deb Vickers, complaining in 2009 about danger to her personal safety—no action was taken by the university to address these serious complaints. If Professor Archer had not been a strong supporter of the rights of Paul Barach, he would probably still be dean today.

At point 6 of the university's rebuttal it relies on the Baker and Milburn reports, but these two reports do not exonerate Andrew McIntosh—in fact, as stated previously, they recommend that he be stood aside at least in respect of negotiations with the hospitals and clinicians. University management continues to deny the reality of the gait laboratory and the unconscionable breach of law and policies that occurred there under the directorship of Andrew McIntosh, including denying basic services for hundreds of children with cerebral palsy between 2009 and 2010. There is no doubt that if Andrew McIntosh had not been the son-in-law of a very powerful vice-chancellor, his failure to protect the children in his laboratory, to secure and deal appropriately with the data, and to obtain appropriate consent for research use of the data would have been comprehensively investigated within broad terms of reference.

At point 7 the University of New South Wales relies on the secret report of the investigations of Andrew McIntosh conducted under secret terms of reference by a secret investigator. The Baker and Milburn investigations recommend that Andrew McIntosh be stood aside at least within the context of representing the university. That is all they could find given their terms of reference, which were watered down by Richard Henry. But an inquiry with a broader scope would have certainly made stronger recommendations. At point 8 the university refutes my allegation that there is evidence that results were altered and records were not kept in an appropriately secure environment. In doing so, it relies on the Baker and Milburn investigations, which find at recommendation 2.3:

Clinical gait analysis data should be removed from UNSW computers after capture and transferred to hospital facilities. Equally of concern is the storage of video images of young patients being kept at the laboratory at UNSW. These images should be stored in the hospital along with the data.

Recommendation 2.4 states video images obtained during clinical gait analysis should be removed from the University of New South Wales facility and transferred to hospital facilities. The university admits that data was altered without appropriate guidelines and that there is a clear medico-legal issue if it cannot be guaranteed that the data on which the clinical decision-making was based is no longer available in its original form. It is extremely clear that, even with the reports on which the university was relying, there were severe issues at the university's gait laboratory regarding the storage of data and treatment of young children. Bear in mind that many of these issues involved young children walking about in underwear and swimwear. It is a matter of grave concern that the university was alerted to these allegations and did nothing in response, other than to sack the whistleblower, the investigator, who was prepared to raise these issues.

The ninth point relates to the possibility of misleading medical diagnoses of children. The university said that Andrew McIntosh was the director of the laboratory and the errors were made under his supervision. He has to take responsibility for those errors. The university said further that the time lapse since the laboratory was shut down makes it difficult to determine exactly what damage was done, but that it was clear that the possibility exists. It is extremely callous of the university to absolve itself of responsibility. In point 10 the university states that it is not its fault the laboratory was shut down, and washes its hands of any responsibility. The university's failure to deal with the allegations when they surfaced has left the State without these services and puts hundreds of children and their families in harm's way. In response to the university's eleventh point, I have to admit to making a mistake in my comments in November. I said:

The day after the review was returned the university responded by sacking Dr Barach on trumped-up charges that he had falsified one element of two grants.

That is not correct; it was two days after the review was returned that the university responded by sacking Dr Barach. I apologise for being out by one day. The important point remains that the university admits that protected disclosures were made in May and June 2009 regarding Professor Barach. It is clear that a person or persons went through Paul Barach's curriculum vitae and records in fine detail looking for minor typographical errors. Indeed, they found one typo and manufactured other errors—yet, even if accepted as errors, they would not constitute misconduct by the University of New South Wales own code of conduct or that of the National Health and Medical Research Council, and would not be grounds for summary dismissal.

It becomes even more interesting. In my original presentation in this Chamber I was not aware that on 20 September and 1 October 2010 testimony to Fair Work Australia revealed that Professor Raphael Grazbieta, who reported to Barach and was the unsuccessful applicant for Professor Barach's position as Director of the Injury Risk Management Research Centre, made the protected disclosure in respect of Paul Barach. More importantly, in developing that protected disclosure he consulted with Andrew McIntosh. These are the clear ingredients of a conspiracy: The vice-chancellor's son-in-law and a disaffected applicant for Paul Barach's job conspired to manufacture evidence against Paul Barach. This is a clear case of playground payback.

The last point in the university's response states that the university has no campaign of intimidation; that it was not running a campaign of intimidation against those who speak out for Paul Barach. However, Mike Archer's evidence from Fair Work Australia on 1 October 2010, which the university claims I misrepresented, tells a different story. I shall read that evidence so there can be no mistake. In point 12 the university says that it is not running a campaign of intimidation and suggests that in my November 2011 speech I quoted out of context the evidence of Mike Archer. To clear up the record I shall read the evidence given by Mike Archer on 1 October 2010. Mr Archer was asked:

Has anything else been said to you from representatives of the university about what might happen if you gave evidence in the proceedings?

These are proceedings taken by Professor Barach against the university. Mike Archer said:

There was a comment—I don't think anybody's happy about this, but I haven't made a secret of the fact that I have really been very supportive of Paul and the way he's operated. It was suggested to me by one senior person in the university that the university lawyers might, their words were, "tear me apart".

Professor Archer is saying that if he gave evidence supporting Paul Barach, he would be torn apart by the university's lawyers. Under further cross-examination Archer admitted that the threat came from none other than the Deputy Vice-Chancellor Research, Richard Henry, the second-most powerful member of the university administration who reports directly to vice-chancellor Fred Hilmer. The university has failed again to defend itself from the charge that it ran a campaign of bullying. It is clear from the evidence I have presented today, all of which is on the public record, that the university has committed three major misdemeanours. They are more than misdemeanours; the university has committed three major travesties against fair behaviour.

The first is a campaign of bullying. The direct evidence of that comes from Mike Archer. The second is the way the university dealt with Paul Barach. Because he dared to do his job as an academic should—that is, fairly and without fear or favour—and uncovered and reported on the activities of Associate Professor Andrew McIntosh, he was rewarded by being sacked. The third is the university's persistent failure to deal with the vice-chancellor's son-in-law, Andrew McIntosh, despite a range of complaints against him. This matter goes way beyond just Paul Barach and the University of New South Wales. This matter is about a culture of bullying, an abuse of power and a cover-up that has left a stain on the University of New South Wales.

The way forward is for the university to reinstate Professor Barach and admit the error. The facts show that the university has made a terrible, shocking and malicious error. The university could create an independent investigation of its own processes and failure to deal fairly. If this matter is not cleared up, the implications go well beyond just the University of New South Wales; indeed, they stretch into the heart of Australian society. Are we a society where people can speak the truth and expose wrongdoings when they uncover them? Is this a society in which people can, without fear of retribution, talk truly and fairly about what is happening in their institution? Or will we become a society that inherits the worst aspects of dictatorships, where fear of power shuts down criticism of those who are close to power? It is extremely important that this matter be resolved fairly, openly and honestly. The university is not doing so. This response from the university does not go any way towards explaining its appalling behaviour. The Greens will not oppose the motion.

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

Motion agreed to.

Pursuant to standing orders the response of the University of New South Wales was incorporated.

The University of New South Wales makes this response to statements made by Dr John Kaye on 22 November 2011 in the Legislative Council, relating to the termination of Paul Barach's probationary employment at the University.

At no stage has Dr Kaye taken any step to verify with the University the accuracy of matters alleged in his statement. The statement contains multiple errors of fact and false assertions. It is difficult to understand how such errors were made.

Dr Kaye alleged that:

1. **"In June 2009, University of New South Wales senior management closed ranks around Vice-Chancellor Fred Hilmer and dismissed world-leading safety science expert Dr Paul Barach on what can only be described as trumped-up charges... The University of New South Wales acted in retribution because Dr Barach formally notified his superiors of complaints of gross mismanagement and potentially unlawful behaviour against Andrew McIntosh, director of the University of New South Wales children's gait laboratory. Associate Professor McIntosh is Professor Hilmer's son-in-law. The speed with which the University acted, the pettiness and inaccuracy of the allegations against Dr Barach and the subsequent threats and victimisation directed against Dr Barach and others are testament to a corrupt and prejudiced environment of nepotism and retribution that has gripped the University of New South Wales."**

This is not correct. The probationary employment of Paul Barach was terminated on the grounds that he was not a suitable person to hold a senior position within UNSW. Paul Barach was found to have provided inaccurate information concerning his employment history, academic qualifications and publication credentials in his curriculum vitae and in grant applications submitted to the Australian Research Council (ARC) and the National Health and Medical Research Council (NHMRC). These are extremely serious matters and included findings that:

- **he claims in an ARC Discovery Grant application and a NHMRC grant application information about his current appointments that was inaccurate and/or misleading;**
- **in a grant application to the ARC he claimed to have a PhD, which was false;**
- **in grant applications to the ARC and NHMRC he claimed appointments variously as a Professor and Visiting Professor at the University of South Florida, which was false;**
- **he included in his curriculum vitae at the time of recruitment to UNSW and in grant applications to the ARC and NHMRC false claims of authorship of certain books.**

Allegations made by Paul Barach regarding his dismissal were referred by the University to the Independent Commission Against Corruption (ICAC) in July 2009. In October 2009 ICAC found that there was "no indication that corrupt conduct was involved in the investigation and subsequent disciplinary action" against Paul Barach and "determined not to take any action."

In summary, the termination of Paul Barach's probationary employment was not linked to the reporting of complaints against Andrew McIntosh. The University scrupulously handled each matter on its own merits and in accordance with required processes. Dr Kaye's attack on the conduct and reputation of the Vice Chancellor and other senior managers involved in these processes has no basis in fact.

2. **"The dismissal of Dr Barach on trumped-up charges stands as an indictment on the senior management of the University of New South Wales, as does Professor Hilmer's entirely deceitful dismissal of the independent review that should have seen Associate Professor McIntosh dismissed."**

This is not correct. The Vice-Chancellor had no role in any decision-making process regarding Andrew McIntosh. The University dealt with complaints against Andrew McIntosh in accordance with the University's policies and procedures and its Enterprise Agreement. Complaints relating to workplace issues were referred to an independent external investigator, who made no finding of misconduct (see points six and seven below).

The complaints process involving Andrew McIntosh was overseen and endorsed by the Chair of the Audit Committee of Council.

3. **"...Professor Hilmer and Chancellor David Gonski successfully avoided Council debate on the matter."**

This is not correct. The UNSW Council was briefed on the matter and, after discussion which Professor Hilmer did not attend, resolved that it would not intervene.

4. **"Senior academic managers, including Professor Richard Henry, acted to protect Associate Professor McIntosh ... Instead they colluded to smear and victimise Dr Barach."**

This is not correct. These matters are the subject of claims Paul Barach has brought in the Supreme Court. UNSW and the individual University employees strenuously deny, and are defending, the claims made against them.

5. **"Professors Archer and Reed [sic] were dismissed from their dean chairs ... When the dismissal is motivated by revenge and a desire to cover up the malfeasance of the boss's son-in-law it says something appalling about the management culture of the institution."**

This is not correct. Professor Mike Archer was not dismissed. Mike Archer resigned from the position of Dean of Science in order to pursue research interests. Mike Archer remains a Professor in the School of Biological Earth and Environmental Sciences. Roger Read was Associate Dean (Research and International) and stepped down from that position in March 2009. Following the termination of Paul Barach's probationary employment Roger Read was appointed Acting Head School of Risk and Safety Science until the school was closed in late 2010 at which time he retired.

6. **"These serious allegations [against A/Prof McIntosh] were investigated by Dr Barach ... A subsequent independent review upheld all the allegations."**

This is not correct. Paul Barach did not investigate allegations against Andrew McIntosh. There was no subsequent independent review that upheld allegations against Andrew McIntosh. In May 2009 an independent review of the Sydney Children's Hospital Motion Analysis Service (MAS), operated from the UNSW Biomechanics and Gait Laboratory was jointly commissioned by the University and Sydney Children's Hospital. The review made certain recommendations about the operation of the MAS. The review found that most of the issues addressed in the review were minor. This review had no authority to consider allegations of misconduct against any UNSW staff. Such issues are dealt with as a matter of law under the University's Enterprise Agreement.

Paul Barach's role was as follows: In February 2009 he reported concerns regarding the MAS to the Deputy Vice-Chancellor (Research). Those concerns were dealt with in accordance with the University's usual policies and procedures. In May 2009 as Acting Head of the School of Risk and Safety Science he reported concerns regarding Andrew McIntosh and workplace issues to the Dean of Science, Mike Archer. Some of these issues had already been addressed by the previous Head of School and Mike Archer.

7. **"Senior academic managers, including Professor Richard Henry, acted to protect Associate Professor McIntosh when he should have been dismissed and subjected to police investigation."**

This is not correct. Complaints made against Andrew McIntosh were fully investigated including by an external independent reviewer who found that there were no instances that could give rise to a finding of misconduct or serious misconduct. The suggestion that there was any basis for Police investigation is unwarranted.

8. **"There is evidence that results were altered and records were not kept in an appropriately secure environment."**

This is not correct. Sydney Children's Hospital was responsible for all clinical data. The storage and location of research and gait data (including video images) was in compliance with UNSW policies and procedures for handling research material and data. The MAS review report referred to the possibility that clinical data had been re-processed, but stated: "it was not clear how this has occurred or who was responsible." It also acknowledged that reprocessing of clinical data may be justified under certain circumstances, while recommending that clear protocols should be put in place.

9. **"It is possible that operations on hundreds of children were based on misleading medical data, potentially leading to lifelong injury."**

This is not correct. A further review of the MAS conducted by NSW Health in 2010 stated: "... there is no evidence of any adverse impact on the care and treatment of patients as a result of the measurement error detected at the Motion Analysis Service in 2008." Further, "medical" (clinical) data were not the responsibility of Andrew McIntosh, or the University.

10. **"...hundreds of cerebral palsy children went without a gait analysis service for almost two years."**

The University gave the Sydney Children's Hospital five months' notice of its decision to withdraw from the MAS and it was a matter for the Sydney Children's Hospital to relocate the MAS. It was not the responsibility of Andrew McIntosh, or the University to relocate the MAS.

- 11. "The day after the review was returned the University responded by sacking Dr Barach on trumped-up charges that he had falsified one element of two grants."**

This is not correct. The report of the review into the MAS is dated 23 June 2009, the same day Paul Barach's employment was terminated. However, the review report was not provided to the University until 25 June 2009. This report was in any case irrelevant to the University's consideration of Paul Barach's fitness for continued employment at the University. The issues that were relevant to Paul Barach's fitness for employment were brought to the University's attention under the Protected Disclosures Act in May and June 2009.

- 12. "Those who stood up for Dr Barach were subjected to a campaign of intimidation."**

This is not correct. There was no campaign of intimidation. Dr Kaye includes in this allegation an inaccurate reference to Mike Archer's evidence before Fair Work Australia. These matters are the subject of claims Paul Barach has brought in the Supreme Court. UNSW and the individual University employees strenuously deny, and are defending, the claims made against them.

In summary:

- 1. Complaints relating to research and conduct involving Andrew McIntosh were dealt with in accordance with the University's policies, procedures and Enterprise Agreement.**
- 2. Issues raised concerning Paul Barach under the Protected Disclosures Act were dealt with appropriately and in accordance with the University's Enterprise Agreement.**
- 3. The Vice-Chancellor was not involved at any stage with the investigation or disciplinary processes relevant to Andrew McIntosh or Paul Barach.**
- 4. In his letter terminating Paul Barach's probationary employment, Deputy Vice-Chancellor (Academic) Professor Richard Henry found that Paul Barach was "not who you have made yourself out to be" and "not a suitable person to hold a senior position within UNSW."**

JOINT SELECT COMMITTEE ON THE NSW WORKERS COMPENSATION SCHEME

Establishment

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

1. That a joint select committee be appointed to inquire into and report on the New South Wales Workers Compensation Scheme, in particular:
 - (a) the performance of the scheme in the key objectives of promoting better health outcomes and return to work outcomes for injured workers,
 - (b) the financial sustainability of the scheme and its impact on the New South Wales economy, current and future jobs in New South Wales and the State's competitiveness, and
 - (c) the functions and operations of the WorkCover Authority.
2. That, in conducting the inquiry, the committee note and examine the WorkCover NSW Actuarial valuation of outstanding claims liability for the NSW Workers Compensation Nominal Insurer as at 31 December 2011, and the External peer review of outstanding claims liabilities of the Nominal Insurer as at 31 December 2011.
3. That, notwithstanding anything to the contrary in the standing orders of either House, the committee consist of eight members, as follows:
 - (a) five members of the Legislative Council, comprising:
 - (i) Mr Blair,
 - (ii) Mr Borsak,
 - (iii) Mr Green,
 - (iv) Mr Khan,
 - (v) Mr Searle, and
 - (b) three members of the Legislative Assembly of whom:
 - (i) two must be Government members,
 - (ii) one must be an Opposition member.

4. That the Chair of the committee be Mr Borsak and that the Deputy Chair be elected at the first meeting before proceeding to any other business.
5. That, notwithstanding anything contained in the standing orders of either House, the quorum of the committee is four members, of whom two must be Government members and two must be non-Government members, and the committee must meet as a joint committee at all times.
6. That, notwithstanding anything contained in the standing orders of either House, the committee have leave to sit and transact business during the sittings or any adjournment of either House.
7. That, notwithstanding anything contained in the standing orders of either House, a committee member who is unable to attend a deliberative meeting in person may participate by electronic communication and may move any motion and be counted for the purpose of any quorum or division, provided that:
 - (a) the Chair is present in the meeting room,
 - (b) all members are able to speak and hear each other at all times, and
 - (c) a member may not participate by electronic communication in a meeting to consider a draft report.
8. That the committee report before 5.00 p.m. 28 days from the date of the passing of this resolution by both Houses.
9. That this House requests the Legislative Assembly to agree to a similar resolution, appoint three members to serve on the committee and fix the time and place for the first meeting.

Members are aware that the WorkCover scheme is more than \$4 billion in deficit, with no sign of improvement. Unless the scheme is reformed to make it more effective and economically sound, it will fast become unviable. The people of New South Wales need a fair, affordable, competitive and sustainable scheme that will help injured workers get back to work. The cost of the scheme has been increasing. Despite the number of claims dropping, injured workers are remaining on workers compensation benefits for longer. Unless immediate action is taken, New South Wales businesses could face an increase in their workers compensation premiums of up to 28 per cent on average.

Premium increases of this size would have a major impact on the economy and would effectively stall business and jobs growth in New South Wales. Workers compensation premiums paid by New South Wales employers are already 20 per cent to 60 per cent higher than in Victoria and Queensland—and that was before yesterday's Victorian budget, which saw cuts of 3 per cent to workers compensation premiums in that State. Any increase in premiums would only drive more businesses and jobs interstate.

Without reform, based on current trends and practices, the deficit is likely to continue to rise. For these reasons the Government does not believe raising premiums is an acceptable solution to the current issues with the scheme. The scheme is a critical component of the New South Wales economy. It is vital that we achieve better rehabilitation outcomes, better rates of return to work and better management of the scheme to ensure its survival. The Government proposes to transform the scheme to ensure that injured employees get the best treatment as quickly as possible, employers are not subjected to large premium increases and the State has a solid scheme that will do its job into the future. We have released an issues paper detailing the scheme's failings when compared with its key aims and outlining some options for consideration. Many of the concerns have been raised repeatedly in the past by the scheme actuaries and others, including the WorkCover Authority's former chairman.

We are committed to working closely with employers, peak groups, individuals and employee representatives to deliver the overdue reforms to the workers compensation scheme. The Government has proposed establishing a parliamentary committee to inquire into and report on the New South Wales workers compensation scheme, particularly performance in the key objectives of promoting better health outcomes and return-to-work outcomes for injured workers; the financial sustainability of the scheme and its impact on the New South Wales economy; current and future jobs in New South Wales and the State's competitiveness; the functions and operations of the WorkCover Authority; examination of WorkCover NSW actuarial evaluation of outstanding claims liability for the New South Wales compensation nominal insurer as at 31 December 2011; and the external peer review of outstanding claims liabilities of the nominal insurer as at 31 December 2011.

The Government is committed to providing stakeholders with an opportunity to put forward their views and have them tested by members of Parliament on the Committee. However, there are unavoidable time pressures for this much-needed reform. In the absence of reform, I must set premiums to apply from 1 July 2012. I am informed that there are more than 269,500 workers compensation policies issued to employers in this

State. All those employers are finding times financially difficult and to burden them with an average 28 per cent increase at this point would be a very adverse development for the State. Those policies cover three million workers in the State. Their jobs would be put at risk by further pressure on employers.

The current system is also difficult to navigate, with a lot of red tape. Payments for seriously injured workers are inadequate. Weekly payments for totally incapacitated workers bear little or no relation to the income they have lost and are, in fact, paid at a rate barely above the poverty line. The recovery and health benefits of returning to work have not been promoted effectively and less seriously injured workers are not encouraged to recover and regain financial independence. The scheme does not do these things well and it costs far more to get a claimant back to work in New South Wales than it does in Queensland or Victoria—and costs are increasing at an unsustainable rate. The Government is committed to working closely with employers, peak groups, individuals and employer representatives to deliver the long overdue reforms to the workers compensation scheme.

The motion currently requires the committee to report within 28 days of the passing of the motion. I understand that an amendment will be moved by another member of the Government to extend the reporting date to 13 June 2012. The workers compensation system is a critical component of the New South Wales economy. Employers and workers are entitled to expect a workers compensation system that is efficient and cost-effective and offers fair and timely assistance to employers and workers. The Government looks forward to the final report of the committee and will look closely at the input of the stakeholders involved.

The Greens have been quoted in the media in relation to the scheme, suggesting that hundreds of millions of dollars are wasted every year on reporting and form filling by private insurers. I want to address that assertion and to acknowledge that Mr David Shoebridge suggested initially that the Government form a committee to look at the scheme. The issue with The Greens' commentary is that it is fundamentally flawed on several grounds in terms of its analysis. I will briefly address those flaws. The Greens are not looking at annual remuneration amounts; the annual figures appear to be derived from cash flow statements in the WorkCover annual reports.

The cash flow statements describe the amount expended in the financial year, not what the agents earned for services in that year. In other words, the amount recorded against a single year reflects payments for service across multiple years. For example, some of the payments in 2005-06 and 2006-07 related to services provided by the licensed insurers in the period 2001 to 2005. I know that The Greens understand the long-tail nature of the scheme. This situation arises because a significant amount of the agent remuneration is performance based and must be calculated and paid in arrears. It is not appropriate to use inflation as the main measure of performance. Other factors have a larger impact on insurer costs than inflation, such as growth in the economy, which increases the number of employers to which the insurers are required to deliver services.

The Greens' article also observes a fall in the number of serious injuries and an increase in agent remuneration. Serious injuries, for the purposes of evaluation, are based on the length of time that the injured worker is absent from work. From 2002 to 2012 WorkCover has increased the proportion of agent remuneration that is linked to achieving better performance in areas such as return to work. The reduction in serious injuries indicates that the initiative has been successful. The Greens' article further notes that there has been almost no change in the rate at which injured workers have returned to work since 2003. However, there were significant improvements in return-to-work rates over several years to 2005-06, and a strong argument can be made that changes to insurer-agent remuneration contributed to this improvement.

Further, a major independent review in 2001 showed that agents were being underpaid and that this had contributed to poor performance in the period prior to 2002. New South Wales insurer costs are not high by Australian standards. The Safe Work Australia "Comparative Performance Monitoring Report, Thirteenth Edition" shows that the New South Wales insurance operations cost, as a proportion of total scheme expenditure, is less than that in Victoria, Western Australia and Tasmania. One other issue I wish to address is in relation to workers compensation arrangements in the event of a fatality. The Government recognises the profound impact of a fatality due to a workplace injury or occupational disease. In 2008 amendments to the workers compensation legislation increased the lump sum death benefit and made it more widely available. Previously the lump sum death benefit would be paid only to dependants of the deceased worker. Following the amendments, if there are no dependants the lump sum death benefit becomes payable to the deceased worker's estate.

New South Wales is the only Australian jurisdiction to make payments to the estate. The distribution of the lump sum is in accordance with the Family Provision Act and therefore relatives of the deceased are entitled,

under the Succession Act 2006, to receive part of the lump sum death benefit. Following the death of a worker, the workers compensation scheme pays benefits, including the lump sum death benefit, which is currently \$481,950 and indexed twice each year, weekly payments for dependent children and associated legal costs. WorkCover has a counselling and liaison service to provide grief and bereavement support as well as counselling to bereaved families. Whilst the Government has not determined any particular reforms or changes to the scheme through legislation at this stage, I can rule out any changes to the death benefits arrangements. I do hope that the Greens can maintain a certain level of dignity in this debate. I commend the motion to the House.

The Hon. Dr PETER PHELPS [11.59 a.m.]: I move:

That the question be amended by omitting all words after "before 5.00 p.m." in paragraph 8 and inserting instead "on 13 June 2012".

The amendment is self-explanatory.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.59 a.m.]: The Labor Opposition agrees that there should be an inquiry into the important issue of workers compensation in New South Wales. Of course, we would prefer an upper House select committee with membership that is broadly reflective of this House. We note with some concern that Government members, under the arrangements proposed by the Minister, will make up half the number of members on the committee. That is a strong suggestion of the potential outcomes of the Government's reform proposals that have been floated in the discussion paper.

We have other concerns. The time frame, we think, is too short. The Clerks have previously advised that a period of three months is the minimum period required for a committee to conduct hearings of adequate length, to ensure that people are afforded a reasonable opportunity to give evidence to the committee, and also to be able to produce a report of sufficient depth and quality to be useful in a practical way. The electoral matters committee took just under three months, while other committees such as those inquiring into Orica and coal seam gas took many months, I think nine months and six months respectively. The Labor Opposition believes the future of the workers compensation system in New South Wales is a matter of no less importance to the community. We believe this House and this Parliament should take a proper and measured approach to the time frame. We will be proposing a longer time frame.

In early February the Minister made a statement and issued a press release indicating that workers compensation reforms were urgent and needed to be fast tracked. Some three months later we have a committee proposal and a discussion paper, which the Minister described this morning as containing some options for consideration. The discussion paper is extremely thin and unpersuasive; it proposes, in reality, only cuts to benefits and contractions of benefits. The ideas do not address the main identified cost drivers in the system, for example, as identified in the recent PricewaterhouseCoopers actuarial summary as at 31 December 2011. Also, the discussion paper does not contain any notion or idea of what impact these so-called options for reform would have on injured workers, on their families or even on the financial situation of the scheme. The paper gives no indication of how, or in what way, these ideas—if implemented in any way, shape or form—would improve the scheme. This is a very disappointing result for some three months' work.

At the end of that period of three months the Government comes into this place and says it must have an urgent turnaround because it needs to make the insurance premiums orders. I understand that issue. It is, of course, the case that during the year the Government could amend the insurance premiums orders; and, if this Parliament passed any changes to the scheme, those changes could be factored into any revised insurance premiums orders; and that would not impede the orderly conduct or running of the scheme.

Mr David Shoebridge: Will contributors to the scheme get their money back?

The Hon. ADAM SEARLE: I acknowledge the interjection of Mr David Shoebridge about the potential for refunds to businesses. Certainly, taking a bit longer to properly consider this issue would have no practical impact on either business or the running of the scheme. Some changes need to be made to the proposed committee to allow it more time to properly consider the issues. Further, the motion establishing the committee should make absolutely clear that real and full public hearings will be conducted so that people can give evidence to the committee not only by invitation of the committee but also by self-nomination and identification. In this way, interested parties can come forward and give evidence to the committee. That is how most committees, certainly of this place, have worked as a matter of practicality. We will propose that those considerations be factored into the motion of this House in the setting up of the committee.

In February the Minister said the sky was falling and urgent reform was needed, but effectively nothing seems to have happened for three months; now the Government is saying: urgent, urgent, we need to have a very quick turnaround on this situation. As I say, the options for change floated in the paper not only are thin and unpersuasive, but they do not address the fundamentals of the identified issues with the scheme. I will give some indicators. In the paper the Government canvasses a number of suggested solutions. It says that the solutions must deliver on seven reform principles. The first, of course, is enhancing workplace safety by preventing and reducing incidents and fatalities. That is a very laudable principle. But none of the options for reform address that matter. It is a matter of record that the previous Labor Government addressed considerations of that kind by increased penalties, strict laws and strict enforcement of the laws—provisions that are in the process of being undone by the present Government.

The principles for reform also include promoting the recovery and the health benefits of returning to work. This is the notion of rehabilitation—a key plank, legislatively, of the current scheme. The Minister says there are issues with implementation; certainly, there are no issues with looking at how that could be made to work better. But, again, the options for reform contained in the paper do not touch on that. What do they touch on? They touch on cutting benefits to injured workers. Perhaps a little Orwellian—apart from the cutting of benefits, the potential abolition of journey claims to and from work and issues of that nature—there is the heading on page 27, "Strengthen work injury damages". That sounds a bit positive in one sense.

In Queensland and Victoria—comparative States to which the Minister has referred—there is very different and more liberal access to common law damages for injured workers than prevails in this State. Might the Government be considering liberalising access to common law as a trade-off for changes to the scheme? But no: under the heading "Strengthen work injury damages" we read that the Government wants to further restrict injured workers having access to common law damages. So, as I said, this is a very much Orwellian inversion.

Continuing in the Orwellian theme is another reform principle: support less seriously injured workers to recover and regain their financial independence. Again, that is a laudable aim. But how is it to be achieved by these options for reform? It is to be achieved by cutting the benefits. But not only by cutting the benefits, but by cutting them off earlier. No doubt the Minister says that is to get people back to work, to incentivise them to go and find a job. Again, there is no indication, even in these sketchy and thin reform options, as to how workers can be assisted meaningfully back into work.

Mr David Shoebridge: In the same way as they helped police.

The Hon. ADAM SEARLE: "In the same way as they helped police," Mr David Shoebridge says—by cutting them off. The other reform principle that is Orwellianly inverted is the objective of reducing the high regulatory burden and making it simpler for injured workers, employers and service providers to navigate the system. Again, it is a laudable aim, but there is nothing in the options for reform that would meet this objective. The Opposition has some concerns about the bona fides of the Government. The Government says it is urgent, but there has been a three-month delay before any action has been taken. Now the committee must urgently deal with this matter within a matter of weeks—it was originally to be within a matter of days, but it is still far too short a period of time to adequately deal with these issues.

A cynic might suggest that the Government has already decided on its options for reform; that, in fact, it may already have legislation drafted and that this whole process may be just a sham—a piece of window-dressing to make stakeholders and concerned people think that the Government is listening to them. They are our concerns. To address at least some of those concerns, I move an amendment to the amendment of the Hon. Dr Peter Phelps:

That the amendment of the Hon. Dr Peter Phelps be amended as follows:

1. Omit "13 June 2012" and insert instead "2 August 2012".
2. Insert after paragraph 8:
 9. That the committee be required to hold no fewer than five full days of public hearings in Sydney and regional New South Wales to enable those who rely on the scheme to give evidence.

Given that the Government proposes to give itself no fewer than four of the eight positions on the committee, we believe that it is necessary to ensure that people who wish to come forward and give evidence on this important matter are able to do so and that the committee does not take evidence only by invitation. On this side of the House we are conscious of the practical difficulties that people have outside of Sydney, not only in

Newcastle and Wollongong but in the regions and country areas. Those people will be impacted upon by potential changes to workers compensation. Injured workers in the city have experienced difficulties getting back to work; such difficulties must be compounded in rural and regional New South Wales.

Because of the subject matter of this inquiry, it would be fair and reasonable for this committee to take evidence outside of the city. People in country and regional New South Wales should be permitted meaningful access to the deliberations of the committee. How we as a society treat injured workers and the benefits provided to them—to pick up on the points the Minister raised: support services, rehabilitation and assistance legislation to get people back to work—are matters fundamental to all families and workers. People in rural and regional New South Wales experience difficulties as a result of fewer resources and fewer job opportunities. The least the committee can do is hear evidence from such people where they live.

Mr DAVID SHOEBRIDGE [12.13 p.m.]: On behalf of The Greens I express our extraordinary concern at the manner in which the Government is moving to obviously slash workers compensation benefits in this State. This committee—it appears one has to own a hatchet to come to it—is clearly designed to provide some sort of benediction for what is a predetermined attack on workers compensation benefits by this Government. One of the most disturbing factors about this inquiry is that it fails to consider in its terms of reference whether compensation payments provide a just level of compensation to injured workers in New South Wales. There is no regard at all to fairness, justice or decency in the level of workers compensation benefits. This is about the bean counters coming into the workers compensation system and cutting off some of the most vulnerable people in the State, with no regard to the justice of the matter and no regard to the fairness of compensation paid to those workers. Paragraph 1 of the motion states:

1. That a joint select committee is appointed to inquire into and report on the New South Wales Workers Compensation Scheme, in particular:
 - (a) the performance of the scheme in the key objectives of promoting better health outcomes and return to work outcomes for injured workers.

There is no reference to just or fair payments, there is no reference to ensuring that people injured at work can live in dignity and there is no reference to workers being able to meet simple commitments such as their mortgage payments after they have been injured at work through no fault of their own. Paragraph 1 (b) of the motion states that the committee will also inquire into and report on the following:

- (b) the financial sustainability of the scheme and its impact on the New South Wales economy, current and future jobs in New South Wales and the State's competitiveness.

Again, there is no reference to the costs and impacts of injuries incurred by workers who have the misfortune to suffer an injury. The Government would love a bare-bones workers compensation scheme; that would be a way to increase the State's competitiveness in the eyes of this Government. It wants to pay injured workers nothing, reduce workers compensation premiums and hopefully attract capital. What a one-eyed review of the workers compensation scheme. Paragraph 1 (c) of the motion, which deals with the matters that the committee will inquire into, states:

- (c) the functions and operations of the WorkCover Authority.

I can only hope that that reference also includes the extent to which the WorkCover Authority oversees and manages the private insurers, who are the claims managers. I note that the Minister is nodding, so I assume that is intended to be part of that reference. But, again, there is no reference as to whether the workers compensation scheme is providing just compensation for injured workers. For that reason, I move:

That the motion be amended by inserting after paragraph 1 (c):

- (d) the extent to which the scheme provides just compensation for injured workers.

If the Government fails to adopt that basic amendment, which will assess in the course of this review of workers compensation whether it is providing just compensation for workers, it will show the true intent of this Government: not to provide just compensation for workers but to seriously attack the rights of injured workers to live in dignity with decent and fair compensation benefits after they have been injured.

I note that the Minister sought to attack a position that has been adopted by The Greens in relation to the extraordinary growth in payments made to private insurers under this scheme. The workers compensation scheme in New South Wales should be established to direct payments not to the insurance industry but to

benefit those injured at work. But what we have seen with the scheme in New South Wales over the past 15 years is more and more of the scarce workers compensation dollar not finding its way to the injured workers at all but going directly into the pockets of private insurers to pay for the administrative task of managing claims.

In New South Wales the scheme has been established so that there is a publicly owned statutory fund and that statutory fund is managed by private insurance companies called claims managers or claims agents. Currently there are seven claims managers: Allianz Australia's Workers Compensation; Cambridge Integrated Services Australia Pty Ltd, trading as Xchanging; CGU Workers Compensation; Employers Mutual NSW; Gallagher Bassett Services; GIO General Limited; and QBE Workers Compensation (NSW) Limited. Those insurers are paid to manage each and every claim that is brought by an injured worker; they are not responsible for the overall financial wellbeing of the scheme.

In fact, their economic interest is to get as much as possible out of the scheme and direct money that would otherwise go to injured workers to private insurers. They have been helped in that task by an extraordinary explosion in paperwork driven by WorkCover. The amount of claims managing, paperwork and reporting that private claims managers have been required to do by WorkCover over the past 15 years has exploded. That has seen money that should be directed into the pockets of injured workers—or into the scheme to meet any deficit—misdirected to the large private insurers who are in many ways the greatest beneficiaries of this scheme.

To show this in context I will provide a couple of figures from the most reliable data that can be found, the WorkCover annual reports. The figures show the amount of money paid out of the scheme in any given year. As the Minister notes, some of the money paid out in a given year may relate to services provided in a prior year. However, the best way to track where the money is going is not to look at the bills rendered by workers compensation insurers but to look at the money paid out of the scheme and into the pockets of private insurers. We must also look at the money that is paid out of the scheme and into the pockets of injured workers or, as is increasingly the case, into the pockets of the rehabilitation providers and medical professionals who are providing some form of care to injured workers.

In the financial year of 1997 there were 60,109 major injuries. The major injuries figure is the only figure published by WorkCover that gives some indication of the number of claims going through the system. Whilst the definition of "major injuries" has changed slightly over time, it effectively means an injury that sees a worker off work for five days or more. In 1997 a total of \$1.367 billion was paid for the benefit of injured workers in respect of the 60,109 major injuries. A good chunk of that money went to doctors and rehabilitation workers and did not find its way into the pockets of workers, but it was for their benefit. The payment to private insurers at that time was some \$141,743,000. That means that for managing the claims private insurers got almost 11 per cent of the amount of money that was paid to injured workers or for the benefit of injured workers. They got about a 10 per cent cut for managing it, and that is probably a tolerable level.

But over time the amount that has been paid for the benefit of injured workers has effectively tracked inflation, with a small peak after 2001 when there were some legislative changes that brought a number of claims through in 2001 to 2004. Between the financial year 1997 and the financial year 2010, which is the last year for which there are fully available public figures, the amount paid for the benefit of injured workers tracked inflation. Over this time, it increased by about 43 per cent while inflation increased by about 44 per cent. But the amount that went into the pockets of private insurers absolutely skyrocketed. It increased by more than 200 per cent, or about five times the rate of inflation.

As the Minister correctly noted, the amount paid out of the scheme for the benefit of workers has kept pace with inflation and no more. However, the amount paid to private insurers has skyrocketed at five times the rate of inflation. In the 1997 financial year the piece of the pie that went to private insurers for managing the scheme was the equivalent of 10 per cent of the amount that went to benefit workers. By the 2010 financial year—and by no means is that the high point—the piece of the pie that went to private insurers was 24 per cent. Because of the gross increase in bureaucracy generated by WorkCover almost one-quarter of every dollar that went to benefit workers is now diverted into the pockets of private insurers for nothing other than paperwork and claims management.

The money is not being spent for the benefit of workers. It is often seeing workers put through the wringer as they go to multiple doctors' appointments and repeatedly visit rehabilitation providers to be assessed as to whether they are fit for work. There is gross waste in respect of claims management driven by WorkCover

but performed and paid to private insurers. One example of this is the case of a 61-year-old construction labourer who had a significant injury to his ankle. He could not use his leg to walk on construction sites and he obviously could not climb building scaffolding. He was born in Cambodia and was a native Cambodian speaker who did not speak a word of English. He also had very limited educational achievements. Every fortnight he was forced by the workers compensation insurer to fill in some 20 job applications to show that he had made an effort to find work.

His daughter spoke some broken English and was the only person in the family who could communicate with the insurer. She pointed out that there were not 20 jobs in Sydney in an entire year—let alone in a fortnight—for one-legged, non-English speaking injured labourers. She told the insurer that the exercise was an enormous waste of time and that the process was creating a deep sense of depression and anxiety in the injured worker. She was ignored. Time and again the poor gentleman filled out job application after job application and was rejected out of hand. He then gave the paperwork to the insurers who would look through it to tick a box and then charge the scheme. He was also repeatedly sent to doctors to assess his fitness to see what other jobs he could do as an injured worker.

The scheme should reflect the fact that there are some injured workers who will never be able to return to work. Some injured workers just need to be paid a fair level of compensation and then basically be left alone and given some dignity. The scheme should not expend extraordinary sums of money on private insurers to manage these claims for no net purpose. I say "no net purpose" because return to work figures have not improved. If the 24 per cent of every dollar redirected to private insurers to manage the claim led to improved return to work figures then maybe one could say there is a benefit. Maybe one could say that all this paperwork and generated payments to private insurers are getting an improved return to work benefit, so that is for the good.

But return to work figures have been stagnant since 2003, which is the time the earliest reporting is available. The scheme has not done an iota in terms of sending injured workers back into the workforce. Instead it has been a sure-fire way for private insurers to skim the cream off the workers compensation scheme at no risk to them. There is no reference to that in the terms of reference by the Minister, even though he acknowledges that he is aware of some of this detail. This scheme is primarily operating to benefit the private insurance industry. If payments to private insurers—like payments to injured workers—had only kept pace with inflation and had not ballooned out to five times that rate this scheme would be \$1.6 billion better off. We would not have a deficit of the size this Government talks about.

I do not blame only the current Government for the scheme being in this situation. The previous Government failed to keep an eye on the amount of money going to private insurers and failed to sufficiently direct and oversee WorkCover to rein in that amount of money. The figures prove that and no-one can argue against it. But this Government is not interested in fixing that problem; cutting benefits to workers is all the issues paper talks about. I repeat that benefits to workers have only kept pace with inflation over this time and payments to private insurers have skyrocketed.

If the Government is serious about investigating the amounts paid to injured workers to see where savings could be made, I suggest it start first and foremost with the explosion in the amount of money paid for rehabilitation. Figures for the last financial year indicate that more than \$400 million was paid for rehabilitation services. That is a massive explosion which is totally out of kilter with the growth in other benefits. Of course some rehabilitation is entirely proper and provides for adequate return to work, but the amount of money going to the rehabilitation industry in New South Wales has grown phenomenally without any scrutiny by this Government or the previous Government.

An inquiry should closely examine whether a workers compensation scheme produces for injured workers the benefits touted by rehabilitation providers when they present rehabilitation plans worth \$14,000. A scheme has been built for workers compensation and amounts are written in a column listing benefits that have been paid to injured workers. A select committee of inquiry should examine what the payments are being made for instead of doing what this Government is so focused on doing—attacking workers' benefits.

It is true that approximately four weeks ago I met the Minister and suggested that Parliament hold an inquiry into the New South Wales workers compensation scheme. I told the Minister that I would be more than happy to bring to the inquiry the resources and intellectual efforts of The Greens to examine wasteful expenditure in the scheme so that serious attention could be focused on funds that have been misdirected to private insurers. The Greens would participate in a vigorous examination of the increasing headcount in

WorkCover to determine whether that is providing the type of benefit that injured workers need. Moreover, such an inquiry could closely examine the explosion in paperwork that has been generated by the bureaucracy and whether that provides benefits to injured workers.

The Minister agreed it was a good idea to have an inquiry but then delivered the ultimate political compliment: he excluded The Greens from the inquiry, without any real explanation being offered on behalf of the Government. The Government's clear intent is to stack the committee with four Coalition members, one member of the Christian Democratic Party, which has voted only once against the Government during the current Parliament and is therefore a certain vote for the Government, one member of the Shooters and Fishers Party, which is another right-wing political party, and, for balance, just two Opposition members. That is not balanced representation on a committee of inquiry. It is not even a pretence at establishing balanced representation. There is no rationale.

The Hon. David Clarke: Get used to it.

The Hon. Rick Colless: That went on under Labor for years and years and years.

Mr DAVID SHOEBRIDGE: I hear baying from Government members. They have Stockholm syndrome: it happened to them, so they want to take it out on everyone else. They suffered for 16 years at the hands of Labor, they were boxed in and they were so unhappy that now they will take it out on everybody else. It is a revival of the Stockholm syndrome.

The Hon. Greg Pearce: The Stockholm syndrome involves people identifying with their captors.

Mr DAVID SHOEBRIDGE: Indeed, the Coalition Government is identifying with the previous Government, which in the past so offended Coalition members. Following initial announcement of the inquiry, only 28 days will be allowed in which people may respond. That is embarrassing. The Government cannot even put a notice in the paper, receive submissions and read them within four weeks. That was such a palpably embarrassing move that the Government moved an amendment to extend the reporting date by two weeks. As noted by the Deputy Leader of the Opposition, Adam Searle, three months is the minimum reasonable period within which to hold public hearings, consider submissions and write a decent report in response to all the evidence that is provided.

There is no pretence that this Government is establishing a balanced committee or a committee that seriously will consider the real cost blowouts of the workers compensation scheme—cost blowouts that have nothing to do with benefits being provided to injured workers but have more to do with third party payments that have been bleeding the scheme dry. While The Greens will not oppose establishment of the committee and the inquiry—it is probably better than nothing, although little more than that—The Greens will move an amendment to test whether the Government is willing to consider as part of the inquiry whether the scheme provides just compensation to injured workers.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.33 p.m.]: My contribution to the debate will be brief. Should the Government conduct an inquiry into a scheme that is bleeding funds at the rate of billions of dollars a year? Of course the Government should.

Dr John Kaye: Where is the money going?

The Hon. DAVID CLARKE: An inquiry will find out where the money is going. Any member who does not support the motion is not acting in the interests of all parties, especially employees who want to know whether they are covered against injury by a workers compensation scheme. They are not acting on behalf of injured workers who want to know whether they will be compensated and rehabilitated or whether they will have the money to meet their medical bills. They are not acting in the name of employers such as small businesses that pay premiums. Businesses either are going to the wall because of the costs of carrying on business or are relocating to Queensland and other States. They are not acting in the name of taxpayers who will foot the bill for the scheme's deficits. I do not know what the problems and solutions are with the scheme, but I want to find out. Is it a question of profits? Is it a question of premiums? I do not know, but we do not need Mr David Shoebridge to give us the answers. Let him make a submission to the inquiry.

The Hon. Sophie Cotsis: Will you let him address the inquiry?

The Hon. DAVID CLARKE: All I know is that the Government must act quickly. In recent weeks actuarial information has shown that the scheme has lost \$4 billion and that losses are increasing each week. The Government needs to act, and that is what the Government is doing. When Labor was in government nothing was done to deal with the issue. Labor allowed rivers of money to flow unabated, and that burden has been hanging over the heads of New South Wales taxpayers ever since. The Labor Opposition complains that Government members will constitute 50 per cent of the committee's representation. Do Labor members think the Government would be crazy enough to allow Labor Opposition members and The Greens to constitute a majority of the committee's membership? Do they think we are stupid?

The Hon. Jeremy Buckingham: Yes, you've got it.

The Hon. DAVID CLARKE: The Government is not so stupid as to give The Greens a casting vote. The former Labor Government is responsible for the deficit of the workers compensation scheme, but if The Greens had been running the scheme it would be \$10 billion in deficit, not \$4 billion. This will be a transparent inquiry. Witnesses will give evidence and The Greens will be able to make a submission, just like everybody else. The Greens amendment, which calls for the inclusion of "just compensation", is just another instance of The Greens being cute. The Greens and the Opposition are always grandstanding. I support the establishment of the select committee and the inquiry, which will be conducted transparently and fairly. The Liberal-Nationals Government is moving quickly to protect the people of New South Wales, particularly employers, employees and taxpayers.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [12.37 p.m.], in reply: I thank all members who participated in the debate. The Deputy Leader of the Opposition raised some issues about the composition of the committee. I simply point out to the Opposition and The Greens that the composition of the committee broadly reflects the parliamentary representation in both Houses following the March 2011 election. The Opposition and the crossbench continually forget that the people of New South Wales made a judgement in 2011. The Government will proceed on the basis of that judgement and its representational outcomes.

Although the proposition that the committee should take longer to compile its report really was not substantiated by either the Opposition or The Greens, it is sensible to extend the time by a couple of weeks to ensure that there is an appropriate period within which the report can be completed. However, members should bear in mind that timing pressures are involved in dealing with premiums from 1 July. While the Deputy Leader of the Opposition made the point that technically we may be able to change premiums later, that would involve employers right throughout the State being required to pay increased premiums and then the Government having to distribute refunds when the forms are introduced. Alternatively, if the premiums are not increased, the scheme would continue to spiral further into deficit, which is simply a form of chaos that I really did not expect would be part of a suggestion made by the Opposition; rather, I thought that suggestion may have come from The Greens. Irrespective of who made the suggestion, it is not a responsible way in which to address the issue.

I point out that the Deputy Leader of the Opposition lives in the Blue Mountains. We have figures that show more than 2,430 businesses in the Blue Mountains are currently paying workers compensation premiums totalling \$11.4 million. The proposed increase in premiums would involve about \$3.15 million spread amongst those 2,430 businesses, rising to about \$14.6 million. I invite the Deputy Leader of the Opposition to visit all those businesses and explain to them why he is trying to drive them out of business. I agree with him that it is important that regional stakeholders be heard by the committee but I do not intend to support an amendment to the terms of reference to require the committee to do that. I think the committee is perfectly capable, as our committees normally are, of setting its own schedule and ensuring that it takes account of regional concerns.

I thank Mr David Shoebridge for his contribution. I genuinely invite him to make a strong submission to the committee and to continue to raise the issues he raises. I agree with him that there has been an explosion in red tape for insurers, which we are trying to address. I point out to him and to others that what we are primarily looking at in this inquiry is any need for legislative change. Other changes will occur administratively. I am keen to hear from Mr David Shoebridge on those issues. I encourage him to continue to raise them as well as some of those examples of the scheme failing. Some of his examples are much more compelling than the examples I have been able to find and talk about.

I do not propose to support The Greens media strategy, the usual sort of grandstanding in trying to create a line: they will have that line anyway. I do not propose to support that. The terms of reference are very broad and, in particular, specifically require the committee to look at the great detail of discussion in the scheme's actuary's report and the peer review report, which go through the issues in great detail. I have to thank the Hon. David Clarke for his interesting contribution and genuine interest. I commend the motion to the House.

The PRESIDENT: Order! The Minister has moved Government Business Notice of Motion No. 1, to which two amendments have been moved: that of the Hon. Dr Peter Phelps and that of Mr David Shoebridge. Further, the Hon. Adam Searle has moved an amendment to the Hon. Dr Peter Phelps' amendment. Does the Hon. Adam Searle desire that his amendment be voted on seriatim or in toto?

The Hon. Adam Searle: I am happy that it be voted on in toto.

Question—That the amendment of Mr David Shoebridge be agreed to—put.

The House divided.

Ayes, 19

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

Noes, 22

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

Question resolved in the negative.

Amendment of Mr David Shoebridge negatived.

Question—That the amendment of the Hon. Adam Searle to the amendment of the Hon. Dr Peter Phelps be agreed to—put.

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

The House divided.

Ayes, 19

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

Noes, 22

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

Question resolved in the negative.

Amendment of the Hon. Adam Searle to the amendment of the Hon. Dr Peter Phelps negated.

Question—That the amendment of the Hon. Dr Peter Phelps be agreed to—put and resolved in the affirmative.

Amendment of the Hon. Dr Peter Phelps agreed to.

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

Motion as amended agreed to.

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

[The President left the chair at 12.55 p.m. The House resumed at 2.30 p.m.]

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

QUESTIONS WITHOUT NOTICE

SYDNEY WATER ESTIMATED BILLS

The Hon. LUKE FOLEY: My question is directed to the Minister for Finance and Services. What percentage of Sydney Water customers currently receive estimated bills?

The Hon. GREG PEARCE: That is a very special question, and I thank the Leader of the Opposition for it.

The Hon. Rick Colless: And you've got a special answer.

The Hon. GREG PEARCE: I do have a special answer for him. I am very pleased that the member is asking a question about a tax or charge because today we have had a very interesting development. Do we remember the member for Heffron?

The Hon. Charlie Lynn: Who would that be?

The Hon. GREG PEARCE: Kristina Keneally.

The Hon. Luke Foley: Point of order: My point of order is relevance. I asked a very specific question about estimated bills for Sydney Water customers. It has nothing to do with a member in the other place.

The PRESIDENT: Order! While it is not immediately apparent that the Minister was not being generally relevant, I remind him of the need to be generally relevant in his answers.

The Hon. GREG PEARCE: The position is that every tax, charge and service in New South Wales is in doubt at the moment because the Federal Labor Government is going to introduce a carbon tax. That is why Sydney Water bills—

The Hon. Luke Foley: Point of order: For a second time, my point of order is relevance. The carbon tax has nothing to do with the question.

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

The Hon. GREG PEARCE: I have spent quite a bit of time with senior management of Sydney Water because I thought it was unfair—

The PRESIDENT: Order! I should have, at the beginning of question time, reminded all members that a photographer will be present in the Chamber from 2.30 p.m. to take photographs for education purposes and for use in official publications of the Legislative Council. The photographer is in the public gallery.

The Hon. GREG PEARCE: Members speak facing the President, and I will do so. Please excuse the back of my head.

The PRESIDENT: Order! If the Minister has nothing else to contribute he should resume his seat.

The Hon. GREG PEARCE: I have spent quite a bit of time with Sydney Water senior management examining its future charging path because one of the key impacts on future water rates in New South Wales, as with virtually all other charges, is Labor's carbon tax. So it was interesting to see today that Kristina Keneally—

The Hon. Luke Foley: Point of order—

The PRESIDENT: Order! The Minister will resume his seat.

The Hon. Luke Foley: Once again, relevance is my point of order. It was a specific question about what percentage of Sydney Water customers receive estimated bills. The Minister has not addressed that issue at all in the past four minutes.

The Hon. GREG PEARCE: To the point of order: The question clearly asked about Sydney Water rates and I am addressing Sydney Water rates. [*Time expired.*]

M2 UPGRADE

The Hon. JOHN AJAKA: My question is directed to the Minister for Roads and Ports. Will the Minister update the House on the upgrade of the M2?

The Hon. DUNCAN GAY: I thank the member for his question and re-emphasise to the House what an outstanding parliamentary secretary he is. In fact, he is the best I have ever had.

The Hon. Steve Whan: That joke is getting a bit tired.

The Hon. DUNCAN GAY: But it continues to be true. I am pleased to report that car and motorbike tolls on the Hills M2 will be frozen until the current widening upgrade is completed. Discussions between Transurban, Roads and Maritime Services and the New South Wales Government have led to an agreement to defer any planned toll increases for cars and motorbikes until after the \$550 million project is completed next year. This is great news for the motorists of western Sydney who use the motorway day in and day out.

The work to date has required slower speed limits and various closures on weekends and during the week. The Government understands how this frustrates motorists. There is always some pain associated with an infrastructure project of this size. There have been calls for the tolls to be reduced or at least frozen for the duration of the work. That is why, unlike those opposite who spent 16 years bickering with each other, the New South Wales Liberals and The Nationals have listened to the concerns of motorists who face delays as a result of the construction work. The widening of the motorway between Windsor Road at Baulkham Hills and Lane Cove Road, North Ryde, will provide a smoother, safer and faster journey.

The Hon. Penny Sharpe: What happens when the freeze comes off?

The Hon. DUNCAN GAY: Listen to them chattering on. What happens when the freeze comes off? We know what happens when the freeze comes off: It goes back to the contract that those opposite signed. It was a Labor contract; those opposite do not want to admit to that. They left it there and did not give a damn. Those opposite did not talk to the company and they did not listen to the people. But the Government has talked to the company and listened to the people, and addressed a large number of motorists' concerns. The widening of the motorway between Windsor Road at Baulkham Hills and Lane Cove Road, North Ryde, will provide a smoother, safer and faster journey. I thank Transurban and the Hills M2 for their goodwill and commitment to working with the New South Wales Government and motorists to deliver not only a multimillion dollar enhancement to the motorway but also a good community outcome. The private operator is also funding four new ramps to improve access to the motorway.

Once completed, the M2 will improve access to major growth areas along the motorway and reduce congestion for the 100,000 vehicles and 27,000 bus passengers who use it each day. Importantly, it means commuters will see a reduction in peak-hour congestion and new access points to Sydney's fastest-growing business and residential centres. Once the M2 has been widened, there will also be improved travel times.

Motorists using the M2 can expect travel time savings of 15 minutes during the morning peak and seven minutes in the afternoon peak, along the length of the M2. Work is now more than half completed, with overall work on the upgrade of the track to be completed early next year. If Labor had spent more time more productively during its 16 years in office to deliver results for New South Wales maybe those opposite would be proud of their achievements instead of being, as they are at the moment, embarrassed by the legacy of ill will that they left in this State.

SYDNEY WATER INFRASTRUCTURE MAINTENANCE

The Hon. ADAM SEARLE: My question is directed to the Minister for Finance and Services. Why is Sydney Water running 36 per cent short of its own target for replacements to damaged, faulty and broken household water meters this financial year?

The Hon. GREG PEARCE: I thank the Deputy Leader of the Opposition for his question. It is very interesting. I have here a copy of the submission from the Hon. Luke Foley, MLC, to the Independent Pricing and Regulatory Tribunal in relation to the Sydney Water Corporation price review of October 2011. The submission refers to increases in Sydney Water prices that were anticipated at that stage as a result of the previous four years of Labor's mismanagement, Labor's obsession over 16 years with the collection of dividends, Labor's failure to ensure appropriate—

The Hon. Duncan Gay: At least there was a submission. I know of one where there was no Labor submission.

The Hon. GREG PEARCE: That is right. Interestingly, the Hon. Luke Foley talks about increases in retained earnings and government dividends. He is obsessed with that. Where is the Hon. Eric Roozendaal?

The Hon. Duncan Gay: He is probably in Queensland.

The PRESIDENT: Order!

The Hon. GREG PEARCE: Labor Treasurers in this State over the past 16 years made it a practice to rip dividends out of all the electricity and water companies. That now means the costs are coming home to roost. The Hon. Luke Foley in his submission on water pricing talks about the biggest part of the beginning of a determination, and he—

The Hon. Adam Searle: Point of order: The Minister is not making any effort to be relevant. The question is about why Sydney Water is currently running 36 per cent short of its own target in the current financial year. The Minister's answer is not going within a bull's roar of that subject.

The PRESIDENT: Order! I have been listening to the Minister's answer for the two minutes that it has been underway. The standard in question time that I and my predecessors have applied has been that a Minister's answer must be generally relevant. That is based on the longstanding practice that some generality is allowed in answering a question. However, answers should be relevant to the questions asked. It is not in order to spend all of one's answer providing general information that is not relevant.

The Hon. GREG PEARCE: Mr President, I thank you for your ruling. In essence the question asked about the funding of Sydney Water infrastructure. The funding of Sydney Water infrastructure comes through the Independent Pricing and Regulatory Tribunal process. I am looking at the submission by the Leader of the Opposition to the Independent Pricing and Regulatory Tribunal process, which then leads to the amount of money that is available for Sydney Water to spend on infrastructure renewal. The interesting thing about this submission is that although it deals with a number of things in its four pages it never mentions the impact of the carbon tax.

The Hon. Luke Foley: Point of order—

The Hon. GREG PEARCE: The carbon tax is the killer here. This is what Labor members are so embarrassed about. They are embarrassed about Kristina Keneally siding with Tony Abbott.

The PRESIDENT: Order! The Minister will resume his seat. The Leader of the Opposition has risen on a point of order.

The Hon. Luke Foley: Once again, my point of order is regarding relevance. Mr President, I submit that the Minister is flouting your earlier rulings and the guidance you have given him. The Minister is making no attempt to answer a question by the Deputy Leader of the Opposition about broken, faulty and damaged water meters—no attempt at all.

The PRESIDENT: Order! I am afraid the Minister's time has expired, so a ruling on this issue would be superfluous.

STRATEGIC REGIONAL LAND USE PLAN

The Hon. JEREMY BUCKINGHAM: My question is directed to the Minister for Finance and Services, representing the Minister for Planning and Infrastructure, the Hon. Bradley Hazzard. Given Minister Hazzard's description of the NSW Farmers Association as being "almost irrelevant" to the land use planning process, now that The Nationals have made a submission claiming, like the Farmers Association, that the Government's draft land use policy falls short of its election commitment, does the Government consider The Nationals to be almost irrelevant too?

The Hon. GREG PEARCE: The Government considers a political party to be irrelevant, and that political party is The Greens—irrelevant. Look at the Queensland election result just a few weeks ago. Mad as a hatter Katter's party beat The Greens. Beaten by the Katter party in Queensland—talk about irrelevant! And who was returned to government in Queensland? It was the Liberal National Party. That is the relevance of the National Party: in government again in Queensland.

The Hon. Michael Gallacher: That's why Bob Brown has taken off.

The Hon. GREG PEARCE: Yes. Bob Brown knows that the time of The Greens' irrelevance is approaching. He knows that the green slime tide is rolling out, and he wanted to get on his surfboard and surf off in front of that slimy green wave before the rest of The Greens had a chance to gang up on him and push him out. So I agree with the Hon. Jeremy Buckingham on this occasion: Yes, The Greens are irrelevant.

POLICE TRANSPORT COMMAND

The Hon. CHARLIE LYNN: My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House on the Police Transport Command?

The Hon. MICHAEL GALLACHER: As I foreshadowed in this place previously, the NSW Police Force has progressed at considerable pace with the establishment of the Police Transport Command. By taking over security for the entire public transport network, with all the powers of police officers, those working in the transport command will combine the dual policing roles of detection and prevention. I was delighted today to join my colleague the Minister for Transport, the Commissioner of Police and the Acting Assistant Commissioner to officially launch the operational commencement of the command. Police now have a greater role in looking out for the wellbeing of New South Wales public transport networks, and that will mean greater safety for commuters.

The Police Transport Command, as it is known, is currently staffed by more than 300 officers from local commuter crime units, with the command actively increasing its numbers until its goal of full operational strength by December 2014. And as I indicated yesterday, full operational strength means just that: all officers in the new Police Transport Command will be doing their jobs, not just filling up numbers on a page—which is what used to happen under Labor in government. The Minister for Transport has supported this transition from its inception, indicating that an increased police presence on the public transport network will provide the best deterrent against crime. As I am sure the Minister is reminding members in the other place, the safety and security of transport customers is a priority for the New South Wales Government. The Minister for Transport is doing an excellent job. She has confirmed that the police officers will be backed by 150 transit officers, who will focus on detecting fare evasion and minor compliance issues.

The Commissioner of Police, Andrew Scipione, and the Acting Assistant Commissioner, Max Mitchell, have been working with Transport for NSW, RailCorp, State Transit and Sydney Ferries as well as the Police Association to synchronise their objectives and to provide greater coordination of resources. This gives all agencies the ability to execute well-planned, targeted operations that will have a significant impact on crime. Officers will be based in three primary metropolitan hubs—central, south-west and north-west

Sydney—and seven satellite hubs, including the Hunter, the Central Coast and Illawarra regions. These locations were decided upon through strategic planning and development to address emerging crime trends and changing demographics.

I am advised that the operations run by the command will be based on the crime linkages and trends that most impact upon a safe and secure transport network. The Police Transport Command will not operate in isolation. It will continue to support local area commands around the State and specialist operations where the transport network may be affected. However, the establishment of the new command, whilst well underway, does not leave the public unprotected or the transport system without a strong enforcement presence. I reiterate that this Government does not take violent and criminal behaviour on the public transport network lightly. We are making sure that offenders will be brought to justice, and the new Police Transport Command addressing public transport in this State will patrol regularly to prevent incidents and to identify more serious criminals where possible. As a public transport user, I am proud to have played a role in today's launch.

STYX RIVER STATE FOREST LOGGING

The Hon. CATE FAEHRMANN: My question without notice is directed to the Minister for Finance and Services, representing the Minister for the Environment. Will the Minister explain whether Forests NSW has breached its threatened species licence for logging in the Styx River State Forest because, first, it has ignored its own records of rufous scrub bird habitat; or, secondly, because its records of rufous scrub bird habitat are unreliable because Forests NSW failed to use for the pre-logging survey a person who is experienced and trained and able to identify threatened species in the region?

The Hon. Catherine Cusack: Point of order: The question is seeking a legal opinion from the Minister and such questions are out of order.

Mr David Shoebridge: To the point of order: The question is not pretending to put a legal proposition. It is asking for a plain answer as to the reason for a fact, not for any sort of legal opinion.

The Hon. Catherine Cusack: Further to the point of order: The question asks whether Forests NSW has breached its own agreement. That clearly requires a legal response.

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

SYDNEY WATER ESTIMATED BILLS

The Hon. WALT SECORD: My question is directed to the Minister for Finance and Services. What action is the Minister taking to protect the 51,000 households that receive estimated bills from Sydney Water from being overcharged?

The Hon. GREG PEARCE: The primary action I am taking to protect those consumers is to be part of a Liberal-Nationals Government. Those customers voted with the majority of people in New South Wales last year to throw out that mob of incompetents opposite—and why would they not do that? Do members know why those 51,000 customers are at risk? Do members know why those 51,000 customers need protection? They need protection because the Minister responsible for Sydney Water from April 1995 to April 1999 was Craig Knowles. The only reason those 51,000 customers need protection is that the Minister responsible for Water from April 1999 to April 2003 was Kim Yeadon.

The Hon. Luke Foley: Point of order: My point of order relates to relevance. Reciting a list of former Ministers for water is in no way generally relevant to the specific question from the Hon. Walt Secord.

The PRESIDENT: Order! As I have previously noted, some generality is permitted. I am sure the Minister will quickly tell the House why that information is relevant to his answer.

The Hon. GREG PEARCE: I repeat that what I am doing to protect those customers is being part of a Liberal-Nationals Government—a Government that delivers for the people of New South Wales, unlike the mob opposite who caused those 51,000 customers to be extremely worried and nervous. In April 2003 guess who was the Minister for Water? Frank Sartor. I am protecting those customers now—

The Hon. Luke Foley: Point of order—

The Hon. GREG PEARCE: That was your question: You wanted to know what I was doing to protect those customers. I am protecting them.

The Hon. Luke Foley: Once again, my point of order relates to relevance. Not for the first time, and not for the first time today, the recitation of former Ministers for water by this Minister is in no way generally relevant to specific questions concerning that utility and his administration of it.

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

The Hon. GREG PEARCE: I am enjoying protecting those customers. I am enjoying, with my fellow Ministers and members of our Government, protecting the rest of the people of New South Wales from the scourge of the former Government over 16 years. Let us push on. In August 2005 the Minister responsible for water was Carl Scully. In February 2006 the Minister responsible for water was David Campbell.

The Hon. Amanda Fazio: Point of order—

The PRESIDENT: Order! The Minister will resume his seat.

The Hon. GREG PEARCE: In April 2007 it was Nathan Rees.

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

The Hon. Amanda Fazio: My point of order relates to relevance. The Minister was asked what action is he, as Minister, taking to protect the 51,000 households that receive estimated bills from Sydney Water from being overcharged. The Minister has not been relevant in his answer. He is evading the question. I ask you to remind the Minister that he must answer questions that he is asked. If the Minister wants to make a statement about something else he can do so in the House when it is appropriate, but not during question time.

The PRESIDENT: Order! As I indicated earlier, Ministers are allowed some generality when they are answering a question. However, answers should be relevant to the question asked. Unfortunately, the Minister's time has expired.

WORKCOVER BOARD

The Hon. MATTHEW MASON-COX: It is my pleasure to ask the Minister for Finance and Services a question. Will the Minister update the House on his latest appointments to the WorkCover board?

The Hon. GREG PEARCE: That is a very good question from the Parliamentary Secretary. Members will be aware that there have been a number of vacancies on the WorkCover board. Late last year we saw the resignation of both the chief executive officer and the chair of WorkCover within the same week—such a shock to the system—but it is indicative of the state that WorkCover has been in for quite some time. Today I announce that, due to new appointments that have been made, we now have an entirely new-look WorkCover board—a board with the experience to drive reform in the scheme, a board with the ability to take WorkCover forward, a board to address the \$4.1 billion deficit in the WorkCover scheme left to us by the previous Labor Government, and a board that can implement any changes following the current parliamentary inquiry.

As we all know, the scheme is spiralling downwards and will become unviable unless it is reformed quickly. Moreover, its ability to return workers to work will be compromised. Unless immediate action is taken every business across the State could face premium hikes of 28 per cent on average. That is simply not a good outcome for anyone. Businesses in New South Wales are already paying up to 60 per cent more than their counterparts interstate.

This Government is determined to not sit on its hands like the previous Government. This Government will not allow things to spiral out of control and is determined to fix the problems it has inherited. That is why the Government has set up the parliamentary inquiry and released an issues paper for public consultation. The parliamentary committee and the Government will set the agenda and it is vital that the right people are there to implement it. I am delighted to announce that Mr Michael Carapiet, Mr Gavin Bell and Ms Elizabeth Carr will fill the vacant positions on the WorkCover board.

Michael Carapiet is already on the WorkCover investment board and is the chairperson of the SAS Trustee Corporation board. He has more than 30 years experience in superannuation, including extensive

knowledge and expertise in the operation of superannuation schemes, investments and financial management. Gavin Bell has almost 30 years of legal and business experience. He has been recognised as the Australian law firm managing partner of the year on two occasions. He holds a Master of Business Administration qualification from the Australian Graduate School of Management for which he received the director's prize for the highest average grade. As chief executive officer he has had responsibility for the development and implementation of strategy and the management of organisational change.

Elizabeth Carr has over 20 years experience in financial management, public administration and change management in both the public and private sectors. She also has a Master of Public Administration qualification from Harvard University and is a fellow of the Institute of Company Directors. Ms Carr brings to the table an ability to analyse and review large-scale projects and to strategically focus on organisational management, and the capacity to oversee change across a variety of industries and sectors. She is currently a board director of the West Australian Environmental Protection Authority and the New South Wales Medical Research Advisory Council. I look forward to working with the new board directors to get the scheme working as it should—supporting injured workers through rehabilitation, getting them back to work, and remaining financially sustainable while still being price competitive with the schemes of other States.

FIREWEED

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Given the rapid spread of fireweed, most likely due to recent heavy rainfall, and given that New South Wales has the heaviest concentration of this weed, will the Minister inform the House of what action is being taken to slow the spread of this weed in New South Wales—

The Hon. Walt Secord: Don't you follow the debates, Paul?

The Hon. PAUL GREEN: —and what assistance is being offered to landowners to help them manage fireweed?

The Hon. Mick Veitch: The bill is before the House.

The Hon. PAUL GREEN: Thank you for that correction.

The Hon. DUNCAN GAY: I thank the honourable member for his question. I note that a member of the Opposition asked whether the honourable member follows the debates. If the Hon. Walt Secord had listened to the debate he would have heard a marvellous contribution by the Hon. Paul Green on the Noxious Weeds Amendment Bill. Even the Hon. Steve Whan—one of the Hon. Walt Secord's colleagues on the losers lounge—made a contribution, of which at least a very small part was sensible. The bill has almost passed through this House. After question time we will remove a couple of the vexatious amendments from the bill and it will be all good. This is an important question. Fireweed is a problem in the Shoalhaven, across the highlands and on the North Coast, where it is particularly problematic. I will pass the question on to my colleague the Minister for Primary Industries for a learned response.

ILLAWARRA DATA CENTRE

The Hon. MICK VEITCH: My question is directed to the Minister for Finance and Services, and Minister for the Illawarra. When will the Government fulfil its commitment to establish a multimillion dollar data centre to be located in the Illawarra?

The Hon. GREG PEARCE: So quickly they forget. The data centre project was commenced and worked on under the Labor Government. That project was underway when this Government came to office. I have spent a great amount of time trying to turn another of the Labor Party's considerable messes into something that is potentially capable of working. The previous Government had about 130 data centres. That was extremely wasteful and inefficient. I certainly agree with the concept of consolidating data centres, and the greatest direct saving that would be made from their consolidation would come from lower electricity costs. But what has obstructed our resolution of this? The carbon tax. Here we go again. The data centre project was Labor's project and it is being held up by the impact of Federal Labor's carbon tax. In that regard it was pleasing today to see Kristina Keneally—

The Hon. Mick Veitch: Point of order: My point of order is on relevance. The question was about the data centre in the Illawarra and even as the crow flies the Minister is nowhere near that topic.

The PRESIDENT: Order! The Minister has been in order for the great majority of his answer. It is not immediately apparent from what the Minister has said thus far about the carbon tax that he is not being generally relevant. Accordingly, I give him the benefit of the doubt and ask him to continue.

The Hon. GREG PEARCE: As I was saying, the viability of the data project depends almost entirely on electricity prices that at the moment are threatened by the carbon tax. So this morning it was great to see Kristina Keneally come out and say that the Prime Minister needs a game-changing Hail Mary pass.

The Hon. Mick Veitch: Point of order: My point of order again is on relevance. The Minister is nowhere near answering the question, which was about a data centre in the Illawarra.

The PRESIDENT: Order! The Minister has been generally relevant and should remain being generally relevant.

The Hon. GREG PEARCE: Kristina Keneally said:

Whether it's good policy or not is now irrelevant: It is completely bad politics. The polls show the carbon tax and Abbott's characterisation of her "broken promise" is—

The Hon. Mick Veitch: Point of order: My point of order again is on relevance. The comments from the Minister while answering this question have nothing to do with the data centre in the Illawarra.

The PRESIDENT: Order! The Minister was indeed moving away from the subject matter of the question. However, I note that his time for speaking has expired.

The Hon. MICK VEITCH: I ask a supplementary question: Will the Minister provide the timetable for the construction of a data centre in the Illawarra?

The Hon. Melinda Pavey: That is a new question.

The Hon. MICK VEITCH: It is based on the comments that he made earlier.

The Hon. Melinda Pavey: Point of order: That is not a supplementary question; it is a new question.

The PRESIDENT: Order! A supplementary question must seek to elucidate an aspect of a Minister's answer. The question asked seeks to do just that and is therefore in order.

The Hon. GREG PEARCE: I am very pleased to speak further about the New South Wales information, communication and technology [ICT] strategy. Currently the Government owns and operates more than 130 data centres across the State, and that has led to excessive costs of security, energy—I will deal with that in more detail later—and maintenance of infrastructure, not to mention the displacement of some prime areas of real estate. Many of the data centres have reached the end of their economic life and that has provided the Government with an opportunity to consolidate and benefit from economies of scale.

Data centre consolidation also may enable system and application rationalisation and provide the foundation for a government-private cloud. A tender for the provision of data centre space within facilities currently owned by the private sector is being evaluated by the Department of Finance and Services. The outcome will be reported when the evaluation is complete. However, as I mentioned earlier, one of the key issues is the cost of energy. The biggest impact on electricity prices will be the carbon tax. Today Kristina Keneally was talking about the broken promises that are eroding trust in the Gillard Government.

The Hon. Lynda Voltz: Point of order: My point of order relates to relevance. The Hon. Mick Veitch asked about the timetable for construction of the data centre in Wollongong. The Minister has stated already that energy savings will be part of building a data centre to facilitate amalgamation. Therefore he cannot argue that a carbon tax would do anything other than drive data activities towards amalgamation.

The PRESIDENT: Order! The Minister should provide relevant information for the remainder of his answer.

The Hon. GREG PEARCE: It is very relevant that Kristina Keneally suggested that Ms Gillard requires contrition— [*Time expired.*]

DONOR ORGANS TRANSPORTATION

The Hon. JENNIFER GARDINER: My question is addressed to the Minister for Police and Emergency Services. Will he inform the House about what is happening to facilitate donors' organs being transported to recipients as quickly as possible to provide the greatest chance of successful transplants?

The Hon. MICHAEL GALLACHER: I thank the Hon. Jennifer Gardiner for her very timely question. In 1984 the late Dr Victor Chang asked the New South Wales Police Force to become involved in the transportation of organs. His aim was to reduce the time between a donor organ being harvested and its being transported to a recipient and thereby to create a greater chance of success. When organs become available for transplantation it is crucial that transport times of those organs are as short as possible. Given the critical nature of the time frames, NSW Health seeks assistance from the Highway Patrol, which is able to perform the integral role of transfers due to significantly better driver training and experience.

The Police Force also is able to monitor emergency issues on the road network to facilitate the safest and most direct route, no matter what the situation may be. More than 2,000 medical transfers have been conducted by the Highway Patrol without incident. In December 2011 the Police Force and NSW Health formalised the 20-year arrangement with a joint agency procedures document to ensure the ongoing success of the organ donation and transplantation service. In addition, the Police Force is working with the full support of Qantas on enhanced aviation coordination procedures to ensure that the transportation of blood and organs interstate and intrastate is expedited whenever possible. That has been achieved through a close working relationship with the Qantas integrated operations centre in Sydney. Many members of the community are unaware of the contribution made by the Police Force to this very important community service.

At a time when most people see police on their television responding to crimes of violence, drunken behaviour or serious traffic offences, it is worth remembering the huge amount of great work they do out of public view. The expeditious transfer of organs is just one example. The community has so much for which to thank our police men and women. Their lifesaving work involving organ transportation is an excellent example of just how much we owe them. I particularly thank Qantas for the assistance it provides to the Police Force, NSW Health and in turn to the public of New South Wales through aviation support. I express my thanks on the record of this House in recognition of the role Qantas plays. Many people in our community are alive today because of the work of the Police Force, NSW Health and Qantas, and that number will only increase in the future.

CYSTIC FIBROSIS SERVICES

Dr JOHN KAYE: I direct my question to the Minister for Police and Emergency Services, representing the Minister for Health and Minister for Medical Research, and refer to the departmental review of the State's cystic fibrosis services that was completed last year. Will the Minister inform the House of the status of that review and whether the findings will be made available to the working group of the New South Wales Agency for Legal Innovation to inform its own review of cystic fibrosis services in New South Wales?

The Hon. MICHAEL GALLACHER: I thank Dr John Kaye for his question and for his interest in this area of health. I will seek a response from the Minister for Health and Minister for Medical Research as quickly as possible.

PENALTY RATES

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Finance and Services. Does the New South Wales Government support the submission to Fair Work Australia by the New South Wales Business Chamber and Restaurant and Catering Australia for removal of penalty rates in the national Restaurant Industry Award 2010?

The Hon. GREG PEARCE: It is interesting that yesterday the shadow Minister spoke on the radio about this Federal issue. She seems to have forgotten that Fair Work Australia is a Federal body and that industrial relations laws are Federal laws. I am pleased that almost at the conclusion of question time today I have been asked a question vaguely related to industrial relations. Yesterday, 1 May—workers day, Labour Day—not a single question was asked by the Opposition on industrial relations matters.

Mr David Shoebridge: That is rubbish. I asked you a question yesterday.

The Hon. GREG PEARCE: Oh, Mr David Shoebridge is the Opposition now. He is formalising The Greens membership as part of the Opposition, so I withdraw my comment. A question was asked by Mr David Shoebridge.

The Hon. Michael Gallacher: He is the Opposition leader.

The Hon. GREG PEARCE: If he is now the Opposition leader, I acknowledge that. Is he the Opposition spokesman on industrial relations? I must find out. I suggest that if the shadow Minister does a little homework she might realise that the State Government is not responsible for Fair Work Australia.

CENTRAL WEST ROAD INFRASTRUCTURE

The Hon. RICK COLLESS: My question is addressed to the Minister for Roads and Ports. Will he update the House on his recent visit to a very important part of the State, Central Western New South Wales?

[Interruption]

The Hon. DUNCAN GAY: The Hon. Penny Sharpe and you were there. It was fortunate that she was with Whan because that was as far north or west as he had ever previously been in his life, and he was in danger of becoming lost.

The Hon. Lynda Voltz: Point of order: The Minister should not respond to interjections and should refer to members by their correct title.

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

The Hon. Mick Veitch: Don't respond to interjections, Duncan.

The Hon. DUNCAN GAY: Then do not make any. Last week I had the pleasure of visiting the electorates of Orange and Bathurst to announce and inspect road upgrades and meet with some of the mayors and general managers of the Central West to discuss natural disaster funding. In this year's budget the New South Wales Government allocated more than \$24.5 million for roadworks in Andrew Gee's electorate of Orange—nearly \$6 million more than Country Labor allocated during its last year in office. Likewise, Paul Toole's electorate of Bathurst received roads funding to the tune of \$58.3 million, which is nearly \$15 million more than Country Labor coughed up last financial year.

Country New South Wales received a record roads budget of \$4.2 billion in 2011-12—\$700 million more than what Country Labor allocated the year before. Little wonder Country Labor is tearing itself apart in country New South Wales. For example, it is a zoo out there in Dubbo, with Sussex Street ringmasters imposing their unique form of political bastardry on what is left of the local Labor threatened species. Just last month—

The Hon. Amanda Fazio: Point of order: My point of order is on relevance. The Minister was asked a question by the Hon. Rick Colless about road funding in New South Wales. He was not asked about the internal business of a breakaway Australian Labor Party branch in Dubbo. I ask you to ask the Minister to be relevant in his answer.

The Hon. DUNCAN GAY: To the point of order: The question asked the Minister for Roads and Ports to update the House on his recent visit to the Central West of New South Wales. What I am talking about is completely within the ambit of the question that was asked.

The PRESIDENT: Order! The question was more wide-ranging than the Hon. Amanda Fazio suggested. It is not yet apparent whether the Minister's comments were not relevant. There is no point of order.

The Hon. DUNCAN GAY: I know the House will be pleased to know that just last month the Dubbo branch of Country Labor took the extraordinary step of demanding to be disaffiliated from Country Labor, citing the insidious interference of Sussex Street factional bosses. When interviewed by the *Sydney Morning Herald*, the acting branch secretary, Bob Young, said:

... democracy within the party has long since gone.

The Hon. Amanda Fazio: Point of order: My point of order is on relevance. I would have thought that the Minister for Roads and Ports would have had better things to do when answering questions than to talk about stupid articles in the *Sydney Morning Herald*.

The PRESIDENT: Order! The Minister's time for speaking has expired.

The Hon. RICK COLLESS: I direct a supplementary question to the Minister for Roads and Ports. Can the Minister please elucidate his answer on his recent visit to the Central West of New South Wales?

The Hon. DUNCAN GAY: I was pleased indeed to see the Hon. Steve Whan and the Hon. Mick Veitch at our forum. The people at the tables they were seated at said that they contributed magnificently. But we lament the loss of Country Labor across regional New South Wales. Perhaps that is because of what Bob Young said, that "democracy within the party has long since gone", and, "The rank and file feel they are being ignored and disaffiliation is a way of getting rid of oligarchic control." So, they have taken over from Sussex Street, and those few members of Country Labor in the Central West are all gone.

The Hon. Steve Whan: You nearly pronounced that.

The Hon. DUNCAN GAY: The member should not be concerned about my pronunciation. It will be perfect in *Hansard*. The message will get across. We do not have those troubles in The Nationals.

The Hon. Steve Whan: Point of order—

The PRESIDENT: Order! I call the Leader of the Government to order.

The Hon. Steve Whan: My point of order is on relevance. The people in the Central West would like to hear what the Minister is going to do to fix the potholes that they talked about at the meeting the other day.

The PRESIDENT: Order! The member will resume his seat. He should not make debating points under the guise of a point of order.

The Hon. DUNCAN GAY: While in Orange with the new Liberal-Nationals members—the great member for Bathurst, the member for Orange and the member for Dubbo, who tipped out the Labor member for Bathurst and his friend, the Independent member for Dubbo— [*Time expired.*]

HOUSING AFFORDABILITY

The Hon. HELEN WESTWOOD: My question is directed to the Minister for Finance and Services. Given that the Federal shadow Treasurer, the McKell Institute, the Australian Council of Social Service, the Western Sydney Regional Organisation of Councils and the University of New South Wales have all publicly stated that there is a housing affordability crisis in Sydney, why has the Minister refused to release almost 3,000 low-cost houses to not-for-profit housing associations, which will allow them to leverage these properties and build 1,200 more properties for disadvantaged families in New South Wales?

The Hon. GREG PEARCE: I have not, and I am working very hard to ensure that the Government does everything it can to support affordable housing in New South Wales.

ILLAWARRA COMMUNITY ADVISORY PANEL

The Hon. MARIE FICARRA: My question is directed to the Minister for the Illawarra. Will the Minister update the House about the Illawarra Community Advisory Panel?

The Hon. GREG PEARCE: As honourable members will be aware, on 20 February this year I called for applications from members of the Illawarra community to be part of the Illawarra Community Advisory Panel. The panel is a key element of this Government's efforts to re-engage the Illawarra community after 16 years in the dark. The panel seeks grassroots input on the work of the New South Wales Government and options for what we can do with the community to advance the interests of all in the Illawarra and improve services and infrastructure. I encouraged applications from people with a wide variety of experience, including education, local businesses and not-for-profit sectors.

On 17 April I announced that the successful Illawarra Community Advisory Panel applicants were Mr Mat Campbell, Ms Narelle Clay, AM, Ms Lynette Cuell, Mr Samuel Edwards, Mr Neville Fredericks, Mr Christopher Grange, Mr John Lamont, Mrs Linda Marquis, Mrs Kay McNiven, Mr Garry Pinch, Mr Mark Sewell and Mr Andrew Snell. I can inform the House that I chaired the first panel meeting last week, on 26 April. The meeting was most informative. Panel members have provided valuable input into the Illawarra Regional Action Plan, which is being developed as part of the New South Wales State Plan. All members were asked to raise their priorities and any specific concerns that they had for the region. Those priorities and concerns ranged from planning for the future aged care needs of the region, promoting health and fitness, addressing unemployment for youth and older workers, and progressing the economic development of the region.

The panel operates with senior New South Wales Government managers in attendance so that the concerns raised by panel members are heard directly by people who can help fix the problem. This process has been designed specifically so that instead of keeping the community in the dark the Coalition is bringing the community together with Government through collaborative decision-making for the long term. The process demonstrates that the panel is a key voice to the New South Wales Coalition Government and is in stark contrast to the modus operandi of the former Labor Government.

Unfortunately, not all representatives of the Labor Party in the Illawarra believe in this Government's new approach to the region. The member for Keira, Ryan Park, has called initiatives in the Illawarra window-dressing and has said that people do not want committees and more duplication of what is already in place. That is what he said. He has said that people do not want to interact with their local members. However, I was glad to see that Mr Park overcame his initial opposition to the Coalition Government's initiatives in the region when he attended the panel's first meeting, where he was very welcome. At that meeting he spoke to the members and the New South Wales Government representatives present. The panel is supported by the Illawarra Government Coordination Group, led by the Senior Regional Coordinator, Michelle Kellaway, who, unlike her predecessor, does not organise Labor Party functions and certainly does not use her government telephone to do so.

The Hon. Walt Secord: Who does it?

The Hon. GREG PEARCE: No-one organises Labor Party functions in the Illawarra any more. This Government is determined to help Illawarra families and communities meet their potential. I look forward to working with the advisory panel to advance the interests of the Illawarra.

SYDNEY CRICKET GROUND

The Hon. LYNDIA VOLTZ: My question is directed to the Minister for Finance and Services, and Minister for the Illawarra. In response to a question in this House regarding WIN Stadium the Minister stated:

I can confirm to the House that there is no Illawarra steel used in this construction. Instead, 60 per cent of the steel was sourced from Victoria and 40 per cent from China

The Minister said that he had "initiated a wide-ranging review to address this issue". Could the Minister inform the House how much New South Wales steel is being used in the construction of the northern stand at the Sydney Cricket Ground following that review?

The Hon. GREG PEARCE: That sounds like what I said about WIN Stadium. However, I would have to double-check because one cannot be quite sure whether members opposite—

The Hon. Lynda Voltz: Point of order: The Minister should not debate the question. I have provided him with the quotes, which I read from his answer.

The Hon. John Ajaka: To the point of order: The Minister was not debating the question. The Minister was answering the question by trying to recollect what he had said.

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

The Hon. GREG PEARCE: I was at WIN Stadium last week having another look at the work. I am pleased to inform members that it still seems to be progressing to repair the roof and that it will be available for the first Dragons game, which I believe is on 15 June.

The PRESIDENT: Order! I call the Leader of the Government to order for the second time.

The Hon. GREG PEARCE: I commend NSW Public Works, the Illawarra Venues Authority and all the other people working on the project. I have intervened weekly to ensure that work on the stadium is progressing. I would love some help from Mr David Shoebridge. He would be able to help by holding up some of the chairs or something.

The PRESIDENT: I withdraw the second call to order on the Leader of the Government. As a St George supporter, it was self-indulgent. I apologise to the House.

The Hon. Lynda Voltz: Point of order: My point of order is relevance. I asked the Minister, after his wide-ranging review into the use of steel, how much had been used in the northern stand of the Sydney Cricket Ground.

The PRESIDENT: Order! The Minister was being generally relevant.

The Hon. GREG PEARCE: The progress of work on WIN Stadium is excellent. I am pleased with all the efforts of the public servants, the consultants and the builder in progressing that project. Unfortunately, I do not have ministerial responsibility for the other ground the member mentioned.

The Hon. MICHAEL GALLACHER: The time for questions has expired. If members have further questions, they should place them on notice.

SMALL BUSINESS COMMISSIONER'S 2011 LISTENING TOUR REPORT

The Hon. DUNCAN GAY: On 28 March 2012 the Hon. Robert Borsak asked me, representing the Minister for Small Business, a question regarding the Small Business Commissioner's 2011 Listening Tour Report. I provide the following answer from the Minister:

I am advised that the agency in question relies on information being provided by third parties in order to issue a licence, which in turn, delays the agency's ability to provide a quick turnaround for clients.

In this case, the role of the Small Business Commissioner was integral in bringing to the attention of the agency, the particular circumstances of this small business, which resulted in the granting of a licence by the agency in accordance with its protocols.

The creation of the position of the Small Business Commissioner, as demonstrated in this example, is a critical one, as small businesses have no other dedicated person who can help them negotiate through the bureaucracy, act as a broker between small businesses and government to obtain clear information about rules and regulations, provide low cost dispute resolution and assist in any unfair dealings with other businesses.

VISITOR ECONOMY TASKFORCE REPORT

The Hon. MICHAEL GALLACHER: On 28 March the Hon. Jan Barham asked me a question relating to the Visitor Economy Taskforce report. I provide the following answer from the Minister for Tourism, Major Events, Hospitality and Racing:

A progress report was provided to my office which is not intended for public release.

The final report will be provided to the New South Wales Government in May 2012.

Questions without notice concluded.

NOXIOUS WEEDS AMENDMENT BILL 2012

Second Reading

Debate resumed from 1 May 2012.

The Hon. NIALL BLAIR [3.34 p.m.]: I worked under the Noxious Weeds Act 1993, particularly with respect to managing the control of noxious weeds for a local council. I am happy to refer to the key benefits of the amendments that the Noxious Weeds Amendment Bill 2012 will make to the Act. First, it will strengthen the objects of the Act to better reflect current weed management policy and practices in New South Wales. The bill extends section 3a (ii) to prevent, eliminate and restrict the spread of existing and significant new weeds.

Currently the section stipulates restricting the spread of new weeds only as an objective of the Act. Essentially, the regulatory provisions of this bill will enable authorities to deal with the threat of weeds more efficiently and quickly than previously. Section 3a (iii) is now a more reasonable objective: widespread weeds will be managed effectively in New South Wales. Previously, the objective was to reduce the area of existing significant weeds in the State—a largely impractical and unachievable aim.

Ambiguous wording within the 1993 Act will be clarified. Currently the Act may be interpreted to mean that once a weed has been declared noxious it applies to the entire State. New section 7 (3) will clearly state that a weed may be declared noxious in a specific area. That is relevant particularly regarding certain conditions in different parts of the State for that weed to thrive only in that area. A weed will be considered noxious only in the area in which the relevant control order applies. The Noxious Weed Act 1993 stipulates that responsibility for noxious weed control lies with the occupier of the land and the local control authority is responsible for ensuring that owners and occupiers comply with the Act.

In the interests of aiding the local authority to complete its function with efficiency, the bill makes a provision that landowners must provide a local control authority with the name and contact details of whoever occupies the land. In addition, a description of the land must be provided so that they may comply with a weed control order. The maximum penalty for non-compliance is \$2,000. Likewise, the amendments will allow for public authorities to provide a description of occupied land to the local control authority, if requested to do so.

Section 31 of the Act currently requires that certain farming equipment coming from Queensland to New South Wales be inspected for cleanliness at the border. The bill makes provision to extend that requirement to include other machinery—specifically mining equipment, which also has the potential to bring weeds into New South Wales—from all States and Territories, not just Queensland. Other members spoke in detail about the increased mining activity throughout New South Wales increasing the risk of weeds coming into this State from equipment moving across our borders. Inspection powers in section 40 of the Act will be extended to apply to machinery and equipment in general.

Inspectors will have the specific power to require the removal of any notifiable weed material in the machine or on the equipment. The Act will be extended to prosecute those who bring noxious weeds, weed material or anything contaminated with weeds into New South Wales with a maximum fine of \$11,000. Currently the Act is limited in its scope to control entry of possible contaminated machinery or equipment into New South Wales. This bill will strengthen the Minister's power to prohibit or regulate the bringing into New South Wales of noxious weed material and will provide greater consistency with the New South Wales Invasive Species Plan.

As I mentioned, controlling weeds is a large issue for many local government areas and other control authorities. The spread of weeds can be prevented by good inspection and control regimes, identifying outbreaks early and putting into action a good control plan as soon as possible before a weed takes hold. I will not list all the weeds in my current area, nor will I talk about the types of weeds I was responsible for controlling.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Opposition members will allow the member with the call to be heard in silence.

The Hon. NIALL BLAIR: I will not go through the different types of weeds I have had responsibility for controlling in the Riverina or Southern Tablelands of New South Wales. I am sure that other members will take great pride and joy in telling the House about the different noxious weeds and the times they have seen them in their travels throughout the State. I commend the Noxious Weeds Amendment Bill 2012 to the House.

The Hon. SARAH MITCHELL [3.39 p.m.]: I support the Noxious Weeds Amendment Bill 2012. I do not have as much knowledge of the subject as my colleague the Hon. Niall Blair, but my husband is a research agronomist and spends quite a bit of time in paddocks in the north-west of this State. He quite often quizzes me as we drive along as to which weed is growing on the side of the road. We have fun car trips in our household. Noxious weeds are a serious problem. Australia has had a long history of coordinated weed control; it is important that we have these measures in place. Weeds are a major cause of land degradation, habitat modification and cause severe productivity loss. It is important that we have bills such as this to help protect the land from of noxious weeds.

Wide-ranging evidence shows the effect of weeds on primary producers across the State. Other members referred to various studies. I will mention the Australian Bureau of Statistics Natural Resource

Management Survey 2006-07, which found that weed management nationally comes at a cost of \$1.5 billion to Australian farmers. It is a significant issue. This bill has arisen after a statutory review of the Noxious Weeds Act 1993 in 2010, which recommended a number of changes to the Act. This Government has further consulted with the community and relevant stakeholders to improve the way in which we control weeds in New South Wales. Strong measures need to be available to ensure the effect of noxious weeds on the productive and natural resources of this State are minimal. This bill complements other initiatives of the New South Wales Government to improve the way we identify and manage noxious weeds in an effective and efficient manner.

I will concentrate on two areas of the bill that are of particular interest to me. First, I will address the amendment to the Noxious Weeds Act 1993 that would require a landowner to provide details of a land occupier to the local control authority. The Act places the responsibility for noxious weed control on the occupier of the land, regardless of whether he or she is the owner of the land. The local control authority is then responsible for ensuring the owners and occupiers carry out their obligations under the Act. This bill proposes that the Act be amended so that the local control authority can require a private landowner to provide the name and details of the occupier of the land and a description of the land. This will improve information details and ensure consistency under the Act.

The amendments in this bill will also reduce the risk of noxious weeds spreading into New South Wales by extending the power to control machinery entering this State. Currently, provisions of the Act are limited to agricultural machines brought in from Queensland. It is proposed to amend the Act so that section 31 will apply to any machinery and equipment brought into New South Wales from any State or Territory. This amendment will ensure that cleaning and border inspection requirements are applicable to all machinery and equipment in general. The inspectors will be able to examine, take samples, photograph and in certain situations remove and destroy suspected noxious weed material. This will improve the investigation and tracking of noxious weed material. I note that the inspector's power of entry into property remains unchanged under the new amendments. This is a commonsense bill that will make a difference to primary producers across our State affected by noxious weeds. I commend the bill to the House.

The Hon. RICK COLLESS [3.43 p.m.]: I support the Noxious Weeds Amendment Bill 2012. As has already been stated, weeds are a major cause of land degradation, habitat modification and productivity loss. More than 2,500 introduced plants are now established in the wild and approximately 20 new species are found growing in Australia each year. Each year the cost of weed control to agriculture nationwide equates to building 1,000 new primary schools, 60 general hospitals, 400 district hospitals or 1,500 nursing homes. During question time the Minister was asked a question about fireweed. The Hon. Luke Foley threw his hands in the air and said, "The noxious weeds bill—one of the most important pieces of legislation we have ever seen." The member was being facetious, of course. That highlights the problem with those opposite: They do not appreciate the issues affecting regional New South Wales.

The Hon. Dr Peter Phelps: And they got punished for it last year.

The Hon. RICK COLLESS: Yes, the Labor Party was punished for it last year. That is why there are no Country Labor members in regional New South Wales.

The Hon. Steve Whan: It is like being flogged with a wet lettuce.

The Hon. RICK COLLESS: The former Minister for Primary Industries says, "It is like being flogged with a wet lettuce." That is why the member is sitting in this House; that is why he lost his seat in the lower House; that is why Labor lost Murray-Darling and Bathurst; that is why there are no longer—

The Hon. Lynda Voltz: Point of order: Debate in the Chamber should be directed through the chair, not to members in the Chamber.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I uphold the point of order.

The Hon. RICK COLLESS: Those costs do not include the costs associated with the impact of weeds on biodiversity, the landscape, tourism industries, water and human health. One of the fiercest enemies in the war against weeds is parthenium weed. New South Wales has an enviable record against parthenium weed. A total of 51 parthenium weed outbreaks have been detected and eradicated on New South Wales farmland since the first outbreak in 1982. More than 700 outbreaks have been detected and eradicated on roadsides since 1982. Parthenium weed is a highly invasive weed found mainly in Queensland. It can germinate, grow, mature

and set seed within four weeks. Parthenium weed seeds are very small and easily spread by machinery, vehicles, stock and in fodder. I have been advised that a recent outbreak of parthenium weed has been detected in the Riverina, which is worrying. Largely due to this Government's early detection methods, this outbreak was controlled; it should not be a further problem.

While parthenium weed's adverse impact on primary industries is huge, the human health issues that it causes—such as hay fever, allergic reactions and dermatitis—result in considerable cost to the community. Queensland's control costs and production losses associated with parthenium weed are estimated to be more than \$22 million per year. This illustrates why weed control is important and why a coordinated and strategic response is required. The bill introduces an important amendment that will help reduce the risk of weeds—like parthenium—spreading into New South Wales from Queensland and other jurisdictions.

Currently, provisions of the Act regulating movement of machinery into New South Wales are limited to certain agricultural machines brought from Queensland. I have been involved with this issue since the early 1990s, when I served on the local government north-west county council. We had a lot of parthenium outbreaks coming into New South Wales as a result of not just the machinery that was checked, such as headers, but a suite of other machinery that was not checked because it was not prescribed in the legislation. That is something this bill will address. Grain harvesters, comb trailers, grain harvesting bins and augers, and associated transport and pilot vehicles are the only agricultural machines that are currently subject to any such regulation. There are other types of machinery and equipment moving from Queensland and other States and Territories into New South Wales that have the high potential to spread parthenium weed and other weeds into New South Wales.

The Hon. Jeremy Buckingham: Coal seam gas drilling machinery.

The Hon. RICK COLLESS: I note the interjection. That is what will be checked under this bill. It is therefore proposed to amend the Act so that section 31 applies to any machinery and equipment coming across the border. It will apply not only to agricultural machines; any heavy earthmoving equipment and any other machinery that has been in parthenium weed areas will now be required to be checked at the border. This will then enable machinery and equipment that has been assessed as high risk to be declared by ministerial order to be subject to the requirements of section 31 of the Act, and therefore subject to certain cleaning and border inspection requirements in order to be brought into this State. Inspectors' powers in section 32 of the Act are being extended to apply to machinery and equipment in general, and not limited to agricultural machines. Similarly, inspectors' powers in section 40 of the Act are also being extended in this bill to apply to machinery and equipment in general. Specifically, inspectors will be empowered to require the removal of notifiable weed material from any machinery or equipment if the inspector reasonably suspects that any notifiable weed material is or may be present in that machinery or equipment.

Parthenium weed is a weed of national significance that has the potential to thrive in New South Wales. It is an aggressive, fast growing annual weed with prolific seed production, which can quickly spread on bare or disturbed ground. Once established, it is difficult and expensive to eradicate. The New South Wales Government has launched a new strategy to prevent parthenium weed—a harmful, invasive weed endemic in Queensland—from establishing itself in New South Wales. Under the guidance of the New South Wales Parthenium Task Force, this strategy has been developed through extensive industry, community and expert consultation. It aims to prevent parthenium weed from establishing in New South Wales by keeping incursions to a minimum, controlling new outbreaks and ensuring the community is ready to respond.

As part of the strategy, the Department of Primary Industries will partner with local control authorities to find and eradicate new parthenium weed outbreaks before they can produce seed. Given the four-week time frame from germination to seed-setting, it is imperative that people know what parthenium weed looks like, where it is potentially a problem, and ensure that where people see it they should let authorities know about that. This program has been identified as a priority under the New South Wales Weeds Action Program. The strategy places equal importance on keeping the community informed of the potential threat, the importance of reporting suspected outbreaks and understanding how to identify parthenium weed. Strong measures need to be available to ensure that noxious weeds in New South Wales are managed to minimise their effect on the productive and natural resources of the State. The bill provides measures that will increase our collective ability to manage noxious weeds in an effective and efficient manner. I commend the bill to the House.

The Hon. NATASHA MACLAREN-JONES [3.52 p.m.]: I support the Noxious Weeds Amendment Bill 2012, which introduces a number of amendments to the Noxious Weeds Act 1993, as recommended by the statutory review conducted in 2010. I will speak briefly on the bill as a number of members have already spoken on the detail of it, and a number of other members wish to speak in the debate.

The Hon. Dr Peter Phelps: The farmers of Narrabeen want to hear all about it.

The Hon. NATASHA MACLAREN-JONES: It is a very important issue. We have heard from many rural and regional members, so I feel compelled to raise a couple of issues that affect the coastal community and urban areas. The Parliamentary Library issued a very important report on this matter. I refer to a couple of facts mentioned in that report. One is that the Local Government and Shires Association of New South Wales advises that weeds cost the New South Wales economy more than \$1.2 billion a year in lost production and ongoing control costs, and that the cost is close to \$4 billion across Australia. Government spending on noxious weeds control in New South Wales has increased over a number of years; it increased further in the last budget, in which this Government committed up to \$11 million on noxious weeds control programs. The economic damage of weeds, particularly in regional communities, is extensive. The Bureau of Statistics has found that more than 90 per cent of New South Wales agricultural businesses are impacted by noxious weeds.

I come from a coastal community, on the Northern Beaches, which comprises Warringah and Pittwater councils. I commend those councils for the work that they have been doing to deal with noxious weeds. We currently have more than 100 registered weeds. At the moment the council is conducting annual spraying throughout the Warriewood area to control water primrose, an aquatic noxious weed. It clogs our waterways and reduces the biodiversity of the local flora and fauna. This weed is difficult to control. It is good that it is classified as a class 3 noxious weed because that means that local members of the community and landowners must work with council to control it. I commend both councils for being part of the Northern Sydney Noxious Weeds Committee. They work with the community and various other councils to target noxious weeds in the northern suburbs. One of the number of important programs is Weedbuster Week, which raises awareness about weeds and advises on practical activities that members of the community can undertake to remove and reduce weeds.

In New South Wales weeds make up about 20 per cent of the flora. That is as significant as, or higher than, anywhere else; the national average is about 15 per cent. Currently there are about 2,700 species of introduced plants in Australia, and of those 1,386 are considered weeds in New South Wales and 190 are listed as noxious weeds. I will not go to the detail of the bill; that has been covered by a number of other members. However, I congratulate the Minister on taking the initiative to address this important issue, which is having economic, environmental and social impacts throughout the State. I commend the bill to the House.

The Hon. LUKE FOLEY (Leader of the Opposition) [3.55 p.m.]: I speak on the Noxious Weeds Amendment Bill 2012. I endorse all of the comments made by the Hon. Steve Whan, who led for the Opposition in this debate in his capacity as shadow Minister for Primary Industries. As shadow Minister for the Environment, I wish to make a couple of brief points from my perspective. Weed invasion is of course a major threat to the New South Wales environment. I note that weeds are a threat to 40 per cent of the threatened species listed under the New South Wales Threatened Species Conservation Act. They are also a threat to almost 90 per cent of endangered ecological communities.

I certainly acknowledge that weeds are a major economic threat, costing New South Wales farmers an estimated \$1.2 billion, according to the New South Wales Farmers Association, and that weed control programs cost New South Wales taxpayers more than \$50 million annually. However, as shadow Minister for the Environment, I want to make a couple of brief remarks on the environmental impact of weeds. I support the proposition advanced by many of the environment groups in this State, made in a submission to the review of this Act, that the Noxious Weeds Act should include ecologically sustainable development in its objects; that would be consistent with most other State environmental legislation. Many pieces of New South Wales legislation include ecologically sustainable development in their objects.

The Hon. Duncan Gay: The problem is they are all different.

The Hon. LUKE FOLEY: There is a considerable history of case law in this State. I note the interjection of the Deputy Leader of the Government. Ecologically sustainable development and its principles would need to be clearly defined in the Act if they were to be included, and reference would need to be made to them where they are applicable in specific provisions of the Act. The conservation of biodiversity, as the Hon. Natasha Maclaren-Jones said earlier, requires according appropriate priority to weeds that threaten that biodiversity. Many weeds that threaten biodiversity are not regulated at all currently.

Environmental protection requires focus on preventing and reducing cumulative impact of weeds, not just on reducing the adverse impacts of a small subset of the most severe weeds. Weed threats to biodiversity

often involve multiple weed species, some of which may not be regarded as a significant threat on their own. I support the inclusion of cumulative impacts in the objects of the Act to recognise this threat and to ensure that various weed control programs focus on the protection of the environment.

I turn briefly to the concept of the white list approach. I think there are members on all sides of the House who are open-minded about the development of a white list approach in New South Wales. The environmental groups strongly recommended in their submissions to the review a permitted white list approach for both current species and new varieties of existing introductions as a top-priority weed reform. Limiting introductions to low-risk species and varieties is the most visible way to reduce the rate of naturalisations and invasion. Of course, I recognise that if New South Wales is to develop a white list approach there will need to be a great deal of consultation to develop the details and to consider costs. Therefore, I suggest an appropriate inquiry for a relevant committee of the Legislative Council in this term of the Parliament to inquire into the development of a permitted white list approach in New South Wales.

I note that the Council of Australian Governments could also move to implement a white list approach throughout the Federation as part of implementing recommendation 23 (1) of the Hawke review of the Commonwealth's Environment Protection and Biodiversity Conservation Act. That recommendation reads:

The Council of Australian Governments develop criteria and management protocols for the movement of potentially damaging exotic species between States and Territories working towards a list of controlled species for which cost-effective risk mitigation measures may be implemented.

In conclusion, I endorse the remarks of my colleague the Hon. Steve Whan, the shadow Minister for Primary Industries. The Opposition will support this bill and we will support some of the amendments that I understand will be moved in Committee, including incorporating the principle of ecologically sustainable development into the objects of the Act. I will not speak any longer because I note that this debate is now in its second day and we should be debating drive-by shootings and the Government's plan to force families to work at Christmas. Instead, Mr O'Farrell has the Parliament examining for two days now serrated tussock and lantana. Let us bring this debate to a close and get on to more important issues.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [4.03 p.m.], in reply: I thank members for their contribution to the debate and their genuineness, although the conclusion of the most recent contribution of the Leader of the Opposition was less than relevant to the debate. The fact that he considers that we should not be talking about issues concerning noxious weeds which affect regional and metropolitan New South Wales indicates a sensationalist attitude that is quite lamentable.

The genesis of this bill was a statutory review of the Noxious Weeds Act 1993 which was conducted in 2010. The report on the statutory review recommended making a number of amendments to the Act to improve its effectiveness. I am glad that we are now giving effect to those recommendations today. I am also glad that the Hon. Steve Whan during his contribution to the debate outed himself as a self-confessed failure in not being able to achieve funding in this area from the previous Treasurer. I wish he had been that honest when we were prosecuting this case before the election, when he did not want to admit that at all.

These amendments to the objectives of the Act will better reflect current weed management policy and objectives. New South Wales will have a stronger pre-border weed protection capability. The spread of noxious weeds from other jurisdictions will be reduced. Better protection will be provided to the unique flora and fauna of Lord Howe Island. Local control authorities and noxious weed control officers will be able to more effectively fulfil their obligations under the Act, and several sections of the Act will be clarified to avoid any future confusion.

The Government is not stopping here in strengthening our fight against noxious weeds: further amendments to this Act are currently before the other place as part of the Primary Industries Legislation Amendment (Biosecurity) Bill 2012, which aims to strengthen our ability to respond to biosecurity emergencies. These amendments will strengthen our capacity to respond to emergency outbreaks of noxious weeds by allowing actions such as longer maximum terms for emergency weed control orders and orders declaring quarantine areas; more efficient and effective publication of these urgent orders; and increased powers for inspectors and authorised officers with respect to testing, treating and disinfecting matter containing suspected noxious weed material, to name a few.

The Hon. Steve Whan asked what else we are doing in relation to issues raised in the statutory review report such as consideration of a permitted or, as he and the Leader of the Opposition put it, white list approach,

more equitable weed management outcomes between public and private landholders, and time frames for resolution. We agree that these are important issues and they were deferred so that more extensive consultation and consideration of matters could be undertaken, such as the cost implications for stakeholders, as the Hon. Steve Whan would well know and as he and the Hon. Paul Green recognised in their contributions.

The Hon. Jeremy Buckingham and the Hon. Steve Whan noted the need for a whole-of-government approach to weed management. That is precisely what the New South Wales Department of Primary Industries biosecurity strategy aims to achieve but, of course, across the whole of the biosecurity spectrum. Biosecurity is everyone's responsibility. If we are to achieve effective management a coordinated and collaborative approach is essential. However, the Government is going further than just these proposed amendments. A new legislative framework for biosecurity management is currently being developed but, like all major legislative reform, it will take some time, especially if meaningful consultation is to occur—which it should.

Many of the issues raised in the statutory review report and in the House will be carefully considered as part of that process. The members of the Noxious Weeds Advisory Committee—a very important committee, as the Hon. Paul Green noted—are already turning their minds to these important and complex issues that have the potential to adversely impact industries if sensible and cost-effective arrangements are not implemented. Part of the problem of green and red tape is that there will be potential problems if we rush it and do not do it correctly.

The Government has begun work investigating how a white list approach fits into the overall declaration and compliance framework under the existing and proposed legislation. In addition, the department has engaged key stakeholders and experts to tackle the most challenging element of a white list approach: the risk assessment of thousands of plant species that have the potential to be included on such a list. The bill proposes amendments to the Noxious Weeds Act 1993 to improve weed control and management across the State. They are sensible amendments that will deliver benefits to landholders and communities. By taking action to address weeds we can also improve primary industry productivity, increase the survival of threatened and endangered plants and animals and deliver broad environmental sustainability benefits. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

The Hon. JEREMY BUCKINGHAM [4.14 p.m.], by leave: I move The Greens amendments Nos 1 to 3 on sheet C2012-046A in globo:

No. 1 Page 3, schedule 1 [1], line 4. Omit "(ii) and (iii)".

No. 2 Page 3, schedule 1 [1], lines 5–8. Omit all words on those lines. Insert instead:

- (a) to reduce the negative impact of weeds on the economy, community and environment of this State by applying the principles of ecologically sustainable development (as described by section 6 (2) of the Protection of the Environment Administration Act 1991) and establishing control mechanisms to:
 - (i) prevent the establishment in this State of harmful or potentially harmful new weeds, and
 - (ii) prevent, eliminate or restrict the spread in this State of harmful or potentially harmful weeds, and
 - (iii) effectively manage the adverse impacts of harmful weeds in this State,

No. 3 Page 3, schedule 1. Insert after line 8:

[2] Section 3 (c) and (d)

Insert after section 3 (b):

- (c) to promote co-operation between all levels and agencies of government in the management of weeds,
- (d) to provide for public education and participation in decision-making and implementation of policy concerning the management of weeds.

The Greens are disappointed that the Government has failed to consider a number of reasonable and important recommendations from the environment organisation—

The Hon. Duncan Gay: Point of order: I acknowledge that this is the first time that the honourable member has moved amendments at the Committee stage but he is raising matters that would have best been raised in the second reading stage. When one moves an amendment in Committee one speaks about the amendment, not general concerns about the bill.

The Hon. Cate Faehrmann: To the point of order: The Hon. Jeremy Buckingham had just started speaking to his amendment. He was framing the amendment and its purpose and the Minister did not allow him enough time to establish his point.

The CHAIR (The Hon. Jennifer Gardiner): Order! The Hon. Jeremy Buckingham will confine his remarks to the amendment.

The Hon. JEREMY BUCKINGHAM: Some of the key recommendations not considered were the moves to strengthen the objects of the Act. The amendments do that. The Government has sought to remove the most important objective of the Act, which is to prevent the establishment of new weeds. The Greens consider this to be a backward step that could lead to significant new naturalisation of thousands of weeds that are already in other States but yet to enter New South Wales. The Greens amendments will reinstate the provision to prevent the establishment of new weeds by incorporating a general principle of ecologically sustainable development and changing the criteria in the object from "significant new weeds" to "harmful weeds".

I note that the Hon. Duncan Gay queried how "ecologically sustainable development" would be defined. The amendments define it as "as per section 6 of the Protection of the Environment Administration Act 1991". That is the wording in the Protection of the Environment Administration Act and it is perfectly reasonable for it to be considered in the objects of this Act.

The focus on "significant weeds" is ambiguous and not defined in the Act. It also leads to potential confusion with the category "weeds of national significance", which applies to only 20 or so weeds. To clear up the responsibilities of the Minister and local control authorities, The Greens amendments will change the focus from the ambiguous "significant weeds" to "harmful or potentially harmful" and allows for a judgement of harm to be made on the basis of the principles of ecologically sustainable development as described in the Protection of the Environment Administration Act 1991.

Importantly, ecologically sustainable development requires the effective integration of economic and environmental considerations in the decision-making process. "Harmful" and "potentially harmful" are far better descriptors for making decisions. It is applicable not only to environmental harm but also economic and social harm and harm to health and amenity. It also makes prioritisation easier in weed management decision-making as the criteria for the level of harm or potential level of harm is more readily determined than by a significance rating. I note that this was one of the core recommendations proposed by the peak environment groups and the Invasive Species Council. Its recommendation in its submission was to:

Change the focus of the Act from 'significant' weeds to 'harmful or potentially harmful' weeds. Define 'harmful' as it applies to the environment, economy and community, with regard to ESD.

That is a reasonable and constructive addition to the Act. It would be a significant shift towards a more proactive approach to noxious weed management in New South Wales and lend itself to a shift towards a permitted or white list approach in the near term whereby a risk assessment model for permitting any weeds into the State could consider all the principles of ecologically sustainable development. Those principles are the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity, and improved valuation, pricing and other incentive mechanisms.

The provisions in the amendments add two new objectives to more clearly describe what the Government is attempting to achieve with the Act. They include an objective to promote cooperation among all levels of government agencies in the management of weeds and to provide for public education and participation in decision-making as well as implementation of policy relating to the management of weeds. That is a very important element. Costs associated with weeds impact upon productivity, the environment, the community and health but are not well understood in New South Wales. The comment was made during debate that this is a facetious contribution that downplays the relevance of noxious weeds in New South Wales, but the

invasion of noxious weeds is one of the biggest threats to ecological communities and endangered as well as threatened species. It is very important for the Government to do everything possible to educate the community and facilitate coordination among government agencies.

It is widely acknowledged that cooperation, education and participation are critical for weed management outcomes. An effective weed eradication program will require engagement with the community and local landholders, cooperation between all groups, and cooperation in action. There are widespread examples of weed control authorities educating the community to recognise what a weed looks like. In some areas Chilean needle grass will be growing along the edge of a road and local television advertisements educate the community to be able to recognise it and other seriously damaging weeds as well as engage in a hunt for areas where noxious weeds thrive. The earlier a community knows about weeds the earlier weeds can be controlled. A piecemeal approach will always be less effective than a coordinated approach. An illustration of that is the development of regional weed committees. The Greens hope that by including additional objectives further support will be given to the establishment of education programs and that, in the future, there will be a legislative role for the implementation of regional weed plans. I commend the amendments to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [4.22 p.m.]: The Government opposes the amendments. While the principle of ecologically sustainable development is not specifically or explicitly mentioned in the Act, the Act and supporting policies are consistent with that principle.

The Hon. Cate Faehrmann: Well, why not support the amendments then?

The Hon. DUNCAN GAY: The Hon. Cate Faehrmann should just listen for a moment. The implicit consistency is apparent from a reading of the whole Act. The bill amends the objects of the Act so that they reflect the policy objectives of the Invasive Species Plan and become clear statements about what the Government wants to achieve in relation to weeds. The Government wants to prevent the establishment in this State of significant new weeds; to prevent, eliminate and restrict the spread in this State of significant weeds; and to implement effective management of widespread significant weeds in this State. Inclusion of the principles of ecologically sustainable development is not considered necessary for the effective operation of the Act. The Hon. Jeremy Buckingham, who moved the amendments, said that because ecologically sustainable development is not mentioned in the Act that will make it more difficult to remove weeds. What absolute rubbish.

One of the well-known tactics of The Greens, aided by their friends in the Labor Party, is to continually introduce new, improved and changed definitions of ecologically sustainable development. That causes confusion and adds to red tape and green tape, and adversely affects people who are diligently doing their job. The best way to control weeds is to adhere to the current Act instead of confusing it with yet another definition of ecologically sustainable development, albeit a 1991 definition by the Invasive Species Council, which is a not-distant-cousin of The Greens. The term "significant" emphasises that weed species are subject to a prioritisation process. Weeds are assessed by using the internationally recognised New South Wales Weeds Risk Assessment System, which is a standard nationally accepted and transparent process for making decisions about the declaration and prioritisation of weed species. The definition emphasises the need to take a prioritisation approach to addressing weeds because of limited resources or differing impacts. Simply referring to harmful or potentially harmful weeds does not reflect that approach. The term "harmful" already is implied in the commonly accepted definition of the term "weed".

It is not necessary to include government cooperation, public education and participation in the objects of the Act. Those types of objectives do not need to be included in legislation and extra regulation because they are achieved more meaningfully through policies and programs. Interestingly enough, the Hon. Jeremy Buckingham, who moved the amendment, cited the fact that he had seen the policies and programs at work and he confirms that the programs are already happening. Interagency collaboration and cooperation already are spelled out in several policy documents, including the Invasive Species Plan, the New South Wales New Weed Incursion Plan and the Statewide Framework: Biodiversity Priorities for Statewide Weeds. The Invasive Species Plan identifies key stakeholders and the actions they should take in relation to invasive species management, which includes weeds. The New South Wales Department of Primary Industries, the Office of Environment and Heritage and 13 catchment management authorities [CMAs] jointly developed the Statewide Framework: Biodiversity Priorities for Statewide Weeds.

In relation to public education and participation, there are many weed management education campaigns being conducted in New South Wales, including Weed Warriors, which is a national program for

students that provides an opportunity to learn about invasive pest plants; Weed Attack, which is a web-based multimedia resource with interactive learning activities that are aimed at preparing students to investigate local weeds of national significance; and the No Space 4 Weeds Program, which is a statewide weeds program that provides opportunities for the community to become part of the weeds solution. The public is also able to participate in the process of making a weed control order. Before the Minister makes a weed control order he or she must undertake the public consultation process that is set out clearly in section 9 of the Act.

I reiterate that the Government will not support The Greens amendments, which seek to insert another definition of ecologically sustainable development into legislation and will only confuse people. The amendments are yet another demonstration of The Greens objective of inserting differing and various definitions of ecologically sustainable development into legislation to further complicate matters each time the term is redefined.

The Hon. STEVE WHAN [4.27 p.m.]: For the benefit of the Minister, who is confused about comments I made yesterday, I point out that yesterday I said that The Greens proposed to move a number of amendments to the bill. Based on my reading of the amendments, most of them seem to be all right. However, I indicated that I was concerned about a single amendment relating to obligations of public authorities to control noxious weeds on Crown lands. As the Leader of the Opposition indicated earlier, the Opposition is happy to include principles of ecologically sustainable development in this legislation.

I do not believe that the Minister's contention that the definition's inclusion would add to green tape has any validity at all; rather, I would have thought that the Minister and the State Government would welcome the fact that we now have a very positive push from environmental organisations to join the fight against weeds in New South Wales. We should be encouraging that support. Weeds are a scourge not just for primary producers and landholders but also for our public lands. The environmental movement is taking a strong stand to protect public lands. We should welcome that and build on it. The amendments will assist in strengthening that support.

The CHAIR (The Hon. Jennifer Gardiner): With the consent of members, I propose to put the question on The Greens amendments Nos 1 to 3 on sheet C2012-046A in globo.

Question—That The Greens amendments Nos 1 to 3 [C2012-046A] be agreed to—put and resolved in the negative.

The Greens amendments Nos 1 to 3 [C2012-046A] negatived.

The Hon. JEREMY BUCKINGHAM [4.30 p.m.]: I move The Greens amendment No. 1 on sheet C2012-054:

No. 1 Page 3, Schedule 1. Insert after line 20:

[3] Section 9 Public and ministerial consultation

Omit section 9 (1). Insert instead:

(1) Before making a weed control order, the Minister must:

(a) consult, and have regard to the views of, the Minister administering the Protection of the Environment Operations Act 1997, and

(b) cause the proposed order to be subject to public consultation.

This amendment requires the Minister to consult and have regard to the views of the environment Minister when creating weed control orders. While it is absolutely clear that weeds are a major natural resource issue for farmers in New South Wales, there is also a significant environmental impact that needs to be adequately considered in the weed management legislation. We have heard from members about the impacts on threatened species and the environment. Key environment non-government organisations that made submissions to the review highlighted that weeds are having a significant impact on more than 40 per cent of New South Wales threatened species and on about 90 per cent of endangered ecological communities. In New South Wales the lead environment agency has had little involvement in the regulation and management of weeds other than in relation to land for which it is responsible, such as national parks.

The Greens believe the environment Minister should have a greater say in the making of weed control orders and that the Minister's opinion should be sought and considered adequately by the Minister responsible

under the Act when making new orders. This is an important first step in ensuring greater prioritisation of the environment and weed management decisions. It will also encourage collaboration and may find some benefit in multijurisdictional weed management actions. This amendment has a synergy with other Greens amendments that seek to remove the special consideration for public agencies in meeting the requirements of weed control orders and in requiring them to report annually on weed management activities. I commend the amendment to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [4.32 p.m.]: The Government opposes The Greens amendment No. 1 on sheet c2012-054. Including the requirement that the Minister must consult with and have regard to the views of the Minister responsible for administering the Protection of the Environment Operations Act 1997 prior to making a weed control order is unnecessary. Prior to making a weed control order the department already consults with the Noxious Weeds Advisory Committee. That committee is a statutory committee established under the Act and includes representatives of the Office of Environment and Heritage as well as the Local Government and Shires Associations, the NSW Farmers Association, the catchment management authorities, the Nature Conservation Council, livestock health and pest authorities, Nursery and Garden Industry Australia, and the Department of Primary Industries.

The Noxious Weeds Advisory Committee advises the Minister on the appropriateness of the proposed order. In addition, before making a weed control order the Minister must undertake a public consultation process as set out in section 9 of the Act. The consultation process allows the Minister responsible for administering the Protection of the Environment Operations Act 1997 the opportunity to comment on the proposed order. The Minister must also consult the Minister responsible for administering the National Parks and Wildlife Act 1974 if the order will declare any plant that is native to the State to be a noxious weed. The Department of Primary Industries works closely with the Office of Environment and Heritage on all noxious weed proposals, especially those that have environmental implications. There is no evidence to suggest that a lack of consultation has ever been an issue with regard to noxious weeds impacting on the Protection of the Environment Operations Act 1997.

The Hon. STEVE WHAN [4.34 p.m.]: The Opposition supports The Greens amendment. However, I accept the Minister's point that there is no evidence that the current operation is flawed. As the former Minister responsible for that area, I think it seemed to work well. But there is no negative in putting this provision in the legislation to formalise the requirement for consultation in the future. Indeed, it is clear that it will not slow down the process.

The Hon. Dr Peter Phelps: What about the additional workload of having to consult on every order as opposed to the environment Minister having the discretion?

The Hon. STEVE WHAN: The Government Whip interjects that there is already a consultation process, which the Minister just outlined. There should be a consultation process. Weed control orders are serious; they are not decided at the drop of a hat. There is a process to go through, and this amendment simply formalises part of that process.

Question—That The Greens amendment No. 1 [C2012-054] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2012-054] negatived.

The Hon. JEREMY BUCKINGHAM [4.36 p.m.], by leave: I move The Greens amendments Nos 1 and 2 on sheet C2012-053 in globo:

No. 1 Page 4, schedule 1. Insert after line 27:

[5] Section 13 Public authorities' obligations to control noxious weeds on own land

Omit ", to the extent necessary to prevent the weeds from spreading to adjoining land" from section 13(1).

No. 2 Page 7, schedule 1. Insert after line 28:

[26] Section 70 Protection from liability

Omit section 70 (2) and (3).

One of the biggest criticisms of farmers in relation to weed management is the inequity of expectations between private landholders and public agencies. Some of the amendments already proposed by the Government put even more onus on private landholders to provide details of who might be occupying land at the time. I support that; it is no problem—and I have not heard anyone in this Chamber speak against that proposition. However, we should have a fair system, and we apply that same expectation to State agencies. The Liberal-Nationals recognised that this was an issue during the election campaign. It made that clear on page 3 of its policy statement, "Controlling Noxious Weeds—Commitment to Weed Management in NSW 2011-2015", which states:

3. Introduce mandatory weed management requirements in which departments, agencies and statutory authorities will be subject to the same rules and regulations as private landholders for efficient control of noxious weeds on lands managed by them.

Philosophically, I believe everyone supports that position. However, some people believe it would be too expensive. I will address that point later. This policy of the Liberal-Nationals did not rate a mention in the agreement in principle speech by the Minister for Primary Industries or in any of the contributions from Government members. As legislators, we cannot ignore the elephant in the room and what has been a bugbear of land managers and farmers in New South Wales for a long time—that is, weeds on lands controlled by State authorities. On page 9 of its submission the NSW Farmers Association states:

Recommendation 8: the Act should be managed to bind the Crown to control weeds in Rail corridors, National Parks and State Forests and the regulatory agency must have enforceable authority across all land tenure within a region.

Again, the farmers make a sensible suggestion, which was reflected in the Government's policy but which now is not part of the proposed amendments to the Act. This has been raised again and again, and the Government should grasp the nettle.

The Hon. Robert Borsak: Very good, Jeremy.

The Hon. JEREMY BUCKINGHAM: I worked on that one. The Government should grasp the African lovegrass—I am labouring it now—and acknowledge that this is one of the biggest issues in land management in Australia. It is the responsibility of State agencies to manage weeds fairly, and private landholders and State authorities should be treated the same. The Greens' amendment seeks to implement the Government's policy. The amendment takes the simple step of removing from section 13 the words "to the extent necessary to prevent the weeds from spreading to adjoining land". That is not good enough. The same rules need to apply to private landholders and government authorities.

This amendment will require a public authority that occupies land to control noxious weeds on that land as required under a weed control order. The requirements of the public authority then would be identical to those for a private landholder, whose obligations are outlined in section 12 of the Act. The amendment provides flexibility to achieve that equality. It is false to suggest that a weed control order would force the National Parks and Wildlife Service, Forests NSW, Roads and Maritime Services, and Sydney Water to allocate their whole budget to comply with an order to eradicate a weed in one year.

Those agencies should develop and implement management plans for the control of noxious weeds, if they have not already done so. I foreshadow moving a further amendment to ensure that agencies report back every year, advising the control authority of the actions they are taking. That is a reasonable requirement. The same rule would apply to the farmer, the land manager and the public authority. Weed control is a collective responsibility; one rule is needed for all parties. If we are to turn the tide on noxious weeds, we need to grasp the nettle now.

Currently, private landholders and councils as local control authorities are required to comply fully with a weed control order. Why should State authorities be exempted from this requirement by limiting their actions to the extent required to prevent weeds spreading to adjoining land? Members opposite acknowledged that Roads and Maritime Services is a conduit for weeds being brought into our State. That agency should be subject to the same requirement as a private landholder or council. Sydney Water is a conduit for the spread of weeds through the State and should also be subject to the same rules. That is a fair system that will ensure we have proper weed management on vast expanses of Crown land—land not managed by individuals.

Weeds do not respect arbitrary boundaries. All landholders, private and public, must take responsibility for the impact of noxious weeds on our land. The National Parks and Wildlife Service has given high priority to weed management in national parks. It has enjoyed funding increases for the management of invasive species

and reports on its progress. That status quo would remain. Other authorities, such as Forests NSW, Sydney Water, and Roads and Maritime Services, would be required to do the same. But that practice is not the same for other public lands managed by authorities where weed management is not of the same standard despite many substantial landholdings being adjacent to agricultural land. No accountability mechanism is in place to review weed management action by those agencies. We hear repeatedly of landholders receiving orders to manage serrated tussock on their properties. The repository of weeds on some Crown land must be controlled, but a State authority does not have to comply.

It is not good enough to apply one rule to private landholders and another to a State authority. Environmental non-government organisations provided in their submission an example of Forests NSW publishing its annual report containing a small sustainability section that provides only limited information on weed management expenditure. There is no information on the status of weeds within the landholding, which is almost 2.5 million hectares. I foreshadow moving an amendment requiring public agencies to include in their annual reports the status of weeds and weed management activities—another reasonable requirement of the Government. This is an important additional legislative feature that will ensure this equal obligation provision is being acted upon by public agencies. I challenge the Government, if it does not support this amendment, to explain why this change is not a feature of the bill, despite the issues paper on the statutory review talking about amending the Act to even up responsibilities and despite taking this policy to the election.

This is core policy, particularly for The Nationals, who know better than most the imposts of weed management on private landholders. More importantly, the impact of weeds on agricultural productivity is vast. Time and again we hear estimates of billions of dollars, thousands of millions of dollars, being required to address this problem. Yet in this State we are spending in the order of tens of millions of dollars on weed management. It is not good enough, and certainly State authorities should also carry the load. Now is the chance to address some of these burdens by implementing a more robust management strategy for the entire State requiring all government agencies and public authorities with landholdings or responsibility for land management to meet weed control order obligations like all other landholders. I commend the amendments to the Committee.

The Hon. ROBERT BROWN [4.46 p.m.]: The Shooters and Fishers Party is inclined to support the Hon. Jeremy Buckingham's amendment No. 1, but I must take issue with some matters he raised. First, it is patently incorrect to assert that the National Parks and Wildlife Service is the agency with the gold standard because it reports in its annual report on pest management. Secondly, the implied assertion that The Greens are the friends of the farmers is stretching it a bit. However, even though the Government has told us that this Greens amendment will break the bank, we will support it. If it is passed and in 12 months time the bank is broke, the Government can talk to us and we will consider another amendment. Presently, we think this is not a bad amendment. All agencies should be required to manage their weeds and feral pests to the same standards as private landholders.

The Hon. PAUL GREEN [4.48 p.m.]: The Christian Democratic Party will support the amendment. One reason for that support is accountability. The Hon. Steve Whan asked how big the chequebook is to deal with this issue. I agree with the Shooters and Fishers Party; if there is a cost issue the situation can be reviewed. As a former member of the Noxious Weeds Advisory Committee, I know there is nothing more frustrating than all landholders doing the right thing and the State authority next door not doing anything. For those reasons we will support this amendment.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [4.49 p.m.]: What rankles me more than anything about this amendment is the hypocrisy of the member who moved it. The Greens almost single-handedly, but with the support of former Labor governments, created large numbers of national parks that did not have the resources to manage weeds. Things have to be consolidated and fixed. Quite rightly, as the Hon. Jeremy Buckingham told the House, I gave that undertaking as part of our legislative agenda. As part of our policy that undertaking is ongoing. It is part of the development that is occurring. In part, it is happening with this bill. The amendment states:

... omit the words "to the extent necessary to prevent the weeds spreading to adjoining land" from section 13 (1).

That is the key to what we must do. Weeds spread to farms because organisations such as the National Parks and Wildlife Service are bad neighbours. The key is consolidation and follow-up while we analyse and make sure that we have the ability and the funds to adopt a proper approach. That is the commitment this Government has made, and it is an obligation we take into the future. The Hon. Steve Whan, as a former Minister, acknowledges

the problem of taking a carte blanche approach, without thinking about what is being done. The Government wants to act, and it will act. The words currently in the bill are the best way forward. It is not appropriate to amend section 13 (1) of the Act in this way at this stage.

As stated in the report on the statutory review of the Noxious Weeds Act, the issue regarding the different weed control responsibilities for public authorities and private landholders requires further consideration and consultation. This is an important issue for which good workable solutions must be found. As I indicated in the draft policy to government, the New South Wales Government is committed to developing improved weed management outcomes on public and private lands. It is working with control management authorities, local government, the Nature Conservation Council, the NSW Farmers Association and other organisations to address the issues. The Department of Primary Industries has taken the lead role in relation to the issue and is working with the Noxious Weeds Advisory Committee to develop an outcome. The New South Wales Government's commitment to the effective management of weeds on public lands is demonstrated by the recent announcement of a new \$2.5 million program, which includes improved monitoring and the coordination of weed control across its 36 million hectares lands portfolio.

The second amendment that the member moved—I assume his use of the word "foreshadowed" was accidental—the Government opposes. This proposal is related to the issue of different weed control responsibilities for public authorities and private landholders and should be considered in a broader context. The responsibility of public authorities and private landholders in relation to weeds is an important issue for which a sound, workable and thorough resolution should be found. Litigious activity is not the solution. It is not appropriate to remove the provisions in the Act at this time because it would lead to a piecemeal approach to addressing a bigger issue. In addition, whilst it would relate to a decrease in regulation, the consequent increase in administration and red tape associated with any such action would negate the benefit at this time.

The Hon. STEVE WHAN [4.53 p.m.]: I acknowledge there is universal agreement that managers of public land should be bound by the same obligations as all landholders when it comes to the management of weeds. As I indicated during the second reading debate yesterday—perhaps I am not being "Opposition" enough on this issue—I am concerned that the House has no idea what cost the amendment would cause to the Crown organisations to which it would apply. I acknowledge that under the Act it would be up to Ministers to make the orders; it would not be the local weed control authorities. That would significantly limit its implementation. I am concerned that we do not know the likely cost. It would have been great if the Government had provided estimates of how much it would cost to apply the same requirements to public landholders as are applied to private landholders. I hope the Government will take that on board and pursue it in the further work on the Act that the Minister foreshadowed.

In earlier debate the Hon. Luke Foley referred to a white list, which perhaps the committee could consider at some future stage. The Minister mentioned that the Government was considering the white list approach but he did not inform the House of any time frame. I am keen to hear about that. A time frame on implementing the public authority aspect of the recommendations from the review would be welcome. I would be concerned if it were relegated to the never-never. However, I do not think it is responsible at this stage to support the amendment when we do not know what its cost might be. I would be concerned if an order were placed that took money from hazard reduction in national parks or other activities, including tourism-related activities, that are important to the future productivity of our State and to people appreciating New South Wales national parks.

The Minister made a good effort of convincing me to change my mind when he got stuck into the national parks and labelled them "bad neighbours". I have experience in the south of the State and around Kosciuszko National Park. I worked for a number of years with the rural lands protection board and later the livestock health and pest authority, in consultation with Kosciuszko National Park management and local landholders, dealing with feral pests, particularly dogs. I found that the local national parks service was extremely willing to be a good neighbour, and that willingness applied to weed control as well.

The Hon. Robert Borsak: What about horses?

The Hon. STEVE WHAN: I understand that the issue of horses in national parks will be examined by the committee. Horses are allowed already in some areas of national parks. I know that the Minister in the other place was proud to hand over a permit recently to a local Snowy Mountain business.

The Hon. Robert Brown: Was it Peter Cochran?

The Hon. STEVE WHAN: No, it was not Peter Cochran. There might have been a conflict if that had been in the paper. This was the Rudd operation—they are related to Kevin—that runs Reynella Rides in the Snowy Mountains. It went through a very comprehensive process to obtain that permit, which I am sure would have included addressing the potential for contamination in the park. I have been diverted by the interjections. In light of the comments yesterday, it would be ridiculous for anyone to suggest that horses that are brought into national parks pose the same level of risk as animals living in the park. Such animals are not transported hundreds of kilometres in trucks that potentially bring in weeds and seeds from other areas. There is a significant difference, and that is why there are strict controls on park usage. I continue to believe no horseriding should be permitted in sensitive areas of national parks, particularly the Kosciuszko High Country.

The Hon. Dr Peter Phelps: Getting back to the amendment.

The Hon. STEVE WHAN: Getting back to the amendment, the Opposition will not support it. That is not because we do not agree with almost all the sentiments that have been expressed. We note that this was Coalition policy prior to the last election. However, I do not believe it is responsible to go ahead with something when we do not know the likely cost and impact on national parks management and budgets. We will also oppose amendment No. 2. I do not understand the logic of removing the protection from liability for the Minister, local control authorities or public authorities, including the local weed control authorities, from the legislation.

The Hon. ROBERT BROWN [4.59 p.m.]: I congratulate the Opposition spokesperson: that was an Olympic winning dive—a half gainer, with a backflip and double twist. Brilliant—well done. I concede one point made by the Hon. Steve Whan. In the alps and in the Monaro area—if one could say that Wee Jasper is in the Monaro area—the most successful feral animal control program run by the former State Government was the Wee Jasper wild dog program. Why? Because it was a nil-tenure program. The landholders, Livestock Health and Pest Authorities, NSW Forests and the National Parks and Wildlife Service, without tenure, all agreed to fix the problem without disadvantaging one person by the actions of another. Surely that supports the contention that this amendment should be supported. As I said in my earlier contribution, we are prepared to take cognisance of the Minister's assertion that this would break the bank. Let us support the amendment and see how far we can go down that track; and if it gets too hard, we can come back and talk about it again.

The Hon. JEREMY BUCKINGHAM [5.00 p.m.]: I acknowledge that the cost would be enormous if we were to attempt to eradicate all noxious weeds in New South Wales in a short timeframe. But that is not the intention of the amendment. It simply means that the same responsibility is to be shared across tenures. What is the cost of not acting? We have heard that weed control is costing \$1.2 billion a year; that is \$100 million a month, or \$25 million a week, or \$3.5 million a day.

The Hon. Niall Blair: How much an hour?

The Hon. JEREMY BUCKINGHAM: That is \$140,000 an hour. That is the cost of weeds in New South Wales right now. The cost of inaction has to be weighed against the cost of action to address weed control and productivity loss. The cost now borne by private landholders, we have heard, is hundreds of millions of dollars. State agencies have plans of management for lands that they control; part of that must be noxious weed plans, and those plans can be implemented in a measured, reasonable and sustainable way. That is what this amendment is about.

As to the Hon. Steve Whan's point about liability, just as responsibility to clean up weeds should be shared, so should the liability. If a State authority negligently allows weeds on land that it controls to spread and impact, in some cases destroy, the agricultural productivity of a private landholder, or costs the landholder millions of dollars, the State authority should be responsible for the damage caused by the spread of those weeds—as would a private landholder be responsible if weeds from his or her property spread to the property of another private landholder. It is about bringing fairness to the system. We have the opportunity to recognise the cost of controlling weeds, and we should act to control them now in all tenures.

The Hon. STEVE WHAN [5.03 p.m.]: I think there is a contradiction in what has just been put forward by the member of The Greens. The Hon. Jeremy Buckingham is saying that the imposition of the amendment will not be large because the plans are already in place in many cases. It is true that NSW National Parks and other authorities have weed control plans in place and, yes, the Minister could make a direction. But to go further and say that we should take the second point from the protection of liability would leave it open for a member of the public or some other body to take an action against authorities for potential breach of the Act. That is as I understand it.

The Hon. Robert Brown: A third party action.

The Hon. STEVE WHAN: I am not a lawyer, and I am not sure that I have this entirely right, but my understanding is that a third party could bring proceedings against land managers and enforce action. That goes to the point I made earlier about the cost implications of this amendment.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.04 p.m.]: I do not know what has been the most unpleasant thing that has happened to me since I became a member of this House, but I suspect it could be The Greens lecturing me on the responsibility of government agencies not to infest farmlands, when The Greens have been directly responsible for most of the problems.

The Hon. Jeremy Buckingham: Get over the fact that we represent country people now. You represent the coalminers and the big end of town. We are advocating for the family farmers. Here is your opportunity to stand up for them.

The Hon. DUNCAN GAY: We are trying to fix a problem that has been caused by The Greens.

[*Interruption*]

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

The Hon. DUNCAN GAY: Thank you, Madam Chair. I was courteous and let the rubbish that came from the Hon. Jeremy Buckingham go on the record without interrupting. This is my opportunity to rebut that rubbish. What the member would do by this amendment is put a carte blanche provision in the bill without working out how it operates in the implementation. What we want to do, as has been quite correctly put by the Hon. Steve Whan and others, and what our election policy was, is make sure we get it right. At the moment, The Greens are moving to omit "to the extent necessary to prevent the weeds from spreading to adjoining land". That is what we said in our policy we wanted to prevent happening. We are working towards that; that is what this bill, and others, seek to do.

As the Hon. Steve Whan quite correctly said, we need to ensure that what we are doing is balanced, reasonable and affordable. The Greens propose taking a sledgehammer to try to fix the problem, without thinking about the ramifications. They are trying a feel-good move that that they think will appeal to a group of people, the farmers of New South Wales. Frankly, the member knows that farmers do not trust The Greens—and for good reason. They know what The Greens have done over the years. They have seen the ways in which The Greens operate. So stop this silliness, and listen to the facts on this issue. Something needs to be done in this area. While other members of this Chamber will vote in different ways, their contributions were relevant and reflected understanding. That is not so with the contribution of The Greens.

The CHAIR (The Hon. Jennifer Gardiner): The Hon. Jeremy Buckingham has moved The Greens amendments Nos 1 and 2 on sheet C2012-053 in globo. I will put the questions seriatim.

Question—That The Greens amendment No. 1 [C2012-053] be agreed to—put.

The Committee divided.

Ayes, 5

Mr Buckingham
Dr Kaye
Mr Shoebridge

Tellers,
Ms Barham
Ms Faehrmann

Noes, 29

Mr Ajaka	Mr Khan	Mr Searle
Mr Blair	Mr Lynn	Mr Secord
Mr Clarke	Mr MacDonald	Ms Sharpe
Mr Colless	Mrs Maclaren-Jones	Mr Veitch
Ms Cotsis	Mr Mason-Cox	Ms Voltz
Ms Cusack	Mrs Mitchell	Ms Westwood
Mr Donnelly	Mr Moselmane	Mr Whan
Ms Ficarra	Mrs Pavey	<i>Tellers,</i>
Mr Foley	Mr Primrose	Ms Fazio
Mr Gay	Mr Roozendaal	Dr Phelps

Question resolved in the negative.

The Greens amendment No. 1 [C2012-053] negatived.

Question—That The Greens amendment No. 2 [C2012-053] be agreed to—put.

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

The Committee divided.

Ayes, 5

Ms Barham
Mr Buckingham
Ms Faehrmann

Tellers,
Dr Kaye
Mr Shoebridge

Noes, 29

Mr Ajaka	Mr Khan	Mr Roozendaal
Mr Blair	Mr Lynn	Mr Searle
Mr Clarke	Mr MacDonald	Mr Secord
Ms Cotsis	Mrs Maclaren-Jones	Ms Sharpe
Ms Cusack	Mr Mason-Cox	Mr Veitch
Mr Donnelly	Mrs Mitchell	Ms Westwood
Ms Fazio	Mr Moselmane	Mr Whan
Ms Ficarra	Mrs Pavey	<i>Tellers,</i>
Mr Foley	Dr Phelps	Mr Colless
Mr Gay	Mr Primrose	Ms Voltz

Question resolved in the negative.

The Greens amendment No. 2 [C2012-053] negatived.

The Hon. JEREMY BUCKINGHAM [5.20 p.m.]: I move The Greens amendment No. 1 on sheet C2012-055B.

No. 1 Page 7, schedule 1. Insert after line 28:

[26] **Section 75** Insert after section 74:

75 Reporting by government agencies

A government agency (other than a local control authority) with the care, control and management of land is to include in its annual report a report on the status of any noxious weeds on that land and on any weed control measures taken on that land in the year to which the annual report relates.

This amendment would have worked alongside the previous amendments to even up responsibility for complying with weed control orders between private landholders and public authorities. This amendment requires a government agency, other than a local control authority, with the care, control and management of land to include in its annual report a report on the status of any noxious weeds on that land and the control measures undertaken on that land for that reporting period.

Many of the arguments previously made are relevant here but regardless of the previous vote public authorities and substantial landholders in the State should report annually on the status of weeds and on weed control measures undertaken by that authority. This should not be an onerous task given that there are some existing responsibilities for weed management and so weed management plans are likely to be in place. Simply reporting the situation on their land and their actions in accordance with approved codes of practice and weed management plans is an appropriate accountability measure for public authorities. As I mentioned earlier, the National Parks and Wildlife Service already makes such a report. Extending this provision is appropriate. I commend the amendment.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [5.22 p.m.]: The Government opposes the amendment. It will not necessarily lead to any real improvement in weed management by government agencies and will place further administrative burden upon them. The Act also already provides the Minister and the director general with the power to require local government authorities to report on the presence and distribution of noxious weeds in the local area, on weed control policy and weed control programs, and their implementation. This includes information on weeds and weed control on public authority land. These reports are already requested where there has been a breach of the Act.

The New South Wales Government already requires recipients of weed-related grants to report. For example, all New South Wales Weeds Action Program grant recipients are required to set performance measures and report upon their projects. The catchment management authorities and the Crown lands are recipients of such grants. The recent \$2.5 million in funding has been allocated to the New South Wales Department of Primary Industries catchment and lands, and livestock health and pest authorities for on-the-ground weed management and will also establish clearer accountability between various State agencies. A host of other activities that State agencies and authorities conduct in relation to weeds are reported in a variety of formats, such as annual reports, state of the catchment reports and state of parks reports.

The Hon. STEVE WHAN [5.23 p.m.]: The Opposition supports the amendment. It is a fairly minimal additional responsibility for reporting. Annual reports contain a range of reports on activities undertaken by agencies and this will not be particularly onerous for the agencies, all of whom should have some sort of strategy in place that they can report on.

Question—That The Greens amendment No. 1 [C2012-055B] be agreed to—put.

The Committee divided.

Ayes, 19

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

Noes, 21

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

Question resolved in the negative.

The Greens amendment No. 1 [C2012-055B] negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Duncan Gay agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Duncan Gay agreed to:

That this bill be now read a third time.

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

JOINT SELECT COMMITTEE ON THE NSW WORKERS COMPENSATION SCHEME

Establishment and Membership

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): I report the receipt of the following message from the Legislative Assembly:

Mr PRESIDENT

The Legislative Assembly has considered the Legislative Council message of 2 May 2012 and has this day agreed to the following resolution:

- (1) That this House agrees with the Legislative Council's resolution relating to the appointment of a Joint Select Committee on the NSW Workers Compensation Scheme.
- (2) That Mr Daley, Mr Speakman and Mr Stokes be appointed to serve on such committee as the members of the Legislative Assembly.
- (3) That Wednesday 2 May 2012 at 6.30 pm in the Waratah Room be fixed as the time and place for the first meeting.
- (4) That a message be sent informing the Legislative Council of this resolution.

Legislative Assembly
2 May 2012

SHELLEY HANCOCK
Speaker

POLICE INTEGRITY COMMISSION AMENDMENT BILL 2012

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.35 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce this bill to refresh and reform two of the State's important integrity organisations: the Police Integrity Commission—and the Office of the Inspector of the Police Integrity Commission.

The introduction of this bill is evidence that this Government is taking timely and practical steps to improve integrity arrangements covering law enforcement bodies in this State.

While the NSW Police Force and the NSW Crime Commission provide exceptional services to the community, unfortunately there are—on occasion—people in those organisations who behave corruptly or are engaged in misconduct. Such corruption, revealed by the Wood Royal Commission into NSW Police, led to the establishment of the Police Integrity Commission in 1996.

From a global perspective, New South Wales is an early adopter of integrity organisations to tackle corruption and misconduct in state agencies. This government recognises and acknowledges the valuable contributions made over many years by the Ombudsman, the Independent Commission Against Corruption and the Police Integrity Commission.

That said, the Government is determined to ensure that these bodies continually provide effective and efficient services that support and improve key law enforcement and other government bodies in New South Wales.

The reforms in this bill arise from a review concluded by the Premier late last year into the policy objectives and the terms of the Police Integrity Commission Act.

The review, which is required under section 146 of the Act, provided an important opportunity to reflect, consult and take stock of arrangements for the Police Integrity Commission and the Office of the Inspector.

The review cast a wide net. It took submissions from the Police Integrity Commission and the Inspector, the NSW Police Force, the NSW Crime Commission, the ICAC and the Inspector of the ICAC—and the New South Wales Ombudsman.

The review also carefully considered recommendations made over several years by the Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission.

The Government thanks the agencies and the Parliamentary Committee for informing the review with their detailed and constructive submissions.

The review concluded that a role clearly remains for a body, separate from Government and reporting to the Parliament, to oversee the integrity of the Police Force and Crime Commission, as corruption and misconduct risks inherently coexist with the discretionary exercise of significant coercive powers.

The review did consider whether the Police Integrity Commission was the most appropriate body to undertake that role into the future. After consulting widely and weighing the issues, the Government decided to preserve the PIC as a stand-alone body supported by reforms, which are implemented in this bill.

Consistent with the Government's commitment to transparency and openness, the non-confidential submissions to the review and the review document itself were published on the Department of Premier and Cabinet's website in November last year.

A reformed regulatory architecture for the PIC is only one part of the Government's commitment to getting the integrity settings right for our State's law enforcement institutions.

The other part is the capability and character of the people who lead and who supervise the integrity bodies. With this in mind, the Government recently has appointed distinguished former Supreme Court judges to the positions of Commissioner and Inspector of the Police Integrity Commission.

The Honourable Bruce James QC commenced his five year term as Commissioner on 1 January this year, while the Honourable David Levine QC took office as Inspector one month later, also for a five year term.

The Commission and the Office of Inspector are independent of Government—and responsible to the Parliament. I am sure all honourable Members welcome the appointments of both Mr James and Mr Levine—confident of an era of stable and professional relations between the agencies.

I now turn to the key provisions of the bill.

The bill provides for a more consistent approach to the different types of law enforcement officers covered by the Act.

In its current form, the objects of the Act and functions of the Commission place a different emphasis on the three types of officers: that is:

- sworn officers of the Police Force;
- non-sworn officers of the Police Force; and
- Crime Commission officers.

This is because the original arrangements under the 1996 Act concerned only sworn police officers—and arrangements for non-sworn officers and Crime Commission officers were later added in amending legislation.

The bill amends the Act to give equal prominence to the three types of officers in the objects—and in regard to the functions of the Police Integrity Commission.

Also to achieve consistency, the bill amends the Act to extend the duty of certain senior officers to notify the Police Integrity Commission of misconduct by sworn police officers. Currently the duty only applies to the senior officers in relation to misconduct of non-sworn police officers and Crime Commission officers.

The Police Integrity Commission holds public hearings, which play an important role in the transparency and accountability of the Commission. There is, however, a need to balance the consideration of the public interest and the benefit of public exposure against the potential for undue prejudice to a person's reputation when deciding to hold a public inquiry.

Clause 6 of the bill amends section 33 of the Act which specifies the criteria that the Commission is to consider when determining whether to conduct a hearing wholly or partly in public. The additional criteria are consistent with the requirements for the Independent Commission Against Corruption when it decides whether to hold public hearings. I turn now to the issue of procedural fairness for people subject to investigations and reports by the Police Integrity Commission.

In the past there have been concerns expressed about the Commission's observance of procedural fairness in certain matters before it.

The Government is particularly aware of the sensitivity of this issue among police officers, who have raised the issue with the Government by way of the NSW Police Association.

Clause 14 of the bill inserts a new section 137 A into the Act to require the Police Integrity Commission, before including an adverse comment about a person in a report, to give the person an opportunity to make submissions. This is also known as a 'persons to be heard' provision.

This new section will help to address concerns about procedural fairness, while allowing the Commission to continue to vigorously detect and investigate corruption and misconduct.

The 'persons to be heard' requirement will also apply to reports of the Inspector.

Honourable members may recall that the powers of the Inspector of the Police Integrity Commission to publish reports has been a matter of contention which, in September last year, led to public disagreement" between the former Inspector and the Commission.

I note, at the time the Opposition claimed the Government was not acting quickly enough to ensure the Inspector of the PIC's annual report to Parliament could be made public.

However, it is in fact the previous Government which failed to implement the multiple recommendations from the Parliamentary Joint Committee on the Office of the Ombudsman and the PIC.

The alarm bells first began ringing on this issue in November 2006, when the Parliamentary Joint Committee recommended that the Act be amended to clarify that the Inspector could report to the Parliament, at his discretion, in relation to any of his statutory functions.

Then, in 2009, the Parliamentary Committee recommended that the Inspector's reporting powers be extended even further, to make a report to any party in relation to his functions.

This bill delivers the clarity sought more than five years ago by the Parliamentary Committee and acts where the previous Government failed to act.

The bill makes the Inspector's powers consistent with those conferred on the Inspector of the ICAC.

Specifically, clause 11 of the bill provides that the Inspector of the Police Integrity Commission may, at any time, make a report concerning any matter relating to his functions in section 89—that is concerning complaints, procedures or operations of the Police Integrity Commission—and provide a report to the Commission, a person who made a complaint or any other affected person.

The bill also provides that the Inspector's powers to report to the Parliament' are also enhanced by amendment to section 101 of the Act.

Honourable members may note that the bill does not include a provision to implement outcome 14 of the Premier's statutory review—that is, that legislation should be introduced to bring Special Constables in the Security Management Unit within the oversight of the Police Integrity Commission.

Drafting of an amendment in relation to this outcome has been deferred to allow the Ministry of Police and Emergency Services to complete a review of m! legislative arrangements governing Special Constables.

To conclude,

These reforms arise from careful analysis of the integrity arrangements for our State's police force and Crime Commission.

There was wide consultation during the statutory review and—more recently—direct Government consultation with the Commissioner and Inspector of the Police Integrity Commission on the reforms arising in this bill.

In some cases, the reforms are overdue—notably in relation to the power of the Inspector to make reports.

But, taken together, the reforms will put the operations of the Police Integrity Commission and the Office of the Inspector on a firm footing for the future—and I commend the bill to the House.

Mr DAVID SHOEBRIDGE [5.36 p.m.]: The contribution to debate just made by the Minister for Police and Emergency Services confirms that something good has happened in the oversight of police: The Police Integrity Commission now directly reports to the Premier instead of the Minister for Police and Emergency Services. The Police Integrity Commission Amendment Bill 2012 amends the Police Integrity Commission Act 1996 and makes a number of relatively modest and, when considered in their totality, relatively important changes following the statutory five-year review of the Police Integrity Commission Act. The Greens support the bill but will move an amendment for referral of the bill to the Joint Committee on the Office of the Ombudsman and the Police Integrity Commission for a brief report so that the whole of the matters that are the subject of the review may be considered by the Government.

While the bill makes a number of modest advances, it does not address all the elements that were canvassed during the ministerial review and does not address all of the concerns expressed, most notably those relating to procedural fairness and natural justice. Commissioned officers of the New South Wales Police Association repeatedly have raised those concerns in relation to the Police Integrity Commission. For that reason The Greens will move to refer the bill to the joint committee for a quick report on whether the bill encompasses all of the aspects that arise from the review and on how the legislation can be improved to provide a greater degree of natural justice and procedural fairness to police officers who are the subject of Police Integrity Commission inquiries.

The principal objects of the legislation stated in item [1] in schedule 1 to the bill replace the objects stated in section 3 of the current Act. New section 3 will make it clear that the amended Act will be focused on the conduct of police officers and other officers, including non-sworn or administrative officers. The new definition of officer misconduct clarifies that and refers to police misconduct, corrupt conduct of an administrative officer, or misconduct of a Crime Commission officer. That is a sensible clarification of the terms of the objects of the Act that will ensure the legislation picks up any corrupt conduct by an administrative officer. In truth the Police Integrity Commission effectively has operated as though it has had that statutory remit, but incorporating a provision clearly in the objects of the Act is a useful clarification of the law. The repeal of sections 13A to 13C inclusive are consequential as the matters they deal with will be explicitly covered in the objects of the amended Act when it comes into force.

New section 33 (3A) specifies that when considering whether it is or is not in the public interest to conduct the hearing in public the commission is to consider a number of factors including, first, the benefit of exposing to the public, and making it aware of, the officer's misconduct, and the public information process that is often essential in the course of a Public Integrity Commission hearing; secondly, the seriousness of the allegation; thirdly, the risks of undue prejudice; and fourthly, the balance between public interest and preserving the privacy of the person concerned.

That last point about balancing the public interest against the privacy of the person concerned is important. We have seen many reports from the inspector that have been critical of the process involved by the Police Integrity Commission. The inspector has criticised processes within the commission that have led to reports that are deeply critical of police officers and their conduct—often police officers of quite lengthy standing. When the inspector has reviewed the conduct of the Police Integrity Commission he has made critical statements about the absence of natural justice—the failure to place the relevant officers on notice that there would be potentially negative findings against them and to give them the right to be prepared before those negative matters are put to them in a public hearing.

If the commission is specifically directed to achieve that balance between public interest and preserving the privacy of the person concerned that is a sensible statutory direction from Parliament. It will not always mean that where there is some private interest a public hearing should not be heard—of course it should not mean that—but it should be considered by the Police Integrity Commission when it is considering public hearings. The new part 4C, regarding reporting misconduct, gathers together and clarifies reporting obligations. This means that the Ombudsman, the Crime Commissioner, the Commissioner of Police and the principal officer of the public authority all have a duty to report to the commission when they reasonably suspect officers have engaged in misconduct, and so they should. There should be that omnibus reporting requirement that applies to all those officers.

Section 89 (1A) clarifies that the inspector may report to Parliament conduct amounting to maladministration. This will allow the inspector to make a recommendation or report when the inspector determines it is appropriate, as well as providing a discretion that he can provide a copy of this report to the person who made a complaint or any other affected persons. We have seen some extremely unproductive

disputes between the previous commissioner of the Police Integrity Commission and the previous inspector about whether the inspector could make a report to Parliament. Large amounts of public funds were wasted on these very dry legal arguments about whether the inspector could report to Parliament concerns that he had amounting to maladministration. There should be no restraint. If the inspector formed a view that it is appropriate to report to Parliament on those matters, of course the inspector should report. He is an independent officer put in place because of the broad powers given to the Police Integrity Commission, and that independent inspector must have untrammelled capacity to report to Parliament about concerns he has about the operations of the Police Integrity Commission. It is good to see that the Government has gone some of the way to remedy the previous difficulties by inserting new section 89 (1A).

The person to be heard provision under new section 137A provides that before a comment is included in a report that is adverse to a person the commission or inspector must attempt to inform the person of the substance of the comment and provide them an opportunity to make submissions. This applies to reports on any matter the subject of an investigation by the commission or a report by the inspector in relation to any complaint. I said before that the inspector has had repeated concerns about the lack of natural justice that had been applied in the Police Integrity Commission. I am glad to say that, as I understand it, the current commissioner has already adopted this position. The process has been adopted at an administrative level by the Police Integrity Commission after many concerns by the Police Association and after many adverse reports by the inspector about prior conduct of the Police Integrity Commission. But it is essential that we do not just leave it up to an administrative whim of any current commissioner of the Police Integrity Commission. It is important that there be a statutory direction that natural justice be afforded those persons who come before the Police Integrity Commission, and The Greens are happy to support new section 137A.

The bill is a partial response to the five-year statutory review. In communications with the Police Association of New South Wales two things are apparent. One is that the Police Association welcomes the moves the Government has made, which I spoke about earlier. It is happy to see that the Government has taken steps to deal with some of the concerns it had about how its members have been dealt with before the Police Integrity Commission. But it is very concerned that a number of pressing issues have not been addressed in this bill. When I made inquiries of the Clerks as to whether the bill had been reported to the parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission I was told that it has been reported to the committee but that the committee has not considered it or formed any recommendations. Nor has the committee formed a final view and put together any recommendations in response to a statutory review of the Police Integrity Commission.

Surely before Parliament signs off on substantial changes to the Police Integrity Commission, all of which are for the good, it should be only due diligence to report back to the Joint Committee on the Office of the Ombudsman and the Police Integrity Commission to allow the current Police Integrity Commission commissioner, the new inspector, the police commissioner and the Police Association all to make representations to that committee to see whether this bill is doing all that should be done and adopting all that should be adopted out of that five-year statutory review. As I said, The Greens will move an amendment to the bill to have six-week reporting to the committee. So a number of those matters that were raised in the review and have not been addressed in this bill can be considered by that committee. One of those is that the Police Integrity Commission Act be amended, if necessary, to allow the Police Integrity Commission to remove reports from its website and any other place of publication or to publish reports identifying and correcting errors in previously published reports.

One of the great concerns for many officers who came before the previous Police Integrity Commission was that a deeply adverse report would be published about them by the Police Integrity Commission, there would then be a review by the inspector which made fundamental criticisms of the natural justice afforded to those officers, but the Police Integrity Commission adverse report would remain on the commission's website—often a career destroying report—open for public review. Even if at a later point the inspector's report critical of the Police Integrity Commission was found on the same website, it did not get rid of the damage done to that officer's reputation and career. Surely the committee should consider whether we could do things better and whether it is appropriate in those circumstances to remove the initial adverse report from the Police Integrity Commission website. That has not been considered in this bill and it should be considered.

Another aspect that is not considered is when the Police Integrity Commission seeks advice from an independent senior counsel prior to publication of any report or finding—if you like, a peer review. Maybe that is appropriate, maybe it is not. Maybe there are sufficient checks and balances inside the Police Integrity Commission already which mean that this type of review should not happen. But the fact that this matter has

been raised in the course of the review and in the recommendations means that before we make these changes to the Police Integrity Commission Act we should refer it off and give those parties the right to make representations to the committee and then consider whether that recommendation should be adopted as part of this bill.

Another concern relates to the Police Integrity Commission website giving high billing to the subsequent overturning of the commission's findings by the inspector or a court or judicial officer. This was the subject of a longstanding battle between the prior Police Integrity Commissioner and the prior inspector. The inspector would make adverse reports and the Police Integrity Commission would reject those reports and then refuse to publish them on its website. The independent inspector's role was effectively being negated because the commission that the inspector was there to keep an eye on was refusing to put a link to or publish the inspector's critical report. I can understand why an organisation does not want to put on its own website a report that is critical of it but we are dealing with an independent statutory inspector going through the process and making findings and reviews of an operation as powerful as the Police Integrity Commission.

Surely it is appropriate to consider directing the Police Integrity Commission to refer to those reports and provide on its website a link of at least equal prominence to the adverse findings the commission placed on its website. That matter clearly should be considered by a parliamentary committee before this bill is finalised. Another recommendation related to amending section 10 of the Police Integrity Commission Act 1996 "to remove the prohibition on the use of serving or former New South Wales police officers as investigators or staff of the Police Integrity Commission". I accept that there may be different views on this.

The Hon. Michael Gallacher: You guys have been opposed to cops being down there. Are you saying you now agree that cops can work down there? Wow, talk about a U-turn.

Mr DAVID SHOEBRIDGE: I fully understand the purpose of the absolute prohibition when the Police Integrity Commission was set up some 15 years ago. As I said earlier, perhaps the maintenance of that prohibition is entirely appropriate.

The Hon. Michael Gallacher: Do you support cops working down there?

Mr DAVID SHOEBRIDGE: As the Minister notes, on behalf of The Greens I have been deeply critical of police investigating police in New South Wales. I remain very concerned about that.

The Hon. Michael Gallacher: Oh, so you're opposed to them still being down there. That's okay, just as long as I know.

Mr DAVID SHOEBRIDGE: I will be clear in my response to the Minister's question. I am not suggesting that The Greens support serving New South Wales police officers being on the Police Integrity Commission.

The Hon. Michael Gallacher: Or former?

Mr DAVID SHOEBRIDGE: The question of former police officers is difficult to answer because it is a matter on which reasonable minds may differ. I can see a strong argument for not having former New South Wales police officers on the Police Integrity Commission. I see an even stronger argument for not having current serving police officers on the Police Integrity Commission, but there are alternative views on that. Indeed, the review the responsible Minister undertook actually considered a recommendation to have serving police officers on the Police Integrity Commission. A parliamentary committee should consider that matter before this bill is scooted through. I am not a member of that committee, so my views will not be canvassed during any inquiry. The parliamentary committee should consider those matters before we pass this bill.

Another matter is whether a code of conduct and values for the Police Integrity Commission that mirrors the code of the New South Wales Police Force and enshrines principles of natural justice should be established and referred to in the Police Integrity Commission Act and the regulations to that Act. That seems to be a sensible provision: to put in place a statutory code of conduct, or to at least allow for the regulation-making power for a code of conduct with statutory effect—similar to that of the New South Wales police. But that is not in this bill. I would have thought that it would benefit the committee to consider the real benefits of a statutory code of conduct for the Police Integrity Commission that mirrors the kinds of provisions in a statutory code of conduct for the New South Wales Police Force. Unfortunately, that has not been included in this bill.

The next recommendation is that the Police Integrity Commission Act 1996 be amended so that the parliamentary Joint Committee on the Ombudsman and the Police Integrity Commission should have the power to direct the Police Integrity Commission to take any lawful action the committee considers appropriate where the committee determines that a report by the inspector or the finding of a court warrants the action. I was a member of the committee in the previous Parliament. One matter on which the committee formed a recommendation was the publishing of the inspector's reports. As I said before, there was complete frustration from the inspector, who would write an adverse report, but it would not be published by the Police Integrity Commission. Ultimately, the committee formed a recommendation that the Act be amended to require the publishing of the reports. Only after repeated attempts in committee did we get that recommendation.

A parliamentary committee overseeing the Police Integrity Commission will always be government dominated, but during my time as a member of that committee it did not operate in a partisan fashion at all. If that committee forms the view that something needs to be done in the administration of the Police Integrity Commission and makes a recommendation it makes entire sense to give that recommendation from the committee the force of law in directing an oversight of the conduct of a body as powerful as the Police Integrity Commission. I understand why the Police Integrity Commissioner would not like that, but for good administration in New South Wales that kind of provision would be a major advance. However, it is not included in this bill. It should be. The final recommendation is that the jurisdiction of the Office of the Ombudsman over police be revoked and the Police Integrity Commission be the single oversight body for the New South Wales Police Force. I have a short time remaining for my contribution.

Of itself, that recommendation is a very thorny issue. The current split between the Ombudsman's and the Police Integrity Commission's oversight in New South Wales law is, to say the least, deeply confusing. In fact, there is a real lack of clarity about the extent to which the Ombudsman can undertake investigations and deal with police complaints. Few people, if any, know the dividing line between the Police Integrity Commission's and the Ombudsman's work. Having a single overseeing body for New South Wales police, much like the United Kingdom's single statutory oversight body, makes great sense. Of course, the Parliament should consider that matter before finalising this bill. Therefore, I move:

That the question be amended by omitting all words after "That" and inserting instead:

this bill be referred to the Committee on the Office of the Ombudsman and the Police Integrity Commission for inquiry and report.

2. That in its consideration of the bill, the committee consider the review of the Police Integrity Commission Act 1996 commissioned and completed pursuant to section 146 of the Act.
3. That the committee seek representations from the Police Association, the NSW Police Force, the Police Integrity Commission and the Office of the Inspector as to the adequacy of the proposed legislative response.
4. That the committee report by 13 June 2012.
5. That this House requests the Legislative Assembly to agree to a similar resolution.

The Hon. TREVOR KHAN [5.56 p.m.]: I support the Police Integrity Commission Amendment Bill 2012. The objects of the bill are:

- (a) to give equal prominence to the functions of the Police Integrity Commission ... of preventing corrupt conduct of administrative officers of the NSW Police Force and misconduct of NSW Crime Commission officers as is given to the function of preventing police misconduct, and
- (b) to give guidance to the PIC in relation to the factors that are to be taken into account when it determines whether to conduct a hearing into a matter in private or in public, and
- (c) to ensure that certain senior officers are under a duty to report all of the types of conduct referred to in paragraph (a) to the PIC, and
- (d) to clarify the way in which the Inspector of the PIC is to carry out certain functions, and
- (e) to ensure that a person about whom an adverse comment is to be made in a report prepared by the PIC or the Inspector of the PIC is given the grounds on which the comment is made and an opportunity to make submissions before the comment is included in the report.

The reforms contained in this bill follow a review undertaken last year into the policy objectives and provisions of the Police Integrity Commission Act. The review was a requirement under section 146 of the Act and provided the opportunity to take stock of the arrangements for the Police Integrity Commission and the office of

the inspector. The review included the taking of submissions from the Police Integrity Commission, the inspector, the NSW Police Force, the NSW Crime Commission, the Independent Commission Against Corruption, the Inspector of the Independent Commission Against Corruption and the NSW Ombudsman. The review considered also recommendations made over several years by the parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission.

I make that observation in light of the comments by Mr David Shoebridge from which one might assume that this bill has appeared out of thin air. It is plain that it is the product of considerable thought, debate and submissions. I note that one of those submissions was from the NSW Police Force. The review concluded that a role clearly remains for a body separate from government and reporting to the Parliament that oversees the integrity of the NSW Police Force and the Crime Commission because corruption and misconduct risks inherently coexist with the discretionary exercise of significant coercive powers. The review considered whether the Police Integrity Commission was the most appropriate body to undertake that role in the future. Again, that is a matter to which Mr Shoebridge referred and a matter that was considered by the review. The Government decided to preserve the Police Integrity Commission as a standalone body subject to the reforms contained in the bill, which are consistent with the Government's commitment to transparency and openness.

Submissions to the review that were not confidential, and the review document, were published on the Department of Premier and Cabinet website in November last year. This bill has not appeared out of thin air. Its drafting has been well publicised for a considerable period. I note that a key provision of the Police Integrity Commission Amendment Bill 2012 relates to the need for a consistent approach to the different types of law enforcement officers covered by the bill. In its current form the objects of the Act and the functions of the commission place different emphasis on the three types of officers: sworn officers of the NSW Police Force, unsworn officers of the force and Crime Commission officers. The original arrangements under the 1996 Act concerned only sworn officers. Arrangements for unsworn officers and Crime Commission officers were later added in amending legislation. The bill amends the principal Act to give equal prominence to the three types of officers outlined in the bill and in regard to the functions of the Police Integrity Commission.

In order to achieve this consistency the bill amends the Act to extend the duty of certain senior officers to notify the Police Integrity Commission of misconduct by sworn police officers. The Police Integrity Commission holds public hearings that, self-evidently, play an important role in the transparency and accountability of the commission. There is, however, the need to balance the consideration of the public interest regarding disclosure and accountability against the potential for prejudice to an officer's reputation when deciding whether to hold a public inquiry. Schedule 1 [6] amends section 33 of the principal Act, which specifies the criteria the commission is to consider when determining whether to conduct a hearing wholly or partly in public. The additional criteria are consistent with the requirements of the Independent Commission Against Corruption legislation when it decides whether to hold public hearings.

I turn briefly to the issue of procedural fairness for people subject to investigations and reports by the commission. As has been referred to, concerns have been expressed by a variety of bodies and in this House about the commission's observance of procedural fairness in certain matters. Schedule 1 [14] inserts new section 137A to require the Police Integrity Commission, before making an adverse comment about an officer in a report, to give that officer the opportunity to make submissions. This is commonly known as a "persons to be heard" provision. The new provision will address the concerns about procedural fairness while allowing the commission to continue to detect and investigate corruption and misconduct.

Members may recall that the powers of the inspector of the Police Integrity Commission to publish reports were matters of contention in September last year and led to considerable public discussion and disagreement between the former Inspector of the Police Integrity Commission and the commission. It is been suggested in various quarters that these are issues of recent concern. But if one looks at the reports of the Committee on the Office of the Ombudsman and Police Integrity Commission from November 2006 and then again in 2009 one will find that these issues were the subject of those reports and remained essentially unanswered and not acted on by the former Government. This bill delivers the clarity sought more than five years ago by the parliamentary joint committee and acts where the previous Government failed to do so.

The bill makes the inspector's powers consistent with those conferred on the Inspector of the Independent Commission Against Corruption. In other words, there is a consistency of approach between differing bodies dealing with similar issues of misconduct. Specifically, schedule 1 [11] to the bill provides that the Inspector of the Police Integrity Commission may make a report concerning any matter relating to its functions pursuant to section 89 of the Act—that is, concerning complaints, procedures or operations of the

commission—and to provide a report to the commission, to the person who made a complaint or to other affected persons. The bill also provides that the inspector's power to report to Parliament is enhanced by amending section 101 of the Act. It is my submission this is a powerful piece of legislation that is long overdue. I support the bill.

The Hon. LUKE FOLEY (Leader of the Opposition) [6.07 p.m.]: I lead for the Opposition in debate on the Police Integrity Commission Amendment Bill 2012. The Government is undertaking reform of the Police Integrity Commission and the Office of the Inspector of the Police Integrity Commission. The reforms in the bill arise from a review concluded late last year into the policy objectives and terms of the Police Integrity Commission Act, focusing on the arrangements of the Police Integrity Commission and the office of the inspector. The review took submissions from the Police Integrity Commission, the Inspector of the Police Integrity Commission, the NSW Police Force, the New South Wales Crime Commission, the Independent Commission Against Corruption, the Inspector of the Independent Commission Against Corruption and the NSW Ombudsman. The review into the Police Integrity Commission concluded that a role remains for a body, separate from government and reporting to the Parliament, to oversee the integrity of the Police Force and Crime Commission.

The Government recently appointed two former Supreme Court judges to the positions of Commissioner and Inspector of the Police Integrity Commission: the Hon. Bruce James, QC, and the Hon. David Levine, QC. The Government has decided to preserve the Police Integrity Commission as a stand-alone body supported by reforms implemented in this bill. The bill amends the Act in a number of ways: first, to give equal prominence to sworn officers, non-sworn officers and Crime Commission officers in regard to the functions of the Police Integrity Commission; secondly, to extend the duty of certain senior officers to notify the Police Integrity Commission of misconduct by sworn police officers; thirdly, to specify the criteria that the commission is to consider when determining whether to conduct a hearing wholly or partly in public, consistent with the Independent Commission Against Corruption; fourthly, to require the Police Integrity Commission, before including an adverse comment about a person in a report, to give the person an opportunity to make submissions—this is known as a "persons to be heard" provision; and, fifthly, to provide that the Inspector of the Police Integrity Commission may at any time make a report concerning complaints, procedures or operations of the Police Integrity Commission, and provide a report to the commission, to the person who made a complaint or to any other affected person.

The police corruption revealed by the Wood Royal Commission into the New South Wales Police Service led to the establishment of the Police Integrity Commission in 1996. Recently, the powers of the Inspector of the Police Integrity Commission to publish reports have been a matter of controversy, which last year became the subject of a number of public comments from the former Inspector of the Police Integrity Commission and the commission. The *Daily Telegraph* reported in October last year that the Police Integrity Commission engaged in a "reprehensible course of conduct in its disgraced investigation into one of the state's most respected detectives, Paul Jacob". Former Police Integrity Commission Inspector Peter Moss accused the Police Integrity Commission of systemic abuses of its powers and misconduct. Mr Moss accused the Police Integrity Commission of unfairness, of deliberately withholding, distorting or skewing evidence, and of presenting misleading and unjustified findings.

The Police Association has major concerns with the Police Integrity Commission's lack of procedural fairness and breaching of officers' privacy. The Premier stated in his speech that this bill addresses the association's concerns. That may or may not be the case. The Police Association continues to have a number of concerns that could have been addressed in this amendment to the Act. I ask the Leader of the Government in his reply to inform members why those concerns have not been addressed. One major issue is that on the Police Integrity Commission website today is the report that names Detective Inspector Paul Jacob as being involved in misconduct; it is on the website for the public to read. This is despite Commissioner of Police Andrew Scipione's defiance of the Police Integrity Commission's recommendation to discipline the inspector, and the Police Integrity Commission inspector finding himself that Paul Jacob had not engaged in misconduct.

We now have a situation where an officer can have adverse findings made against him or her overturned by the Police Integrity Commission inspector, yet there is no requirement for the original reports to be removed, amended or corrected. The Police Association has asked that a correction be published for the Paul Jacob matter, and for all other matters where the Police Integrity Commission's adverse findings have been shown to be wrong. There must be a procedure in place to clear the names of our officers who have been unfairly tarnished. The Police Association recommended that the position of Inspector of the Police Integrity Commission be made a full-time position, and that the office of the inspector be appropriately resourced and

funded. Given the problems that emerged with the operation of the Police Integrity Commission and the difficulty the previous inspector had in undertaking his role with limited resources, the Police Association argues that it is imperative that the inspector's role be upgraded and resources found for the inspector to do the job properly.

In addition, the Police Association has asked for a code of conduct and values for the Police Integrity Commission that mirror the code of the NSW Police Force and enshrine the principles of natural justice in the Act. This is a reasonable request and the Opposition seeks from the Government a commitment that it will be considered seriously. In summary, the Opposition supports the suggestion of the Police Association that its concerns be dealt with by referral of this bill to the Committee on the Office of the Ombudsman and Police Integrity Commission for inquiry and report. Therefore, we will support that motion. In the event that the motion is unsuccessful, the Labor Opposition will support the bill.

The Hon. NATASHA MACLAREN-JONES [6.14 p.m.]: I support the Police Integrity Commission Amendment Bill 2012. First, I place on record my appreciation for the outstanding job that members of the NSW Police Force do, particularly in extremely difficult and challenging circumstances. Due to the nature of their jobs, police are held to account not only by the Police Integrity Commission but also by the Ombudsman, the Professional Standards Commission and the Independent Commission Against Corruption. All those agencies place police under scrutiny. The O'Farrell Government is determined to ensure that government and associated bodies continually provide effective and efficient services to the State. This bill seeks to make the Police Integrity Commission more efficient.

As I have said before, these amendments came out of last year's review of policy objectives and the terms of the Police Integrity Commission Act 1996. Submissions for the review were taken from the Police Integrity Commission, the Inspector of the Police Integrity Commission, the NSW Police Force, the New South Wales Crime Commission, the Independent Commission Against Corruption, the Inspector of the Independent Commission Against Corruption and the NSW Ombudsman. The Police Integrity Commission Act 1996 sets out the principal functions of the Police Integrity Commission. In summary, those include preventing, detecting and investigating misconduct by police, administrative officers of the force and of the New South Wales Crime Commission. In addition to investigations, the commission provides recommendations to the NSW Police Force and the New South Wales Crime Commission on how to minimise and prevent misconduct.

The changes proposed by the bill will maintain confidence in the integrity of the Police Force by giving broader powers to the Inspector of the Police Integrity Commission to publish reports and effectively clean up the uncertainty surrounding publishing and making recommendations so that the powers of the Inspector of the Police Integrity Commission are in line with those of the Inspector of the Independent Commission Against Corruption. Furthermore, public hearings are an important aspect of the Police Integrity Commission and there must be careful consideration of the benefit of public exposure of an individual in the interests of the public against the potential for undue prejudice against an individual. The amendments in the bill specify the criteria for determining public hearings, which are consistent with requirements for the Independent Commission Against Corruption.

There is one other notable feature of the bill, also referred to previously, that I would like to highlight: procedural fairness for people subject to investigations and reports. The perceived lack of fairness has been a concern for police officers, and this matter was raised by the Police Association of NSW in relation to certain matters previously before the commission. The bill inserts into the Act a new section to give a person named in a report the opportunity to make a submission in their defence. Furthermore, as part of the amendments, a review of the Act will be undertaken within five years to ensure that the functions of the Police Integrity Commission support and improve law enforcement in New South Wales. I congratulate the Minister on introducing these amendments, which will offer a more streamlined operation of the Police Integrity Commission, and I commend the bill to the House.

[The Deputy-President (The Hon. Jennifer Gardiner) left the chair at 6.18 p.m. The House resumed at 8.00 p.m.]

The Hon. PAUL GREEN [8.00 p.m.]: I lead for the Christian Democratic Party in debate on the Police Integrity Commission Amendment Bill 2012. The object of the bill is to amend the Police Integrity Commission Act 1996 to give equal prominence to the functions of the Police Integrity Commission and the New South Wales Crime Commission; to give guidance to the Police Integrity Commission in relation to the factors that are to be taken into account when it determines whether to conduct a public or private hearing; to

ensure that certain senior officers are under a duty to report all the types of conduct referred to in the overview to the Police Integrity Commission; to clarify the way in which the Inspector of the Police Integrity Commission is to carry out certain functions; and to ensure that a person about whom an adverse comment is to be made in a report prepared by the Police Integrity Commission or the Inspector of the Police Integrity Commission has the opportunity to make submissions before the comment is included in the report.

The Police Integrity Commission is responsible for the prevention, detection and investigation of alleged serious misconduct in the Police Force in New South Wales, and the Inspector of the Police Integrity Commission oversees the Police Integrity Commission in this State. This bill is the result of a review, concluded last year, which considered the recommendations by the parliamentary Committee on the Office of the Ombudsman and Police Integrity Commission. The bill aims to provide more consistent and transparent accountability for both the Police Integrity Commission and the New South Wales Crime Commission. The Christian Democratic Party commends the bill to the House.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [8.03 p.m.], in reply: I thank all members for their contributions to debate on the Police Integrity Commission Amendment Bill 2012. This bill has come about because of the need for a legislative review, and it has been a long time in the making due to some of the concerns that have been raised in debate. I will not labour the point but I will address the issues raised by The Greens in regard to their amendment. I formally indicate that the Government will not support The Greens in relation to a reference to the committee, and I will explain why—some issues in relation to the amendment need to be considered further.

I was interested to hear Mr David Shoebridge speak about the areas he believed needed to be considered by the committee as a result of the correspondence he received from the New South Wales Police Association. I will paraphrase him in relation to the five areas. They were: procedural fairness, section 10, a statutory code of conduct, consideration of amending the Police Integrity Commission Act to enable the parliamentary oversight committee to be in a position to lawfully direct the commission to do something in the future, and revoking the oversight role of the Ombudsman to give some certainty in relation to the Police Integrity Commission in that regard.

Mr David Shoebridge: It's a paraphrase.

The Hon. MICHAEL GALLACHER: It is a paraphrase. I served on the backbench committee during the royal commission when we first debated the creation of the Police Integrity Commission, and I was present when the Police Integrity Commission committee was formed. There was a considerable amount of discussion and consideration in relation to the final determination by Parliament with respect to the formation of the Police Integrity Commission. I have looked closely at the parliamentary calendar, and to suggest that those five points—they are quite significant points, particularly given that we would no doubt need to allow, for example, the Ombudsman to make a presentation to the committee and there probably would also need to be some consideration of procedural fairness beyond New South Wales to see what other civilian oversight bodies are doing—could be dealt with in the 15 non-sitting days between now and 13 June is, in fairness, unrealistic. I do not think we could do it in 15 days.

That being said, if the member genuinely wishes for these matters to be considered by the committee then I suggest that he put a private member's notice of motion before the House for a reference to the Police Integrity Commission committee. I do not believe we should delay the passage of this legislation. The Police Integrity Commission committee requested that specific issues be examined by the statutory review in 2010, and we now find ourselves in 2012 bringing these issues to conclusion. I note that the Opposition expressed its concerns in relation to, in particular, procedural fairness and mentioned Detective Inspector Paul Jacobs.

I have to declare an interest: I have known Paul for a number of years and have commented publicly about him in relation to his role in the NSW Police Force. In fact, I was part of the nomination process that saw him awarded the Australian Police Medal recently, despite the fact that the Police Integrity Commission has matters on its website in relation to him. It is fair to say that I have made known my views about Paul. That being said, we should not further delay the passage of this legislation. It is appropriate that we pass this legislation this evening and I am confident that will happen. It is interesting that the Police Association has raised its issues through The Greens and not the Opposition.

Mr David Shoebridge: I believe they sent it to everyone.

The Hon. MICHAEL GALLACHER: Yes, but it is interesting that The Greens brought this forward and not the Opposition. That is no slight on Mr David Shoebridge; it is more a question of why the Opposition did not bring these issues forward, particularly since it raised the matter of Detective Paul Jacobs and the issues of procedural fairness in respect of the way he was treated. These things have been on the public record for a number of years and the Government has been in office for just over 12 months. What is it that now warrants the Opposition to want to put on the record its new-found belief in procedural fairness? A lot of this will be cut and spliced and sent to the Police Association, but I do not want it to be recorded that the Government is somehow opposed to these ideas. It is not.

It is important that this legislation passes the House this evening. These matters still concern the association. I indicated to Mr David Shoebridge that he should perhaps consider putting them in a notice of motion. This House may well then consider sending them to the committee. Or he could also write to the committee and ask it to consider the matter through the form of a reference. There are many options. It is important to allow the record to show that the decision we have taken this evening does not mean that we rebuke the concerns that have been raised; we just believe that delaying it is unrealistic, given the time frame of 13 June that is set out in the notice of motion.

Mr David Shoebridge: I am happy to move the date, if that helps.

The Hon. MICHAEL GALLACHER: The fact is that if we move the date out it will go further and further back. Government members want to get this legislation passed. It is not a question of moving the date; it is about getting the legislation through. Obviously there is then an opportunity for the committee, if it so decides, to consider the matters that have been raised. There will be a considerable degree of inquiry needed to look at these issues. Procedural fairness and police or former police working at the Police Integrity Commission are significant issues. I am not having a go at Mr David Shoebridge because he was not here during the original debates on this issue, but I find it quite remarkable that The Greens are now raising it.

Mr David Shoebridge: I told you what the situation was.

The Hon. MICHAEL GALLACHER: I know, but it is fair to say that you would not support a notice of motion brought forward now to change that section to allow police or former police to work at the Police Integrity Commission.

Mr David Shoebridge: That is probably true.

The Hon. MICHAEL GALLACHER: It is probably true.

Mr David Shoebridge: It is probably true on the current evidence.

The Hon. MICHAEL GALLACHER: Yes, on the current evidence. I appreciate that. There will need to be some work done in relation to the statutory code of conduct. It is not simply a case of mirroring that which currently applies to the NSW Police Force. The enabling provision that gives the parliamentary committee the power to lawfully direct the Police Integrity Commission to do something into the future is obviously not going to be limited to the issue of what it can show on its website. It will probably go much further and it will also need to be explored. We will need to look contemporaneously at what is happening in that context in other civilian oversight bodies throughout the Western World.

Of course in recent times Mr David Shoebridge has been very outspoken about the role of the Police Integrity Commission and the Ombudsman. It is important to put on the record his criticism of the Police Integrity Commission in respect to allegations that were raised on an earlier occasion about the Commissioner of Police. I think he might have even considered an independent inquiry because the Police Integrity Commission did not seek to investigate the complaints raised in this House. Of course, now he would prefer the Police Integrity Commission to conduct those investigations. He has expressed his view on that.

Mr David Shoebridge: It was never the fact that it could do it; it was its failure to do it.

The Hon. MICHAEL GALLACHER: The fact is that the Police Integrity Commission makes its decisions but Mr David Shoebridge is now keen to look at a revocation of the role or, let us say, get more definitive clarity in relation to the roles of the Ombudsman and the Police Integrity Commission. I have not worked with the Police Integrity Commission in an investigative sense, but I have worked with the royal

commission preceding the Police Integrity Commission and the Ombudsman. I was satisfied in relation to its role. There is no doubt that the commission would take over an investigation if the Ombudsman were to identify issues of corruption of the kind that should be dealt with by the commission.

The reasons why some people are not satisfied with the Ombudsman continuing in that role have not been put in the debate. They have not said where they believe the Ombudsman has failed. That would need to be debated in the context of the proposal to make a reference to the committee. Therefore, I suggest that a six-week time frame—or anything remotely close to that—is unrealistic. A significant body of work would be required to look at this. We would also need to hold public hearings. The advocacy groups that represent the various bodies that are interested in civilian oversight of police would need an opportunity to make contributions both verbally and in written form for the consideration of the committee. That is quite simply because the five proposals would significantly change the DNA of the Police Integrity Commission.

As I have indicated, we should proceed with the legislation. I recognise that all members are supportive of the legislation. Some members have indicated that they would like to see some enhancements or further consideration in some areas. I suggest to them that there is proper course by which to do that, but delaying this bill will not lead to a satisfactory outcome.

Question—That the amendment of Mr David Shoebridge be agreed to—put and resolved in the negative.

Amendment of Mr David Shoebridge negatived.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael 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.

CORONERS AMENDMENT BILL 2012

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [8.19 p.m.], on behalf of the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Coroners Amendment Bill 2012. This bill will amend the Coroners Act 2009 to improve the operation and effectiveness of the New South Wales Coroner's Court. The Coroners Act 2009 was the result of a substantial review of the previous legislation in 2008 and 2009 by the Department of Attorney General and Justice in consultation with the State Coroner, the Chief Magistrate, and a range of internal and external stakeholders. The Coroners Act 2009 modernised and simplified many provisions in the previous Act. It prevents natural deaths from being unnecessarily reported to coroners, which enables the Coroner's Court to focus more on deaths that are suspicious or unexplained.

The Productivity Commission's Report on Government Services 2012 recently found that the Coroner's Court of New South Wales has one of the best clearance rates and the lowest backlog of any coroner's court in Australia. Expeditious resolution of coronial matters reduces uncertainty and stress for grieving families and can help them to come to terms with the loss of a loved one. The coroner's court has adjusted well to the introduction of the Coroners Act 2009, which came into force at the beginning of 2010. However, as with any

significant reform process, some issues will become apparent only during implementation. The bill addresses a number of issues identified by the State Coroner and other stakeholders to further improve the operation of the Coroner's Court of New South Wales and to clarify the legislation in certain circumstances.

The State Coroner supports each of the proposed amendments. Detailed consultation has been carried out with a broad range of other stakeholders. I will now outline each of the amendments in turn. Items [1] and [3] of schedule 1 to the bill amend the definition of "senior next of kin". A senior next of kin has a number of rights and responsibilities under the Coroners Act, including in relation to the conduct of post mortems and retention of organs. The amendment provides a coroner with discretion to treat a person who was a deceased person's legal personal representative immediately before the deceased person's death as the deceased person's "senior next of kin", if the Coroner is satisfied that other persons available to act as senior next of kin are unable to do so. In some circumstances, a person's legal personal representative immediately prior to their death is appointed because the deceased person's immediate relatives were not able to, or were deemed not able to, manage that person's affairs—for example, a guardian may have been appointed. However, without the amendment that legal personal representative may not be considered to be the deceased person's senior next of kin following death. The amendment will address that oversight.

Item [2] of schedule 1 amends section 6 (1) (f) of the Coroners Act 2009 to clarify New South Wales Health's obligations regarding reportable deaths. Since late 2009, more than 30 emergency departments have been gazetted as a declared mental health facility within the meaning of the Mental Health Act 2007. This has been done to allow the short-term detention and treatment of patients in an emergency department before they are discharged; or, if the patient requires ongoing care, their transfer to an appropriate inpatient declared mental health facility. This amendment will clarify New South Wales Health's obligations to report deaths that occur in one of those emergency departments. As the section is currently drafted, there is some ambiguity over whether all deaths of people who are in, or temporarily absent from, one of these gazetted emergency departments must be reported to the Coroner, including people who are admitted for general care, treatment or assistance as opposed to mental health care, treatment or assistance.

The current section also refers to a person who is a "resident" of a declared mental health facility. The term is not used in any Health legislation or in the mental health field, and therefore is unclear to hospital staff. "Resident" will be changed to "patient", which will make the matters clearer at an operational level. This amending bill will capture deaths of voluntary and involuntary civil patients under the Mental Health Act 2007 as well as forensic and correctional patients under the Mental Health (Forensic Provision) Act 1990. The amendment will not affect any obligation to report a reportable death under one of the other circumstances outlined in section 6 (1) of the current Act. The Department of Health recommended the proposed amendment and the State Coroner supports it.

Items [4] and [5] of the bill amend sections 74 and 76 of the Coroners Act 2009 to ensure that the coronial process does not potentially interfere with the future course of criminal justice. It enacts recommendations of the State Coroner that she made as part of her findings in August 2010 after the inquest into the death of Kate Therese Bugmy. An issue arose during the course of that inquest concerning the ability of a coroner to make a non-publication order covering submissions. It related to the referral of papers to the Director of Public Prosecutions on whether a known person may have committed an indictable offence. The publication of such submissions potentially could prejudice future criminal proceedings. The amendments ensure that there will be express power to order non-publication of submissions and comments made in relation to whether a known person may have committed an indictable offence or whether an inquest or inquiry should be suspended for this reason.

Item [8] of the bill amends section 79 of the Coroners Act 2009 to improve the court's ability to case manage files, particularly when closing coronial proceedings. Section 79 of the Act empowers a coroner who has suspended or not commenced an inquest or inquiry to allow criminal charges to be determined, to reopen the inquest and to make recommendations after any charges have been dealt with. The amendment will enable the State Coroner to direct that a suspended coronial inquest or inquiry not be resumed in order to more efficiently manage coronial matters. It requires consultation with the individual coroner who has carriage of the suspended inquest or inquiry, and is subject to consultation with the Chief Magistrate when the Coroner is also a magistrate. The State Coroner recommended the amendment.

Items [9] and [10] amend section 86 of the Coroners Act 2009 to clarify the rights of the Attorney General, as the Minister administering the Coroners Act, to intervene in applications made to the Supreme Court under section 84 or section 85. Those sections provide for an application to be made to the Supreme Court for

the holding or re-holding of a coronial inquest or inquiry. This amendment is intended to clarify the rights of the Attorney General to be heard under section 86. The amendment in section 86A (2) makes clear that the Attorney General has a right to intervene as a party with all the rights that that status entails. That will avoid future ambiguity and expense on this point. The amendment in section 86A (3) expressly provides that the Attorney General will have the right to be heard without formally intervening. This relates to when the Attorney General seeks to be heard as amicus in situations where submissions are confined to matters of law with a view to assisting the court, but when advocacy for a particular outcome is not desired. In this situation, the Attorney General will not become a party.

Items [12] and [14] of the bill amend sections 96 and 98 of the Coroners Act 2009 to enable a coroner to refuse a request by a senior next of kin for a post mortem examination not to be held, if the senior next of kin has been, or may be, charged with an offence in connection with the deceased person's death. Part 8.2 of the Coroners Act provides for the senior next of kin of a deceased person to request that a post mortem not be conducted. If the Coroner decides that a post mortem is necessary or desirable, they must give the senior next of kin notice of that decision. A post mortem then cannot be conducted until a minimum period of 48 hours elapses, during which time the senior next of kin may apply to the Supreme Court to overturn the Coroner's decision.

Presently the Coroners Act does not take into account circumstances in which the senior next of kin has been charged, or may be charged, in relation to the death of the person on whom it is intended to conduct a post mortem for coronial purposes. The purpose of the amendment to section 96 (5) is to prevent a senior next of kin from benefiting from a delay in the conduct of a post mortem on the victim of their alleged crime. If a request by the senior next of kin has been refused under section 96 (5), the amendment to section 98 prevents the senior next kin from authorising another person to make the request. That will ensure that the effect of the amendment to section 96 is not frustrated. The State Coroner requested those amendments.

The amendments in the bill have been the subject of thorough consultation with key stakeholders, including the Chief Magistrate, the Chief Justice of New South Wales, the New South Wales Ministry of Health, the Ministry for Police and Emergency Services, the NSW Police Force, Legal Aid NSW, the Crown Solicitor's Office, the Minister for Citizenship and Communities, and Minister for Aboriginal Affairs, the Community Relations Commission, the New South Wales Bar Association and the Law Society of New South Wales. I thank the State Coroner, the Coroners Court and the stakeholders to whom I have referred for their assistance. I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.30 p.m.]: I lead for the Opposition on the Coroners Amendment Bill 2012. The Opposition does not oppose the bill. The object of the bill is to amend the Coroners Act 2009. The amendments are expressed by the Government to be comparatively minor ones to finetune the legislation. They do not amount to, and are not intended to amount to, a substantial review of the Act. They are meant to improve the operation of the Coroners Court. The principal Act, the Coroners Act 2009, resulted from an extensive review of the legislation and the court. In 2009 the then Attorney General's agreement in principle speech in the other place set out the extensive consultation embarked upon at that time.

The office of coroner dates back to twelfth century England. The powers of coroners in this State were consolidated by statute in 1912. There was a new Act in 1960 and another 20 years later. Subsequent to that there were amendments and developments, including the creation of the Office of State Coroner and assistant coroners. The 2009 legislation provided a modern and cohesive framework to allow coroners to perform their role. The Attorney General indicated in his agreement in principle speech in the other place that the court adjusted well to the introduction of the new legislation. That Act generally has been well received.

However, as the Attorney General mentioned, some issues will become apparent only after implementation, and it is this category into which these finetuning amendments fall. The amendments to the principal Act include providing amendments to the definition of "senior next of kin", which provides greater flexibility to the Coroner in recognising as senior next of kin a person who had been the deceased's legal personal representative before death. A change is also made to the definition of "reportable deaths". The impact of this change is to clarify the reporting of deaths of people in or temporarily absent from emergency departments of hospitals that have been gazetted as mental health facilities. It also changes the use of the term "resident" to provide greater clarity.

The amendments give greater power to the Coroner to clarify the non-publication of questions, objections and comments. This is significant because it will help to avoid prejudicing future criminal

proceedings. The power to prevent publication of evidence is extended to submissions on the same basis. Section 79 is amended to clarify that a suspended coronial inquiry or inquest need not be resumed, as I think the Parliamentary Secretary mentioned in his speech. Section 86 is clarified by new section 86A in relation to a Minister's intervention in another party's application to the Supreme Court to open or re-open an inquest or inquiry.

The bill makes a sensible alteration to provisions relating to objections by senior next of kin or their representative to post mortems. If the Coroner is satisfied that the senior next of kin has been or may be charged with an offence in connection with the deceased person's death, then the Coroner may refuse a request that a post-mortem inquisition not be conducted. I could go on, but I will not. The Opposition does not oppose this bill.

Mr DAVID SHOEBRIDGE [8.33 p.m.]: The Greens support the Coroners Amendment Bill 2012. I am glad that the Attorney General introduced it. I echo many of the sentiments of the Deputy Leader of the Opposition. This is a relatively modest bill that does a couple of important things in the Coroner's jurisdiction. I was interested to hear that the office of coroner dates back to the twelfth century. I did not know that. It is an extremely important office in New South Wales. The 2009 bill modernised the Coroner. New South Wales now has one of the most effective coroner's systems in the country, if one looks not only at case clearance rates but also at the ongoing day-to-day work of coroners courts.

The bill makes a number of clarifications to the 2009 Act. The definition of "senior next of kin" is removed from the definition section and is added as a new section 6A. The coroner has the choice to treat the person who was the deceased's legal personal representative immediately before he died as his senior next of kin if the existing senior next of kin cannot act as representative. For example, this might be a guardian who was appointed before the person died because no close family member was capable of, or willing to, undertake the task. It makes enormous procedural sense to appoint that person as the representative in a coronial proceeding.

New section 6 (1) (f) clarifies that a "reportable death" in a declared mental health facility refers to patients who die while receiving treatment under the Mental Health Act 2007 or the Mental Health (Forensic Provisions) Act 1990. It does not apply to all patients in such facilities. This will stop many inappropriate reportings from busy emergency centres, many of which are designated health facilities. It will mean that matters unrelated to mental health—such as death from road trauma or cardiac arrest—in a designated mental health facility that is also a busy emergency centre will not be inappropriately reported to the Coroner in an automatic fashion.

New sections 74 (1) (c) and 76 (1) (d) will provide an express power to order non-publication of a submission and comments that relate to whether a known person may have committed an indictable offence. As the Parliamentary Secretary indicated in his second reading speech, this follows from the Coroner's recommendations in the report into the death of Kate Bugmy in Broken Hill in 2007. There is no point in having the power to order non-publication of transcript and evidence and the suppression of findings if the core material can be published with the publication of a submission. That fills a lacuna in the legislation that needed to be filled.

New section 79 (2A) requires coroners to notify the State Coroner in writing if they intend to resume an inquest or inquiry. New sections 79 (5A) and (5B) give the State Coroner the power to direct that an inquiry not be resumed if he or she determines that continuation would be inappropriate. This provision caused The Greens some concern and I hope the Government will continue to monitor it if there are any such directions from the State Coroner. At first blush, if the Coroner has ceased an inquiry after undertaking part of that inquiry and then determines to continue the inquiry for one reason or another, that coroner probably has the best understanding of the matter. One would hope it would be only in the most extreme circumstances that the State Coroner would intervene to end an inquiry. If that provision becomes repeatedly used by the State Coroner or is used in questionable circumstances it will need to be monitored, not only by the Government but also by all interested parties in New South Wales.

New section 86A provides that the Minister may intervene in any application for an order under that section. The Minister would become a party to the application. Alternatively, the Minister may exercise a right to be heard on an application for an order and this is not to be considered an intervention. The only difficulty The Greens see with that is if the Minister exercises the right to be heard, which then may delay proceedings substantially, it would be difficult to see why the Minister should not become a party with all the obligations that go with becoming a party to proceedings. Again, this needs to be monitored. As I understand it, the

Minister's intent is to use this power to intervene but not be a party to proceedings as *amicus curiae* in necessary circumstances. The Greens do not object to the provision if it is limited to those sorts of matters; in fact, it may produce a better outcome.

New sections 96 (5) and 98 (3) will allow the Coroner to refuse a request by senior next of kin for a post-mortem not to be held if that person has been or might be charged with an offence in relation to the person's death. That includes an anti-avoidance provision that also provides that the person in question may not then authorise another person to make such a request. The reason for that is quite obvious. A post-mortem might provide some evidentiary basis upon which to proceed with a charge against the known person. That known person should not be in a position to prevent a post-mortem from occurring. The Greens support that sensible piece of law reform.

This amendment has been through quite detailed consultation and all key stakeholders support it. Of course, ongoing concerns remain about some coronial inquests. One that comes to mind is the extremely lengthy proceedings into the death of Sarah Waugh. Often people sitting as a coroner have busy court schedules and if a matter becomes part heard it could take up to six months before another set of hearing dates can be set aside to continue the matter. Of course, that creates enormous delay and trauma for the families who really want to have matters started and finished within a short time frame. This aspect will require ongoing monitoring by the Government to ensure that, even with the efficiencies of the new Act, adjournments are not lengthy before hearings can be resumed.

Sometimes a coronial finding can be made years after the death. That means the family has continued to live the circumstances of the death of their loved one for years after the funeral. Many people are unable to conclude their natural grieving process until the end of the Coroners Court proceedings. Obviously, that process requires close observation as it includes not just emotional concern but also a financial burden for many families who pay to have legal representation at coronial inquiries. The Greens support the bill, and also the Government and all interested parties continuing to monitor the operation of the Coroners Court.

The Hon. WALT SECORD [8.41 p.m.]: The Opposition does not oppose the Coroners Amendment Bill 2012. In 2009 the State Labor Government legislated to amend the Coroners Act 2009 after a lengthy and detailed consultation and two-year review. Those consultations involved the Department of the Attorney General and Justice, the State Coroner and Chief Magistrate, and a range of stakeholders, including the Department of Health, NSW Police, NSW Legal Aid, the Department of Aboriginal Affairs, the Community Relations Commission and the Law Society. The Coroners Act 2009 modernised and simplified many provisions in the previous Act. The changes prevented some natural deaths from being unnecessarily reported to coroners. This enabled the Coroners Court to focus more on suspicious or unexplained deaths. This bill builds on those changes but is more about streamlining and improving the efficiency of the Office of the State Coroner. As the Attorney General said in his second reading speech in the Legislative Assembly, this bill will further improve the operation and effectiveness of the New South Wales Coroners Court.

I refer now to aspects of this modest bill. The Coroners Amendment Bill 2012 clarifies the definition of a deceased person's next of kin, especially if that person may be a suspect in a police investigation and may have an interest in affecting the processes of the Coroners Court. Other changes involve reporting to the Coroner about deaths in mental health facilities; the power of the Coroner concerning the publication of certain submissions; the power of the Coroner to suspend proceedings; the power of the Attorney General to intervene in Supreme Court applications for a coronial inquiry or inquest; and increasing the Coroner's power concerning post-mortem examinations when the senior next of kin may be charged with an offence. The State Coroner ensures that all deaths, suspected deaths, fires and explosions are properly investigated. If necessary, the State Coroner decides whether an inquest is to be held.

The concept of the office of coroner dates back to 1194 in England. The community was levied to support an independent judicial officer who was responsible for the investigation of sudden, violent or unnatural deaths. In New South Wales the office of the Coroner is a respected body and has a proud history. In 1912 the powers of coroners were consolidated by statute, and amended in the 1960s and 1980s. Today the Office of the State Coroner investigates about 6,000 reportable deaths a year, of which about 3,500 deaths are coordinated through its Glebe office. A further 2,500 deaths annually are examined by coroners and assistant coroners in various rural and regional locations throughout the State. Officially, the role of the Coroner is to determine the identity of the deceased and the date, place, manner and medical cause of death.

In order to fulfil this role the Coroner relies also on information and evidence from pathologists, police personnel, general medical practitioners and specialist physicians. As part of the official duties the Coroner

looks at deaths that are violent or unnatural deaths; sudden, the cause of which is unknown; under suspicious or unusual circumstances; under, as a result of or within 24 hours of an anaesthetic being administered in the course of a medical, surgical or dental procedure; within a year and a day of an accident to which the cause may or may not be attributable; or which occur while in or temporarily absent from a hospital within the meaning of the Mental Health Act 1990 and while the person was a resident at the hospital for the purpose of receiving care, treatment or assistance.

A recent Productivity Commission report on government services found that the Coroners Court of New South Wales under previous Labor governments had one of the best clearance rates and the lowest backlog of any Coroners Court in Australia. Resolving coronial matters quickly and smoothly reduces uncertainty and stress for grieving families. This can also help them to come to terms with the loss of a loved one. For thousands of families in New South Wales, particularly disadvantaged ones, seeking justice and a full and thorough investigation into the death of a loved one, often the Coroners Court is the only avenue available to them. That is why this bill is important and why we need an effective and efficient coroner's office. That is why I commend the bill to the House. I thank the House for its attention.

The Hon. TREVOR KHAN [8.46 p.m.]: I support the Coroners Amendment Bill 2012. The objects of the bill are:

to amend the Coroners Act 2009

- (a) to enable a coroner to treat a person who was a deceased person's legal personal representative as the deceased person's senior next of kin for the purposes of the Act if the coroner is satisfied that the person who is available to act as senior next of kin is unable to do so, and
- (b) to provide that the death of a person in or temporarily absent from a declared mental health facility within the meaning of the *Mental Health Act 2007* is reportable to a coroner if the person was a patient at the facility for the purpose of receiving care, treatment or assistance under the *Mental Health Act 2007* or *Mental Health (Forensic Provisions) Act 1990*, and
- (c) to enable a coroner to order that submissions in coronial proceedings concerning whether a known person may have committed an indictable offence not be published, and
- (d) to prevent the publication of certain submissions and comments in coronial proceedings concerning the suspension of coronial proceedings without the consent of a coroner, and
- (e) to enable the State Coroner to direct that suspended coronial proceedings not be resumed, and
- (f) to enable the Attorney General to intervene in applications made to the Supreme Court for a coronial inquest or inquiry to be held, and
- (g) to enable a coroner to refuse a request by a senior next of kin of a deceased person for a post mortem examination not to be conducted if he or she has been, or may be, charged with an offence in connection with the deceased person's death.

I shall refer to that last item shortly. Notwithstanding the jokes sometimes at my expense in this place, I did not appear only in traffic courts. A considerable portion of my practice involved appearing in various coroners courts throughout this State. Certainly, I heard a number of members tonight talk about the necessity of expediting coronial inquests. On many occasions I saw coroners go out of their way in an attempt to achieve prompt outcomes. I also saw many inquests extend over years, for a variety of reasons. I concur with the observations that the holding of expeditious hearings very much forms part of the grieving process for families in dealing with the sudden and unexpected loss of a loved one.

It is in many ways a cathartic experience. Sometimes these inquests involve very violent, as well as tragic, deaths. Sometimes the evidence that is presented before the Coroner, in the presence of family members, involves horrific descriptions of the death of that loved one. Despite the disturbing nature of that evidence I have generally found that, for reasons that I sometimes find difficult to understand, the family members find the giving of that evidence helpful to them in coming to grips with the circumstances in which their loved one was lost. I have to say that, in my experience, the work of coroners is extremely difficult. The people, without exception, who perform the role of coroners perform those roles with great dedication and a capacity for kindness towards the family members that is, quite frankly, outstanding. In my view they should receive great thanks.

I add that with so many tragic and violent deaths it is often forgotten that the Coroners Court provides an avenue for examination of those deaths. From reading the newspapers one would believe that such an avenue does not exist. Coroners Courts provide the opportunity for effective examination. The most relevant example

I can give of involves Aboriginal deaths in custody. The Coroners Court, time and again, in almost all cases, has been able to dispel the concerns, rumours and innuendos that have swept through families and friends of the deceased and caused consternation in communities. The Coroners Court has allowed, on the whole, many of those concerns to be put to rest. I now turn to the amendments that deal with section 96, objections by senior next of kin to the holding of a post-mortem. Item [12] proposes to insert new section 96 (5):

- (5) The coroner may refuse a request made by the senior next of kin of a deceased person for a post mortem examination not to be conducted on the deceased person if the coroner is satisfied that the senior next of kin has been, or may be, charged with an offence in connection with the deceased person's death.

I will concentrate on the reason for use of the words "may be charged". The Coroners Court advises that adopting the "is likely to be charged" threshold as an alternative would make the amendment operationally ineffective. The time when the Coroner has to make the decision as to whether there should be a post-mortem is normally within a short period after the death. When this provision is used the Coroner will be reliant on advice received from police regarding the senior next of kin's potential involvement in the death. A higher standard than "may", such as "is likely to be charged" possibly may not be met until the post-mortem examination has been carried out and the cause of death has been determined. Thus, a higher threshold would render the section operationally impractical and the benefit of postponing the post-mortem may already have been served.

It should be emphasised that the situation the bill seeks to overcome is rare, but it is one that comes about from time to time. The provision is expected to be used infrequently. The coroner's decision will be subject to judicial review and therefore needs to be made on a lawful basis. I could go on in some detail with regard to other matters, but I believe contributions to the debate already made have dealt with most areas of consideration.

The Hon. PAUL GREEN [8.54 p.m.]: On behalf of the Christian Democratic Party I will speak briefly on the Coroners Amendment Bill 2012. This bill will amend the Coroners Act 2009 to improve the operation and effectiveness of the State Coroners Court. It will do this by allowing the Coroner to treat a deceased person's legal representative as their senior next of kin if the Coroner is satisfied that the senior next of kin is unable to do so. It will ensure that NSW Health reports the death of an inpatient at a mental health facility to the Coroner. It enables the Coroner to prevent the publication of submissions in coronial proceedings concerning whether a known person may have committed an indictable offence. Furthermore, it prevents the publication of certain submissions and comments about the suspension of coronial proceedings without the consent of the Coroner. This is important to prevent prejudice of any future criminal proceedings. The amendments enable the State Coroner to prevent the resumption of suspended coronial proceedings.

The bill allows the Attorney General to intervene in applications made to the Supreme Court for a coronial inquest or inquiry to be held. The bill enables the Coroner to override the senior next of kin and proceed with a post-mortem examination if that next of kin has been or may be charged with an offence relating to the deceased person's death. The amendments provide for savings and transitional matters consequent on the enactment of the proposed legislation. This bill builds on the Coroners Act 2009 and addresses the issues I have just mentioned. This bill will make the coronial process more efficient, minimising uncertainty and stress for grieving families.

I know of one case where there was no suspicious cause of death but because the coronial process took some time the funeral was held without the loved one in the coffin. Members of the family were not aware of that. Those situations need not happen if there is an efficient process for coroners to follow—especially where there is no suspicious death. The Christian Democratic Party commends the bill to the House.

The Hon. SHAOQUETT MOSELMANE [8.57 p.m.]: I join in supporting the Coroners Amendment Bill 2012. As the Parliamentary Secretary to the Minister stated, this bill will amend the Coroners Act 2009, seeking to improve the procedural effectiveness of the New South Wales State Coroners Court. The Coroners Act 2009 was enacted by the previous Labor Government following a detailed review into the existing coronial system and was welcomed as a positive reform. As honourable members know, respect for the deceased is an important tenet of all organised religions. There may be specifics that differ between faiths but they all agree that honour and dignity must be preserved and given to the departed as well as their loved ones. This must be balanced by any need for the executive arm of government to properly investigate suspicious deaths, preventing further harm to the community and providing closure for those affected by such circumstances.

During the lead up to the 2009 Act that this bill amends, I am pleased to inform the House that as many community groups as possible were consulted to ensure that the resulting legislation took into account the

diversity of faiths we have in this State. After its passage into law, in order to avoid confusion or misunderstanding, the same diligence and care were taken to ensure that leaders of those communities were informed of the changes that the Act instituted. I was involved in several community forums in 2010 with the former Attorney General, the Hon. John Hatzistergos, to ensure that the Islamic community was adequately informed about how the changes impacted upon them. This was also an opportunity for the religious and community leaders of those areas to clarify finer points of religious rite that may conflict with the proceedings of the Coroners Court.

I wish to take the opportunity to acknowledge Mr Maurice Taylor of the Coronial Information and Support Unit at the New South Wales Coroners Court for his fantastic work in making sure these communities were properly informed. He is a credit to his department. Honourable members may not be aware that the Islamic practice of preparing the body of a deceased loved one for burial is to do so with minimal delay. Unfortunately, however, this may at times be in conflict with the investigative duties of the Police Force and the Coroner. If people in these communities do not know why a post-mortem or inquest is required for a deceased loved one—apart from their rights as a family—it can make an already stressful time far worse. That is why this level of community information and engagement for people of all faiths was so important at the time the last amendment was made to the Act. I urge the current Government to undertake a similar program with this amendment after it becomes law.

I recently met with people from the New South Wales Islamic community who said that they were not aware of the proposed changes under the bill before the House. I hope the current Government will pay the same care and attention to informing them and people of all faiths or no faith about this bill as Labor did while in government. Honourable members will be aware that I have long campaigned for the rights of a variety of religious groups in New South Wales, including Muslim, Buddhist, Vietnamese, Chinese, Coptic and Assyrian to name but a few. I have campaigned on this and on the next problem following death, namely, burial. That process also can be very stressful as it can attract significant funeral and burial costs. I would like to say a few words on this if I may.

The Government recently announced that it was allocating 6,000 new burial plots at Rookwood necropolis for people of the Islamic and Jewish faiths. While I welcome this, I am disappointed that this was only announced in the face of sites for Islamic burials running out within the next six months. This is particularly disappointing when the Keneally Government had laid the groundwork for 90 hectares to be allocated for cultural burial space. When I became a member of this Chamber I had long been an advocate for increasing burial space for Islamic and other communities. The *Daily Telegraph*, for example, reported on 26 November 2009 that among my services to the community was that I had long been "lobbying the state government for cemetery space for Muslim burials" following calls for additional burial space. In 2010 I organised a community meeting—

The Hon. Trevor Khan: Point of order: My point of order is relevance. I understand that my friend is passionate about this subject, but the issue of burial spaces hardly falls within the long title of the bill. There is an appropriate time for the honourable member to press this issue, but now is not that time.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I ask the member to confine his remarks to the leave of the bill.

The Hon. SHAOQUETT MOSELMANE: Mr President, I had only one other point to mention on this matter. When I first came into this Chamber I had long been an advocate for increasing burial space for Islamic and other communities. As I said, the *Daily Telegraph* reported on 26 November—

The Hon. Trevor Khan: Point of order: Again my point is based on relevance. My friend is cavilling at your decision. I understand that he is passionate about this matter, but it is not within the long title of the bill. Mr Deputy-President, though you had already ruled on this matter the member simply proceeded on. That is not appropriate.

The Hon. Lynda Voltz: To the point of order: My first point is that members should be addressed by their proper title, not as "my friend". The second is that there has been wide-ranging debate on this bill, as there is on most bills. Given the context of the debate so far on the bill, I submit that the member is well within that range.

The Hon. Dr Peter Phelps: To the point of order: I note that Private Members' Business item No. 661 covers exactly the point that the member seeks to speak about. The member appears to be trespassing upon that matter by pre-empting debate on that specific point.

The Hon. Lynda Voltz: Further to the point of order: The Government Whip should well know that Private Members' Business notices of motions outside the order of precedence do not prohibit members talking to certain points in other debates.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I have heard sufficient on the point of order. I ask the Hon. Shaoquett Moselmane to return to the leave of the bill. While I understand the point that the member is making, he must confine his remarks to the subject matter of the bill. He will have an opportunity to refer to other matters at an appropriate time.

The Hon. SHAOQUETT MOSELMANE: Mr Deputy-President, this matter is within the purview of the Coroners Court and the effects this matter has on the families that the Coroner would be dealing with. But I accept your ruling, and I will move on. I am concerned about the Government's lacklustre attempt to engage with migrant communities, and I call on the Government to ensure their needs are catered for and their concerns are heard. The amendments proposed by the bill before us are of importance to all communities, including migrant communities, and the current Government cannot afford to ignore those communities.

I return to the bill before the House and note that, among other things, it amends the procedure for determining the "senior next of kin". The senior next of kin has a number of responsibilities under the Coroners Act which include, but are not limited to, the conduct of autopsies as well as organ retention. These are critical amendments, and they ought to be treated with care and extreme caution. I understand that this amendment seeks to address an oversight which exists in relation to a person who was the legal representative of the deceased prior to the deceased's death. Currently there is not a clear mechanism to allow such a person to be the deceased's senior next of kin. Usually in situations where immediate relatives were not able, or were deemed not able, to manage the affairs of the deceased prior to death the Coroner could not ensure that such a legal representative would still be able to manage the affairs of the deceased. This discretionary power will now provide the Coroner with the ability to make decisions based on evidence before the Coroner.

I note that this new discretionary power is important to the Coroner and for all families in New South Wales, but it is of particular importance to families who have different practices, cultures and religious faiths. The coroner should take extreme care when determining the next of kin. The next of kin may be the wife of the deceased, or the father, or the mother if the father is previously deceased; or, if both parents are dead, then the next of kin may be the elder brother of the deceased. In Islamic religion it is the senior male member of the family and if there are no senior male members of the family it is then the mother or the senior sister. So who is the next of kin will have to be worked out by the family, and the Coroner ought to be aware of this situation and that it differs in different cultures.

I wish to emphasise also that this power is discretionary but it can have far-reaching consequences for the people concerned, so added care, caution and consultation should take place prior to any decisions being made. I am sure that all at the Coroners Court understand this but I raise it as a further point of caution. The fact is that as lawmakers members of Parliament have a duty to the people of New South Wales to ensure that we look after people in their times of need, distress and hardship. It is my hope that the Coroners Amendment Bill 2012 will do just that.

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.08 p.m.]: I will speak on some specific aspects in support of the Coroners Amendment Bill 2012. The first relates to the matter of objections by senior next of kin to post-mortems, as provided for by section 96. Items [12] and [14] of schedule 1 to the bill amend sections 96 and 98 of the Coroners Act 2009 to enable the Coroner to order an immediate post-mortem on the body of a person allegedly killed by a senior next of kin. A senior next of kin is most commonly a family member, although it could also include an executor of a will or a legal personal representative.

Currently a senior next of kin can object to a post-mortem being conducted on a family member and is given 48 hours to apply to the Supreme Court to stop the procedure. Item [12] enables a coroner to refuse a request by a senior next of kin of a deceased person for a post-mortem examination not to be held if the senior next of kin has been or may be charged with an offence in connection with the deceased person's death. Currently, the Coroners Act does not take into account circumstances where the senior next of kin has been charged or may be charged in relation to the death of the person on whom it is intended to conduct a post-mortem for coronial purposes.

Under the changes to the law the senior next of kin will lose their right to object to the post-mortem if they have been charged with or may be charged with an offence that relates to the death. To give prosecutors the

best chance of securing a conviction, pathologists sometimes need to be able to assess a potential homicide victim's injuries while they are fresh. The amendment is designed to prevent accused killers from deliberately delaying post-mortems for their own advantage. A different senior next of kin will still be able to object to a post-mortem. The amendment in section 96 (6) expressly states that it does not prevent another senior next of kin of the deceased person from making a request that a post-mortem examination not be conducted on the deceased person.

However, the amendment to section 98 (3) provides for the situation where the senior next of kin who has been prevented from opposing the post-mortem under section 96 (5) attempts to authorise another person to oppose the post-mortem on their behalf. This consequential amendment will prevent the senior next of kin affected by section 96 (5) from authorising another person to object to the post-mortem examination. This will ensure that the senior next of kin who has been charged or may be charged cannot postpone the post-mortem through a proxy. The coroner normally has to make this decision within a very short period from the time of death. In order for a coroner to be satisfied that a person may be charged with an offence in connection with the deceased person's death, the Coroner will take into account external evidence. In particular, the Coroner will rely on information provided by the police officer in charge of the case as to whether there are any suspicious circumstances surrounding the case. The police officer in charge of the case will have had the opportunity to investigate the death scene and speak to witnesses.

The coroner will also be able to have regard to the medical history of the deceased person. The coroner may also rely on an external medical examination of the body and possible toxicology tests to determine whether the death was suspicious. It should be emphasised that the situation sought to be overcome is rare and the provision is expected to be used very infrequently. The coroner's decision will be subject to judicial review and will, therefore, need to be made on a lawful basis. Other family members will continue to have the right to object to the post-mortem and the amendment will not affect their right to seek judicial review of a coroner's decision in the Supreme Court. Other persons who are not family members as strictly defined will continue to be able to object to the exercise of post-mortem investigative functions under section 99 of the Coroners Act. It should be noted that although other persons have judicial review rights to appeal a decision of the Coroner they do not have an automatic right to appeal under section 97 of the Coroners Act.

I turn now to the provisions relating to the publication of submissions and comments. Items [4] and [5] of schedule 1 amend sections 74 and 76 of the Coroners Act 2009. Item [4] gives the Coroner an express power to order non-publication of submissions that relate to whether a known person—which is the term the Coroner's court uses for a person of interest—may have committed an offence in relation to the death being examined at inquest. A failure to comply with such an order will constitute an offence. The maximum penalty for such an offence will be 10 penalty units or imprisonment for six months in the case of an individual, or 50 penalty units in any other case. The penalties for contravening a non-publication order are not being amended by this bill and they align with the penalties for the equivalent offences already in the Act.

Item [5] prohibits the publication of any submissions by or on behalf of a person appearing or being represented in an inquest or inquiry or by a person assisting the Coroner, or comments made by the Coroner, concerning whether an inquest or inquiry should be suspended and the matter referred to the Office of the Director of Public Prosecutions. Publication is possible but it requires the express consent of the Coroner. As part of the State Coroner's findings on 26 August 2010 following the inquest into the death of Kate Therese Bugmy, the Coroner wrote:

An issue arose during the course of the Inquest concerning the ability of a coroner to make a non-publication order covering submissions relating to the question of referral of papers to the DPP under section 78 of the Coroners Act. The clear policy behind various provisions of the Coroners Act is to ensure that the coronial process does not interfere with the future course of criminal justice: see, for example, sections 76 and 81(3). However, there is no express power to order non-publication of submissions made in relation to whether a known person may have committed an indictable offence. In some cases, the publication of such submissions would have real potential to cause prejudice to the future conduct of criminal proceedings.

The amendments to sections 74 and 76 of the Coroners Act 2009 are the enactment of those coronial recommendations by the State Coroner. I commend the bill to the House.

The Hon. DAVID CLARKE (Parliamentary Secretary) [9.15 p.m.], in reply: I thank members for their contributions to debate on the Coroners Amendment Bill 2012. The bill contains miscellaneous amendments arising in the implementation and operation of the Coroners Act 2009. The bill addresses a number of issues identified by the State Coroner and other stakeholders to further improve the operation of the Coroner's Court of New South Wales. The amendments will ensure that the conduct of coronial proceedings, the ordering of post-mortem examinations and the publication of matters arising in coronial proceedings are as appropriate as possible. 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.

SYDNEY WATER CATCHMENT MANAGEMENT AMENDMENT (BOARD MEMBERS) BILL 2012

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay.

Motion by the Hon. John Ajaka agreed to:

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

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

JOINT SELECT COMMITTEE ON THE NSW WORKERS COMPENSATION SCHEME

Deputy Chair

DEPUTY-PRESIDENT (The Hon. Paul Green): I inform the House that at a meeting held this day Mr Mark Speakman, MP, was elected Deputy Chair of the Joint Select Committee on the New South Wales Workers Compensation Scheme.

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.19 p.m.]: I move:

That this House do now adjourn.

SEXUALISATION OF CHILDREN AND YOUNG PEOPLE

The Hon. GREG DONNELLY [9.19 p.m.]: It is my view that later this century people will look back on those who held public office at this time in Australia and judge them harshly for their lukewarm, almost indifferent, attitude to dealing with the issue of the sexualisation of children and young people in our society. In our legislatures and among those in government bureaucracies charged with the responsibility for policy development there is—with a few notable exceptions—what amounts to a wilful blindness pervading this issue. The cause or causes of such blindness can be a matter of much discussion and debate.

In the meantime, it is no exaggeration to say that incalculable damage is being done to the health and wellbeing of many children and young people in New South Wales, around Australia, and indeed around the world. As I speak to those on the front line who are treating and caring for those affected by exposure to certain material that one struggles to find words to describe adequately, there is real concern developing that full recovery may not be possible. If it is possible, the path to recovery is long, intensive and costly. Such statements may seem exaggerated—even alarmist. However, I believe the incontrovertible evidence is mounting and the time has come for those in positions of power to act without further delay.

On 5 March 2012 another significant report was released in France. The parliamentary report by Senator Chantal Jouanno is entitled "Against Hyper-Sexualisation: A New Fight for Equality". It is a

hard-hitting report, some 160 pages in length. The inquiry that led to the report was initiated by the French Government following public outcry over the December 2010 edition of *Vogue*. The edition featured in a multipage spread a 10-year-old girl and two other girls who were photographed while heavily made up and powdered, wearing lipstick, tight dresses, jewels and high heels. The report notes that the sexualisation of children is increasing and becoming acceptable because of what it describes as an insidious "normalisation of pornographic images in the popular culture". Research cited in the report concluded that this precocious sexualisation affected mostly girls and caused "psychological damage that is irreversible in 80 per cent of cases". The report makes a number of strong recommendations designed to address the issue.

On 3 April the Australian Medical Association issued a media released entitled "AMA calls for a new inquiry into the sexualisation of children in advertising". Australian Medical Association President Dr Steve Hambleton stated he believed that self-regulation by the advertising industry was clearly not working. He noted that highly sexualised advertisements that specifically target children continue to be displayed in public spaces. He said there was strong evidence that premature sexualisation is likely to be detrimental to child health and development, particularly in the areas of body image and sexual health. Stronger action is needed to stop the practice of pushing adult themes onto young children, especially preteen girls. The Australian Medical Association has called on the Federal Government to commence a new inquiry with a view to introducing tougher measures, including legislation, to protect the health and development of children by shielding them from sexualisation and other inappropriate advertising.

On 18 April 2012 a further United Kingdom report was published entitled "Independent Parliamentary Inquiry into Online Child Protection". More than 60 cross-party members of Parliament and peers supported the inquiry. The inquiry chair was Mrs Claire Perry, MP. A particular feature of the report is the significant amount of oral evidence collected from community members. It is extensive and revealing in its content. The inquiry found that four out of five 16-year-old boys and girls regularly accessed pornography on the internet. It was also reported that more than a quarter of young patients at a leading private clinic in London are being treated for addiction to online pornography. The inquiry also heard that young children at schools frequently trade memory sticks that contain hardcore pornographic images. The report concluded that the Government and internet service providers both needed to do more to stop children from easily gaining access to pornography and websites with violent content.

These reports and many others like them are readily available for members to read. They are on the internet and can be accessed quickly through any well-known search engine. I encourage members to take the time to read these reports. Some of the material is confronting and disturbing to say the least; however, it must be faced up to and challenged. In my view, we all have an obligation to take on this issue, not just for our own children but also for future generations.

CAREFLIGHT TWENTY-FIFTH ANNIVERSARY

The Hon. NATASHA MACLAREN-JONES [9.23 p.m.]: This year CareFlight celebrates 25 years of providing rapid-response critical care services. Over the years CareFlight has grown from a Sydney-based daylight-only service to a 24-hour national service operating out of eight bases across the country. Dr Frances Smith and Chief Pilot John Hoad started the private charity service in 1986 with one helicopter and a team of doctors and experienced rescue helicopter crew. With 25 years of service, CareFlight has set the standard and model for providing doctor-paramedic helicopter services in Australia. In 2005 it retrieved its 14,000th patient. CareFlight now responds to more than 5,000 cases each year. Last Monday in Leppington, CareFlight worked with ambulance, police, the Rural Fire Service and fire and rescue teams for several hours to medically treat and free a woman who was trapped in her vehicle following a collision with a semitrailer. On release, she was taken by a CareFlight doctor to Liverpool Hospital.

CareFlight's first rescue was in 1986 following a car crash in Bathurst when siblings aged 14 and 11 years were flown from Lithgow to Westmead. I am glad to say that both made a full recovery. CareFlight has achieved a number of milestones over the past 25 years, as highlighted in its annual report. I recommend that members visit the website and read the report but I will mention a few of its achievements this evening. In 1987 CareFlight became the first non-hospital organisation to be granted accreditation for specialist training in anaesthesia and the first emergency helicopter service in New South Wales to go on 24-hour duty. Later that year CareFlight rescued a man at night in Manly who had been blown off a cliff. Following this rescue, treating doctor Dr Luis Gallur received a bravery award for his efforts to rescue the seriously injured man amid crashing waves.

In 1988 CareFlight developed the world's first critical care stretcher bridge system, which is now used across Australasia, Europe and North America and more recently has been used by the United States Air Force. CareFlight also developed the single phone call system to activate medical retrieval services and the first intercom integrated medical alarm to allow doctors to hear medical equipment alarms in the helicopter environment. In 1996 CareFlight carried out Australia's first helicopter intra-aortic balloon pump transport. In 1997 a two-year-old was operated on at Gosford Hospital under telephone instruction from a neurosurgeon in Sydney. CareFlight flew the child from Gosford to Westmead under intensive care. The child underwent further surgery and made a full recovery. Later that year CareFlight received the Royal Humane Society commendation for a rescue in Glenbrook. When the Nepean River flooded in 1998, CareFlight rescued a 13-year-old seconds before she would have been swept over a weir. For their bravery, pilot Keith Stewart, crewman Graham Fromberg, paramedic Ian Stewart and Dr Tim Skinner were given international awards. Following the Bali terrorist bombings in 2001 CareFlight doctors retrieved burns victims from Denpasar.

In 2011 CareFlight launched MediSim, a mobile simulator-based trauma training program. The program supports clinicians and emergency service volunteers working in rural and remote communities to enhance their skills. CareFlight also developed the first helicopter medical simulator, allowing crews to practise medical procedures and uncommon medical scenarios in a lifelike helicopter simulator. Last year the head injury and paediatric trauma helicopter services, based at Westmead, attended 374 incidents in metropolitan Sydney, including the Southern Highlands, Blue Mountains and the Central Coast, with nearly half those cases being injured children. I acknowledge the work of New South Wales governments, both past and present, and their ongoing support of CareFlight through its partnership with the New South Wales Motor Accidents Authority. More importantly, I offer our thanks and appreciation to this wonderful charity.

MATURE AGE WORKERS INITIATIVE

The Hon. JAN BARHAM [9.28 p.m.]: Last week the Federal Government announced that it was committing \$10 million to fund a new scheme that would pay a \$1,000 bonus to any employer who recruited and retained a mature age jobseeker for more than three months. My initial reaction to that announcement was one of shock and surprise—shock that the category of mature age was defined as anyone just 50 years old, and surprise that the Government thought a \$1,000 bonus, with all its associated paperwork, would act as an inducement for an employer to take on an older staff member.

But as the media cycle moved on, what was lost was the fact that the \$1,000 bonus for the over fifties was just one component of a raft of measures the Government was announcing as its response to the Final Report of the Advisory Panel on the Economic Potential of Senior Australians. The panel's third report entitled "Realising the economic potential of senior Australians: turning grey into gold" made a series of recommendations concerning participation in the labour force and beyond the \$1,000 bonus scheme.

The Government's response was to provide a funding package with a range of initiatives, including \$3.9 million to extend the career advice service for mature age people and funding to expand the More Help for Mature Age Workers initiative, which now will be called the Investing in Experience—Skills Recognition and Training program, and to allow industries to benefit from improving the skills of their over fifties workforces. These initiatives are to be commended, especially as our population ages and the retention of older Australians in the workforce will become increasingly important. As I fit into that age category, I am increasingly aware of the difficulties my friends face in the workforce.

According to a 2010 report of the Australian Bureau of Statistics, the participation rate of Australians aged 55 years and over increased from 25 per cent to 34 per cent over the past 30 years, with most of the increase occurring in the past decade. But the common barriers that prevent older Australians from staying in the workplace remain all too real. Age discrimination exists in recruitment when applicants have to provide their date of birth, when maximum age limits are enforced for apprenticeships, or when interview questions are deliberately phrased to find out an applicant's age. Age discrimination exists in employment practices, with limited access to training and promotions, insecure employment arrangements and inequitable practices when redundancies are handed out or when restructuring of an organisation occurs.

There are fears related to new technology, stereotyping by work colleagues and, in areas such as retail, hospitality and tourism, the factors of age and looks. In a youth-and-appearance focused society, it is an ageist situation that we should rethink. That is why governments should act on reports such as Turning Grey into Gold. In a positive step towards breaking down age discrimination, this week the Australian Law Reform Commission released an issues paper for its inquiry into legal barriers to mature age participation in the workforce. The

commission will consider all relevant Commonwealth legislation that either directly or indirectly imposes limitations on older persons who wish to participate in the workforce, including laws on superannuation, employment, insurance, compensation and social security.

In supporting the commission's review, the Attorney General said the commission would examine how we as a community can best utilise the expertise, enthusiasm and energy of older Australians. I suggest that that is a relevant context for the New South Wales Government to play a part and present submissions. As well as breaking down legal constraints, we must also break down attitudes and prejudices. We can begin by looking at older Australians, their contribution to our society and workforce, and how we value all people—especially those who have already given so much.

YOUTH WAGES

The Hon. SOPHIE COTSIS [9.32 p.m.]: I am sure we all remember our first job. One of my first jobs was working as a barista and short-order cook back of house at Sydney Airport. It always takes a new worker time to learn the ropes, to settle in and to feel as though they are a part of the team. Of course, when they have little or no experience, they are paid less than their workmates. It is part of the motivation to work hard and improve our performance, but it is important that while young people are learning, they are treated fairly—and that means being paid fairly. We must ensure that the next generation of Australians has the opportunity to develop their skills, find work and be paid fairly for that work. That is why we must end the antiquated practice of paying people who are aged 18 to 21 less than those who are doing the same job, but who happen to be older.

Over the past few weeks the issue has received wide media coverage and public attention. Just last Sunday, Heath Aston's article in the *Sun-Herald* shared the story of Blake Adair-Roberts and Raihan Uddin, who are two young men working side by side in a Sydney McDonald's outlet. They have both worked there for more than two years. They work the same shifts and, because of their experience, they train new employees. But at the end of each week Blake's pay is 30 per cent less than Raihan's. Blake was interviewed by Channel Ten's John Hill about youth wages, and said:

I am more senior than them and have a bigger role, yet standing next to me someone is earning more than me simply because he's a few years older than me.

Equal pay for equal work is a fundamental principle of the Labor Party. I welcome the campaign by New South Wales Young Labor to end wage discrimination for young workers, and congratulate Young Labor's members on it. The campaign has received strong community support. We should be clear: Wage discrimination is unfair and it is bad for the economy and for skills development.

An industry that employs many of our young people is the food and beverage industry. Young workers serving in our bars, our restaurants, and our cafes can be paid less than their older colleagues simply because of their age. For example, an 18-year-old working in a restaurant is entitled to just 70 per cent of the minimum wage. An entry level 20-year-old casual employee receives \$19.38 an hour, yet an 18-year-old receives just \$13.56 for doing exactly the same work. Many young people work at night and weekends because it fits around their studies. Like so many workers who are struggling to make ends meet, they depend on the penalty rates that are available by working at those times. Without penalty rates, the 18-year-old who is earning \$13.56 an hour simply would not be able to manage.

An 18-year-old who works as a casual in a restaurant on a Saturday can earn up to \$16.28 an hour. On a Sunday, payment increases to \$18.99 an hour. For an 18-year-old who is starting their first year at TAFE or university and can only work two shifts a week, the penalty rates for working Saturday and Sunday on an eight-hour shift mean they can earn approximately \$65 more than they would otherwise. That is equivalent to half a day's work. That is time that could be spent in class, practical placement or working on a project. But the New South Wales Business Chamber and Restaurant and Catering Australia are calling for an end to penalty rates. Yesterday I called on the O'Farrell Government—and I do so again today—to state its position on penalty rates. What is the O'Farrell Government's policy on weekend penalty rates? I am still waiting for a response.

Today I asked the Minister for Finance and Services a question but, in the Minister's usual arrogant manner, he refused to answer. I am still waiting to hear what the Government thinks about supporting the cessation of weekend penalty rates. Any such move would financially cripple many workers, especially young workers. Students who might be just scraping by on the current penalty rates could find they are unable to

continue their studies or they might be forced to cut back to part-time studies, thus delaying their graduation and the opportunity to apply the skills they have gained from their tertiary training. Scrapping penalty rates will discourage people from choosing to build a career in an industry that is already facing skills shortages.

The abolition of penalty rates will be a disaster. The Federal Government has identified a shortage of chefs and cooks in Sydney and across regional New South Wales. The shortage is affecting fine dining, hotel restaurants, cafes and catering. A first-year apprentice cook earns just \$9.93 an hour, but if they are 18 years of age they are paid only \$6.95. Penalty rates soften the blow just a little for these young workers, and now there are calls to strip away those penalty rates. That will not solve the skills shortage and it will not boost the workforce. It will punish young workers. We need the next generation of hospitality workers to be skilled, productive and paid fairly for their work. I welcome the contribution by Young Labor to this debate. I look forward to having more to say in the future about youth wages and job opportunities for young workers.

NATIVE FORESTS LOGGING

Mr DAVID SHOEBRIDGE [9.37 p.m.]: In New South Wales the logging of native forests is conducted primarily by private operators. It is a private industry that is supported, facilitated and subsidised by serious payments from New South Wales taxpayers. While native forests logging substantially is a private industry, it engages very few employees in its search for subsidised profits from the widescale destruction of our native forests. Last year more than 28,000 hectares of native forests were logged in the State. The loss of such a vast area of publicly owned forests amounts to environmental vandalism. Much of this logging occurred in the State's south-east forests.

To understand the cost to the public of the native forests industry in south-east New South Wales, my office sought and received detailed information on the revenues and expenses of Forests NSW operations in that region. The figures show that the New South Wales Government lost more than \$750,000 of taxpayers' money in its mission to destroy the biodiversity and natural beauty of our south-east native forests with unsustainable logging. Direct losses through Forests NSW also come on top of payments that the Government has made to logging companies for the repeated failure by Forests NSW to meet wood supply agreements.

The agreements are based on unrealistic and unsustainable yield as well as harvest frequency. For example, payments include \$500,000 that the Government paid to Boral in 2006 for failure to meet supply of quantities of wood under a contractual obligation. Other wood supply agreements suffer similar problems because Forests NSW is chronically unable to supply the increasingly unsustainable levels of timber that are required under contracts.

Responses received to questions on notice indicate that the money Forests NSW received for trees is pitiful, starting from as little as \$9 per tonne for miscellaneous grade 1 timber under the Eden Regional Forest Agreement. Much of this wood is used as firewood, with 8,459 tonnes of eucalypts harvested from native forests in New South Wales sold through the Pambula firewood processing operation alone and an additional 69,359 tonnes of miscellaneous grade 1 timber supplied as firewood. In Tasmania recognition of the unsustainability of the native forest logging industry led the Government, with Commonwealth assistance, to engage in a round of buyouts of logging contracts and loggers.

This program has provided much of the industry with a timely and welcome opportunity to transition from logging into other areas of business with minimal disruption and with the opportunity to redeploy staff, thereby not increasing overall unemployment. It is a far from perfect exercise and in recent times has hit many obstacles, but it is the direction that is needed if we are to save this country's unique native forests. South-east New South Wales is in dire need of such an exit strategy for its native forest logging industry. Instead, the region has seen the influx of loggers from Tasmania, who come to our forests with a fat severance cheque, provided to them for exiting the Tasmanian industry.

Given all this, a responsible government should already be considering how to move beyond the current unsustainable industry while protecting the ability of forestry workers to provide for their families and continue to live in their local areas. We can learn lessons from the mistakes made in the Tasmanian scheme. That scheme has been too focused on the owners of the large logging companies at the expense of the forestry workers themselves. Many logging companies have sufficient capital to be able to recoup their losses and/or move into other industries without significant government assistance. Smaller owner operators however do need to be supported to move from the native forest industry into other areas and this Government should work in partnership with the Commonwealth to make that happen.

Looking at the figures we see that in 2011 southern region native forests provided 98,241 cubic metres of sawlogs to sawmills. The total revenue in this period from southern region native forests was \$21,341,000. This comprises \$4,331,000 stumpage revenue; \$4,265,000 for the harvesting and haulage of sawlogs; \$4,674,000 total revenue from stumpage from pulpwood; \$6,736,000 revenue from harvesting and haulage of pulpwood; and \$1.3 million revenue from other products and services supplied from southern region native forests in 2011. Against that the State Government paid out some \$22,106,000 in overall costs of the operation. The end result is that with operating costs for Forests NSW in the southern region of \$22 million and a total revenue of only \$21 million, we can see that, on these figures, New South Wales has lost more than \$750,000 for the privilege of seeing our native forests cut, cleared, pulped and chipped. It is an economically and environmentally unsustainable industry. The Government should move out of it.

DEEPSEA CHALLENGE PROJECT

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.42 p.m.]: The ocean covers more than 70 per cent of our planet yet underneath the surface to date less than 5 per cent of it has been explored by humans. At the deepest known point on Earth, the *Challenger Deep* of the Mariana Trench, nearly 11 kilometres below the surface of the Pacific Ocean is an environment that is so inhospitable and dangerous that more people have set foot on the moon than have reached the ocean's deepest abyss. It is a place first visited on 23 January 1960 by United States Navy Lieutenant Don Walsh and Swiss oceanographer Jacques Piccard in the submersible *Trieste* and not visited again until 26 March 2012.

On this most recent and second ever dive to the *Challenger Deep*, filmmaker James Cameron became the first to venture there solo, and he did it in a submersible, the *Deepsea Challenger*, which was designed, constructed and tested in New South Wales, with an expedition and technical team drawn largely from New South Wales and other parts of Australia. The *Trieste* dive of 1960 took four hours and 48 minutes to descend from the surface. As the viewing window developed cracks, the *Trieste* cut its dive short after just 20 minutes on the ocean floor. James Cameron piloted his one-man submersible, the *Deepsea Challenger*, to the bottom, taking two hours and 37 minutes to get there, and conducted scientific research for three hours at a depth of 10,898 metres. At this depth the pressure on the submersible shrinks its total length by seven centimetres.

This remarkable achievement by James Cameron and his team demonstrates how New South Wales is at the forefront of exploration and engineering. The submersible itself was constructed in Leichhardt by Acheron Project Pty Ltd, a company set up by James Cameron and Australian engineer Ron Allum, who co-designed the submersible with James Cameron. For such a difficult project, technical innovations were developed that could withstand and effectively operate at the deepest known point on Earth. Existing state-of-the-art deep-sea technology would have been crushed at the extreme depth of the *Challenger Deep*. Significant engineering advances were made in this project, such as the development of a new form of syntactic foam—a buoyant material used in deep diving submersibles, allowing the *Deepsea Challenger* to withstand extreme pressure and to return quickly to the surface.

The Deepsea Challenge project also aims to further our understanding of marine biology at the deepest points on Earth. What lies beneath at this depth is largely unknown to us. Cameron's submersible is equipped with a slurp gun, much like an underwater vacuum cleaner, designed to collect small animals for further study. The chief expedition scientist, Doug Bartlett, of Scripps Institution of Oceanography, University of California, San Diego, stated that the scientific material gathered from the expedition to the *Challenger Deep* and the test dives will be published in peer-reviewed papers in the months and years to come. All the samples collected in the dives have been preserved for future study. Dr Bartlett further stated:

Material and the documentary evidence captured by the sub will keep researchers working in the fields of marine biology, microbiology, astrobiology, marine geology, and geophysics for years to come.

The *Deepsea Challenger* also is equipped with a manipulator arm and multiple high-definition 3-D cameras, which were used to collect footage for a 3-D feature film for theatrical release and for an upcoming feature on the National Geographic Channel. The *Deepsea Challenger* made its first dive in Sydney Harbour, where buoyancy and its watertight status were tested, followed later by its first manned dive, also in Sydney Harbour, where every system on the submersible was tested, including communications, navigation, propulsion, cameras, lighting, hydraulics, life support, and ascent systems. Launch and recovery trials for the expedition were conducted in Jervis Bay off the New South Wales South Coast where the big, sea-protected bay provided ideal conditions for the team to learn how to lower a 12-tonne submersible into the ocean and to recover it safely onto the deck of a ship.

Of the team involved with the Deepsea Challenge, the majority of the Submersible Engineering, Build, and Operations personnel are from Australia, with many of those and other sections of the expedition from New South Wales, having been educated at local institutions, including the University of Technology, Sydney, the University of New South Wales, Macquarie University, North Sydney TAFE and the Sydney Film School. New South Wales is among the world leaders in ocean exploration and engineering feats—sending a person to the most remote and inhospitable environments and returning that person safely to the surface. I applaud the success of James Cameron, Ron Allum and the Deepsea Challenge expedition as recognition of New South Wales as a destination for cutting-edge marine research and development.

MINING OPERATIONS

The Hon. WALT SECORD [9.47 p.m.]: In the brief time remaining, I wish to speak about my two recent visits to view two separate mining and manufacturing operations in New South Wales. The businesses were Rio Tinto's Northparkes mine in the State's Central West and Weston Aluminium at Kurri Kurri in the Hunter. We all understand and appreciate the importance of mining and manufacturing to the New South Wales economy. Mining alone is a \$20 billion industry and directly supports 80,000 jobs in New South Wales but, as I have said previously in this Chamber, the experience of being there firsthand creates a depth of understanding that no amount of briefing notes can convey.

That is why on 12 March 2012 I accepted an invitation to visit Rio Tinto's Northparkes copper and gold mine and why I accepted a separate invitation to visit Weston Aluminium in Kurri Kurri on 30 March 2012. In Parkes I had a comprehensive presentation on the Northparkes mine proposal to expand its operations and extend the life of the mine beyond 2024. The company is also establishing new training facilities for local and international workers, including those from its North Asia operations. After a comprehensive safety induction we travelled about 800 metres below ground. We saw how they extracted and processed copper and gold. It is a state-of-the-art operation with sustainable water practices. It also has progressive Indigenous employment policies. Northparkes mine employs more than 700 people as staff or contractors and is the backbone of the local economy. I thank the mine's general manager, projects, Mr Andrew Lye, for inviting me to the site. I thank also Mr Brad Welsh, principal adviser, community and environment, Mr Tim Bell, production superintendent, Mr Mick Della Ca, tailings and water technician, and Ms Emma Walker. I thank the House for its consideration.

[Time for debate expired.]

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

Motion agreed to.

The House adjourned at 9.49 p.m. until Thursday 3 May 2012 at 9.30 a.m.
