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# LEGISLATIVE COUNCIL

Monday 25 March 2013

**The President (The Hon. Donald Thomas Harwin)** took the chair at 2.30 p.m.

**The President** read the Prayers.

**The PRESIDENT:** I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.

## CRIMES (CRIMINAL ORGANISATIONS CONTROL) AMENDMENT BILL 2013

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

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

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

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

**Pursuant to sessional orders Formal Business Notices of Motions proceeded with.**

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business items Nos 1014, 1028, 1030, 1089, 1091, 1092 and 1093 outside the Order of Precedence objected to as being taken as formal business.**

## FEDERATION OF AUSTRALIAN INDIAN ASSOCIATIONS AUSTRALIA DAY AND INDIAN REPUBLIC DAY CELEBRATION

**Motion by the Hon. AMANDA FAZIO agreed to:**

1. That this House notes that the Federation of Australian Indian Associations held a celebration of Republic Day of India and Australia Day on Saturday 19 January 2013 at Bowman Hall Blacktown.
2. That this House notes that:
  - (a) the Federation of Australian Indian Associations [FAIA] is a non-profit, secular, non-political and non-sectarian organisation which focuses on community issues and integration of the Indian migrant community with other Australian communities,
  - (b) the celebration featured many musical and dance performances and was attended by a large number of members of the Australian Indian community, and
  - (c) the event was attended by:
    - (i) Mr Arun K. Goel, Consul General of India in Sydney,
    - (ii) the Hon. Amanda Fazio, MLC, representing the Hon. John Robertson, MP, Leader of the Opposition and member for Blacktown,
    - (iii) the Hon. Victor Dominello, MP, Minister for Citizenship and Communities and member for Ryde,
    - (iv) Councillor Karlo Siljeg, representing the Mayor of Blacktown.

3. That this House congratulates the Federation of Australian Indian Associations Management Committee for 2013 for holding this successful celebration, including:
- (a) Neera Srivastava, President,
  - (b) Uma Narayanaswamy, Vice President,
  - (c) Jayshree Raj, Treasurer,
  - (d) Raji Viswanathan, Joint Secretary,
  - (e) Jagdish Maharaj, Secretary,
  - (f) Jayant Pattekar, Public Officer.

### **ASSYRIAN UNIVERSAL ALLIANCE GALA DINNER**

#### **Motion by the Hon. AMANDA FAZIO agreed to:**

1. That this House notes that:
- (a) the Assyrian Universal Alliance held its 2013 gala dinner on Sunday 3 February 2013 at the Edessa Reception Hall at St Hurmizd's Cathedral at Greenfield Park,
  - (b) the gala dinner was attended by over 400 guests who included the following:
    - (i) His Beatitude Mar Meelis Zaia, Metropolitan of the Holy Apostolic Catholic Assyrian Church of the East,
    - (ii) Reverend Gewargis Aaron,
    - (iii) Reverend Benyamin Shlimon,
    - (iv) the Hon. Chris Bowen, MP, Minister for Immigration and Citizenship,
    - (v) Mr Hermiz Shahen, Deputy Secretary General, of the Assyrian Universal Alliance,
    - (vi) Councillor Frank Carbone, Mayor of Fairfield City,
    - (vii) Mr Chris Hayes, MP, Federal member for Fowler,
    - (viii) the Hon. Amanda Fazio, MLC,
    - (ix) Mr Guy Zangari, MP, member for Fairfield and Deputy Chairman of the Assyria Parliamentary Friendship Group,
    - (x) Ms Karen Bos, Christian Faith and Freedom,
    - (xi) Mrs Carmen Lazar, JP, Australian Multicultural Ambassador,
    - (xii) Mr David David, President of the Assyrian Australian National Federation,
    - (xiii) Mr Simon Essavian, Executive Board Member of the Assyrian Universal Alliance, and
  - (c) at the dinner, the Hon. Chris Bowen, MP, Federal member for McMahon, was presented with the gala award for services to the Assyrian Community.
2. That this House congratulates the Assyrian Universal Alliance and the Assyrian Australian National Federation on conducting this successful event and on their ongoing commitment and campaign for "One Homeland for our Nation".

### **BUSINESS OF THE HOUSE**

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

**Private Members' Business items Nos 1144 and 1146 outside the Order of Precedence objected to as being taken as formal business.**

### **NORTHERN TERRITORY CONTAINER DEPOSIT SCHEME**

#### **Motion by the Hon. CATE FAEHRMANN agreed to:**

1. That this House notes:
- (a) the recent decision by the Federal Court of Australia in *Coca-Cola Amatil (Aust) Pty Ltd v Northern Territory of Australia* [2013] which ruled that the Northern Territory container deposit scheme was invalid, and
  - (b) that some beverage companies have announced that they will cease to provide container deposit refunds under the scheme.
2. That this House calls on all Australian governments to work together to expedite consideration of any application made by the Northern Territory Government for an exemption to the Mutual Recognition Act 1992, to support the continuation of the Northern Territory container deposit scheme.

**GLOBAL ORGANIZATION OF PEOPLE OF INDIAN ORIGIN  
YOUNG ACHIEVERS AWARDS**

**Motion by the Hon. AMANDA FAZIO agreed to:**

1. That this House notes that:
  - (a) the Global Organisation of People of Indian Origin [GOPIO] held its fourth Young Achievers Awards Night on Saturday 2 March 2013 at Parravilla Function Centre at Parramatta to celebrate the success of Higher School Certificate students of Indian origin, and
  - (b) GOPIO is the Global Organisation of People of Indian Origin, Australia Chapter and is dedicated to the promotion of well-being of people of Indian origin, the enhancement of cooperation and communications between Indians in Australia as well as other countries in the world.
2. That this House notes the hard work of the following members of the Global Organisation of People of Indian Origin who were instrumental in making the awards night a success:
  - (a) Mrs Lucky Singh, President,
  - (b) Bhupinder Chhibber, Secretary,
  - (c) Rajat Midha, Treasurer,
  - (d) Poonam Chhibber,
  - (e) Kamini Raj Singh,
  - (f) Dr J. Thomas,
  - (g) Sukhwinder Rajput,
  - (h) Maxine Salma, and
  - (i) Manju Mittal.
3. That this House congratulates the Global Organisation of People of Indian Origin on its work in the Indian Australian community and on the success of the awards night.

**BUSINESS OF THE HOUSE**

**Formal Business Notices of Motions**

**Private Members' Business item No. 1167 outside the Order of Precedence objected to as being taken as formal business.**

**MULTICULTURAL MEDIA CONFERENCE**

**Motion by the Hon. AMANDA FAZIO agreed to:**

1. That this House notes that:
  - (a) on Monday 25 February 2013, a one-day conference on Multicultural Media at a Cross Roads was held in the theatre at the Parliament of New South Wales,
  - (b) the conference was co-convened by Multicultural Media Awards and the Faculty of Arts and Social Sciences and the Cosmopolitan Civil Societies Research Centre of the University of Technology, Sydney,
  - (c) the conference was fully subscribed,
  - (d) Her Excellency Professor Marie Bashir, AC, CVO, Governor of New South Wales, opened the conference,
  - (e) the special guest was the Hon. Chris Bowen, MP, Federal Minister for Tertiary Education, Skills, Science and Research, and Minister for Small Business,
  - (f) the conference explored the critical role that the ethnic media play in Australian democracy and the challenges ethnic media face in the light of converging digital technologies, and a mainstream media that too often ignores the realities of our multicultural communities,
  - (g) key issues identified for ethnic media include racism, ageing populations, new generations of web savvy media consumers, global communities that communicate across the world, and the difficult borderland between mainstream and ethnic media, and
  - (h) due to these factors ethnic media sit now at a critical crossroads, and the conference participants explored their future and how will they survive.

2. That this House notes that presenters at the conference included:
  - (a) the Hon. Shaoquett Moselmane, MLC, Chairman, Multicultural Media Awards,
  - (b) Aunty Joan Tranter, Elder in Residence at the University of Technology, Sydney,
  - (c) Mr John Robertson, MP, Leader of the Opposition,
  - (d) Professor Jim MacNamara, Deputy Dean, Faculty of Arts and Social Sciences, University of Technology, Sydney,
  - (e) Professor Andrew Jakubowicz, Professor of Sociology at the University of Technology, Sydney,
  - (f) Pino Migliorino, Managing Director, Cultural Perspectives Chairperson, Federation of Ethnic Communities' Councils of Australia,
  - (g) Gary Paramanathan, Information and Cultural exchange,
  - (h) Helen Vatsikopoulos, Lecturer, Creative Practices Group,
  - (i) Majida Abboud-Saab, Former Executive Producer of the Arabic program, SBS radio,
  - (j) Gerry Georgatos, the *National Indigenous Times*,
  - (k) Simon Ko, Chief Executive Officer, *Sing Tao Daily*,
  - (l) Jason Koh, Publisher and Editor of the *Korea Times*,
  - (m) Peter Khalil, Director Corporate Affairs, Strategy and Communications, SBS,
  - (n) Stan Grant, Journalist from CNN,
  - (o) Natalie O'Brien, Journalist, *Sydney Morning Herald*,
  - (p) Anton Sabella, Arabic Media,
  - (q) Claire O'Rourke, Account Director, Digital and Communications Strategy Essential Media Communications,
  - (r) Mandi Wicks, Director of SBS Audio and Language Content,
  - (s) Sohail Dahdal, Transmedia Creator,
  - (t) Professor Wanning Sun, Professor, Social and Political Change Group, and
  - (u) Dai Le, Deputy Chair, Ethnic Communities Council of NSW.
3. That this House notes the success of this conference and congratulates the Hon. Shaoquett Moselmane, MLC, Chairman of Multicultural Media Awards, and the Faculty of Arts and Social Sciences and the Cosmopolitan Civil Societies Research Centre of the University of Technology Sydney on organising the conference.

## **BUSINESS OF THE HOUSE**

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

**Private Members' Business item No. 1177 outside the Order of Precedence objected to as being taken as formal business.**

## **TRIBUTE TO GWEN RILEY**

### **Motion by the Hon. CHARLIE LYNN agreed to:**

1. That this House acknowledges the outstanding contribution of Mrs Gwen Riley in her role as Liberal McMahon FEC President and Liberal Fairfield Branch President, and notes that:
  - (a) Mrs Riley has been a loyal supporter of the Liberal Party for over 40 years,
  - (b) Mrs Riley will be celebrating her seventieth birthday on Saturday 23 March 2013,
  - (c) Mrs Riley continues to perform voluntary work in her local community as well as support branch members, Liberal candidates and members of Parliament to this day, and
  - (d) Mrs Riley's contribution to her community has been tremendously appreciated and she has been a great role model for both young and senior people of the community.
2. That this House commends Mrs Riley for her dedication and commitment in her role as Liberal McMahon FEC President and Liberal Fairfield Branch.

**ANNUAL CHARITY YACHTING REGATTA 2013****Motion by the Hon. MARIE FICARRA agreed to:**

1. That this House notes that:
  - (a) on 15 March 2013, Middle Harbour Yacht Club and the Property Industry Foundation held the Annual Charity Yachting Regatta on Sydney Harbour as a fundraiser for young people at risk and the homeless,
  - (b) the event was sponsored by Colliers International and received entries from AMP Capital, Australand, Charter Hall, Lend Lease, Mirvac and Thiess,
  - (c) Rosemary Smithson, Chief Executive Officer of the Property Industry Foundation, which is based around building a brighter future for Australia's children was responsible for event marketing,
  - (d) there were over 1,500 participants at the event and over 90 boats participating in the regatta,
  - (e) in the First Division, first place was awarded to Crone Partners aboard *Kookaburra*, second place was awarded to Investa Land aboard *Sydney* and third place was awarded to Altus Page Kirkland aboard *Spirit*,
  - (f) the event raised over \$400,000 for young people at risk and homeless children.
2. That this House acknowledges the achievements of the participants in the regatta, Chief Executive Officer of the Property Industry Foundation, Rosemary Smithson, and the Property Industry Foundation on their raising \$400,000 for young people at risk and the homeless.

**PEROOMBA INTERIM HERITAGE ORDER****Production of Documents: Order**

**Dr JOHN KAYE** [2.41 p.m.]: I seek leave to amend Private Members' Business item No. 1188 outside the Order of Precedence by inserting the words "created between 1 April 2010 and 1 October 2010" after the words "Department of Planning and Infrastructure".

**Leave granted.**

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

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Planning and Infrastructure or the Department of Planning and Infrastructure created between 1 April 2010 and 1 October 2010 relating to the imposition of, and lifting of, the Interim Heritage Order on Peroomba, 11 Harrington Avenue, Warrawee, and any document which records or refers to the production of documents as a result of this order of the House.

**BUSINESS OF THE HOUSE****Formal Business Notices of Motions**

**Private Members' Business item No. 1189 outside the Order of Precedence objected to as being taken as formal business.**

**LEGISLATION REVIEW COMMITTEE****Report**

**The Hon. Dr Peter Phelps** tabled the report of the Legislation Review Committee entitled "Legislation Review Digest No. 34/55", dated 25 March 2013.

**Ordered to be printed on motion by the Hon. Dr Peter Phelps.**

**BUSINESS OF THE HOUSE****Postponement of Business**

**Government Business Notices of Motions Nos 1 and 2 postponed on motion by the Hon. Duncan Gay.**

**Budget Estimates 2012-2013 take note debate postponed on motion by the Hon. Duncan Gay.**

**Committee Reports Order of the Day No. 4 postponed on motion by the Hon. Robert Borsak.**

**CRIMES (CRIMINAL ORGANISATIONS CONTROL) AMENDMENT BILL 2013****Second Reading**

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [2.57 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 the Crimes (Criminal Organisations Control) Amendment Bill 2013. In recent years States and Territories around Australia have recognised the growing threat of criminal organisations by passing legislation aimed at disrupting their activities. The prevailing model has been legislation under which an authority, usually a Supreme Court judge acting in his or her personal capacity or the Supreme Court itself, can declare an organisation to be a criminal organisation. Control orders can then be made against members of declared organisations which limit their ability to associate and to participate in high-risk industries. New South Wales was among the first to introduce such legislation.

While legislation of this kind is relatively new, it already has quite a story. Part of the South Australian legislation was successfully challenged in the High Court in 2010. The New South Wales Crimes (Criminal Organisations Control) Act 2009 was ruled invalid on different grounds in 2011. The South Australian Act has since been amended to repair the constitutional faults identified by the High Court. The New South Wales Act was repealed and replaced with modified legislation. Most recently the Government introduced the Crimes (Criminal Organisations Control) Amendment Bill 2012. It included a number of amendments to improve the operation of the Act. It also introduced mutual recognition provisions, allowing interstate declarations and orders to be given force in New South Wales, and vice versa.

At the time the bill was introduced the Queensland organised crime legislation was being challenged in the High Court by the Gold Coast chapter of the Finks Motorcycle Club. The Finks sought to impugn the constitutional validity of the provisions of the Queensland Act. Anticipating that the High Court's decision would once again have an impact on declaration-based legislation Australia wide, the Government decided not to progress the bill before Parliament until the High Court's decision had been handed down. That decision was correct. The High Court handed down its decision on the Queensland legislation on 14 March 2013. The High Court rejected the Finks challenge to the provisions in question, making the Queensland Act the first of its kind in Australia to have withstood constitutional challenge. The Crimes (Criminal Organisations Control) Amendment Bill 2013 proposes to adopt those aspects of the Queensland model which were considered and upheld by the High Court.

I now turn to the detail of the bill. First, the declaration of a criminal organisation will now be made by the Supreme Court of New South Wales itself rather than an eligible judge of the Supreme Court. The test to obtain a declaration is also being modified. Under the existing test an eligible judge must be satisfied that members of the organisation associate for the purpose of engaging in serious criminal activity and that the organisation poses a risk to public safety and order in New South Wales. The court will now need to be satisfied that members of an organisation in New South Wales associate for the purpose of serious criminal activity and the continued existence of the organisation is an unacceptable risk to the safety, welfare or order of the community in New South Wales. This test represents a hybrid of the test proposed by the 2012 bill, as well as adopting the "unacceptable risk" test used in Queensland and approved by the High Court.

The amended test makes it clear that the police commissioner can seek a declaration in respect of an organisation that has a national or global presence. The application will be based on the activities of the people we are concerned about, being the organisation's members within New South Wales. The bill proposes that the detailed Queensland mechanisms relating to criminal intelligence be adopted in New South Wales. The provisions relating to the use of criminal intelligence are contained in section 28 of the existing New South Wales Act. It provides that the commissioner may classify information as criminal intelligence where its disclosure may prejudice criminal investigations, risk disclosing the existence or identity of a confidential informant, or endanger a person's life or safety. In New South Wales, if the determining authority is satisfied that the commissioner has correctly classified information as criminal intelligence, confidentiality is to be maintained in relation to such information, including hearing the information in private, in the absence of the respondents to applications.

The New South Wales legislation will now be brought in line with Queensland provisions which have withstood challenge in the High Court. Under the new criminal intelligence model the police commissioner will make an application to the Supreme Court to have material declared to be criminal intelligence. It will effectively create a three-stage model, where the first stage will be to seek a criminal intelligence declaration, and the second and third stages will be the declaration and control order proceedings in which the criminal intelligence material will be used. Importantly, the provisions continue to safeguard people who, by coming forward, put their lives at risk. The new part will provide that information before the court need not reveal the informant's identity and, if criminal intelligence is being considered, the court must order that part of the hearing be closed. The part also creates an offence of unlawfully disclosing criminal intelligence, with a maximum penalty of \$11,000 or imprisonment for 12 months, or both.

Third, the bill introduces provisions to allow a criminal intelligence monitor to have a role in the proceedings. The function of the criminal intelligence monitor will be to monitor each criminal intelligence application, as well as declaration and control order proceedings. The monitor will be provided with all materials relevant to applications, and test and make submissions to the court about the appropriateness of such applications. In discharging this function the monitor will be permitted to examine or cross-examine witnesses, and make submissions to the court about the appropriateness of granting the application. A provision will be inserted which will allow for regulations to be made to appoint a person as a criminal intelligence monitor.



While the High Court's decision on the Queensland legislation did not focus on the existence of the Criminal Organisations Public Interest Monitor, as the position is known under the Queensland Act, the monitor's role was described as one aspect which tended to support the validity of the Act. Consequently the bill proposes to adopt this mechanism in New South Wales. The remainder of the bill contains those provisions previously introduced under the 2012 bill in November 2012 which remain necessary and have not been subsumed in the amendments outlined above. I refer members to *Hansard* for details of those provisions.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [2.58 p.m.]: I lead for the Opposition on the Crimes (Criminal Organisations Control) Amendment Bill 2013. It seeks to amend the principal Act which provides that an eligible judge of the New South Wales Supreme Court may, on application by the Commissioner of Police, declare an organisation to be subject to the Act if its members associate for the purposes of organising, planning, facilitating, supporting or engaging in serious criminal activity and the organisation represents a risk to public safety and order in New South Wales. Flowing from the declaration of an organisation, the Supreme Court has jurisdiction to make a control order against a member of the organisation that prevents the person from associating with other controlled members of the organisation and from holding a number of statutory authorities in the area of firearms and liquor licensing.

The principal Act was re-enacted last year to require the eligible judge to give reasons for any decision. This followed a decision of the High Court in *Wainohu*, which found that the legislation was invalid because the eligible judge had a discretion but not an obligation to give reasons. That was in conformity with the High Court's approach in *Osmond v Public Service Board of New South Wales*, which states that a decision-maker is not ordinarily required to give reasons unless required by statute. In considering that the High Court said that although an eligible judge is not sitting as a judge or, indeed, as a court, the fact that it is a judge creates problems and therefore that part of the legislation—which was then section 13 (2)—was deemed to be invalid, and because the legislation rested on that provision the whole edifice came crashing down.

The High Court decided that because eligible judges were judges, the absence of a duty to give reasons so impaired the integrity of the court of which they were member that the legislation was incompatible with chapter 3 of the Australian Constitution and there was therefore a significant problem. Of course, judges of the Supreme Court are subject to a higher standard in the reasons that are required of them in their judgements, and in discharging their functions under this legislation they were not making judgements in the usual course. However, the High Court clearly decided that the same rules and standards must apply across all functions exercised by superior court judges no matter what law confers those functions upon them. The fact that they are judges imposes the required standard.

Flowing from that, the Government belatedly reintroduced legislation that led to the re-enactment of the original 2009 legislation with a small amendment to section 13 (2) to require reasons rather than allowing a discretion to give reasons. Despite that legislation being passed early last year, the Government did not act on it. Rather, it introduced a bill in November that did a number of the things that are proposed in this legislation. However, because a further challenge was launched in the High Court the Government delayed that amending bill. The High Court case of *Pompano* has now been decided and the validity of the Queensland Criminal Organisation Act 2009 was upheld despite a challenge to provisions dealing with criminal intelligence information.

As the Opposition understands the bill, it seeks to replicate aspects of the Queensland model. It starts with the notion of criminal intelligence and provides that the Supreme Court, in place of the Commissioner of Police, on application of the Commissioner of Police would make a determination about whether information is criminal intelligence. It also amends the eligible judge model; that is, if this legislation is passed there will no longer be an eligible judge making a declaration that organisations are criminal organisations. Instead, a judge of the court will act as a court to make a declaration that organisations are criminal organisations. There will be a third element, which is of course the existing element in the legislation for the court, upon application, to make control orders.

Interestingly, the bill also provides for the appointment of a criminal intelligence monitor, which is similar to a provision in the Queensland legislation—although the Queensland legislation provided for the appointment of a "public interest monitor". The criminal intelligence monitor will act as a statutory contradictor to any application made by the Commissioner of Police to the Supreme Court. Proposed division 2 facilitates the making of regulations to provide for the designation of a retired judicial officer or person qualified to be appointed as a judicial officer of any Australian jurisdiction to be the criminal intelligence monitor. The monitor's functions are set out in proposed section 28D.

Proposed section 28E sets out the material that must be given by the Commissioner of Police to the monitor, including copies of any criminal intelligence application and supporting material, a copy of any application for a declaration and any supporting material and information of that kind that would support any application. Proposed section 28F provides that the monitor will have the role and responsibility of testing the appropriateness and validity of the application before the court and will be able to ask questions, cross-examine witnesses and make submissions to the court. However, the legislation provides that the monitor must not make a submission to the court while a respondent to the proceedings or a legal representative of the respondent is present in the court. The court also retains a discretion to exclude the monitor from the hearing while a respondent or a legal representative of a respondent is present.

The bill also provides for the recognition and enforcement in New South Wales of comparable declarations and orders made in other States and Territories in relation to criminal organisations and their members. I believe that was in the bill that the Government introduced in November last year. It also elaborates on the facts about which the Supreme Court must be satisfied before making a declaration of a criminal organisation. The bill also redefines "serious criminal activity" consistently with the definition of "serious criminal offence" within the meaning of the Criminal Assets Recovery Act and provides for declarations of criminal organisations to be in force for five years rather than three years, which also conforms to the Queensland legislation.

Schedule 1 proposed section 11 provides that the court is mandated to provide a written statement of reasons for any decision to make or revoke a declaration under that part, refusing an application for a declaration or the revocation of a declaration. However, the legislation does not authorise or require the disclosure of confidential information, which is important and in the public interest. Of course, because the court is acting as a court, some may see proposed section 11 as not strictly speaking required, given the history of the notion of reasons and whether they are required to be given in the predecessor to this legislation. Although that is a cautious approach, it is probably well warranted, given the history of this matter. Importantly, proposed section 13 confers a right of appeal from a decision of the court.

In its totality, and compared to the existing legislation, it must be said that this bill represents a significant improvement. The Opposition notes that it borrows heavily from the legislation enacted by the former Queensland Labor Government and builds on the legislation introduced by the former Labor Government in this State. In particular, I note the improved oversight of applications for both declarations and the notion of criminal intelligence. These will now be decisions of the court rather than on the one hand a decision of the Commissioner of Police or on the other hand a declaration being made by an eligible judge. The transparency and scrutiny of those applications has been significantly improved in this bill. Of course, the creation of the criminal intelligence monitor—the statutory contradictor—to test any applications to the Supreme Court and to cross-examine any evidence led by the Commissioner of Police in support of an application will ensure due process. That is, any application is properly scrutinised by the courts—which in our system of justice requires an effective contradictor.

One of the features of this legislation and its predecessors is that those who are to be subjected to declarations and control orders are not allowed to see the material upon which the applications are based. That is often for sound and cogent reasons because to provide them with that intelligence may well jeopardise informants, sources and ongoing police operations. Of course, it would in many respects undo the very purposes for which the intelligence was gathered by alerting these organisations and their members to the level of scrutiny that they are under by the authorities and by whom, which would endanger persons.

That of course made it difficult for these matters to be properly scrutinised and the predecessor of this legislation and interstate versions have had a somewhat bumpy ride in the highest court in the land—the High Court. Now that the Queensland model has survived the scrutiny of the High Court it is no wonder that the model has recommended itself in this State. We congratulate the Attorney General on introducing this model, which is superior to the model that was presented by the Minister for Police and Emergency Services in this place last year, and we congratulate the Government on improving the legislative regime. With those comments the Opposition will not be opposing the bill.

**The Hon. STEVE WHAN** [3.10 p.m.]: As the Deputy Leader of the Opposition has indicated, the Opposition will not be opposing the Crimes (Criminal Organisations Control) Amendment Bill 2013.

**The Hon. Dr Peter Phelps**: You will be supporting it?

**The Hon. STEVE WHAN:** The Hon. Dr Peter Phelps is correct; we will be supporting it. This bill has been a long time coming. For quite some time the Government has dodged many questions as to why it has not taken action to outlaw criminal motorcycle gangs in New South Wales. This bill has sensibly been modelled on successful Queensland legislation. It is interesting to note that, rather than leading the pack, working out and revising amendments, the Government sat back and waited for the Queensland legislation to be upheld by the High Court. The Queensland legislation followed legislation enacted by New South Wales Labor which, as I understand it, was the first State in the country to do so. New South Wales Labor led the way because of significant issues that were highlighted by the tragic death at Sydney airport in the time that Nathan Rees was Premier and about which he spoke in the other place during debate on this bill.

In May 2009 a homicide took place at Mascot airport involving bikie gangs. At the time legislation was introduced urgently but unfortunately it was struck down by the High Court. It was not until February 2012 that amendments designed to remedy the rather narrow area of contention pointed out by the High Court were introduced in the New South Wales Parliament. Further action was delayed until last week's High Court judgement regarding the Queensland legislation which, I understand, was introduced by the former Labor Government in that State. The people of New South Wales have waited a long time for bikie gangs to be outlawed. It is a pity that the Government has waited so long to introduce this positive legislation. In the meantime more than 200 shootings have occurred on the streets of Sydney—a matter of considerable concern to the people of New South Wales, particularly in those suburbs that seem to have become the target for so many shootings.

Nathan Rees, the shadow Minister for Police in the other place, referred to the number of shootings in the area that he represents and spoke of residents' fears as a result of those shootings. Whenever Opposition members ask questions in this place the Minister for Police and Emergency Services displays affected outrage and inevitably accuses us of not supporting the police, which is completely incorrect. Members of the Labor Party have been strong supporters of police in New South Wales both in government and in opposition and have consistently called on the Government to introduce legislation to outlaw bikie gangs. It is interesting to note the Minister's responses and obvious frustrations when he answers some of the questions that are asked in question time. It would have been interesting to have been a fly on the wall when the Minister and the Attorney General were discussing a number of these issues. The anger that was evident in the Minister's responses to some of the questions asked by Opposition members demonstrated his sense of frustration as we have gone through this process.

The Government has suggested time and again that it is tackling these issues by increasing police numbers and by having record numbers of police. However, the Auditor-General said there is a shortfall of 900 police officers across the State. The Government has spoken constantly about the way it has changed the measurement for calculating police numbers and about the additional police that it is recruiting. However, the Government does not often say that the number of police it promised to recruit at the last election is fewer than the number that were recruited by the former Labor Government. When we consider changes in population and demand we question whether that number will be sufficient in the long term. We question the Government's overall commitment when we consider the removal of transit officers on trains and their replacement with police.

**The Hon. Michael Gallacher:** Point of order: I am prepared to allow some liberty and flexibility in the debate as we are talking about bikies and the need to get this legislation through. However, the member is now talking about transit police. I would be happy if the member was debating a whole host of other policing issues but he is drawing a long bow if he suggests that transit police fall within the leave of the bill. The member should be brought back to the leave of the bill.

**The Hon. STEVE WHAN:** To the point of order: The number of police in New South Wales is critical to tackling gang violence in New South Wales. Therefore the potential diversion of police to transit officer duties is relevant to that issue.

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones):** Order! While wide-ranging latitude is extended during second reading debates, I ask the Hon. Steve Whan to confine his remarks to the scope of the long title of the bill.

**The Hon. STEVE WHAN:** It is important for police to remain in areas where problems are occurring. They should be tackling gun violence in the community rather than being diverted to other duties. The Minister

and the Government should not consistently blame the Federal Government for the importation of weapons; it should take responsibility for that problem. Import controls and customs are relevant but they should not be used to divert attention away from the O'Farrell Government's inability and unwillingness to tackle the massive number of shootings that have taken place since it came to office. Since this Government came to office there have been 210 shootings, which is far too many. These incidents are a matter of concern for many people, in particular, those living in the western suburbs of Sydney. The Government must take further action to tackle this problem.

I welcome the legislation, however belated its introduction, as it responds to calls made by Opposition members almost two years ago. It also responds to the many questions asked of the Minister in question time about when he and the Government would take action in relation to this matter. The Deputy Leader of the Opposition referred to the positive aspects in the bill, such as taking advantage of the High Court's ruling last week to ensure that it stood up in the High Court. I reiterate that Opposition members have been calling for this legislation for a long time. The former Labor Government introduced strong legislation to ban outlaw bikie gangs which unfortunately was overturned. Labor has consistently called on this Government to take further action, so it welcomes this belated legislation.

**Mr DAVID SHOEBRIDGE** [3.18 p.m.]: On behalf of The Greens I oppose the Crimes (Criminal Organisations Control) Amendment Bill 2013 and note that it has worked its way through the Legislative Assembly and it is now working its way through this Chamber. This is likely to be the only contribution from a member of Parliament that opposes yet another substantial swipe at civil liberties in New South Wales. The Crimes (Criminal Organisations Control) Amendment Bill 2013 seeks to do a number of things. It seeks to adopt the model used in the Queensland Supreme Court to make declarations that organisations are criminal organisations. Clearly the bill uses as a crutch the Queensland model and the observations of the High Court in the case of *Michael James Condon v Pompano Pty Ltd and Anor*, which was decided by the High Court on 14 March 2013.

The bill proposes, in following the Queensland model, that instead of having eligible judges make determinations of criminal organisations it will have Supreme Court judges use the authority of the Supreme Court to make those declarations. The bill also seeks to adopt the Queensland model for the Supreme Court to make a determination about whether information is criminal intelligence. It also appoints a criminal intelligence monitor, copying the Queensland Criminal Organisations Public Interest Monitor model, to assist the court in making that determination.

I note at the outset that whilst The Greens oppose the bill in principle, the aspect of this bill which has effectively a public interest monitor for determinations about criminal intelligence is a modest step forward from the existing New South Wales law. Indeed, it is a step forward from the previous failed bill that Labor brought to this House and ultimately had declared unconstitutional by the High Court. The bill also seeks to provide for the recognition and enforcement in New South Wales of comparable declarations and orders made in other States and Territories in relation to criminal organisations—the recognition in New South Wales of declared organisation orders that are made in Queensland and any other State that brings in comparable and flawed legislation declaring criminal organisations.

The bill also seeks to elaborate on the facts about which a Supreme Court must be satisfied before declaring a criminal organisation. It also redefines "serious criminal activity" to make it consistent with the definition of "serious criminal offence" within the meaning of the Criminal Assets Recovery Act. Lastly, the bill allows for extended lengths of declarations of criminal organisations and allows those declarations to be in force for five years, instead of three years—that is an extension beyond the existing Act and it exceeds the periods that declarations can be made under the Queensland Act. The Government has said that the bill is essential for it to crack down on bikie gangs and bikie gang crime. The Government has been talking tough on bikie gangs and bikie gang crimes and has said it has had these wonderful new powers in place since last year.

The Minister for Police and Emergency Services has repeatedly stepped up to the lectern and told us just how important these laws are. I would be interested to know whether they have been used at all. I ask the Minister in his speech in reply to tell us how many applications have been filed under the existing New South Wales law and at what stage those applications are under the existing New South Wales law. Also what will happen to any filed applications as a result of this change to the law? One can only assume that countless thousands of police hours have been wasted in the preparation of applications under the existing flawed laws, which will have to be redone when this legislation inevitably becomes law in this State. The Greens' civil

liberties concerns about this legislation are exactly the same as for the earlier legislation. I will now turn to the observations drafted by the staff of this Parliament for the Legislation Review Committee concerning this bill. In dealing with schedule 1 [5] the report states:

The Committee has previously noted its concerns in relation to presumption of innocence issues arising out of the *Crimes (Criminal Organisations Control) Bill 2009*, *Crimes (Criminal Organisations Control) Bill 2012*, *Crimes (Criminal Organisations Control) Amendment Bill 2012*. The Committee reiterates the comments already made in relation to those Bills and notes similar concerns in relation to this Bill. Specifically, the Committee notes that the broadening of the definition of serious criminal activity to included individuals who have neither been convicted of, nor charged with, a serious indictable offence—and potentially placing control orders on these individuals—breaches the presumption of innocence, as well as freedom of association and movement, and the right to work. The Committee refers to Parliament whether Schedule 1 [5] trespasses on personal rights and liberties.

I have read the full report of the Legislation Review Committee. I have not heard any other member make reference to this observation about human rights oversight. I thoroughly endorse the observation that this is a serious trespass on the rights of individuals and yet another erosion of the presumption of innocence. The thought that someone could be subject to a control order without having been found guilty of any serious criminal activity is an affront to civil liberties and it should have no place in legislation passed by a democratic Chamber. The committee was also concerned about access to justice. The report states:

The Committee is concerned that the process for responding to an application for an organisation to be declared a criminal organisation for the purposes of the Act may not commence within the statutory period because an affected unincorporated association or group may not be aware of the public notice announcing the Commissioner's application to have that organisation so declared.

The committee also referred that matter and the question of trespassing on access to justice to this Parliament. The definition of "organisation" is so broad in this bill that it will almost inevitably apply to a variety of unincorporated associations and loose groupings of people. The bill does not effectively introduce a scheme whereby members of an organisation are given proper notice before their organisation is declared a criminal organisation and as a result of that declaration those individuals can be subject to intrusive control orders being brought against them in the Supreme Court. That affront to any concept of civil liberties has been effectively ignored in all contributions made in support of this bill.

The committee also noted that proposed part 3A will require the courts to provide a declaration or control order if such a declaration or control order exists interstate and is of a kind outlined in the regulations. The committee appreciated that declarations and control orders originating in New South Wales require the court to satisfy itself in relation to a number of substantive criteria before making the declaration or control order. But the committee said that it was "concerned that the court has no capacity to decline the declaration or control order if such a declaration or control order has been validly made interstate and is of a kind outlined in the regulation". This will mean that the Supreme Court of New South Wales will be turned into a rubber stamp for a declaration made in another State without any capacity for the court in this State, even on application by someone who has given notice, to test the merits of that declaration. So whatever is done in Queensland gets rubber stamped in New South Wales, even if there may be compelling arguments about that part of the organisation in New South Wales having entirely lawful approaches.

On procedural fairness the committee said it was concerned that "criminal intelligence may be admitted in evidence despite any rule relating to the admission of hearsay evidence". That would be of concern to anyone who wants to have decision-making based upon substantiated evidence. Under this bill the hearsay rule, which is an important restraint on both courts and decision-making so that decision-making is founded on firsthand hearsay—what people saw, what people heard, what the documents prove—and not based on rumour and innuendo, will be removed from these applications. Inevitably applications will be made on unreliable evidence—evidence that in a proper court of law, based upon a proper test, would never substantiate the declaration of a criminal organisation or a control order being placed on people.

Another concern raised by the committee, in this excellent report, includes extending the duration of a declaration from three years to five years. There seems to be no rationale in the second reading speeches in support of the legislation for extending the duration of the declaration. It seems that the Government simply does not want to have to make a further application. Yet many things will change within three years, let alone five years. Civil liberties concerns and concerns about due process are simply swept under the carpet because the Government wants a headline about being tough on bikies.

The committee also noted that limiting appeals in relation to matters of fact, particularly in circumstances where declarations that an organisation is criminal can be made within 35 days of application,

with notice only being through public notice for unincorporated associations or groups, may constitute limiting an organisation's right of appeal. The committee has used delicate language. It is not that it "may" constitute a limitation on an organisation's right of appeal. Effectively, it means there will be a kangaroo court at first instance and then no appeal from that kangaroo court on questions of fact. Why can there not be an appeal on a question of fact, particularly when the determination can be made so peremptorily on hearsay evidence and have such a fundamental impact on people's civil rights and liberties? Why the Government will not allow determinations to be tested as to matters of fact on appeal is unexplained. The Government seems to think it can do it, it has the numbers to do it, it will get the Opposition's support to do it, and that is the end of it.

As to the arguments by the Attorney General after the High Court judgement, it is true that the High Court said that the model probably will not be unconstitutional. As for the Queensland model, the committee said that State courts do not have the same chapter 3 constitutional protection as Federal courts. The Federal courts must keep the sharp distinction between judicial power and Executive and legislative powers, but there is no such sharp distinction for State courts. The High Court said that, given that, the Government can give these kinds of powers to the Supreme Court. Although the criteria for making declarations is opaque and is effectively a broad discretion—and broad fact-finding determinations and broad criteria are being used—the High Court has said that the Government can include broad criteria in legislation and can give woolly tests to the Supreme Court and have it declare organisations to be criminal based on woolly tests of fact and law, and throw in a great dollop of discretion at the end.

The High Court said that that is not unconstitutional. That should not be the answer—the beginning and the end of the inquiry when we are thinking about good laws for the protection of our civil rights and for the appropriate reach of State authorities—when declaring organisations to be criminal. We should be looking well beyond the constitutional limitations of what this Parliament can do; we should be looking at what, in good conscience and for good government, Parliament should do. Simply because it is not unconstitutional to give these extraordinarily broad powers to the Supreme Court does not mean that the powers are appropriate. As to the threshold test in the legislation about what is or is not, or may or may not be, a criminal organisation, the Government has adopted the same flawed tests as were adopted in the previous legislation. New section 7 (1) in schedule 1 states:

The Court may make a declaration that the respondent is a criminal organisation for the purposes of this Act if the Court is satisfied that:

- (a) the respondent is an organisation, and
- (b) members of the organisation in New South Wales associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity, and
- (c) the continued existence of the organisation is an unacceptable risk to the safety, welfare or order of the community in this State.

In making that declaration, new section 7 (4) states:

The Court may, for the purpose of making the declaration, be satisfied that members of an organisation associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity:

- (a) whether all the members in New South Wales associate for that purpose or only some of the members, and
- (b) whether members in New South Wales associate for that purpose for the same serious criminal activities or different ones, and
- (c) whether or not the members in New South Wales also associate for other purposes.

Again, we have legislation that allows for an organisation to be declared criminal when a minority of the members—it may be a very small minority—engage in activities of a serious criminal nature as identified in this legislation and whether or not the balance of the association is engaged in entirely lawful and legitimate activities. This is a substantial concern for those in society who believe there is a legitimate place for civil dissent and for organisations to gather together and engage in civil dissent and oppose bad laws—laws that they believe should not be in place. I shall give an example. At the moment there is huge community unrest about the lack of regulation of coal seam gas. There is a substantial community organisation opposed to it; members of the Lock the Gate Alliance and other persons are willing to engage in civil disobedience, trespass, often resist arrest—substantial criminal acts.

**The Hon. Dr Peter Phelps:** Serious criminal activity? Is that what you are saying? Are you advocating serious criminal activity?

**Mr DAVID SHOEBRIDGE:** It is what the police Minister and the Government Whip would no doubt consider to be substantial criminal activity for what they believe is a legitimate civil outcome: to oppose the destruction of the environment and to stand up to bad and unjust laws. It is only a small jump from this kind of legislation, which has such broad criteria, discretions and powers to criminalise, in the Government's rhetoric—but not in the words of the legislation—"bikie gangs", to legislation that allows for the general declaration of organisations to be criminal. If the Government wants to fight criminal organisations, it should fight crime. If it wants to fight violence, illegal drug dealing, intimidation and drive-by shootings by bikie gangs, it should fight each of those crimes. It has always been a crime in New South Wales to shoot at someone's home and to intimidate people, to threaten their person and to threaten violence against them.

Those crimes have been on the statute book since the First Fleet arrived. The police should be focusing on those crimes, not criminalising associations or people who gather together. The Government should not be putting in place statutes that allow for Executive creep—that is, the power of the Executive to ban more and more organisations. This legislation is not limited to bikie gangs or organised crime; this is a broad power to declare criminal those organisations that the Government does not want if a minority in that organisation engages in criminal activity. There is no place for these kinds of broad powers in a free and open society. Remarkably, time and time again this kind of legislation comes before Parliament and gets so little scrutiny.

This bill was introduced only last week in the lower House and it is already being rushed through this Chamber without any discussion in civil society or the broader community. To think the bill received scrutiny in the Government's party room is a joke. No-one is looking at this; it is just being pushed through. It is yet another attack on our civil liberties. The legislation is being pushed through with little, if any, scrutiny by the broader public. There may have been a turf war between the police Minister and the Attorney General behind closed doors, but this legislation should be the subject of proper public debate. It has not been, and it is being shoved through with next to no proper process.

**Reverend the Hon. FRED NILE** [3.38 p.m.]: On behalf of the Christian Democratic Party, I am pleased to support the Crimes (Criminal Organisations Control) Amendment Bill 2013. This bill makes three key amendments to the Crimes (Criminal Organisations Control) Act. First, the declaration of a criminal organisation will now be made by the Supreme Court of New South Wales rather than by an eligible judge of the Supreme Court. Secondly, the bill adopts the detailed mechanisms contained in the Queensland legislation relating to the use of criminal intelligence in proceedings. The commissioner will now need to make an application to the Supreme Court to have information declared as criminal intelligence. The bill also creates an offence of unlawful disclosure of criminal intelligence, with a maximum penalty of \$11,000 or imprisonment for 12 months, or both. Finally, the bill introduces provisions to allow a criminal intelligence monitor to monitor each criminal intelligence application, as well as declaration and control order proceedings, in order to make submissions to the court regarding the appropriateness of such applications. The monitor will be provided with the material relevant to the applications, and test and make submissions about the application.

I was interested to hear the contributions to the debate from Labor and The Greens. The Opposition has been attacking the Government for not proceeding with the original legislation when everyone knew the matter was being determined by the High Court. If the Government had acted, it would have been acting irresponsibly and could have opened itself up to challenges from organisations as well as compensation and so on. I think the Opposition is trying to have a bet both ways on this issue. But now we have The Greens wanting no action—the member who spoke previously was almost an advocate for bikie gangs. It was very odd to hear his pleas on their behalf.

It is clear where the Christian Democratic Party stands: We support the residents of the western suburbs who want action taken in this area. There are different types of criminal activities and different types of gangs. This bill focuses on those that are known as criminal motorcycle gangs. Obviously there are innocent organisations that exist simply for the pleasure of their members, but there are others who are clearly involved in drug trafficking, gun smuggling and supply, and armed robberies. For those reasons we need this legislation, and I am pleased that the Government has introduced it so promptly. The High Court decision was handed down on only 14 March this year. I congratulate the Government on its promptness in resolving this legal situation and on providing New South Wales authorities—police and others—with workable legislation. I congratulate the Minister and the Attorney General.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.42 p.m.], in reply: I thank honourable members for their contributions to the debate, particularly the Hon. Adam Searle, who I think gave a very genuine interpretation of the legislation. He accepts and recognises that it is a significant improvement on existing

legislation. I thank him for making that observation. I speak on behalf of the Attorney General, who I think would also thank him for that observation, which I think was a genuine reflection on the journey we have travelled in the past few years in relation to this matter.

The Hon. Steve Whan's contribution was forgettable, to say the least. As a member of the previous Government he was part of a cabinet—at least at some point during his short-lived ministerial career—that was confronted with difficulties in this area. There can be no disputing that the Hon. John Hatzistergos, as former Attorney General, was committed to trying to resolve many of the problems that were occurring not just in New South Wales but nationally. Governments around the country grappled with the consequences of earlier attempts to address these issues, and it took time. As the Reverend the Hon. Fred Nile recognises, there was a degree of consideration within government here, and no doubt in other State jurisdictions—whether Labor or Liberal—to allow the High Court an opportunity to conclude the recent matter rather than proceeding in a bloody-minded fashion based on the court's views in earlier matters.

Sadly, the contribution by the Hon. Steve Whan focused on what I refer to as the "politics of postcodes". For some opposite, it is purely about the politics in some parts of western Sydney. They continue to perpetuate the myth that the drive-by shootings experienced in the past few years—towards the end of the previous regime and approaching our milestone of two years in government—were the worst ever. In fact, from 2000 to 2001 there were record numbers of shootings targeting people's homes. There were also murders, including the murder at Sydney airport. But that was just the tip of the iceberg. Like us, the previous Government spoke to the New South Wales police commissioner and our police force to see what could be achieved while awaiting the conclusion of this matter in the High Court. We have made a number of changes in relation to consorting and targeting the businesses of those involved in criminal activities.

The infiltration of the tattoo industry by outlaw motorcycle gangs put pressure on legitimate tattoo operators, basically wiping them out of business. Those who used tattoo businesses as a front for criminal activities put pressure on legitimate operators in that industry. We have put measures in place to assist police in targeting crime, as Mr David Shoebridge told the House. But The Greens continue to oppose anything this Government does—and I cannot recall precisely but I think I am pretty right in saying anything the previous Government did—to try to target organised crime in New South Wales. It does not matter to The Greens; they simply suggest that the individual civil rights of outlaw motorcycle gang members are more important than those of people in the community. But the community has had enough—it has had enough for nearly a decade—of people involved in these sorts of crimes, not just in New South Wales but throughout the nation.

The police are doing an outstanding job—and I suspect if I spoke privately to members opposite they would agree. But the politics of postcodes in the lead-up to the Federal election—the Federal Government has indicated that it wishes to push into south-western Sydney—and continuing to perpetuate the myth that things are getting worse is a slap in the face for police who know that the situation is improving. The police are doing a good job, and it is beholden on Parliament to tell the truth about their successes. At the end of the day, it is about sending that message to the wider community.

When people come forward to talk to police they should feel confident that the information they impart about organised crime—whether it be regarding bikies or drive-by shootings—will be put to good use. The police are having success with that information and are doing their utmost to prevent these crimes from recurring. It is a shame that some members in this chamber and in the other place do not hold the view that it is good to encourage the community to recognise the excellent work that the police are doing. Sadly, it is more about political margins than telling the full story about the work of police.

I thank honourable members for their contributions to the debate. While the legislative models for dealing with organised crime in New South Wales and in Queensland are similar, there are notable differences. The Queensland model was recently challenged in the High Court. The court rejected the challenge by the Finks motorcycle club to the validity of certain provisions in the Queensland Act. The bill proposes to amend the New South Wales Act to bring it in line with aspects of the Queensland legislation that have been able to withstand the constitutional challenge and the amendments will ensure that the New South Wales Act is more likely to withstand any future challenges based on current High Court precedents. 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

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.50 p.m.]: I move:

That this bill be now read a third time.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [3.50 p.m.]: Obviously we are not going to oppose the legislation but I want to make a couple of brief points. It is said the High Court challenge to the legislation by the Finks is the reason for the amendments being delayed from November of last year. However, this legislation was substantially re-enacted in February last year, so the delay from February to the end of the year has not been explained by the Government. Nor has the fact that when the High Court struck down the original legislation in June 2011 it took seven months to bring the bill back to this Chamber. When the legislation was re-enacted we on this side of the House recognised that the eligible judge model, which had been the bedrock of the legislation, presented a continuing challenge and a problem and we proposed some solutions. However, they were not accepted and we think that remained a particular vulnerability for the legislation. We note that that has now been comprehensively addressed by the adoption of the Queensland model. Although the Government has relied on the Finks' challenge as the reason for the delay it does not explain the earlier delays in addressing the need for legislative action. We do not oppose the legislation before the House.

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

**Motion agreed to.**

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

### BUSINESS OF THE HOUSE

#### Postponement of Business

**Government Business Orders of the Day Nos 1 to 3 postponed on motion by the Hon. Michael Gallacher.**

### INTOXICATED PERSONS (SOBERING UP CENTRES TRIAL) BILL 2013

#### Second Reading

**Debate resumed from 19 March 2013.**

**The Hon. STEVE WHAN** [3.52 p.m.]: The Opposition will not be supporting the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. We are certainly aware that the bill was a pre-election promise by the Government but the Opposition does not believe the bill is adequate and we certainly do not believe it has the safeguards in place that are required or that it is an answer to some of the issues the Government suggested it was directed at resolving. We are seriously concerned about a number of aspects of the bill: the judgement on who is eligible to go into the sobering up centre; the possibility of violence in the centres and how judgements are made about who is likely to be violent and who is not; and that, in a worst-case scenario, there could be a death in one of these centres. We do not feel there is sufficient detail in the legislation to give us assurance about some of these issues. I refer in particular, having read the Minister's second reading speech and the bill, to matters such as staffing levels.

The bill proposes a trial until July 2014. The centres are designed to be an option for police to deliver drunk people who are a nuisance, or for their own protection, or who are disorderly or fail to obey a move-on direction. Only people older than 18 will be admitted to the centres. The bill includes measures to assess drunkenness based on things such as speech and balance. I will come back to that. Admission can be refused by the doctor or nurse in charge if they believe a person will be violent. There are two different models: first, people can discharge themselves; and, secondly, it will be essentially compulsory to stay, as in the proposed Sydney city sobering up centre. People will be required to identify themselves, which as I understand it is consistent with move-on powers at present.

The Government took this policy to the election and normally the Opposition would often agree to such a bill if the Government has a mandate. In this case we have serious concerns about the bill. We feel we are not

in a position to support the legislation given the dangers and the resource implications for the police posed by these centres. They will certainly take up the valuable time of doctors and nurses. We are concerned about the possibility of violence within the centres, the cost and the provision for cost recovery. We are concerned about the indeterminate cap on cost recovery and how much that might be for those who end up in these centres. No planning consents are required for the first two centres. We also have some concerns about the provision for information sharing between agencies in the centres. Many of these aspects will be elaborated in the other place should the bill get that far—I have to make that proviso; the Government cannot take these things for granted.

**The Hon. Michael Gallacher:** No, we never do. You know that.

**The Hon. STEVE WHAN:** It will be taken up in more detail by our shadow Minister in the other place, Nathan Rees. There is obviously a fair bit of history of proposals for sobering up centres in New South Wales, as there is in other States. I am aware that a sobering up centre has been operating in Canberra and there are some in the Northern Territory, particularly for Aboriginal people. In some cases they have been reasonably successful. Sobering up centres were proposed by the Royal Commission into Aboriginal Deaths in Custody, and I acknowledge that. But I am concerned there is no provision in the legislation to deal differently, if necessary, with Indigenous people who might come into the centres. I am keen to hear the Minister address that in reply. We all know that Indigenous people make up a high proportion of those who are picked up for drunkenness offences around Australia and that there are particular issues in dealing with them, which was highlighted by the Royal Commission into Aboriginal Deaths in Custody some years ago. That needs to be taken up in this legislation, particularly in relation to the design of centres and the sorts of services and supervision that are provided.

I note in the legislation there is provision for the level of supervision and number of checks on people in the centres. I do not believe the regulations are available at the moment from what I have been able to discover and the bill is a bit light on in some of those details. We would like to see the Government deal with those aspects in more detail as they cause the Opposition serious concern. When this proposal was raised prior to the election, and indeed earlier this year, the Police Association expressed some concerns. Scott Weber said in an article by Sean Nicholls in the *Sydney Morning Herald* that looking after drunks was not a core responsibility of the police. He said the Government needed to ensure that police responsible for putting people into cells had proper legal protection and that their safety and the safety of those in the cells was assured.

I note that the proposal for the central Sydney sobering up centre is to be essentially a police-run operation, and it will be the only one that has the capacity to hold people without their consent. We need to see more detail about how that will be resourced and its operating methods, and whether or not that will be taking police away from other duties. When Labor was in government many police raised this concern with the former Minister and the Police Association. The association previously expressed the concern that intoxicated prisoners are at greater risk of self-harm and suicide and that this could be an issue for the sobering up centres. The Opposition is also concerned about that issue. Other bodies have commented that more needs to be accomplished for the enforcement of the responsible service of alcohol, but generally clubs and pubs do a good job of enforcing their obligations.

**Pursuant to sessional orders business interrupted at 4.00 p.m. for questions.**

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

## QUESTIONS WITHOUT NOTICE

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### PUBLIC SECTOR EMPLOYMENT

**The Hon. LUKE FOLEY:** My question is directed to the Minister for Finance and Services. Does the Minister stand by his comments in the *Sunday Telegraph* that further public sector job cuts will be implemented?

**The Hon. GREG PEARCE:** That is not what I said.

**The Hon. LUKE FOLEY:** I ask a supplementary question. I thank the Minister for his detailed answer. Will the Minister elucidate his answer with reference to what he did say about the implementation of further public sector job cuts?

**The Hon. Catherine Cusack:** Point of order: Eliciting further information from the answer that was given by the Minister is clearly not a supplementary question.

**The PRESIDENT:** Order! It is a grey area. I think it is asking a new question.

### CRASH INVESTIGATION UNIT

**The Hon. SARAH MITCHELL:** My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House on how the Crash Investigation Unit has contributed to road safety?

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for her question. The Government takes road safety seriously. We have delivered on our pre-election commitment by ensuring that there is a dedicated, specialised and highly skilled highway patrol team with a high profile presence on motorways. Understanding the factors that contribute to a serious traffic crash is vital. Crash victims and their families need information to understand what happened; police need information to build a legal case or to inform future enforcement activities; road engineers need information to help them design safer roads; car manufacturers need information to improve safety requirements; and road safety educators need information about driver behaviour that needs to change. For this reason the Traffic and Highway Patrol Command has invested significantly in the Crash Investigation Unit, which is responsible for the investigation of serious traffic crashes.

During 2011-2012 the Crash Investigation Unit investigated 848 major crashes. The unit also delivered public road safety education to schools through the 2012 bstreetsmart program and the Youth Road Trauma Forum. It also provided education to corporations as part of the Traffic Offender Intervention programs. A key investment in the investigation of serious traffic crashes has been the purchase of crash data retrieval systems, which will enable investigators to install electronic data recorders in modern vehicles.

**The PRESIDENT:** Order! If the Hon. Walt Secord and the Hon. Penny Sharpe want to have a conversation they should do so outside the Chamber.

**The Hon. MICHAEL GALLACHER:** Police may seize a vehicle for crash investigation purposes. This data can be downloaded from vehicles that are fitted with airbag control computers and it can be used to assist their investigation. The use of this equipment will provide investigators with a sophisticated ability to determine what occurred in the crucial moments prior to a collision regarding speed, braking, change of velocity, use of seatbelts, and more. Officers from the Crash Investigation Unit have received training from North American police in how to decode the data that has enabled police to do this work in-house rather than pay an external provider to do it for them. The ability to decode this data will speed up crash investigations, because the work can be undertaken by police as well as enhance the skill set of our crash investigators.

The Federal Department of Infrastructure and Transport recently reported a significant reduction in the rate of fatalities occurring on New South Wales roads. During the busy January 2013 holiday period, fatalities in New South Wales reduced by a significant 46.9 per cent to 17 from 32 in the previous period. This major achievement has been made possible by police and Roads and Maritime Services. The Government will continue to invest in new technology and training, and this has the potential to speed up investigations, improve road safety and hopefully see a further reduction in fatalities on our roads. Officers in the Crash Investigation Unit are highly skilled members of the Police Force. I applaud their commitment to investigating serious traffic crashes and to enhance our understanding of the crucial moments before a collision occurs, but also the sympathetic way in which they deal with trauma victims and families throughout the course of their investigation following a major collision.

### PUBLIC ASSET SALE

**The Hon. ADAM SEARLE:** My question is directed to the Minister for Finance and Services. Given the Minister's statement in the *Sunday Telegraph*, "We are definitely going to be selling off quite a lot more", will he confirm that the Government is going to sell off more public assets?

**The Hon. GREG PEARCE:** It is apparent that as a result of the mess that the Labor Party left this State in and the failure to invest for over 16 years in the necessary infrastructure for the State—

**The Hon. Adam Searle:** Point of order: The Minister was debating the question. I ask you to call him back to the relevance of the question.

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

**The Hon. GREG PEARCE:** I was trying to answer it directly. Perhaps what I will do instead is read from the Treasurer's economy and infrastructure statement that was made today, which goes to great lengths to provide a March 2013 report card on the Government that has delivered a record \$61.8 billion worth of infrastructure. The Minister on my left, the Hon. Duncan Gay, is a leading architect and implementer of this fantastic infrastructure delivery program, unlike the—

**The Hon. Walt Secord:** Point of order: The point of order goes to relevance. It is about the Minister's fire sale of public assets.

**The PRESIDENT:** Order! The Minister is entitled to make generally relevant contextual remarks.

**The Hon. GREG PEARCE:** Walt knows about fire sales or at least the outcomes of fires.

**The Hon. Amanda Fazio:** Point of order: The Hon. Greg Pearce should by now know that he must refer to members in this place by their proper titles and not simply by their first names. I ask you to direct him do so.

**The PRESIDENT:** Order! I remind members that they must refer to other members by their correct title.

**The Hon. GREG PEARCE:** I congratulate the Hon. Walt Secord as the successor to Eddie Obeid—the handpicked replacement. He knows all about fires—

**The Hon. Steve Whan:** Point of order: Settle down, children. My point of order relates to relevance. The Minister is straying a long way from the question he was asked. Mr President, I ask you to bring him back to the question, which was about asset sales.

**The PRESIDENT:** Order! A number of points of order have been taken. It is difficult to tell whether the Minister is close to or far from the subject of the question. The Minister is in order.

**The Hon. GREG PEARCE:** Members opposite do not like hearing about this Government's successes. The point I was trying to make in response to the question was that the Labor Government failed to invest in infrastructure and left this Government with a financial black hole. So, yes, it has had to make tough decisions to get the State's finances back in order. We have had to make tough decisions— [*Time expired.*]

## RENEWABLE ENERGY ACTION PLAN

**Dr JOHN KAYE:** My question is directed to the Minister for Roads and Ports, representing the Minister for Resources and Energy. Given that submissions on the draft final Renewable Energy Action Plan closed five months ago tomorrow and that uncertainty in industry is likely to cost jobs and investment in New South Wales, what is holding up its release?

**The Hon. DUNCAN GAY:** I do not know what, if anything, is holding up the release of this important plan. However, I will make it my business to find out and provide a response as soon as I possibly can.

## WESTCONNEX MOTORWAY

**The Hon. JOHN AJAKA:** I direct my question to the Minister for Roads and Ports. Will the Minister update the House on the feedback the Government has received from the community about the delivery of the WestConnex project?

**The Hon. DUNCAN GAY:** Members opposite will not like this because they do not like good news. The Coalition Government inherited an economy that had experienced the slowest rate of growth of all the States for a decade. The budget was spiralling out of control because the Labor Government spent more than New South Wales was earning. New South Wales Treasury estimates that if the expense targets that the Labor Government set itself had been met, this State would be \$20 billion better off.

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

**The Hon. DUNCAN GAY:** How things have changed. This Government is now managing the State's finances responsibly—

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

**The Hon. DUNCAN GAY:** For the first time since 1995 this State's expenses came in within budget. The Government is investing \$61.8 billion in infrastructure across the State over the next four years.

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

**The Hon. DUNCAN GAY:** That is pretty damn good. We have set the path for recovery out of the mess in which the Labor Government left New South Wales and we are starting to see results. New South Wales now has the strongest jobs growth of any State, our economic growth is now second only to Western Australia's and following the election of the Liberal-Nationals Government small business confidence is now above the national average. That is something of which the Hon. Walt Secord could only dream. We are delivering the stable government that people want and expect in New South Wales.

WestConnex is one of the Government's key infrastructure priorities for the State's future. Since the Government announced the \$1.8 billion commitment to WestConnex it has received significant support. The NRMA said that WestConnex would get Sydney moving and Infrastructure Partnerships Australia said it was excellent news for the State's economy, taxpayers and motorists. The *Daily Telegraph* described WestConnex as a fast-track to the future. I know The Greens do not like the *Daily Telegraph*—a well-known journal of repute—but it stated that the overwhelming majority of the State welcomes action being taken by the O'Farrell-Stoner Government to create new jobs, to boost productivity and to deliver the infrastructure the State deserves through critical investment in projects such as WestConnex.

However, the out-of-touch Leader of the Opposition in the other place who has no plans of his own has claimed today that the State is standing still. During his rant he announced a reheated Parramatta to Epping rail link. I am sure members remember that one. The Labor Government promised it and built only half of it for double the cost and years late.

**The Hon. Steve Whan:** Point of order: My point of order relates to relevance. The question asked the Minister about government projects; it did not ask him to speculate about alternative policies.

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

**The Hon. DUNCAN GAY:** Of course, there is no point of order because there is no alternative policy. The Labor Government promised that project, built only half of it at double the cost and delivered it years late, and then promised it again in a desperate attempt to hoodwink the people immediately prior to the 2010 election. It was featured in another one of Walt's glossy brochures. [*Time expired.*]

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

**The Hon. DUNCAN GAY:** Labor's record of abject failure becomes more shameful by the day. The community and our message—

[*Interruption*]

Here he is, the Hon. Jeremy Buckingham—the defender of Labor, Eddie Obeid and Ian Macdonald's friend, and The Greens member who supported everything that happened under the former Government. The message from the people of New South Wales to the Labor Party and its leadership is that they have wasted enough of their time. They should listen to what the community and their Federal Labor colleagues are saying and work with the State Government to make New South Wales number one or get out of the way. This Government will get on with delivering its plan to fix New South Wales by making the key decisions needed for the State's future. Members opposite simply want to continue to do nothing. There was a do-nothing government and they are members of a do-nothing Opposition now that they are sitting on the losers lounge.

### CHILD SEX OFFENDER PENALTIES

**Reverend the Hon. FRED NILE:** I direct my question to the Minister for Police and Emergency Services, representing the Attorney General, and Minister for Justice. Is it a fact that the maximum penalty provided for child sex offenders and abusers is 25 years or life imprisonment in New South Wales if there are aggravating circumstances? Is it also a fact that most of the sentences being handed down in these cases are less than one-third of the maximum? It has also been reported that New South Wales senior police officers have long expressed their frustration at the relatively light sentences handed to child sex offenders. When will the Attorney General ask the Court of Criminal Appeal to deliver guideline judgements that represent the community's abhorrence of child sex offences?

**The Hon. MICHAEL GALLACHER:** The word that I am sure strikes a chord with all members is "abhorrence". Sex offences committed against children are abhorrent and deserve strong community condemnation. However, the comparisons made in today's media coverage are misleading, selective and do not stand up to scrutiny. It is impossible and invalid to cherry-pick sentences handed down in respect of a range of different and unrelated crimes and to compare them without any knowledge of the circumstances of the offence or indeed the offender.

The Government acknowledges that sentencing is a complex task and one not easily understood. The New South Wales Law Reform Commission is examining sentencing law in New South Wales with a view to simplifying it while providing a framework that ensures greater transparency and consistency. As part of that review, guideline judgements will also be examined.

**Reverend the Hon. Fred Nile:** When?

**The Hon. MICHAEL GALLACHER:** I will get an answer from the Attorney General as to when and come back to the member.

### POLICE RECRUITMENT

**The Hon. STEVE WHAN:** My question is directed to the Minister for Police and Emergency Services. Given comments by the New South Wales Police Association saying more police are needed, why did the Minister cancel the September intake at the Goulburn Police Academy?

**The Hon. MICHAEL GALLACHER:** One thing Opposition members can be assured of is that under this Government the Police Association will be getting additional numbers of police, as we have continued to increase police numbers over the years. We are increasing, and will continue to increase, police numbers in New South Wales. By 2015 there will be record numbers of police in New South Wales the likes of which those opposite could have only dreamt about; they could never have achieved those numbers because quite simply they could not address some of the other problems in policing.

**The Hon. Steve Whan:** Point of order: My point of order is relevance. The question was very specific. It was about the September intake at the Goulburn Police Academy and the Police Association's comments that more police are needed. The Minister is not addressing that and I ask that you bring him back to the leave of the specific question.

**The PRESIDENT:** Order! The Minister was in order.

**The Hon. MICHAEL GALLACHER:** Labor failed to address issues within the New South Wales Police Force.

[Interruption]

The member asks a question but then wants to engage in jocular little interjections across the Chamber with other members. If he is serious about this issue, he should listen to the answer rather than constantly interject and engage in comments with other members of the House. The previous Government failed to address some of the inherent problems within the New South Wales Police Force in terms of retention, respect for injured police and ensuring that those officers had a future.

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

**The Hon. MICHAEL GALLACHER:** Labor failed to address and recognise those things, and the moment we came to government we set about changing the culture within the organisation to one that showed respect and gave injured police a role and a future. We did not throw them on the scrap heap like members opposite did. Members opposite should never talk about police numbers again because for them it was always about numbers—numbers in marginal seats. It was never about the wellbeing of police, and from my listening to their contributions earlier today I am convinced that so far as they are concerned it continues to not be about the wellbeing of cops.

**The Hon. Penny Sharpe:** Point of order: The question was very clear. It was a question about why the Government has cancelled the intake of police officers at Goulburn in September. It is not about the history of policing in New South Wales.

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

**The Hon. MICHAEL GALLACHER:** The Hon. Penny Sharpe takes a point of order when she fails to recognise the increased numbers going into the police transport command the likes of which have never been seen in New South Wales, ensuring that the public of this State has a visible presence on our public transport system, whether that be on our trains, ferries or buses. We do not move away from our position to increase police numbers in New South Wales. I am answering the question; I am just not answering the question in the way the Opposition would like me to answer it. The work that we have done to ensure that police who have been injured—that is, those who were previously thrown on the scrap heap by those opposite—now have an opportunity to return to work has affected attrition rates in New South Wales and it most certainly now gives those police a future, a career and an opportunity to serve the public of New South Wales. We will continue to work with the New South Wales Police Force and with the Police Association, something that members opposite failed to do.

#### WORK HEALTH AND SAFETY LEGISLATION

**The Hon. CATHERINE CUSACK:** My question is addressed to the Minister for Finance and Services. Can the Minister update the House on what the Government is doing to assist injured workers in New South Wales?

**The Hon. GREG PEARCE:** I thank the honourable member for her question and on behalf of all members I congratulate her on her 10 years of valuable service in this Chamber. When coming to government we took immediate steps to put in place harmonised work health and safety legislation to bring New South Wales into line with national model laws. Members will be aware that the new work health and safety laws commenced in New South Wales on 1 January 2012. The New South Wales Government took the lead with these historic changes. New South Wales was one of the first States in Australia to pass the harmonised laws.

The reforms are a once-in-a-generation repair to change a convoluted system of legislation into a set of simplified laws. These laws will enhance productivity and reduce compliance costs for businesses working in more than one jurisdiction, making it easier to do business in New South Wales. These changes follow the Government's action in 2011 to remove unfair provisions that were contrary to accepted criminal law procedures, such as reverse onus of proof. The Work Health and Safety Act 2011 was passed in Parliament in June 2011 and I thank all members for their support for that legislation. Since then the Government has worked in partnership with stakeholders to ensure that industry is aware of and understands its responsibilities under the new legislation.

The New South Wales Government committed to providing \$5.4 million in grants to 42 organisations to undertake training. To date WorkCover has held over 500 general and industry-specific forums across New South Wales to provide an overview of the new legislation. The Government worked with industries throughout 2012 to assist them in implementing the new requirements and continues to do so in 2013. WorkCover is focused on building trusted services that are valued by the community and on influencing positive health, safety and return-to-work outcomes. It does this by providing advice and services to assist businesses to comply with their legislative obligations while still meeting community expectations regarding enforcement.

In addition to successfully implementing the work health and safety reforms, in June last year the Government introduced far-reaching changes to the way workers compensation is delivered in New South Wales. These workers compensation reforms were vital for workers, employers and the economy. The Government needed to act quickly to improve the scheme for a number of reasons: the scheme was in deficit

and was not fulfilling its core objectives well enough. The best protection for workers, employers, the community and our economy is a financially sound scheme focused on returning injured workers to work where possible, and that is what we now have.

These long overdue reforms saved employers from an imminent on average 28 per cent increase to their workers compensation insurance premiums in 2012. The New South Wales Business Chamber estimated an increase of this size would have seen the loss of 12,600 jobs across the State. However, thanks to this Government's decisive actions, jobs have been protected. The reforms bring the scheme into line with those of other States and there are significant new benefits for workers and employers. The new legislation is focused on encouraging and assisting early return to work and also on providing better financial support for seriously injured workers. WorkCover is committed to making the transition under the new legislation as smooth as possible for all participants and injured workers in particular. [*Time expired.*]

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

**The Hon. GREG PEARCE:** Changes are being progressively introduced to allow an orderly rollout of new systems and claims procedures by insurers. Changes which took effect in June 2012 included new arrangements for journey claims, lump sum payments and nervous shock, heart attack and stroke, and disease injuries. From 17 September 2012 seriously injured workers began receiving increased weekly benefits. Under this significant reform about 940 of the most seriously injured workers being supported by workers compensation were guaranteed a rate that is around 70 per cent more than the previous statutory rate, which this mob put up with and did not increase.

Workers who lodged a claim on or after 1 October 2012 are already receiving improved benefits under the scheme based on their pre-injury earnings and more closely aligned with their real earnings prior to injury. Seriously injured workers with whole-person impairment of more than 30 per cent will not be subject to work capacity assessments, unless they wish to have one. The phased rollout will ensure the successful implementation of the changes. WorkCover continues to work closely with scheme agents and insurers to ensure that the transition under the new legislation is as smooth as possible for all participants and injured workers in particular.

The scheme reforms are already producing benefits, with the June 2012 WorkCover scheme valuation prepared by PricewaterhouseCoopers showing an accumulated deficit of around \$1.5 billion. Without the reforms the deficit is estimated to have been around \$4.5 billion and premiums would have had to increase by 28 per cent to return the scheme to financial sustainability. While this projected outcome represents an improvement, there is still a significant way to go to return the scheme to surplus and financial sustainability. The Government is committed to providing a scheme that is financially sound, encourages and assists early return to work, and provides better financial support for seriously injured workers.

#### POLICE TASER USE

**Mr DAVID SHOEBRIDGE:** I direct my question without notice to the Minister for Police and Emergency Services. Why do police guidelines not prohibit tasering juveniles? How is it that since 2008 almost 40 juveniles aged under 16 years have come to be tasered by the NSW Police Force, six of them aged 13 years and under?

**The Hon. MICHAEL GALLACHER:** Over the past couple of years the guidelines for the use of tasers have undergone considerable scrutiny—last year, in particular—and they continue to do so. The taser guidelines are not a static document; they continue to evolve as complaints and concerns are brought forward. The member asked about the use of tasers on juveniles and that matter has been the subject of discussion in recent times. I have made the point that often in an emergency situation a police officer who has to use a taser—

**The Hon. Jan Barham:** Against a 13-year-old?

**The Hon. MICHAEL GALLACHER:** —does not have the opportunity to ask a person running towards him or her with a knife or some sort of weapon, "Excuse me, how old are you?" Every taser use is subject to review by a senior commissioned officer—

**The Hon. Amanda Fazio:** You will be tasering toddlers next.



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

**The Hon. MICHAEL GALLACHER:** Again a silly comment by a silly member.

**The Hon. Amanda Fazio:** Don't call me silly; you are the one who is managing this regime of tasing juveniles.

**The Hon. MICHAEL GALLACHER:** The member opposite suggests that police are going to taser toddlers. What an absolute disgrace for her to be making offensive comments like that against members of the NSW Police Force. Let the record show when the member gets in front of the microphone in future purporting to represent police that she made reference to police one day tasing toddlers. What an absolutely disgraceful comment, and an indication of the undercurrent which exists on the Opposition benches as to a lack of respect for police. The member should apologise.

**The Hon. Lynda Voltz:** Point of order—

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

**The Hon. Lynda Voltz:** My point of order is relevance. The Minister is referring to comments that the member did not make. The Minister should return to the leave of the question.

**The Hon. Greg Pearce:** Who said it then?

**The Hon. Lynda Voltz:** There is absolutely no way the member said that and the Minister knows it.

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

**The Hon. Amanda Fazio:** Point of order: My point of order is that the Minister has made imputations against me in his comments.

**The Hon. Duncan Gay:** And you never do.

**The PRESIDENT:** Order! I cannot hear the point of order.

**The Hon. Amanda Fazio:** You do not have the call. I ask the President to remind the Minister that he should not do that and I ask the Minister to withdraw those comments because they are simply untrue.

**The Hon. MICHAEL GALLACHER:** You said "tasing toddlers"—

**The PRESIDENT:** Order! I remind Ministers and all members with the call that when they are making remarks they are not to reflect on other members in the Chamber.

**The Hon. MICHAEL GALLACHER:** The Ombudsman's October 2012 report on how taser weapons are used by the NSW Police Force found that the NSW Police Force should be commended for the steps it has taken to ensure that tasers are used appropriately. The report included detailed analysis of 556 taser events and one of those incidents included two deployments— [*Time expired.*]

**Mr DAVID SHOEBRIDGE:** I ask a supplementary question. Will the Minister elucidate his answer by describing in what possible circumstances the NSW Police Force can reasonably hit a 10-year-old with 50,000 volts from a taser rather than use less violent options?

**The Hon. MICHAEL GALLACHER:** I thank the member for the opportunity to elucidate my answer. One of those incidents included two deployments of a taser on a 14-year-old boy. In relation to this incident with the juvenile offender, the Ombudsman was not satisfied that the police officers had reasonable grounds for multiple use of the taser. The Ombudsman did not make any recommendation regarding taser usage on children; the most relevant recommendation was that police should include reality-based scenarios in taser accreditation training and reaccreditation training that deal with vulnerable people to reinforce the importance of communication, negotiation and other de-escalation techniques.

[*Interruption*]

**The PRESIDENT:** Order! The member has asked the question and he will listen to the Minister's answer in silence.

**The Hon. MICHAEL GALLACHER:** There was reference—

**Mr David Shoebridge:** We are talking about tasering primary school kids.

**The PRESIDENT:** Order! I call Mr David Shoebridge to order for the first time.

**The Hon. MICHAEL GALLACHER:** There was some reference from The Greens in relation to the tasering of a 13-year-old. I think the Hon. Jan Barham even interjected about 13-year-olds. I understand that police have emphatically denied that a taser was used during the arrest of a 13-year-old boy at Casino on 5 February 2013 for an alleged car theft. I also understand that there was no mention of the alleged use of a taser at the recent mention of this matter at the Children's Court.

### **SPEED CAMERA REVENUE**

**The Hon. PENNY SHARPE:** I direct my question without notice to the Minister for Roads and Ports. I refer to the answer given by the Minister on 21 March in which the Minister said, "We have removed the cash cow cameras". Why has the removal of the so-called cash cow speed cameras led to a 30 per cent increase in speed camera revenue?

**The Hon. Charlie Lynn:** Probably because people are speeding.

**The Hon. DUNCAN GAY:** I thank my honourable colleague for highlighting the obvious. It is something so obvious and so simple, but the Opposition cannot grasp the complex idea that people are speeding. I did say—and I compliment the honourable member for accurately repeating my comments—that we would remove those cameras that were only performing a revenue-raising role; not having a positive role as far as road safety in New South Wales is concerned. The safety cameras and the roadside cameras were turned off whilst we conducted a review, but they have now been turned back on. To echo the words of the Hon. Charlie Lynn, the reason for the revenue coming into the road safety area, not consolidated revenue, is because people are still speeding. Every day I encourage people not to speed. I ask the Opposition to support the Government in this regard because certain Opposition members are on a personal campaign to encourage people to speed.

**The Hon. Penny Sharpe:** That is very different to what you said in opposition.

**The Hon. DUNCAN GAY:** Those opposite say they are not but they are against everything that has tried to slow people down.

**The Hon. Steve Whan:** Point of order—

**The PRESIDENT:** Order! The Minister will resume his seat. I remind the Hon. Penny Sharpe that she is on two calls to order.

**The Hon. Steve Whan:** My point of order is that the Minister is reflecting on members of the Opposition by suggesting that any member of the Opposition would condone speeding. I reject that comment and I ask the Minister to withdraw it.

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

**The Hon. DUNCAN GAY:** If those opposite believe so strongly that they are innocent then they should change their rhetoric because it does not reflect the fact that they are against speeding. Day after day we see political opportunists on the Opposition benches playing silly mind games in this place.

**The Hon. Lynda Voltz:** Point of order: My point of order is relevance. The Minister was asked why he said he would remove cash cow cameras and why his Government is now receiving 30 per cent more in revenue.

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

**The Hon. DUNCAN GAY:** The message is clear. We want people to slow down and live. We do not want motorists to lose their licences and we do not want their money; we want to save the community from death on the roads. Members opposite seem to have a different view. They are fairly prickly about it but when they are out there day after day—

**The Hon. Penny Sharpe:** You're a disgrace.

**The Hon. DUNCAN GAY:** What was that?

**The Hon. Amanda Fazio:** Sit down you disgraceful old fool.

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

**The Hon. DUNCAN GAY:** I note the Hon. Amanda Fazio's comments when we are discussing something as important as road safety. That shows the triteness of the Labor Party—

**The Hon. Amanda Fazio:** Given the comments you've made.

**The PRESIDENT:** Order! I remind the member that she is on two calls to order. Does the Minister have anything that is generally relevant to add?

**The Hon. DUNCAN GAY:** I have a lot more to say about the Hon. Amanda Fazio, but I will save it.

**The Hon. Amanda Fazio:** I have a lot more to say about you, you old fraud.

**The Hon. DUNCAN GAY:** Point of order: I take offence at being called a fraud. I am not a member of the Labor Party.

**The PRESIDENT:** Order! If the Minister takes offence he should take offence and not make debating points. Does the Minister take offence?

**The Hon. DUNCAN GAY:** I do take offence.

**The Hon. Lynda Voltz:** Point of order: The Minister constantly directs comments to members on this side of the Chamber and calls them silly and stupid, so he can hardly take offence when he gets a similar response.

**The PRESIDENT:** Order! The issue is whether the language is unparliamentary. To describe a member as a fraud has frequently been ruled to be unparliamentary. Therefore, I will require the Hon. Amanda Fazio to withdraw it.

**The Hon. Amanda Fazio:** My comments were by way of interjection, which I understand is disorderly. I withdraw my comment that the Hon. Duncan Gay is nothing but a fraud as he has indicated that he found it offensive.

**The PRESIDENT:** Order! I thank the member for her withdrawal.

#### **NSW POLICE FORCE MOTORCYCLE RESPONSE TEAM**

**The Hon. CHARLIE LYNN:** My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House about the results being achieved by the new central business district motorcycle response team?

**The Hon. MICHAEL GALLACHER:** As has been said in the House before, the motorcycle response team [MRT] was established in late August and is now a regular feature in the central business district. It is a 10-member team within the traffic and highway patrol command of the NSW Police Force and it is funded until July 2015 by Transport for NSW. The motorcycle response team is deployed during morning and afternoon peak hours at various locations throughout the central business district and surrounding districts. The team liaises with the transport management centre—

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

**The Hon. MICHAEL GALLACHER:** —and is able to move quickly around the city if a problem emerges that needs police intervention. Officers can use their move-on powers to improve traffic flow, as well as issue infringement notices to road users who breach the rules. As at the end of February the motorcycle response team had moved on more than 16,800 vehicles, issued 6,925 cautions, performed more than 4,000 stationary or mobile random breath tests, and issued 871 mobile phone, 615 parking and 114 seat belt infringements, in addition to 223 intersection and 3,183 other traffic infringement notices.

The motorcycle response team focuses on all road users, not just the drivers of cars. For example, it has also issued infringements to more than 25 cyclists, 114 pedestrians, 594 taxi drivers and 57 bus drivers for relevant offences. Pedestrians, as well as motorists, need to take care and responsibility. All too often police see pedestrians tuned in to electronic devices and tuned out from their surroundings. A concerning number are stepping onto the road without paying proper attention to what is going on around them. They will always come off second best if they get hit by an oncoming vehicle.

In addition to this day-to-day role, the motorcycle response team is working with the central business district local area commands to conduct Operation Franklin, which is a series of rolling operations targeting intersection and pedestrian offences at specific intersections throughout the central business district. The most recent of these was conducted on Wednesday 6 March at two George Street intersections, at Bathurst Street and Park Street. In this one-day operation police issued infringement notices to 13 pedestrians for illegally crossing the road, 17 motorists blocking intersections or marked crossings, and 34 motorists committing other driving offences. They also cautioned 84 pedestrians and conducted 58 random breath tests.

Operation Franklin enhances the work of the motorcycle response team by targeting specific intersections identified as congestion or safety pressure points. The motorcycle response team's mobility also allows it to respond quickly to traffic incidents identified by the transport management centre. Since its formation, it has attended 440 jobs as issued by the transport management centre. The attendance of the motorcycle response team helps to improve traffic flow at hotspots and prevent small problems from spreading across the traffic network. I am proud of the work the motorcycle response team is doing. I think people seeing them on the roads every day will have a beneficial impact on the attitudes and behaviours of all road users.

### COMMUNITY HOUSING LIFT ACCESS

**The Hon. JAN BARHAM:** My question without notice is addressed to the Minister for Finance and Services, and Minister for the Illawarra, representing the Minister for Family and Community Services, and Minister for Women. I refer to reports in the *Illawarra Mercury* last week that many residents, some with mobility or health issues, of a seven-storey, 28-apartment community housing block in Wollongong for people aged 55 and over have not been able to use the only lift for at least a week because it broke down. What requirements does the Government have in place to ensure that social housing meets the accessibility needs of the intended residents, particularly older people and people with disabilities, in the event of power or equipment failures? What support does the Government offer to assist social housing residents in the situation of having ongoing problems with the accessibility of their homes?

**The Hon. GREG PEARCE:** That is an important question. I did see the article in the *Illawarra Mercury* and I feel great sympathy for the residents who are discomforted by that equipment breakdown. I believe that it was a community housing provider or community housing property. In relation to community housing providers, as the member knows, certainly since I have been partially responsible for the housing portfolio we have engaged in a much more vigorous way with community housing providers to ensure that their contracts are stringent and that they meet the most stringent requirements that we can generally impose. In relation to the Health budget, \$2.2 billion will be invested in 2012-13 to provide better social housing and improve outcomes for people in need. The Government is committed to getting our most vulnerable people into homes sooner.

Since being elected, the Liberal-Nationals Government has been dedicated to addressing Labor's legacy waiting lists of more than 53,000 and a maintenance backlog of more than \$300 million. That is in the State's social housing stock; it does not cover community housing stock. We have already taken steps to improve transparency and outcomes for social housing tenants by publishing waiting lists data on a regional basis to enable them to make more informed choices about their housing and living options. The Government will provide private rental assistance to about 37,500 households with a range of supports, including advance rent, temporary accommodation and private rental subsidies.

The Government is providing \$48.2 million to assist people to rent in the private sector, including temporary accommodation, private rental subsidies and rent in advance. A further \$19 million for the bond loan scheme will help at least 21,000 households to secure accommodation in the private rental market. In the 2012-13 budget we included \$331 million for capital works and an additional \$210.2 million for routine maintenance for public and community housing targeted at reducing the waiting list. There will be \$141 million to commence 852 new social housing homes and complete 773 units that were started in previous years. A total of \$210.2 million will be invested in maintenance to deliver a wide range of repairs and to reduce Labor's maintenance backlog.

Other areas of expenditure include \$195 million to upgrade public and community housing, including crisis accommodation such as women's refuges and emergency accommodation for homeless people. There is \$6.6 million for Start Safely, a program to provide assistance to around 400 households leaving domestic and family violence. There is \$50 million to implement initiatives under the National Partnership Agreement on Homelessness, including \$12.3 million for new accommodation places under the A Place to Call Home initiative. There is \$134 million for specialist homelessness services to support 65,400 people, including crisis and transitional support. I am sure that all honourable members will join with me in applauding the Government's response to the problem of homelessness— [*Time expired.*]

**The Hon. JAN BARHAM:** I ask a supplementary question. Could the Minister elucidate his answer?

**The PRESIDENT:** Does the Minister wish to elucidate?

**The Hon. GREG PEARCE:** I suppose I have to.

**The PRESIDENT:** Order! The Minister should feel under no obligation to do so. Under the standing orders there is no obligation on the Minister to respond to a supplementary question.

**The Hon. GREG PEARCE:** I thought that I was obliged to. Perhaps I will save that answer for another day.

#### WATER USAGE CHARGES

**The Hon. WALT SECORD:** My question is directed to the Minister for Finance and Services. Given statements by his ministerial office yesterday rejecting the plan for a two-tier water restriction payment system, will the Minister now cancel the tender for the project, which closes at 9.30 a.m. tomorrow?

**The Hon. GREG PEARCE:** I am pleased that the Hon. Walt Secord has given me an opportunity to once again reflect on his form when it comes to distortion and fiction.

**The Hon. Luke Foley:** Point of order: The Minister's use of the word "distortion" is a personal reflection on the member and is, therefore, out of order.

**The Hon. Dr Peter Phelps:** To the point of order: To say that there has been distortion is not a personal reflection on the member. Indeed, to include distortion in an argument that it is somehow unparliamentary to suggest a distortion has taken place may well be an unintentional distortion. He did not say an "intentional distortion"; it may be an unintentional distortion.

**The PRESIDENT:** Order! I have the gist of the member's point of order.

**The Hon. GREG PEARCE:** To the point of order: I think I am entitled to rely on the public statements of the Privacy Commission in relation to the Cecil Hills gun—

**The PRESIDENT:** Order! The Minister is making a debating point. He will resume his seat. I call the Minister for Finance and Services to order for the first time.

**The Hon. Peter Primrose:** To the point of order: Taking the point made by the Government Whip, the issue of motivation is very clear now, as indicated by the Minister's contribution to the point of order. Clearly, the Minister was seeking to impugn some form of motivation.

**The PRESIDENT:** Order! While it has been suggest that the word "distortion" is unparliamentary, I do not believe it is. The Minister should not reflect on members in his answers.

**The Hon. GREG PEARCE:** I do agree with the Hon. Walt Secord that his suggestion on Sunday is absolutely absurd.

**The Hon. Walt Secord:** Where were you, Greg?

**The Hon. GREG PEARCE:** I was in the Illawarra, if you want to know. Where were you, Walt?

**The Hon. Walt Secord:** Giving a press conference.

**The Hon. GREG PEARCE:** Exactly.

**The PRESIDENT:** Order! The Minister will ignore interjections.

**The Hon. GREG PEARCE:** It is the case that very occasionally junior journalists—

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

**The Hon. GREG PEARCE:** —and even Labor Government Ministers believe the fiction that he creates. I was referring to the Privacy Commission report because who was caught out? It was John Aquilina, who was then the Minister. I refer members to the Privacy Commissioner's special report to the New South Wales Parliament—

**The Hon. Luke Foley:** Point of order—

**The Hon. GREG PEARCE:** The complaint was against John Aquilina, Walt Secord and Patrick Low.

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

**The Hon. Luke Foley:** First, my point of order goes to relevance. The document that the Minister is referring to is in no way generally relevant to the subject matter of the question.

**The PRESIDENT:** Order! I uphold the point of order. Does the member have a second point?

**The Hon. Luke Foley:** My second point of order is pre-emptive—I predict that the Minister will make personal reflections on the Hon. Walt Secord.

**The PRESIDENT:** Order! The standing orders do not provide for pre-emptive points of order. Does the Minister have anything further to add in the remaining six seconds?

**The Hon. GREG PEARCE:** I have a lot more to add.

## **ROADS INFRASTRUCTURE**

**The Hon. JENNIFER GARDINER:** My question is directed to the Minister for Roads and Ports. Will the Minister update the House on progress in delivering vital road infrastructure across the State?

**The Hon. DUNCAN GAY:** Last week, along with most people in this House and most people in the State, as I watched the Labor soap opera continue to unfold both in Canberra and in New South Wales, it reinforced to me the trustworthy and workmanlike character of our Government. The comparison was stark. No spills or thrills—

**The Hon. Amanda Fazio:** What about your internal one? What about you and Torbay?

**The Hon. DUNCAN GAY:** We cleaned ours up in an hour and a half. Your spill is going to take a lot longer than that to clean up. We are making adult decisions and working hard to get things done. When it comes to roads, we have delivered a record \$10 billion in our first two State budgets, which is pretty good. In fact, over the next four years we are investing \$61.8 billion to deliver the biggest State infrastructure agenda in Australia's history.

**The Hon. Steve Whan:** You have already given this answer.

**The Hon. DUNCAN GAY:** It is so important that we have to talk about it twice.

**The PRESIDENT:** Order! I remind the Hon. Steve Whan that he is on two calls to order.

**The Hon. DUNCAN GAY:** This includes the nation's two largest transport projects—WestConnex and that great project that the Hon. Penny Sharpe supports, the North West Rail Link. In addition, upgrade works worth billions of dollars are full steam ahead on the Pacific, Princes, Great Western and Newell highways, not to mention the M2 upgrade and the widening of the M5 West motorway. In western Sydney we are building the \$55 million Erskine Park Link Road, due for completion this June, to unlock hundreds of hectares of new employment lands. We are upgrading Camden Valley Way and the Narellan and Richmond roads. These developments are a direct result of stable and competent government. Gone are the days of revolving doors for Labor roads Ministers.

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

**The Hon. DUNCAN GAY:** Many of them hardly got their name changed on the paper before they were out. Under Bridges for the Bush, we have committed \$145 million towards upgrading and replacing bridges at 17 key locations across country New South Wales, including a new rail overpass bridge at Kapooka. I am hopeful of talking to Albo the Good on that one. We are getting close to a decision there.

**The Hon. Michael Gallacher:** Albo the lucky.

**The Hon. DUNCAN GAY:** He was lucky, was he not? In the far west of the State we have committed additional funding towards upgrading both the Silver City and Cobb highways. Unfortunately our record roads funding has also corresponded with some record flooding across the State. Droughts can be great for preserving roads whereas wet weather and flooding destroy them, and we have had a fair bit of that. In my first year as roads Minister I distributed more than \$217 million of unbudgeted money to repair flood-damaged roads, with local council roads receiving 85 per cent of that funding. This year the repair bill is forecast to be more than a quarter of a billion dollars. Again, councils will receive the lion's share of this funding. On the road freight policy front, we delivered a new livestock loading scheme allowing New South Wales transport operators, saleyards, abattoirs and producers to compete with neighbouring States and provided long-overdue width concessions and travel exemptions for the transport of wool, hay, straw and cotton bales. [*Time expired.*]

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

**Questions without notice concluded.**

### **PUBLIC INTEREST DISCLOSURES AMENDMENT BILL 2013**

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

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

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

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

**Pursuant to sessional orders debate on committee reports proceeded with.**

### **GENERAL PURPOSE STANDING COMMITTEE NO. 3**

#### **Report: Budget Estimates 2012-2013**

**Debate resumed from 19 March 2013.**

**The Hon. JOHN AJAKA** (Parliamentary Secretary) [5.03 p.m.]: I speak in debate on General Purpose Standing Committee No. 3 report No. 27 entitled "Budget Estimates 2012-2013". Firstly I thank the members of

the secretariat for all their efforts and assistance. I also thank the chair, the Hon. Natasha Maclaren-Jones, and all the members of the committee. How good it was to hear from the Opposition spokesperson for Transport, the Hon. Penny Sharpe, and other members of the Opposition on the budget estimates process. The Hon. Penny Sharpe indicated that she would focus most of her speech on transport. She stated in her speech that there was little for public transport in the budget and that an Abbott-led Federal Government would rip money out of western Sydney. The reality is that those opposite have no credibility on transport; they are just making things up as they go along. The Hon. Penny Sharpe said in *MX* just last Thursday:

After 16 years of [Labor] Government, transport was ultimately a key issue for us where a lot of the public thought we'd let them down.

She went on to say:

It was a case of over-promise and under-deliver ... I think we suffered from that ...

I am pleased to say that I agree wholeheartedly with the member. They did let people down in New South Wales and they definitely overpromised and under-delivered. They made it an art form. In 1998 they promised the North West Rail Link. In 2004 they promised the South West Rail Link. Although the Hon. Penny Sharpe wants to claim that her Government started this project it did not lay one metre of track in seven years. I refer to other promises made by the former Labor Government. It promised the Chatswood to Parramatta rail link in 1998 and could not deliver it—we got half a line at double the announced cost. Then it promised the Rozelle Metro in 2008 and wasted \$500 million when it pulled the pin. There was also the Penrith fast rail link, the Bondi Beach railway, and the Hornsby to Newcastle high-speed rail. None of those was delivered. I know that those opposite are embarrassed enough about their record.

I address the comments made by those opposite about funding. It was said there was little in this project for public transport. For everyone's benefit, I would like to take this opportunity to outline the Government's massive public transport investment. In 2012-13 the New South Wales Government allocated a record \$13.2 billion in funding to transport. More than \$53 billion has been allocated for the first four years of our long-term Transport Master Plan. In the budget we highlighted our commitment to get on with the job of delivering the North West Rail Link and the South West Rail Link, upgrading the Pacific Highway, building light rail in Sydney, spending \$1.8 billion on the new WestConnex motorway and allocating \$145 million for the Bridges for the Bush program to replace and upgrade key bridges on regional roads for local motorists and freight.

It is not just infrastructure that the Government is delivering; we have already delivered more than 3,000 extra weekly services. These include more than 100 new weekly rail services and over 1,000 new weekly bus services, as well as restoring 140 weekly ferry services Labor cut when it was in government, and adding 25 more to the Parramatta River. For the Central Coast and Newcastle we have delivered more than 30,000 extra seats each week on the train line. For western Sydney we have added 35 more weekly peak services, and eight new weekend services for the Blue Mountains. Western Sydney and Blue Mountains residents have also seen 527 new weekly bus services. We have also added 469 new weekly bus services in south-western Sydney.

In the Illawarra the Government has introduced quiet carriages on the Illawarra line, with over 90 per cent of respondents to surveys saying it improved their experience. Funding has been dramatically increased for community transport, which has benefited a large number of providers all over New South Wales, including Kiama Community Transport, Northern Illawarra Neighbour Aid, and Community Transport Wollongong/Shellharbour. I know this will embarrass those opposite again but they have a terrible record for failing to deliver not only on promises but also on services in general. In 2005 Labor cut 416 daily rail services. In 2006 it also cut 1,500 weekly bus services and in 2010 it cut 233 weekly ferry services. And while cutting services it raised fares. Fares went up 59.8 per cent over Labor's 16 years in government while the consumer price index over the same period increased by only 37.1 per cent. Labor removed express services and off-peak services, it slowed down services and it moved the goalposts for on-time running. It also started calling services that skipped one or two stops express services despite the fact that these services were barely faster than all-stop services. Labor made the trains slower than in the 1960s.

I highlight one last point that the Hon. Penny Sharpe's made in debate on the report of General Purpose Standing Committee No. 3. She said that the Minister for Transport had announced the North West Rail Link more than 40 times. I am pleased to inform Opposition members that Labor promised a rail line to the north-west in 1998 but by 2005, when that project was delayed, it had still made no progress. In 2008 that



project was formally axed, re-announced and axed again. In 2010 it was then re-announced. This Government is doing things differently. The North West Rail Link was announced by this Government and it is being delivered by this Government.

**DEPUTY-PRESIDENT (The Hon. Cate Faehrmann):** Order! There is far too much audible conversation in the Chamber. I ask all members to conduct their conversations quietly or outside the Chamber.

**The Hon. JOHN AJAKA:** That is responsible planning and budgeting. Opposition members would do well to learn how this Government is doing business and support it as it delivers better transport for the people of New South Wales. In the time remaining to me I wish to refer to the dissenting statement by the Hon. Penny Sharpe and the Hon. Mick Veitch in which they noted:

To use the Minister for Transport as an example, the answers provided to the committee by the Minister were in many cases:

- flippant
- deliberately omitting detail requested in the question
- a deliberate misinterpretation of the question asked

Clearly that was not the case. The problem with members opposite is that during budget estimates and question time they believe they have the right to ask questions and to insist on the way in which Ministers should answer them. They believe that Ministers should answer questions in the way in which they want them answered, which is nonsense. Ministers are not obliged to answer questions in the way in which Opposition members want them answered and the fact that Opposition members do not like the answers is no reason to complain. If Opposition members are embarrassed and they are not satisfied with the good answers that Ministers have given them at budget estimates, there is no reason for them to demand that Ministers should return. When questions were asked at budget estimates hearings and the Minister for Transport attempted to answer them, Opposition members would continually interject and take points of order and not allow the Minister to answer those questions.

**The Hon. Mick Veitch:** You know I don't interject.

**The Hon. JOHN AJAKA:** The Hon. Mick Veitch is interjecting now. Those members who look at the questions that were asked and the answers that were provided at budget estimates hearings will observe that the Hon. Gladys Berejiklian was frustrated by not being able to answer those questions.

**Dr JOHN KAYE** [5.13 p.m.]: I contribute to debate on report No. 27 of General Purpose Standing Committee No 3 entitled "Budget Estimates 2012-2013" and begin by telling members the tale of two Ministers, the first of whom—the Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council—is sitting in the Chamber.

**The Hon. Dr Peter Phelps:** It was the best of times; it was the worst of times.

**Dr JOHN KAYE:** Indeed, it was the best of times and the worst of times. It was the best of answers and the worst of answers. The best answers came from the Minister for the Hunter, who is sitting at the table and who is doing his best to ignore what I am saying. The Minister will get only one compliment from me. I put it to him that there were issues associated with the expansion of a number of industries in the Hunter and that their expansion was causing major concern—the cumulative impact of projects in a relatively small area such as the Port Waratah proposed coal terminal; the redevelopment of portside land at Mayfield into a container terminal, bulk and liquid cargo precinct; the coal rail infrastructure; a gas export terminal at Kooragang Island; coal seam gas drilling at Fullerton; the expansion of the infamous Orica plant; and the Marstel fuel storage at Mayfield.

On 19 October 2012 the Minister kindly agreed to follow up those matters. He said he would speak to the relevant Ministers and advocate on behalf of Hunter citizens in order to achieve an appropriate outcome. I am still waiting to hear back from the Minister, but at least he listened to the question unlike the Minister for Tourism, Major Events, Hospitality and Racing who avoided every question that was asked of him. The first questions that were put to the Minister related to Mr Brian Ross, a gentleman appointed to the Independent Liquor and Gaming Authority [ILGA]. As members would be aware, Mr Ross is a former chief executive of the Australian Hotels Association so it would be completely inappropriate to appoint such a man as the independent arbiter of liquor and licensing matters. Mr Ross resigned from his position only three days after he was appointed. I asked the Minister who had approached him and requested the appointment of Brian Ross to the Independent Liquor and Gaming Authority but the Minister refused to answer my question.

The Minister said I would find the answer in *Hansard* as that question had been asked in the Legislative Assembly. I said that was not possible as I had read all the answers that had been given in question time in the Legislative Assembly and there was no answer to that effect. I again asked the Minister that question and he eventually admitted that the answer had been given at the previous budget estimates hearings. The Minister was hiding behind a technicality so as not to inform members of the committee who had recommended the appointment of Mr Ross to the Independent Liquor and Gaming Authority. Despite the fact that it was an extremely controversial appointment—in a sense putting the fox in charge of the hen house—and despite the fact that it received considerable air play the Minister was not able to tell me who recommended the appointment of Mr Ross. It was a disappointing outcome but it only got worse.

I then moved to the issue of the integrity auditor for the greyhound racing industry. Members will remember that Mr David Landa was appointed integrity auditor but he resigned on 3 April 2012. He offered to meet with the Minister to explain why he was resigning. In a letter to Mr Souris, which has subsequently become public, it was clear that the Minister was deeply concerned about the fact that the integrity auditor had not been given sufficient independent resources and power to secure integrity in an industry that was fraught with problems.

On 25 May Mr Landa wrote to the Minister and requested a meeting. After quizzing the Minister three times the Minister finally admitted that he had no intention of meeting with Mr Landa. He declined Mr Landa's invitation, said that Eve McGregor, chairperson of Greyhound Racing NSW, would meet with Mr Landa, but that meeting did not eventuate. The Minister would not admit to the fact that the problem did not involve Greyhound Racing NSW so it made no sense for Mr Landa to meet with the chairperson of that body. The Minister is the person who should provide resources and legislative power to an independent probity auditor. The Minister has ducked his duty, he has refused to get involved and he has not stood up for probity in greyhound racing.

The third issue we put to the Minister related to alternatives for the V8 supercar race held at Sydney Olympic Park. I referred him to the Auditor-General's report, which stated that the original awarding of the contract to V8 Supercars Australia was profoundly flawed. The Auditor-General pointed out that there had been no cost-benefit analysis or any consideration of alternatives before the contract was awarded by Ian Macdonald, the Minister responsible. That issue will no doubt be subjected to greater scrutiny. The operators of Eastern Creek International Raceway, now known as Sydney Motorsports Park, were very interested in hosting the event and made it clear that it would be cheaper to hold it at Eastern Creek than at Sydney Olympic Park because the infrastructure at that venue must be erected and dismantled each year. Again, Mr Souris unfortunately ducked the issue. He said that he inherited a contract and that the Government would continue to honour it. He also refused to promise the people of New South Wales that the Ian Macdonald travesty of signing over tens of millions of taxpayers' dollars to V8 Supercars Australia without proper probity and/or examination of the alternatives would not happen again.

The Minister continually ducked the point and then handed over to Ms Chipchase and Mr Patterson, the relevant departmental heads, neither of whom was able to provide an undertaking that alternatives would be examined. It looks as though New South Wales is about to go down the same catastrophic path taken by the Labor Government and that taxpayers' money will be handed out for an event being held in a completely inappropriate location. If there is to be a V8 supercar event it should be held at a permanent venue. Of course, the most appropriate venue is Sydney Motorsports Park.

**The Hon. Robert Brown:** It is a motorbike raceway.

**Dr JOHN KAYE:** It is, but it is also used for stock car racing. The operators have said that for a relatively small sum the raceway could be converted to accommodate V8 supercar races. That is in the best interests of not only Sydney Olympic Park residents, who have long campaigned to move the race, but also the people of New South Wales because it would cost less and therefore be a better use of public funds. [*Time expired.*]

**The Hon. SCOT MacDONALD** [5.23 p.m.]: I was not a member of General Purpose Standing Committee No. 3, but I will respond to some of the comments made by members of the committee and take the opportunity to congratulate the chair, who obviously ran the hearings well. Members opposite made some silly comments and demonstrated a deep lack of understanding of the portfolios being examined, particularly the Trade and Investment, Regional Infrastructure and Services portfolio. One member criticised the Deputy Premier for going to a Chinese restaurant when he was in China.

**The Hon. Steve Whan:** No, it was in the United States.

**The Hon. SCOT MacDONALD:** I wrote down the comment and the member said the restaurant was in China. Perhaps their knowledge of geography or their culture is lacking. Comments like that fill me with wonder. The Hon. Mick Veitch criticised the fact that the Government had allocated 1,300 regional relocation grants. Either he or the Hon. Steve Whan said that the grants related to coastal or sea change jobs. Was the member denigrating the coastal communities of regional New South Wales? We were not talking about the Hunter or the Illawarra; we were talking about places such as Lismore, the Tweed and so on. We must explain everything to this weak Opposition that does not understand that regional New South Wales is not only to the west of the Great Dividing Range but also includes important communities up and down the coast.

Members also criticised the Government's plans for infrastructure, including the upgrade of the Orange airport. That also makes me wonder because that project will support important economic activity, including mining developments. They also criticised the Resources for Regions program and said that only \$9.6 million of the \$160 million that the Government committed had been delivered. The difference between this Government and the former Government is that when we spend money we do so following a process and with probity. Unlike the former Government, which announced projects and then threw money around, this Government spends money wisely. I would prefer to have a government that exercised caution rather than one that lost \$500 million in the blink of an eye on an ill-thought out metro. That comment was—

**The Hon. Robert Brown:** Breathtaking.

**The Hon. SCOT MacDONALD:** Yes, it was breathtaking. Members also criticised the Strategic Regional Land Use Policy, which took 18 months to develop in the absence of any existing policy. The Labor Government yet again took a brown-paper-bag approach to resources and coal seam gas, which is now being played out in the Independent Commission Against Corruption. The Strategic Regional Land Use Policy will serve the State well and it is still evolving. It will deliver the balance that we need between agriculture and the extraction of natural resources. Members opposite also criticised the Decade of Decentralisation. Again, those criticisms had no substance. They have been political point scoring rather than addressing the committee's report, which I commend to the House.

**The Hon. MATTHEW MASON-COX** (Parliamentary Secretary) [5.28 p.m.]: It is a pleasure to address the House on General Purpose Standing Committee No. 3 report No. 27 entitled "Budget Estimates 2012-2013". While I was not a member of the committee, it dealt with an area in which I have had a longstanding interest as a member representing country New South Wales and having served on General Purpose Standing Committee No. 4 in the last Parliament, which dealt with the Transport portfolio. The chair of the committee was unavailable during some of the hearings, but was ably supported by the Hon. Niall Blair, who performed admirably in maintaining the chair's high standards.

The committee dealt with a wide range of issues, but I will focus on the Trade and Investment, Regional Infrastructure and Services portfolio and the Transport and Roads and Ports portfolios. It is instructive to peruse the long list of areas that members covered during the hearings. They included regional relocation grants and the Government's excellent efforts to secure defence contracts for New South Wales. As the Hon. Scot MacDonald said, mention was also made of the Orange airport upgrade. Members asked questions about investments in regional infrastructure, the Resources for Regions program, which is in its embryonic stage, the contribution to the economy made by agriculture, the Strategic Regional Land Use Policy, the Decade of Decentralisation and so on. That is a demonstration of the large amount of the important work being done by this reformist O'Farrell-Stoner Government.

As a member from regional New South Wales, I confirm that much has been delivered. But more still needs to be done. The committee noted that the uptake of regional relocation grants showed significant room for improvement, and I encourage members of the public to relocate to regional New South Wales. I note also the advertising campaign that continues to promote regional New South Wales and the wonderful lifestyle to be enjoyed in the regions.

I inform the House of a trip I made to Albury for Murray Now, which is a wonderful promotional activity conducted by Regional Development Australia—Murray to attract people to the Murray region. Members will be aware that this beautiful region of New South Wales has a wide range of industries and a magnificent lifestyle. Regional Development Australia—Murray developed a prospectus to articulate its vision for the area and to identify the industries and businesses that are active there as a means to attract employers and

employees from Sydney and other metropolitan areas to the region, which is looking to grow ever stronger. This wonderful innovative approach uses the regional relocation grants and other industry incentives from government to draw people into the Murray region and is a model that could be used throughout New South Wales.

We must continually improve the opportunities and attractions for people to move from metropolitan areas to the regions. In that regard, it is worth noting the Government's Decade of Decentralisation Committee, which has undertaken extensive visits across regional New South Wales to assess what measures the Government can take. We must remember that these initiatives are works in progress. One does not simply set a regional development policy in concrete; one must continually revisit the policy, update it and ensure that it continues to focus on delivering results in regional New South Wales. The Government will continue those necessary tasks to ensure that regional New South Wales continues to prosper.

I note references in the inquiry to the Transport portfolio. One need only read the report to see the Government's successes in this important area. A lot of the planning work has already been done on the North West Rail Link. I know that you, Madam Deputy-President, take an avid interest in transport matters and would be aware of that work. I note also the work undertaken on light rail and the excellent announcements about community transport that have been very well received, particularly in rural and regional areas. I note the work on the South West Rail Link and a whole range of road and transport initiatives that have been addressed by the Government—including electronic ticketing—that were handled poorly by the previous Labor Government. I am proud to be a member of a reformist Government in New South Wales that is willing to make the hard decisions to ensure that we put together a timetable that can deliver these significant projects well into the next term.

I reflect also on the portfolio of Roads and Ports. A range of areas was examined during the hearings, including that old chestnut: the progress of the Pacific Highway upgrade and funding contributions from the State and Commonwealth governments. This has been a long-running saga, and members would be aware that time and again in this House the Minister for Roads and Ports has highlighted the importance of the Commonwealth committing to the 80 per cent funding that was the benchmark under the previous Government. Sadly, we have not seen that happen. We continue to wait for that commitment from the Commonwealth Government, but after the last week's fiasco we need a Federal election so that we can elect a responsible, mature government that is willing to commit to some of these projects and address problems that have long been ignored by Federal Labor.

Other projects in the Roads and Ports portfolio are the proposed privatisation of Port Kembla, the proposed lease of Port Botany—both important projects that will improve the efficiency of those gateway ports to New South Wales—and the BHP steelworks project at Newcastle. These exciting developments illustrate this Government's commitment to ensuring that the economic development of this State continues unabated. The report is extensive and is a credit to the committee. I was disappointed with the dissenting report of two committee members. It is an unusual dissenting report. The Hon. Penny Sharpe and the Hon. Mick Veitch suggest that Ministers were flippant, did not take the process seriously, and deliberately omitted details and misinterpreted questions.

If I may be so bold, I suggest that that is leading with one's chin. I sat through estimates hearings for four years under the previous Government and the manner in which Labor dealt with a range of very serious issues was disgraceful. I do not believe for one moment that the Minister for Transport or any Minister of the Crown in this Government would treat any of the issues mentioned by members in anything but the most serious and respectful manner. I find those comments a little rich, to say the least. I commend the secretariat and committee members for their fine report.

**The Hon. NATASHA MACLAREN-JONES** [5.38 p.m.], in reply: I begin by thanking all members for their contributions to the debate. I note that a number of members have spoken—some were members of the committee, some were substitute members and others have just chosen to speak. This reflects the content of budget estimates and the vast range of topics that are covered. I do not want to dwell on comments made by members opposite but I find it interesting that they complain about the length of time allocated for questions and that Ministers do not give enough detail but then complain that Ministers spend too long answering questions. As those opposite would be fully aware, time is allocated equally. That practice is followed in this Chamber and also during Senate estimates hearings. It gives every member an equal opportunity and it is up to members to organise themselves appropriately to ensure that enough questions are asked. Committee members can also place questions on notice.

In reply I will comment on a number of issues raised during budget estimates that I was unable to cover earlier—in particular, I refer to the valuable role of Destination NSW. I note that the Arts portfolio received \$377 million in the budget, with the Government sponsoring a number of key events, exhibitions and festivals, including Vivid Sydney. I note that the Hon. Sarah Mitchell has commented already on Vivid Sydney so I shall not spend too much time focusing on it. However, I note that Vivid Sydney is now in its fourth year and has been growing steadily, with more than 100,000 additional attendees a year. It is now the largest annual festival of its kind in the Southern Hemisphere, with more than 500,000 people attending last year alone and injecting more than \$10 million into our State's economy. Vivid LIVE 2013 at the Sydney Opera House featured 29 events. It attracted more than 32,000 people to 26 ticketed events over 10 days and generated \$2.4 million in gross box office sales. Vivid Sydney has become an international success story, which continues to reinforce Sydney's position as Australia's global tourism and events city.

The Government has allocated \$125 million in tourism funding per year for the next four years to Destination NSW—a budget boost of \$167 million over four years. This funding will form the cornerstone of the Government's strategy to double overnight visitor expenditure by 2020 and will give the tourism industry the confidence to plan ahead. We are serious about getting on with the job of promoting New South Wales to the rest of the world and over the past year the Destination NSW events calendar has played a major role in driving New South Wales as the nation's leading State for tourism events. Destination NSW has secured major sporting events, including the Bledisloe Cup from 2012 to 2021, the 2014 FIFA World Cup qualifiers, the 2013 British and Irish Lions Tour, the Tabcorp Inter Dominion Championships from 2013 to 2015 and the Sydney International Rowing Regatta in 2013 and 2014.

New South Wales has also been put on the world map as a premier musical and exhibition destination. It is estimated that a six-month run of a successful stage production contributes about \$20 million to the State's economy. Destination NSW has successfully secured new musicals, including *An Officer and a Gentleman*, *Strictly Ballroom*, *Legally Blonde*, *The Addams Family* musical and *The Lion King*. It has also secured the Harry Potter exhibition at the Powerhouse Museum—

**The Hon. Steve Whan:** That was good. I enjoyed that.

**The Hon. Robert Brown:** Hear, hear!

**The Hon. NATASHA MACLAREN-JONES:** I note the interjections; it was a very good exhibition. The Picasso exhibition at the Art Gallery of New South Wales was also secured—another very good exhibition that I had the pleasure of attending. New South Wales is performing well in business events. In the 2011-12 financial year we secured 103 business events worth about \$225.6 million to the New South Wales economy—a 21 per cent increase. Last year the Minister announced an injection of \$211 million for an additional 59 business events to take place in Sydney this financial year.

In the 2011-12 financial year Business Events Sydney had a record expansion into the Asian market. It secured a total of 33 events, with an estimated economic impact of \$91 million, and it is estimated that 19,000 corporate clients will travel from that region in coming years. Opportunities for the business events sector in Asia continue to grow, as does Business Events Sydney's success in this market. The Government is also exploring opportunities in south Asia and north Asia. Some of the successful events secured include the Perfect China Leadership Seminar 2013, with 3,500 delegates, which is worth an estimated \$20.9 million; the IUCN World Parks Congress 2014, with 3,000 delegates, which is worth an estimated \$23.6 million; and the International Society for Organ Donation and Procurement 12th Congress 2013, with 400 delegates, which is worth an estimated \$1.5 million.

New South Wales has outstanding cultural institutions and \$310 million in funding has been allocated to support them. Some \$57 million has been allocated to the 2013 arts funding program of Arts NSW, which will allow it to continue to support a wide range of projects around the State. This program, which plays a crucial role in ensuring that our State continues to be the creative hub of Australia, extends artistic opportunities to individuals and arts organisations for a vast array of programs and projects in metropolitan, regional and rural New South Wales. Recipients of this funding program include leading performing arts companies, regional galleries and museums, arts festivals, community arts groups, schools, and regional music conservatoriums. In conclusion, I too look forward to this year's budget estimate hearings and to the numerous contributions by members to next year's report. I commend the report to the House.

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

**GENERAL PURPOSE STANDING COMMITTEE NO. 4****Report: Budget Estimates 2012-2013****Debate resumed from 12 March 2013.**

**The Hon. SARAH MITCHELL** [5.44 p.m.]: When this take-note debate was interrupted on 12 March I was speaking about the reforms introduced by the Attorney General, and Minister for Justice. One of the most significant legislative reforms was the amendment of the Crimes Act 1900, which provides that when a person intentionally murders a police officer on duty that person is to be sentenced to life in prison without release on parole. The Attorney General spoke about this in great detail. The committee was also told about yet another important reform to help clean up Sydney's streets. The amendment to the Law Enforcement (Powers and Responsibilities) Act 2002 was introduced to allow police officers to issue move-on directions to intoxicated individuals. In the past officers were restricted in their duties and they were allowed only to give directions to groups of three or more. An offence for intoxicated or disorderly conduct was also introduced. The Government is serious about cleaning up our streets. We will not tolerate loutish or drunken behaviour—and that was made very clear in the committee's hearings.

Similarly, we saw a spate of shootings in Sydney and the Government acted swiftly to curb these criminal and violent actions. The Government amended the Crimes Act 1900 to create new offences relating to organised criminal groups. It has introduced penalties of up to 16 years imprisonment for offences relating to shooting at homes by organised criminals. The Graffiti Legislation Amendment Act 2012 was also passed. It will not only require young people charged with graffiti offences to appear before a court but also strengthen the consequences of such activity. The new graffiti hotline was created to report and coordinate the removal of graffiti in our State. Rotary Down Under was the successful tenderer for the project. Rotary Down Under should be acknowledged for its tireless efforts in helping to make this important initiative a reality and for doing its part in helping to eradicate graffiti in New South Wales.

The committee also heard about the Government's work in passing the Identification Legislation Amendment Act 2011, which will confer powers upon police and other authorised officers to require a person to remove a face covering for the purposes of identification. In conjunction with this legislation, the Oaths Act 1900 now requires an authorised witness to identify a person making a statutory declaration or affidavit. This confidence measure will ensure that those issuing declarations or affidavits can identify the person signing a document. The committee also took particular interest in the different modes of sentencing and court-based programs that the Government has backed. In addition to Lismore, Ballina, Casino and Kyogle, areas such as Cessnock, Dungog, East Maitland, Forster, Gloucester, Kempsey, Kurri Kurri, Maitland, Murrurundi, Muswellbrook, Port Macquarie, Scone, Singleton, Taree and Wauchope will now have forum sentencing, which is an important option in the rehabilitation process. This type of sentence brings the offender, their victim and/or victims and other people affected by a particular crime to a forum to discuss firsthand the various consequences of a crime and to help reduce the offender's chances of reoffending.

The Government also expanded circle sentencing to Blacktown and commenced the program at Lismore. Circle sentencing directly involves local Aboriginal people in the process of sentencing offenders to make it a more meaningful experience and to improve the confidence of Aboriginal people in the judicial system. Such sentencing procedures are taken out of the traditional court settings and relocated to the community, where the magistrate and members sit in a circle to discuss the offence. This reconciliation program not only focuses on understanding the crime but also allows community input in the operations of the justice system. I once again thank the committee secretariat and all involved in the budget estimates hearings on behalf of General Purpose Standing Committee No. 4. I commend the report to the House.

**The Hon. STEVE WHAN** [5.49 p.m.]: I participated in budget estimates hearings for the Police and Emergency Services portfolio. Today I will focus my comments on Emergency Services and if time permits I will briefly mention Police. There was substantial discussion and many questions asked about Emergency Services funding, and I assume this important issue will come to a head when the Government responds to the comments that have been made about its discussion paper on Emergency Services funding. I asked the Government a number of questions about this, and the responses were not reassuring. Later I will refer to overall funding for Emergency Services, but I will start with the funding model. We know from previous discussions in this place and the discussion during estimates hearings that the new model the Government appears to favour—moving to a property-based model for emergency services funding—is strongly opposed by the Rural Fire Service Association, and for good reason. The association believes it will not have the funding guarantee it has had in the past, and that the new model is less equitable than the existing model.

In the estimates hearings I asked the Minister a number of questions about the modelling undertaken by the Government that indicated the impacts of a change to emergency services funding. At the time the Minister was unable to answer the question about who had undertaken the modelling for the analysis of the emergency services funding model proposed by the Government. During the hearings I quoted modelling undertaken by Deloitte on behalf of the Insurance Council of Australia, "Property based funding options for the NSW Fire Services Levy", dated 7 June 2011. That modelling, which was funded by the Insurance Council, showed in part that residents in rural New South Wales were likely to be worse off under a property-based model, particularly rural farming residents on agricultural properties. That is because a property-based levy would favour organisations that pay more through existing insurance-based levies but it would disadvantage people with large areas of land.

As most of us know, New South Wales rates are based on unimproved property values, unimproved values of land. By definition, that means basing an emergency services levy on what will disadvantage people with large areas of land or areas of land that have one residence occupied by a retiree, as opposed to a person with three or four units on an equally valued property next door or down the road. People with three or four units would be advantaged by that system and the person with the single residence would be disadvantaged. I asked the Minister about the modelling because I wanted to know whether the Government had undertaken modelling independent of the modelling undertaken by the Insurance Council. The Minister took that question on notice. I received this answer on notice:

I am advised:

Deloitte Access Economics carried out modelling to analyse the impacts of changing the system for funding NSW fire and emergency services. This modelling underpinned the analysis in the Discussion Paper.

That is exactly the same modelling paid for by the Insurance Council, which has been used to underpin the Government's discussion paper. As I have mentioned in this place previously, that discussion paper is extremely biased, inaccurate in places and puts forward an option for the people of New South Wales that will potentially disadvantage people in rural and regional areas, particularly farmers. I thought representatives of rural New South Wales in this place would express a lot more concern about that, rather than continue blithely on their way to change the funding model.

The Volunteer Fire Fighters Association [VFFA] is often quoted as being in support of a change to the funding model. I read the association's analysis of the issue in its newsletter, where it quoted the Western Australian model as a successful example of a property-based system. What the Volunteer Fire Fighters Association did not understand is that in Western Australia rates are based on improved property values, so they are based on the value of the land and the buildings on it. It is a completely different rating basis. Unfortunately, the Volunteer Fire Fighters Association did not acknowledge that in the article and seems to misunderstand that basis. I understand that Victoria has been moving towards a new model, but that is not a reason for New South Wales to move to a model that is less fair than the current model, and which does not necessarily transfer to motor vehicle owners the extremely high cost of emergency services responding to motor vehicle accidents. That remains a concern to me and to the Rural Fire Service Association.

I turn now to overall funding for the Rural Fire Service. In the estimates hearings we had a number of questions about overall funding for the Rural Fire Service and the effect of cuts to that funding. During the bushfires earlier this year we had the odd case of the Minister and the Premier suggesting that the Auditor-General was wrong and that there had not been any cuts to Rural Fire Service funding—that only the treatment of the funding had changed. The evidence given during estimates proves that that was completely disingenuous and misleading. In answer to questions on notice about voluntary redundancy, Commissioner Fitzsimmons said that he was targeting \$11.7 million in savings over a four-year budget period. The Rural Fire Service Association, in its newsletter, has bemoaned the cuts to funding for the Rural Fire Service and is particularly concerned about the lower number of tankers and Rural Fire Service sheds and control centres.

We have seen the Auditor-General's figures, which show that for the first time in many years fewer than 200 new tankers were rolled out last year—it was about 180. For most of the past decade 200 new tankers have been rolled out each year. That is a significant reduction in the new equipment being rolled out. The commissioner, in an email he sent to staff about voluntary redundancies, was at pains to tell people that, "this was an unprecedented situation faced by the Rural Fire Service to have to make these savings". It is true to say that when Labor was in government the Rural Fire Service had to meet efficiency dividends. The difference was that various Ministers, including me, had an agreement with Treasury that efficiency dividends from the Rural Fire Service would be redirected back into the Rural Fire Service budget, not handed over to Treasury. This

Government is making the Rural Fire Service hand over to Treasury the savings that it is obliged to make, which will lead to a real reduction in support for volunteers in New South Wales. My final point about the Rural Fire Service is that I understand that things such as the Region South Exercises will not take place this year because funding cuts are impacting on training throughout the service.

I turn now to Police. There was quite a bit of discussion about the police in the estimates hearings. I compliment the committee staff on the way they handled a difficult situation in terms of working out what could and could not be discussed during questioning about Strike Force Emblems. The committee staff handled that difficult situation very well. As for the Police budget, once again the Minister has been big on rolling out the spin on police numbers. A core question that needs to be answered by the Government over time is: How will New South Wales fare when it comes to the proportion of police per 100,000 people, which is the way we measure New South Wales against the other States? If my calculations are correct, the number of police per 100,000 people in this State will drop over the next couple of years. Indeed, the current police numbers per 100,000 people are lower than when the Liberal-Nationals Government came to office and lower than the national average. For all the rhetoric from the Minister, and for all the theatrics we saw in question time today, the reality is that the number of police will not keep up with increasing demand and the increasing population of New South Wales, and the Government needs to address that issue.

**The Hon. LYNDA VOLTZ** [5.59 p.m.]: I refer again to the way in which information is obtained within the committee. Committees of this Parliament should be able to hold departments and Ministers to account. That is the intention of the committee process. An issue came up in General Purpose Standing Committee No. 4 where a member was quite rightly asking a question of the Minister and the Minister stated, in relation to Strike Force Emblems, that these matters could not be dealt with or arbitrated by the committee. The committee asked for further legal advice, as legal advice had been provided to the committee in regard to this issue.

The legal advice that came back to General Purpose Standing Committee No. 4 was, "Would a person who is bound by the secrecy provisions of section 80 of the Crime Commission Act 2012 or section 56 of the Police Integrity Commission Act, or any relevant provisions that go to confidentiality in the Police Act 1990, be in breach of those provisions if that person disclosed information to a committee of the Legislative Council in answer to questioning by that committee?" The answer is clearly, "No, they would not be in breach of the Act." The committee discussed getting legal advice before it dealt with the issue of recalling so that members could ask the questions they had originally intended to put.

The Government used its numbers within that committee to not recall the person after legal advice had been sought by the committee. However, it was clear that committee members were well within their rights to be asking those questions. That is not being transparent with this House. The member asked the Minister questions and asked the person from the department questions, and had a right to expect an answer. Further legal advice was sought, and still the committee would not allow the member to ask the question. I hope that in the future members on the other side, when questions such as this arise in committees and they are given a clear indication that there is a legal right for a member to ask the questions, decide that members still cannot ask the questions that they were quite within their rights to put.

**The Hon. SARAH MITCHELL** [6.02 p.m.], in reply: I thank the members who have contributed to this debate: the Hon. Steve Whan and the Hon. Lynda Voltz. I am sure other members might have missed the opportunity to contribute, but that is their fault. It was remiss of me in my earlier remarks not to comment on some of the information that the committee received in relation to what is happening with Corrective Services NSW. I shall briefly touch on two areas in my summation. The first is the Intensive Drug and Alcohol Treatment Program that is underway at John Morony Correctional Centre and Dillwynia Correctional Centre. The committee heard about this as a major initiative of the Government aiming to provide a new approach to alcohol and drug treatment.

Corrective Services NSW data indicates that more than 4,500 inmates across New South Wales are identified as requiring medium to high level intervention to address addiction problems. The partnership between Corrective Services NSW, Justice Health and the Forensic Mental Health Network provides a full-time custody-based therapeutic centre to help offenders in their fight against addiction. Offenders subject to the program will be supported in their transition back to the community and will be offered a resettlement phase. The Attorney General informed the committee that the first 20 participants in this program graduated in September last year—certainly a noteworthy achievement. The Government plans to have 298 beds by the time the program is fully implemented.



Another significant reform for the Government in the Corrective Services space is Corrective Service Industries [CSI]. This program is aimed at providing meaningful work, basic education and vocational training to inmates so that upon release they have an increased chance of gaining employment. The Corrective Service Industries program has a total of 50 service industries in 25 correctional centres, providing meaningful work for 2,415 inmates. Similarly, the commercial division caters for around 3,400 inmates. The Corrective Service Industries program provides training and qualifications to inmates in areas such as customer service, occupational health and safety, logistics and warehousing, forklift operations and quality management systems, to name a few. Corrective Service Industries is a vital program and the Government continues to support its development.

In conclusion, I thank all of the committee members who participated in the hearings—the regular members of General Purpose Standing Committee No. 4 and those who participated in its various estimates hearings. I acknowledge the Ministers and departmental staff for their participation. As always, I thank the committee staff and Hansard for their valuable support throughout the process.

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

### **GENERAL PURPOSE STANDING COMMITTEE NO. 5**

#### **Report: Budget Estimates 2012-2013**

**Debate resumed from 19 February 2013.**

**The Hon. ROBERT BROWN** [6.05 p.m.]: I am pleased to speak in debate on budget estimates hearings conducted by General Purpose Standing Committee No. 5 on 8, 11 and 12 October 2012. I thank the committee secretariat, in particular Madeleine and Rhia, with whom I deal on a regular basis, for their assistance to the inquiry process. I thank the committee members and other members who attended the hearings for their cooperation in the conduct of those hearings. I thank all the Ministers and their departmental staff for their attendance and the information they provided at the hearings. Most committee chairs go on record to thank Hansard. General Purpose Standing Committee No. 5 conducts a lot of hearings all over the State, which means Hansard staff are dragged all over the State. They do no less a job in budget estimate hearings, which are held in Sydney, than they do elsewhere in the State, and I thank them very much.

General Purpose Standing Committee No. 5 is a good, cooperative committee. I am not sure whether it was General Purpose Standing Committee No. 5 under the chairmanship of the Hon. Ian Cohen that started the process whereby government members are happy to allow their questions to go unasked to give the Opposition and crossbench members more time, but that certainly helps the committee to try to get some relevant answers. It is hard enough sometimes to get answers out of some Ministers, but when we have little time in which to do so it is made doubly hard.

General Purpose Standing Committee No. 5 has a reputation for stability and cooperative hearings. During budget estimates the committee held five hearings and examined the portfolio areas of the Environment, Heritage, Primary Industries, Small Business, Local Government, the North Coast, Fair Trading, Resources and Energy, Special Minister of State and the Central Coast. Committees, by their very nature, sometimes provide for robust debate and questioning. I believe that nobody takes too much personally when appearing before such hearings, particularly the more experienced Ministers.

I wish to briefly note some of the portfolios that the committee inquired into, which were broad-ranging. In the examination of Local Government and the North Coast we looked at a number of issues. Of particular interest were the questions and answers on pecuniary interests of local government councillors. When dealing with the North Coast, those dreaded local environmental plans with environmental overlays were the subject of some close questioning. In relation to Fair Trading, the committee covered issues such as strata and community title reform, including the strata scheme discussion paper, residential parks and nursing home contracts—those contracts have been the subject of some recent evening television media—and strategies to combat travelling conmen and scammers.

In relation to Resources and Energy, Special Minister of State and the Central Coast, the hot topic was coal seam gas, mining licence renewals, the Boggabri and Fullerton Cove mining protests, and energy supply

reliability. I believe there may be more to come on energy supply reliability in the near future. Issues were raised during the committee's examination of the Central Coast regional transport master plan, and The Landing development project in particular was pursued vigorously by the Opposition and the crossbench.

Generally speaking, the issues were canvassed adequately. The committee did not seek to call Ministers back for supplementary questions. That could have had something to do with the fact that Government members decided to forgo their time for questions, thus allowing the Opposition and crossbenchers a little more time. On behalf of the committee, I thank the Ministers and their departmental staff who assisted the committee during these hearings. I am grateful to my fellow committee members and the secretariat staff for their diligent support during the inquiry. I will leave the detailed discussions on some of the questions and answers to other members to flesh out, and I am sure they will have plenty to say. I commend the report to the House.

**The Hon. STEVE WHAN** [6.11 p.m.]: I will focus primarily on the Primary Industries portfolio in my comments on the hearings. Despite having more time for questions this year than in the previous year, when the process was quite appalling, we still were unable to get answers to some key questions in a portfolio that is undergoing incredible change. There are massive cuts to funding amounting to \$30 million, and huge job cuts and job losses. At the same time the Local Land Services have been created. Anybody who takes a moment to read the responses to questions on notice during the hearings will see just how hopeless the Minister was at answering them throughout the process. Her responses went to great lengths to avoid answering in any detail.

During the hearings on the Primary Industries portfolio we were unable to get the Minister to tell us how many jobs would go in her department. She was unable to say how biosecurity would be funded under the new Local Land Services model. We asked on a number of occasions because in the announcement of the Local Land Services model it left discussion on how it would be funded to consultation. The Minister made it clear that areas of New South Wales would be able to opt out of cross-subsidising other areas when it came to biosecurity funds. There were some legitimate questions about how locust plagues would be funded in future. We could not get answers on that so we do not know whether there will be cross-subsidy arrangements in place to combat locust plagues or whether this Government will simply expect those areas directly affected by locust plagues to pay the cost, which can be tens of millions of dollars.

The Minister was not able to say who would be eligible to vote in the Local Land Services model. We asked about the closure of the Cronulla Fisheries Research Centre and sought to find out whether the Minister went onto the site and had a look and the date that she visited. The only answer we got to the question on notice was that the Minister visited outside working hours on a weekend. She did not say whether she went onto the site and inspected it or whether she just drove past. I asked a question about the Livestock Health and Pest Authorities review and how many submissions to the Ryan review into the authorities suggested amalgamation, which is what the Minister has gone ahead with. The response did not answer the question, so I have to take that to mean that none advocated the model that the Minister is proposing now.

**The Hon. Matthew Mason-Cox:** What was the answer?

**The Hon. STEVE WHAN:** The answer talked about how numerous submissions suggested that there needed to be change. That does not mean change to amalgamation. The amalgamation of the Livestock Health and Pest Authorities with the catchment management authorities is causing great problems with services on the ground and for the objectives of these organisations. Catchment management authorities' objectives and those of Livestock Health and Pest Authorities are quite different. The catchment management authorities have a very important environmental objective in catchment management which will not always be consistent with the objectives of Livestock Health and Pest Authorities. Their functions are being rolled into those that have been carried out by extension officers, which we also asked questions about. It is causing considerable problems.

We now know from information coming out of the department that there are likely to be 28 communities around New South Wales that will lose experienced extension officers. District agronomists are leaving in various areas around the State. They have already gone, because of the uncertainty, in areas such as Casino, Cooma, Cowra, Deniliquin, Finley, Forbes, Glen Innes, Goulburn, Griffith—two have gone there—Hay, Inverell, Moree West, Narrabri, Nyngan, Orange, Scone, West Wyalong, which is currently vacant and will not be filled, and Young. We have heard a lot in this place from the Hon. Mick Veitch about Paul Parker, who has been treated appallingly by the department as part of this process.

We know district agronomists are going in Berry, Coonabarabran, Coonamble, Grafton, Griffith—that is the third—Lockhart, Tumut and Yanco. These people have many years experience. In most cases they have

spent their entire careers in the department and often they have tertiary qualifications. They are very highly qualified specialists and under the model put forward by the Minister, which she was unable to answer questions about at estimates, they will be replaced with generalist positions requiring lower levels of qualifications in the new Local Land Services model. Their role essentially will be to facilitate access to services. What that means in the real world is that they will say people can buy services at X point. Often those services will be coming from organisations that have particular products that they are promoting. We are losing the great history in this State of extension officers being located in communities around the State, which was expanded by Labor in the 1940s. It really is an appalling situation.

It is doubly appalling that the people in this place who are supposed to be the defenders of these jobs—members such as the Hon. Rick Colless—have not said a word on the record to express concern at what is going on in the Department of Primary Industries. What a sell-out that is of the people of country New South Wales.

**The Hon. Dr Peter Phelps:** Did you tell Rick you were going to attack him?

**The Hon. STEVE WHAN:** I am giving him the same notice that he gave me the other night. We have heard a lot of comments about other matters by people like the Hon. Rick Colless but he has said nothing at all in defence of people like Paul Parker and all his former colleagues, many of whom he would have worked with when he was at the Department of Primary Industries. I asked the Minister about the Murray-Darling Basin Authority funding. She did not give us the further information that she would be introducing a 70 per cent cut in funding for the authority, which the Government says is because it is not happy with where the authority has been spending the funds. Let us be clear about this. That funding goes towards maintenance of vital infrastructure along the river system.

I refer to infrastructure such as the Hume Weir. We all remember that in the 1990s a lot of money had to be spent on the weir because it was moving. Salt interception schemes down the river are funded out of that State Government money. For the Government to make a 70 per cent cut to funding without first negotiating with the Murray-Darling Basin Authority and saying it wants to be sure about the authority's use of government funds, endangers communities along the Murray River and maintenance of the assets and schemes that are very important for primary producers in New South Wales.

The Minister was not able to give us any information. After pressing this matter we finally got an answer from the department about native fish schemes, which suggested that the scheme was winding up and had concluded its work. I understand that may have been the case for that particular part of the scheme, but it is not the case that work on research into native fish along the Murray-Darling has finished and should stop. Funding should continue to be allocated to that area and it is disappointing that it is being wound up by the Government. It is even more disappointing that the remainder of the 70 per cent funding cut for the Murray-Darling Basin Authority will affect maintenance and infrastructure.

The Minister's performance was shown to be lacking in many areas of the portfolio. There has been poor planning in the creation of the Local Land Services. Announcements have been made that funding cuts will come first. We witnessed the debacle of the closure of the Cronulla Fisheries Research Centre. The discussion paper on the future of the Snowy Scientific Committee could have been written in an hour, but it took two years. That critical committee is again being decimated by the Government. Inadequate performance from this Minister was once again demonstrated in budget estimates last year.

**The Hon. JEREMY BUCKINGHAM** [6.21 p.m.]: This evening I speak on the budget estimates report of General Purpose Standing Committee No 5. It is disappointing to grill a Minister and to discover her so lacking. It was easy to reel in the Minister. I asked her questions regarding the impact of the carbon price on small business. She waxed lyrical about how it would decimate tens of thousands of jobs, that it would lead to redundancies across the State, that it would send thousands of businesses to the wall, that it was all—

**The Hon. Dr Peter Phelps:** Doom and gloom.

**The Hon. JEREMY BUCKINGHAM:** Yes, doom and gloom. She said that it had all been brought about by the carbon price, which we have all forgotten about—the Hon. Dr Peter Phelps does not mention it any more. I asked the Minister what she was doing to assist small business to deal with the carbon price and she could not list a single thing. It was the biggest threat to small business in the history of New South Wales, it was going to cause job losses in the tens of thousands—such as the Whyalla wipe-out and the Wollongong wipe-out—yet the Minister did not mention one strategy or one program; it was all rhetoric and bluster. A year

later, where is the carbon price assistance or rescue package from the Government? It is not needed because it was a scare campaign. The Government's scare campaign fizzled and had no substance, which was illustrated by the Minister.

As much as it pains me to do so, I concur with the Hon. Steve Whan regarding the Government's rollout of the Local Land Service, which is a principle that is broadly supported to unify the service delivery. We are starting to see the wheels fall off its implementation. Now we understand why Landcare is concerned that its funding will be cut. The Government is unaware of it. People in the community are concerned and worried about the "browning down" of those services. The regional boards are stacked with landholders. It would be a backward step for members of the community who are not large landholders and not on a rural rates base to be excluded from representation. We have seen the Government attacking boards across the State and removing environmentalists.

**The Hon. Dr Peter Phelps:** Hear, hear!

**The Hon. JEREMY BUCKINGHAM:** The catchment management authorities have been a success of the former Labor administration. They delivered a lot of good outcomes in respect of biodiversity, soil conservation and habitat restoration. The Minister has clearly failed to outline how the boards will be established and operational by January 2014. Once again, it is all about a glossy brochure with these guys and not about delivery, which reminds me of a former government. The Minister did not show confidence. The most interesting contribution that illustrated where the Government is going was by the Hon. Chris Hartcher, the Minister for Resources and Energy, who refused—

**The Hon. Scot MacDonald:** I almost felt sorry for you, Jeremy.

**The Hon. JEREMY BUCKINGHAM:** As I was saying, the Hon. Chris Hartcher refused to admit whether he had been to lunch with Mr Santo Santoro. Some may think that the hearing was a mud-slinging match and that it was inappropriate for me to ask those questions, but the Minister was very uncomfortable about it all. It raises a valid point: This Government does not have a contact register for lobbyists in the resources and energy sector. It is a massive risk that the community will suspect corruption. We have seen how badly things can go when the influences of industry come to bear on Ministers. The Minister was unable to outline when and how he met with Mr Santo Santoro and for what reason, which is very concerning.

Mr Santo Santoro is not just a high-ranking apparatchik of the Liberal Party any more; he is a registered mining lobbyist for the largest coalmining company in New South Wales that is interested in expanding. We do not want the State's mineral wealth and its strategic mining direction worked out over fancy lunches at high-end restaurants. It has not worked in the past and the Minister was uncomfortable because he knows that is true. The hearing was an excellent opportunity to highlight that this Government may be making some of the same mistakes made by the former Government. It is not just the haircut that they share; it seems that the Minister shares a *modus operandi* with some former Ministers.

**The Hon. Dr Peter Phelps:** Point of order: The member knows full well that if he is going to make scurrilous and outrageous allegations about a member of the Government in this place or in the other place he should do so by way of substantive motion and not through cheap kidney punches in this debate.

**The Hon. JEREMY BUCKINGHAM:** To the point of order: I did not make a scurrilous accusation. I commented on the Minister's haircut, or lack thereof, and his *modus operandi*. I made no accusation about him whatsoever and it certainly was not a kidney punch.

**The Hon. Matthew Mason-Cox:** To the point of order: The imputation the member was making was clear. Not only did he make that imputation but he also made it with crazy eyes.

**DEPUTY-PRESIDENT (The Hon. Cate Faehrmann):** Order! As I was taking advice from the Clerk, I missed the comments to which members are referring. However, given that two members have taken offence I ask the member to withdraw what he said about the Minister.

**The Hon. JEREMY BUCKINGHAM:** I withdraw. It is clear that the Minister is determined to develop this State's coal seam gas resources and mining at any cost. He is determined to develop the Woollahra coalmine.

**The Hon. Dr Peter Phelps:** The Woollahra coalmine!

**The Hon. JEREMY BUCKINGHAM:** There is a coalmine at Woollahra and I bet the Minister would re-open it if he could. Nothing will get between that man and lump of black coal. Members of the Government support the Wallarah coalmine.

**The Hon. Dr Peter Phelps:** We support coal.

**The Hon. JEREMY BUCKINGHAM:** They certainly support that coalmine. It is clear that the Minister takes an ideological approach to coalmines and mining in general. When I asked him how much was paid in goldmining royalties in 2010-11 he could not answer. I told him that coalminers paid the State just \$22 million in royalties.

**The Hon. Dr Peter Phelps:** Then we need more goldmines.

**The Hon. JEREMY BUCKINGHAM:** We have one of the biggest goldmines on earth at Orange and the operator pays a pittance in royalties. It is clear that this Government takes the ideological approach that all mines are good and that we should let it rip. The Minister said today that there is \$200 billion worth of gold, copper and antimony mines in the Central West, but he has no idea about their impact on water resources and what they are delivering to the State.

**Pursuant to sessional orders business interrupted and set down as an order of the day for a future day.**

**Pursuant to resolution Government business given precedence.**

#### **ELECTION FUNDING, EXPENDITURE AND DISCLOSURES AMENDMENT (ADMINISTRATIVE FUNDING) BILL 2013**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Matthew Mason-Cox, on behalf of the Hon. Michael Gallacher.**

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

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

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

#### **ROAD TRANSPORT BILL 2013**

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

*[The Deputy President (Hon. Cate Faehrmann) left the chair at 6.33 p.m. The House resumed at 8.00 p.m.]*

#### **INTOXICATED PERSONS (SOBERING UP CENTRES TRIAL) BILL 2013**

##### **Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. STEVE WHAN** [8.00 p.m.]: When debate was adjourned earlier I was referring to the Opposition's concerns relating to the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. Before I return to those concerns I will comment on the timing of the bill. This measure was one of the Government's pre-election promises and this week will be the Government's second anniversary.

**The Hon. Amanda Fazio:** There's nothing to celebrate.

**The Hon. STEVE WHAN:** The Hon. Amanda Fazio is right; for most people in New South Wales there is not a lot to celebrate. However, last week—two years after that promise was made—this bill was

introduced in the Parliament and tonight it will go through all its stages. I am not sure how quickly it will go through its stages in the other place. Since the introduction of this bill members have not had an adequate opportunity to look at the legislation or to undertake broad consultation with the community and any interested community groups that might wish to express an opinion about it. The fact that two years have elapsed since the election and even more since this promise was made is an example of the Government's poor management. Week after week in this place the Government has been without an agenda to show the people of New South Wales. In most sitting weeks the Parliament has a light legislative agenda. After 16 years in opposition one would have thought that it would have a list of bills and items on the *Notice Paper* but, unfortunately, it is back to the old conservative mould of doing nothing.

**The Hon. Dr Peter Phelps:** We have repealed 93 Acts in their totality.

**The Hon. STEVE WHAN:** The Government Whip is talking about repealing 93 Acts, which is taking away laws. In other words, according to the Government Whip, this Government's legislative agenda is even less now. Opposition members have not been given an adequate time within which to gauge community reaction or to consult with interested groups that might be involved in delivering the two centres outside Sydney and that might have views on how to go about it. It would have been useful to see a printed copy of the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. Instead, after two years all we have is the introduction of the bill and a message that it will be rammed through the Chamber this evening. Now I do not have an objection to—

**The Hon. Dr Peter Phelps:** Hard work.

**The Hon. STEVE WHAN:** —being kept here to do some work as it is all too rare that the Government has legislation for us to consider.

**The Hon. Dr Peter Phelps:** Double time and a half.

**The Hon. STEVE WHAN:** The Government Whip is talking about double time and a half. He is getting me mixed up with Andrew Stoner. He is the only one who wants extra duties for doing his core work. None of us has ever asked for a higher duties allowance. The legislation raises issues that require consideration, one being the cost of those centres. This measure was suggested when Labor was in government and the then Minister for Police, Michael Daley, estimated that the cost could be anything up to \$330,000 a year. I would be interested to hear the Government's estimate of the cost and how much it would seek to recoup through cost recovery because there is a provision for cost recovery under the regulations.

**The Hon. Dr Peter Phelps:** Or in this case, boozer-pays.

**The Hon. STEVE WHAN:** I acknowledge that interjection. The new mantra of conservative governments is that we have moved past Nick Greiner's user-pays and we are now on to boozer-pays; I will give the Government Whip that. There is a really serious point in this: how much will be recouped through cost recovery and how much will it cost those who are compulsorily taken to a centre run by police or those voluntarily in one of the other two centres? That cost is not stipulated in the Minister's second reading speech or in the legislation.

The legislation makes it clear that suspension or cancellation of drivers licences will not apply in relation to enforcement of the cost recovery charge, which is reasonable, but no indication is given as to how much that charge will be. Is there a cap? Will it be \$2,000 a night for the eight hours, will it be \$50 or will it be \$100? Who knows the cost? The Government must clarify the cost and I ask the Minister to do so in reply. The Opposition is concerned also about the measurement of drunkenness. The bill indicates that police will make a decision about whether someone is drunk based on an assessment of his or her speech, how he or she walks and so on. If it is based on someone's perception of sobriety, mistakes can be made.

**The Hon. Marie Ficarra:** It's not perception; it's going to be tested.

**The Hon. STEVE WHAN:** There is nothing in the legislation that gives a measurable test of how the Government will do that. Will it be like the old days before random breath testing where people were asked to walk along a white line? Those judgements can be influenced by other factors. I was reminded earlier today of the infamous case where a young man who suffered from cerebral palsy was accused of being drunk on the *Footy Show* and they had to apologise to him. Police will be more experienced than those on that show, but it is not uncommon for people to mistake others as being drunk. The Opposition is concerned about the measures of drunkenness—a matter that will be discussed in more detail by a subsequent speaker.

As I said earlier, the Opposition is concerned about the potential for violence in these centres and about the safety of people, including staff. Information in the bill about the staffing of these centres is inadequate. Will medical staff have backup? What will happen to people if they are rejected? What will happen to people who turn violent? These centres will cater not only for those who are intoxicated but also for those who are intoxicated and/or drug affected, and health workers are concerned also about the potential for violence. Coalition members who are now members of the Government made a commitment prior to the election but much more consultation was needed before the bill was introduced, including on the regulations that will accompany the bill that we are yet to see. The Government has had two years to work on this—

**The Hon. Marie Ficarra:** Go and have a look at Victoria, Western Australia or the Australian Capital Territory.

**The Hon. STEVE WHAN:** The Government expects this bill, which was introduced only last week, to be passed this evening. The Hon. Marie Ficarra interjected and said, "Go to the Australian Capital Territory or to Western Australia"—

**The Hon. Marie Ficarra:** And Victoria.

**The Hon. STEVE WHAN:** The sobering up centre in the Australian Capital Territory, which has been operating for some time now, has been extensively reviewed—in fact, it is its second attempt; the first centre closed down following someone's death. It is not clear whether this bill has been modelled on that centre, nor is it clear whether the staffing and the qualifications will be the same or different. Indeed, we will have two models—the compulsory model run by the police and the other model run by other organisations. In the Northern Territory centres run for Indigenous people are staffed by Aboriginals. As I said earlier, the Royal Commission into Aboriginal Deaths in Custody recommended sobering up centres. However, the bill contains no information about specific requirements or specialised staff being placed in these centres to deal with Indigenous people. Opposition members are concerned about the inadequacy of the bill. We fear that tragic consequences could flow from this legislation because it does not provide adequate support to those groups.

**The Hon. Dr Peter Phelps:** As opposed to drowning in your own vomit in the street?

**The Hon. STEVE WHAN:** That is an outrageous interjection by the Government Whip.

**The Hon. Dr Peter Phelps:** You are happy to have a supervised injecting room but not to have a supervised place where people can sober up. Nice, hypocritical stand that is.

**Mr David Shoebridge:** Point of order: The interjection by the Government Whip about choking on one's own vomit in the street does not add much to the debate and it makes it difficult to hear the speaker's contribution.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! I remind members that it is disorderly to interrupt the member with the call.

**The Hon. STEVE WHAN:** The Opposition has serious concerns about this bill. The Government has not done its homework. The fact that no exposure draft was circulated and that the bill was introduced only last week clearly demonstrates that the Government has not undertaken adequate consultation. The Opposition will not support this inadequate bill.

**Mr DAVID SHOEBRIDGE** [8.14 p.m.]: Before I make a contribution to debate I take this opportunity to wish the Hon. Marie Ficarra a happy birthday. On behalf of The Greens I oppose the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. The purpose of the bill is to trial three sobering up centres—two privately-run centres accredited by Family and Community Services and the other in the Sydney central business district and located at the Central Local Court cell complex. Part 1 outlines the objects of the bill and defines a number of its key terms. One of those is the catchment area, which is the geographical area in which police and other officers can gather up people to be held in a sobering up centre and that, like so much of this bill, will be defined in the regulations. A "responsible person" is defined as:

...any person who is capable of taking care of an intoxicated person, including:

- (a) a friend or family member, or
- (b) an official or member of staff of a government or non-government organisation or facility providing welfare or alcohol or other drug rehabilitation services.

If a responsible person is available to care for a drunk person then, as I read the bill, the police ought not incarcerate a drunk person in the mandatory facility at the Central Local Court cell complex or that person should not be taken for voluntary admission at one of the other two privately run centres. As the Hon. Steve Whan said, the definition of "intoxicated person" harks back to the 1970s view of intoxication. This very rudimentary test has more to do with *Cop Shop* than it does with policing in 2013. An intoxicated person is defined in the bill as including a person of or above 18 years of age whose speech, balance, coordination or behaviour is noticeably affected and it is reasonable in the circumstances to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of alcohol or any drug. This extraordinarily loose definition leaves a large amount to police discretion on the streets. Part 2 sets out the circumstances under which intoxicated persons may be detained and transported to sobering up centres—much of that detail was covered in the Minister's second reading speech. Clause 5 (1) (a) states:

A police officer may detain an intoxicated person found in a public place in a catchment area for the Sydney City sobering up centre:

- (a) if the person:
  - (i) has refused or failed to comply with a move on direction—

again we have this expansion of police power starting with a move-on direction—

- (ii) persists in engaging in the relevant conduct that gave rise to the direction or any other relevant conduct, or ...

Intoxicated persons may be detained also if they are likely to injure themselves or others. A move-on direction can escalate to a further move-on direction, potentially with some penalties, and now in Sydney city it could lead to someone's incarceration effectively for being intoxicated on the street. Clause 6 subclause (1) paragraphs (a), (b) and (c) provide for the detention of people in the catchment areas of the other accredited sobering up facilities if they are deemed to be a public nuisance, in need of physical protection because they are intoxicated or in other circumstances prescribed by the regulations. The difference in entry requirements for the police-run sobering up centres as opposed to the privately run sobering up centres appears to be some sort of peculiar compromise that was done in the Minister's office. But clearly it will create a hotchpotch because of the different systems in place in the trial of those two different types of sobering up centres.

Importantly, under proposed section 11, admission will be compulsory for the Sydney city centre, where the person will be searched; then the person will be detained for at least four hours but no more than eight hours, and they will be required to pay a cost recovery charge. The amount of that charge will be determined under the regulations. No-one knows how much the charge is or how it will be calculated. Indeed, it will be a fine and recoverable as though it was a fine under the Crimes Act or other traffic regulation.

Privately run but accredited sobering up centres will have a different system. Admission will be voluntary; if the person chooses admission they must consent to assessment by a health assessment officer and to being monitored by staff at the centre; and if they are admitted they can leave at any time. It is impossible to see how the Government thinks voluntary admission in privately run centres will operate in practice. People will be picked up because they are deemed to be a public nuisance or they are in need of physical protection because they are intoxicated, or as the regulations otherwise prescribe. If a person has been a public nuisance, carrying on like a pork chop or being offensive in public, they will be taken to the sobering up centre and told, "You're drunk as a lord. You are behaving appallingly but would you mind being voluntarily admitted to this sobering up centre? And if you do would you mind signing this consent?" How can someone sign a consent when they are drunk as a lord or grossly intoxicated? How that consent will ever hold up in law is a mystery to me and it has remained a mystery from the moment the Government introduced the bill.

It is ludicrous to suggest that a person who has been a public nuisance and who is carrying on in such a way that they have been detained by police will agree to be voluntarily admitted to the sobering up centre run by the Salvos. I am glad it is a trial. I am glad that this ridiculous system will run for only 12 months. Hopefully, at some point we will see an end to the waste of public expenditure on what is an obviously flawed method. From day one when the sobering up centre run by police was announced, the Police Association said that it is not the job of police officers to look after drunk people, and that unless they are committing a crime they should be looked after by health professionals and healthcare workers. Rather than spend money on building a sobering up centre, the Government should provide additional resources to emergency departments that bear the brunt of alcohol-related violence and gross public behaviour that results from intoxication. The Government should not spend money on the police. They do not want it; they have said that they are not the people to deal with drunk people.



In other jurisdictions similar trials have failed to deal with these matters. But, no, the Government is proceeding because it made a promise. Thankfully, it is only a trial. The Greens firmly believe the trial will become the inevitable train wreck set out in the bill and almost certainly will not last past 12 months. Proposed sections 17 to 19 explain that those who are detained in the Sydney city sobering up centre must pay a cost recovery charge. As I said, no-one knows how much it will be. It will probably be substantially more than most fines for public misdemeanours. But we do not know, and the Government has not been able to give an indication of how much it will be. People might end up paying a higher fine for being drunk in public and being picked up and dropped in a sobering up centre than they might pay for an offence of having low-level prescribed blood alcohol content while driving. We do not know, and the Government cannot seem to provide any guidance. That seems to be a completely inappropriate way of legislating. Indeed, the Legislation Review Committee said:

However, clause 19(6) provides that such an application does not permit a review of the circumstances or lawfulness of the detention that gave rise to the imposition of the cost recovery charge.

That will apply to people who believe they were detained inappropriately by the police—that the powers exercised by police in detaining them, alleging that they were intoxicated, were exercised inappropriately. Perhaps the person had a perfectly valid argument about why they were not intoxicated; perhaps they could provide the medication to the local magistrate and say, "I wasn't intoxicated; I was taking my medication. Nevertheless I have been forced to pay this \$1,000 cost recovery fee." Even if they have a case, the Government does not want to hear about it. It has legislatively prohibited a review of the circumstances or lawfulness of detention that gave rise to the imposition of the cost recovery charge. The committee said:

**The Committee refers to Parliament whether the Bill's failure to provide individuals with a review right relating to the circumstances or lawfulness of their detention is appropriate in the circumstances.**

That question is reasonably asked by the Legislation Review Committee. In terms of the cost recovery charge and the charge being taken to be a fine under the Fines Act, the committee said:

The Committee notes that intoxicated individuals may be subject to mandatory detention in circumstances where those individuals have not been arrested for, or charged with, an offence. The Committee notes the intent of the Bill to promote the safety of public places and reduce alcohol-related violence and other anti-social behaviour. The Committee also notes that an individual detained in the Sydney City sobering up centre may be released earlier than specified if the individual is no longer intoxicated or is released into the care of a responsible person.

The Committee refers to Parliament for consideration whether mandatory detention in such circumstances constitutes an undue trespass on an individual's right against arbitrary detention.

The Greens believe this legislation unduly trespasses on an individual's right against arbitrary detention. People can be detained without having committed an offence, and having been detained they can then be subject to an arbitrary fine in a sum determined by the Government in accordance with the regulations. That is a poor response to the problem of public drunkenness. We know that the Coalition made an election promise about sobering up centres. The proposal was not initially supported by the Police Association, which loudly and publicly argued that alcohol-related violence was best tackled by reducing high-alcohol drinks and reducing opening hours—its Last Drinks campaign. However, I understand that the association will cooperate with the trial. I note my observations and those of my party that this trial will almost certainly end after 12 months, with a recommendation that the program cease.

Heaven knows how many tax dollars will be wasted in the meantime, just for some headlines in the *Daily Telegraph* so the Government can be seen to be doing something ineffective to address public drunkenness. A proposal to lock up intoxicated persons for short periods is highly unlikely to deal with systemic issues of binge drinking among young people or alcohol-fuelled violence. This response is designed to ensure that the Government is doing something when in fact it is not willing to take on the alcohol industry and deal with the sheer quantity of alcohol being consumed in our community. If the Government were serious about dealing with alcohol-related violence it would crack down on the bulk sales that are advertised regularly in page after page of the *Daily Telegraph* and the *Sydney Morning Herald* and on our televisions—offers that see people buying two bottles of Jack Daniels at a substantially reduced price.

**The Hon. Dr Peter Phelps:** Hear, hear!

**Mr DAVID SHOEBRIDGE:** I note the interjection from the Government Whip.

**The Hon. Dr Peter Phelps:** It's about people who drink at home.

**The Hon. Marie Ficarra:** Plus people who drink in moderation.

**Mr DAVID SHOEBRIDGE:** I note the interjection from the Hon. Marie Ficarra that this is about people drinking in moderation.

**The Hon. Lynda Voltz:** Point of order: It is difficult for members to give speeches while they are constantly being yelled at by members opposite with inane comments that are not supported by any empirical evidence. The member should be heard in silence.

**The Hon. Dr Peter Phelps:** To the point of order: When I am confronted with snotty, puritanical, socialist leftism masquerading as argument—

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! That is not a point of order. The member with the call is entitled to be heard in silence.

**Mr DAVID SHOEBRIDGE:** If the Government were serious it would crack down on bulk sales of alcohol—such as buy two cartons of beer and get a 50 per cent discount on the second carton. The bulk sale of alcohol, the bulk consumption of alcohol and cracking down on those methods of sale that promote binge drinking and excessive consumption of alcohol would deal with intoxication at the root cause. Instead, this Government has little bandaid solutions like sobering up centres that deal with the wreckage once it has happened rather than preventing it in the first place. That is evident in so much of the way this Government has sought to deal with alcohol-related violence.

There is no evidence from other jurisdictions in Australia or overseas to suggest that locking up intoxicated individuals for short periods has any significant or sustained impact on rates of alcohol-related violence. There is no evidence that it reduces the rate of alcohol-related self-harm. In addition, there is no evidence to suggest that the mandatory detention of intoxicated persons is likely to contribute in any way to that person's long-term health or wellbeing. Money spent on sobering up centres would be far better reallocated to evidence-based programs that have been proven to reduce the abuse of alcohol by young people and by others. This is government by media release. This Government wants to be seen to be doing something about alcohol-related problems because it is too scared to attack the alcohol industry, which holds extraordinary political sway over not only this Government but also the previous Labor Government.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** I call the Hon. Marie Ficarra.

**The Hon. Trevor Khan:** It's your birthday, Marie, so you have to be nice.

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [8.30 p.m.]: On my birthday, it is with great pleasure that I bring to the attention of the House the progress that this Government has made in addressing alcohol-fuelled violence and antisocial behaviour. I commend the Minister, the Leader of the Government in this House, and also the Hon. George Souris. This Government is staying true to one of its key election promises, as previous speakers have said. We take our election promises seriously; we take responsibility for them. The community is awaiting this legislation, saying, "Let's have a trial for 12 months."

If it has worked with modifications in the Australian Capital Territory—they did finetune it—and if it is working well in Western Australia and in Victoria, why should we not give it a trial? I will quote some of the public comment about the Western Australian sobering up centre. There are 10 sobering up centres in Western Australia and people say that they are providing a safe, care-orientated environment in which those found intoxicated in public can sober up in safety. The person being cared for in the Western Australian sobering up centre, for instance, can expect a safe environment, a shower, a clean bed, clean clothes and a simple, nutritious meal, non-discriminatory, non-judgemental care, and referral to other agencies and services if required. I think that is pretty sophisticated. I do not think it is draconian at all. Let us give it a go.

I am sure that many of the issues that were addressed in the debate tonight will be covered by the Minister when he speaks in reply. The Government is staying true to one of its key election promises by implementing a series of trial sobering up centres to address the ongoing problem of alcohol-fuelled violence on our streets. We are concerned about the level of alcohol being consumed. It is true that retail centres often sell a great amount of alcohol at discount prices, but the great majority of people buy and consume it responsibly in their homes with their friends and family. We should not be too quick to judge.

**Mr David Shoebridge:** Why do you assume that?

**The Hon. MARIE FICARRA:** Because I know it to be a fact. It is the minority that always gives the majority a bad name. A minority of people consume alcohol irresponsibly. It is like the problems that occur at the soccer matches on the weekend; the offenders are in the minority. A lot of it is alcohol and drug fuelled, but it is always the minority who are involved. I will continue and ignore interjections as they are disorderly. On 1 July 2013 three trial sobering up centres will be opened in Sydney city, eastern suburbs beaches and Wollongong. These centres are a major step forward in addressing the violent, alcohol-fuelled behaviour that has plagued these evening hotspots for far too long. These three centres will operate on Friday and Saturday nights, and on additional nights such as long weekends and after major events, as part of a trial for a 12-month period. After this time the results and findings of the trial will be assessed and we will all have a chance to have our say.

The Sydney city central business district facility will encompass the local area commands of Kings Cross, City Central, Surry Hills and The Rocks. It will be a mandatory sobering up centre operated by members of the NSW Police Force. The facilities located at Wollongong and the eastern suburbs beaches, particularly at Coogee, will be non-mandatory sobering up centres operated by a responsible non-government provider. These sobering up centres will allow police and trained personnel to remove individuals who are considered to be heavily intoxicated from public areas until such time as they are deemed suitable to be discharged from the centre, or can locate an individual to transport them home. That is all very reasonable. They can make a call and get a responsible individual, a family member or friendly supporter to come and pick them up.

Individuals may be identified by police as being noticeably intoxicated. There are legitimate tests; it is not done by way of perception. Police do not simply rely on perceptions; they follow set guidelines on how to judge whether a person is intoxicated. Those individuals will not be suffering from a medical illness that makes them look as though they are intoxicated. Police are not so irresponsible as to confuse intoxication with medical illness. That just does not happen, so it is a spurious argument. The police have been handling these situations for a long time. They are specially trained and they are sympathetic and caring. Individuals who are identified by police to be noticeably intoxicated will undergo a routine search of their person and a health check to determine their physical condition before being admitted to the mandatory centre. Naturally, if the police think they are really ill then officers will seek medical attention for them and call for ambulance support.

It should be noted that there will be important differences in the operation of the non-mandatory community-run sobering up centres at Wollongong and eastern suburbs beaches, and the mandatory Sydney city central business district centre operated by the NSW Police Force. Although the function and purported outcomes of the three centres remain the same, the criteria that an individual must meet in order to be admitted to the Sydney city centre will be significantly different from those at the eastern suburbs beaches and Wollongong centres. In order to be admitted to the community-run centres, a three-point criterion must be met—that is, the individual is noticeably intoxicated, at risk of causing serious harm to themselves or to others, and consents to being admitted to the centre.

Conversely, in order to be admitted to the Sydney city central business district centre run by New South Wales police, an individual must be over the age of 18, must have failed to comply with a move-on direction issued by police—and I must say those directions are operating very well—must be acting in a potentially violent manner or committing acts of an antisocial or dangerous nature and must be posing a risk of harm to themselves or to others. That is all very reasonable, and the public supports those criteria. Individuals may be forcibly detained by police officers in the mandatory Sydney city central business district centre if they continue to pose a risk to others after police have issued an order to move on. It should also be noted that those detained in the mandatory centres will be charged a cost recovery fee.

**Mr David Shoebridge:** How much?

**The Hon. Steve Whan:** How much?

**The Hon. MARIE FICARRA:** I am sure the Minister will address some of those issues during his reply. The cost recovery fee is good. It is a good lesson. Why not charge them? It is about time. They might think twice before they do it again and inconvenience others, who are enjoying an evening in the city centre with their families.

**The Hon. Helen Westwood:** Oh, yes. Before they go out for the night to have a drink that is what they think about.

**The Hon. MARIE FICARRA:** That is right—absolutely—and people will support that. However, in the non-mandatory centres, there will be no charges. The differences in admittance procedures are in line with the powers of the two different entities operating the three trial clinics, but the aim is to achieve the same end result—a reduction of alcohol-fuelled violence on our streets and a safer city for all weekend visitors, whether they are revellers or not. The sobering up centres will be established under the strong premise that by removing highly intoxicated individuals from public areas, the number of people engaging in alcohol-fuelled violent and risky antisocial behaviour is thereby reduced. That has been the experience in Victoria, Western Australia and the Australian Capital Territory. The statistics prove that the centres are very effective.

By detaining such individuals, and as a result lowering the threat of alcohol-related behaviour to the individual and other citizens, this Government is proving that it is taking the issue of alcohol-related violence seriously. As we have heard already, the sobering up centres are not a new concept. Centres similar to those to be trialled are currently operating elsewhere in Australia. The concept of the centres was first introduced into mainstream Australian society in the 1980s in response to the decriminalisation of public drunkenness. Following the positive results of the centres across Australia, it is now time for the centres to be trialled in New South Wales. If they operate successfully for 12 months, hopefully they will be implemented permanently.

Unfortunately, public displays of alcohol-fuelled violence, risk-taking behaviour and antisocial conduct are not new occurrences on our streets. We must do all we can to minimise the damage, destruction and human harm perpetrated on our Sydney streets during weekends. The ugly face of excessive alcohol consumption causing violent and antisocial behaviour unfortunately has become imbedded into the social culture of some young and not-so-young Australians. They are a minority, but they are a noisy minority. We must do everything possible to assist them to realise that alcohol-fuelled violence is not good for their health, nor is it good for the health of others on the street, particularly families who are trying to enjoy the ambience of the city in peace.

**The Hon. Trevor Khan:** Ambience.

**The Hon. MARIE FICARRA:** As the Hon. Trevor Khan says, people want to enjoy the ambience of the city. The public health implications are enormous and, when coupled with drug use, become life threatening. The trial of three sobering up centres shows that this Government is taking action that is very much supported by the community. I commend the bill to the House.

**The Hon. LYNDIA VOLTZ** [8.43 p.m.]: Like my colleague the Hon. Steve Whan, I will speak against this legislation. When this House deals with problems of crime, particularly disorder on the streets, it is fundamentally important to examine the efficacy of the measures that are sought to be implemented. Members already have pointed out that sobering up centres exist in other States. South Australia has had them for a long time. Over the 10-year existence of sobering up centres in South Australia, the reality is that 97.1 per cent of the people who use them are Aborigines. That is indicative also of sobering up centres in Western Australia that were implemented following the Royal Commission of Inquiry into Aboriginal Deaths in Custody. The sobering up centres were established to ensure that Aboriginal people, rather than being placed into police custody, would be placed in what has been described by the Hon. Marie Ficarra as culturally appropriate and culturally sensitive sobering up centres.

In those centres they have access to people who do not judge them and prejudge them, but look after them, dress them and offer them a shower as well as food. The people at the centre also try to link them to some type of support service. Sobering up centres are noble causes and they are a good way of dealing with what is a very real problem, particularly in Aboriginal communities where people often live on the periphery and pose a great risk to their own wellbeing. The behaviours are manifestations of a complex problem that has its origins in colonialism, a situation in which Aborigines found themselves, and how we have dealt with that problem. Sobering up centres per se are not necessarily a bad thing, but this bill deals with problems of law and order on the streets and the measures that can be invoked to deal with them.

That is evident from the location of the proposed centres—Coogee, which has a large entertainment sector, Kings Cross and Wollongong. When it comes to law and order on the streets, the police end up with the responsibility, but the people who are in control of the entertainment industry work on maximising profits and providing as much service as possible. People say, "Where does this problem on the streets come from? It has never existed before." People like me and the Hon. Helen Westwood, who also grew up in Birrong, will tell members that in the seventies people had a lot of drinks and there were always a few blues. It is not as though people did not carry guns or knives in those days: they certainly did.

In the seventies all the pubs closed at midnight. The only place that was open after midnight was the Sundowner Hotel at Punchbowl which had bands going until 3.00 a.m. In the seventies it was the only place in the whole of the Bankstown region where people could go after midnight. After midnight basically the clubs were closed and the streets were cleared. Despite what the Government Whip stated earlier regarding the entertainment industry and access to alcohol, our society has changed significantly in terms of the access that people have to entertainment and the greater access to alcohol currently in comparison with the 1970s. Studies have been done in England and numerous places about access to cheap alcohol. Studies have been done in Australia about people drinking before they go out to entertainment venues and having access to cheap alcohol. This is a real problem for the police. At the end of the day it is the police who are dealing with intoxicated persons out on the streets. The solution does not necessarily lie with the police on every single occasion.

When I was in the Army I was in the military police at Singleton. We had a huge problem because we had an Army base with 700 very fit 17- or 18-year-old blokes at the school of infantry. We also had hundreds of coalminers—it seemed to be a thousand of them—who had a lot of money. We also had 20 local boys and 20 local girls. I assure members that when the pub shut at night and there were 2,000 blokes out on the street and 20 girls a few blues occurred. There was quite a bit of violence and often only one police car was in town, which usually was at another location. There was no-one on the streets to deal with the violence. So how did we deal with the violence in Singleton? Quite often our soldiers would become isolated and were beaten up by either the local boys or the coalminers on their way home.

**The Hon. Rick Colless:** My son is a coalminer in Singleton. Just be careful.

**The Hon. LYNDIA VOLTZ:** I am not suggesting that every coalminer was involved, and do not think that the Army boys did not behave similarly. The solution was simple. We made buses available that would go into town and at the close of the disco the buses would take people back home. That got rid of the whole problem; the fights did not happen anymore. The Army boys no longer were trying to walk the long haul back to the Singleton Army base. They were transported back to the base.

**The Hon. Trevor Khan:** That would be quite a walk.

**The Hon. LYNDIA VOLTZ:** It is quite a walk, but they were fit young blokes and they could make it. Often the solutions to the problems we perceive are not necessarily the ones presented in which the police have to be the cure-all, a taxi service and assist people in sobering up. There are other ways to deal with this. One survey found that most of the fights that happened on George Street were because the street was so narrow. Groups of young blokes would walk down the street and bump into each other and that started fights. The solution was quite simple: widen the streets. That is why the streets are wider than they used to be. A specific survey looked at what was causing the violence and the solution time and again was to widen the streets and to get rid of the parking. That is not always a solution, but it is one way to alter the built environment to deal with the problem.

I have a huge number of problems with this legislation. The first problem is how to ascertain who is drunk and who is not, despite what the Hon. Marie Ficarra said. I will read a couple of comments to demonstrate my point. Laurence Clark, who works for the British Broadcasting Corporation [BBC], wrote:

An occupational hazard of having Cerebral Palsy like mine is people constantly assuming that I'm drunk because of the way I speak.

He goes on to state:

A friend of mine, who also has cerebral palsy, was picked up several times by the police for being drunk in public, despite the fact that he is teetotal. I figure this has never happened to me because I use a wheelchair but my friend does not.

Another example is Gary Erck, who is 24 and was ejected from Crown Casino twice in two days after different security guards mistook his cerebral palsy for drunkenness. Another incident occurred in South Australia where Mark Thiele, who has cerebral palsy, says he was refused entry to the Adelaide Casino because the bouncer thought he was drunk. The reality is that quite often it is not easy to ascertain what is causing the behaviour not only with people who have cerebral palsy but with those who have mental illnesses. The legislation goes specifically to the person's behaviour. That may be all right if everybody who is admitted to the sobering up centre is seen by someone with medical experience. If people with mental illnesses were being met by someone who specialised in mental illness I would be well satisfied because I think a lot of those people never get treated, and I have raised that matter in this House before.

I hope the Minister can clear up this aspect. If a person is admitted to one of the voluntary sobering up centres they will be assessed by a health assessment officer on admission, although the person needs to give consent. At the Sydney city sobering up centre the person will be admitted by the authorised officer. The authorised officer is not a health assessment officer. An authorised officer at the Sydney city sobering up centre will in fact be a police officer. If the person is charged at the city sobering up centre, four hours after the person's admission the centre must arrange for the person to be assessed by a health assessment officer. The reality is that a person who is admitted is not being looked at by anyone with specialist knowledge in that area. That is a real problem.

The other big problem with the legislation is that the Government says that going to the Coogee or the Wollongong sobering up centre is voluntary. If a person refuses to have a health assessment officer assess them he or she cannot be held but if the person is being released and the officer feels he or she should not be released the individual cannot walk away. The health assessment officer will then call the police. It may be voluntary for a person to be assessed but what happens if the person wants to leave the centre and the centre refuses to allow that person to leave and contacts the police? Do the police then come and take the person back to the Sydney city centre? What is the procedure? The Coogee and Wollongong centres are required to contact the police once a person tries to leave those centres. Even though the bill implies that the procedure is voluntary in reality it is not voluntary at all.

There are a whole range of problems with regard to how the Act will operate. There are also problems with how people will be transported and how long it will take the police to deal with people at the sobering up centres. Will police transport these people to the sobering up centres and is that included in the cost recovery? Members have referred to the Australian Capital Territory's sobering up centre—which by the way has only five beds and is quite often full and turns people away, particularly around Christmas—but there is no cost recovery at that centre. There is no cost recovery in South Australia or Western Australia. The only place where there will be cost recovery is in New South Wales.

This is not really a voluntary system because if someone tries to leave a sobering up centre and those in charge of the centre do not think the person should leave, they will contact the police. I assume the police will then take that person to the Sydney city sobering up centre. These are the concerns I have with this legislation. I am particularly concerned about how to identify people who are inebriated. According to the bill:

A person is a public nuisance for the purposes of the provision if the person is behaving in an offensive or disorderly manner and the person's behaviour is interfering, or is likely to interfere, with the peaceful passage through, or enjoyment of, a public place by a member of the public.

You can walk the streets of Sydney any day and you will run into people whose behaviour is likely to interfere with you. There are a few Greenpeace people out there who are always trying to collect money from me and who interfere with my movement, but there are also people who are homeless or who have mental health issues and other problems and do not belong in sobering up centres. Under this legislation they are quite likely to be taken to these centres by people whom they already fear and when they try to leave voluntarily from either the Coogee or the Wollongong centre they may be taken to a police station instead. I hope the Minister can clear up some of those points.

**The Hon. HELEN WESTWOOD** [8.56 p.m.]: I speak against the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. The Liberal Government's plan to trial these three sobering up centres in Sydney and Wollongong is no more than a stunt. It has nothing whatsoever to do with addressing alcohol-related violence and antisocial behaviour on our streets. Three centres will be opened—one in the Sydney Local Court complex in the central business district, one in Coogee in the city's east and one in Wollongong—for a one-year trial. I can save the Government the massive cost. I can assure them it will not work.

The trial is based on a premise that young people going out in these areas will assess the consequences of their actions before they start drinking alcohol and determine that they will behave in such a way that they will not be locked up. That is absolute nonsense. We all know that alcohol has a serious detrimental impact on a human's capacity for decision-making. The bill will allow police to assess people and those engaging in antisocial behaviour in Kings Cross, The Rocks, City central and Surry Hills will be mandatorily detained at the Sydney Local Court centre, while the other two centres will operate on a voluntary basis. The central business district centre will be staffed by three police and health professionals. I will come back to that but I would like the Minister to clarify in his reply what the staffing levels at the centres will be.

In order to be admitted to the police-run Sydney city mandatory centre an individual must be over 18 years of age, have failed to obey a move-on direction issued by police due to their intoxicated state, be

potentially violent and/or acting in an antisocial manner and/or at risk of serious harm. People will be forcibly held in the police-run mandatory centre for continuing to pose a risk to safety after police have asked them to move on. According to the Minister, people will be placed in the cells only if they are conscious, not injured and not displaying violent behaviour. The question needs to be asked: Where are the bill's definitions of "antisocial behaviour" versus "violent behaviour"? The Police Association of New South Wales has aired its opposition to the initiative, saying that it was not a core responsibility of the police to look after drunks. Police Association of New South Wales President, Scott Weber, said:

The idea that you pour half a dozen or more drunk young people into a cell for a night is a recipe for disaster.

He also questioned whether police and those to be placed in sobering up centres have proper legal protection and that their safety would be assured. Mr Weber said:

The real solution to alcohol-related violence is reducing trading hours, restricting high-alcohol-content drinks and introducing lockouts.

Those are the measures proven to work.

Sobering up centres could potentially put people at risk of further harm and do nothing to address the root causes of binge drinking and alcohol-related violence. There are also fears that the new initiatives will unfairly target young people, Indigenous people, people from non-Anglo backgrounds, the homeless and those with mental illness. The Wollongong and Coogee centres will operate as non-mandatory centres as opposed to the mandatory centre in the Sydney central business district. It appears that both types of centre will employ qualified staff who regularly monitor intoxicated people and provide them with ongoing care. So, they can get a free bed, breakfast, shower, pyjamas and freshly laundered clothes.

The Coogee and Wollongong centres will be run by non-government providers and are designed for people under 30. Entry is voluntary and to be via police referral where either of the following criteria is met: A police officer believes the intoxicated person is a public nuisance, as defined in the Act, or the intoxicated person is in need of physical protection because of their level of intoxication. In order to be admitted to the two non-mandatory centres that will be run by non-government providers, an individual must be intoxicated, at risk of serious harm to themselves or others and/or be a public nuisance, and consent to being admitted to the centre. However, people must agree to being admitted to a non-mandatory centre.

The definition of "intoxicated" provided in section 198 of the Law Enforcement (Powers and Responsibilities) Act will be used to determine eligibility for entry into the sobering up centres. This provides that a person is intoxicated if the person's speech, balance, coordination or behaviour is noticeably affected and it is reasonable in the circumstances to believe that the affected speech, balance, coordination or behaviour is the result of the consumption of alcohol or any drug. It is unclear whether breath analysis machines will be used to determine the levels of intoxication. Again, that is something I think the Minister could address in his reply. I agree with the other members who have spoken of their concerns about assessing whether people are intoxicated simply by those characteristics of slurred speech and poor balance and behaviour. Determining levels of intoxication is important because it may not be safe for the client to stay in the unit or alternatively may require immediate medical intervention, including hospitalisation.

This bill will allow police to transport people to the centre but they must give consent before being admitted. The organisation running the centre will need to give clients, as I said, tracksuits and pyjamas. That is the other area I would be interested in hearing from the Minister about. I know the Canberra centre is referred to as the model. The Canberra centre has a memorandum of understanding between the Australian Capital Territory police and Catholic Care, as I understand it. I would be interested to hear from the Minister whether there will be a memorandum of understanding between the non-government organisation and the NSW Police Force, and whether that memorandum of understanding will be published.

I note that there is reference in the bill to alcohol intervention being provided by way of an information pack or referral to drug and alcohol service providers. The New South Wales Council of Civil Liberties has concerns. Secretary Stephen Blanks said the centre was a bad idea as it was impossible for intoxicated persons to give meaningful consent. That is an issue that others have raised, and I will not come back to that. Stephen Blanks said:

The idea that people who police think are appropriate for taking into these cells can give meaningful consent to their being detained is misconceived.

The reality is that the police will be obtaining consent by threats or other coercive means and not acting in the interests of the detained person.

This is not being implemented for public safety or even personal safety reasons, this is being implemented to punish people outside the operations of the criminal law.

Police, in particular, and others with expertise in the area of addiction to alcohol or alcohol abuse talk about other options that are far more effective. I would like to refer to one of those that the Police Association often refers to: the Newcastle experience. It has been widely acknowledged that this model is proven to succeed. The Newcastle City Council's trial of earlier closing hours for licensed premises in the Newcastle central business district has been evaluated by the University of Newcastle, with clear and positive outcomes. In 2008, in response to community pressure to reduce alcohol-related violence, licensed premises in the Newcastle central business district started ceasing alcohol service at 3.00 a.m. and closing at 3.30 a.m.

Alcohol-related violence dropped by 37 per cent as a result of the earlier closing times. This was measured in comparison to pubs at nearby Hamilton, which did not close earlier. Both the severity and incidence of alcohol-related violence was reduced, relieving pressure on police and health services. That is the model that experts and the police have been calling for and have supported. The resistance, of course, is from the hotels and the Government. Prior to the 2011 New South Wales election, Barry O'Farrell acknowledged the effectiveness of the Newcastle initiatives. Yet, the Government refuses to apply the model more broadly across Sydney and New South Wales. The Australian Hotels Association has constantly denounced as draconian and nanny state the calls to expand the Newcastle model across all licensed premises.

The Government's resistance to this is not coincidental when one considers that the Chief Executive Officer of the Australian Hotels Association, Paul Nicolaou, is the New South Wales Liberals chief fundraiser. Since being elected to government, Barry O'Farrell has maintained that the Liberal Coalition Government will not support trials of earlier closing times for licensed premises, saying that local solutions should be negotiated. Hence, we have this bill before us today. Emergency registrar Dr Clare Skinner said introduction of restrictions on late-night trading for licensed venues in Newcastle, such as 3.00 a.m. closing times, showed how the damage caused by alcohol-fuelled violence could be reduced and how our 24-7 drinking culture can be changed. Dr Skinner said:

A recent study by NSW Health showed that there has been a 35 per cent decrease in the number of night-time non-domestic assaults reported to police in Newcastle since these measures were brought in.

There has also been a massive 50 per cent decrease in the night-time street offences in Newcastle. These improvements have not been a flash in the pan—they have been sustained over three years and have made Newcastle a safer place for everyone.

New South Wales Nurses Association Secretary Brett Holmes said the Newcastle experience should be a model for tackling alcohol-fuelled violence in other communities around New South Wales. He went on to say:

We know what works, so the State Government really has no excuse for sitting on its hands and continuing to let boozed-up idiots run amok every weekend around New South Wales.

Here in New South Wales the Nurses Association has joined with doctors, paramedics and police dealing with alcohol-fuelled aggression in their employment to form the Last Drinks campaign to tackle the issue of alcohol-fuelled violence head-on. These measures have strong public support, according to a poll taken by Essential Research. The national poll found that 80 per cent of Australians support mandatory 3.00 a.m. closing times for licensed premises to curb alcohol-fuelled violence. This figure rose to 85 per cent of people in New South Wales. It is clear to me that this is the model that the Government should be looking at. What it is opting for here is absolutely second-rate.

There are other areas of concern, but I request that the Minister address some of these issues in his reply. The centres are scheduled to open on 1 July 2013, which is just 13 weeks away. What is the time line for the community consultation for the Coogee and Wollongong centres? Given the time period before the centres are scheduled to open, the Minister should be able to inform the House what consultation has taken place. The fact sheet that has been distributed by the department states that the bill does not target Aboriginal or homeless people. The bill does not prevent homeless or Aboriginal people who are intoxicated from being detained or admitted. What will this mean in respect of cost recovery, particularly for homeless people? What measures has the Government put in place to ensure that homeless people do not rack up huge bills that they cannot afford? Will the Minister inform the House what protocols and guidelines will be put in place to ensure that the recommendations of the Royal Commission into Aboriginal Deaths in Custody are met when Aboriginal people are detained or admitted to the sobering up centres?



Will the Minister inform the House what will be the staff ratios of medical practitioners and registered nurses to police and detainees or intoxicated persons as they are in the mandatory and accredited centres? How can an intoxicated person voluntarily consent to admission or treatment, particularly when that person will be deemed to have entered into a contract that requires him or her to pay for the cost of detention or admission? I am interested to know what the Government will advise. The safety of healthcare staff is another area of concern. Doctors and nurses are at risk. It is well known that there is an increased risk of aggression and violence when people are under the influence of alcohol and/or some illicit drugs.

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order!

**The Hon. HELEN WESTWOOD:** I realise there are people on the other side who do not want to hear the real concerns—

**The Hon. Dr Peter Phelps:** Oh shut up, you hypocrite. Why did you not speak this morning about the bikie bill?

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order!

**The Hon. Dr Peter Phelps:** You claim to be a civil rights supporter and you did not say anything. You know why? Because you are just a lickspittle for Robbo.

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order! I call the Hon. Dr Peter Phelps to order for the first time. I remind members on both sides of the Chamber that interjections are disorderly at all times.

**The Hon. HELEN WESTWOOD:** I repeat that I am concerned about the safety of registered nurses and doctors in these facilities. It is well known that there is an increased risk of aggression and violence when people are under the influence of alcohol and/or some illicit drugs. They are the people who will be in these centres. The risk is increased considerably when the intoxicated person suffers the effects of withdrawal. The reality is that we are placing the healthcare workers at risk of aggression and violence. It is important that we understand what measures have been put in place to prevent these healthcare workers being subjected to aggression and violence. It is also important to understand the impact of aggression and violence on healthcare professionals. There is a plethora of research on this subject. The impact is long term. The Government has to be mindful that it is often the long-lasting effects of aggression and violence that turn people away from those professions.

Another area of concern is what training police officers will have to identify signs of intoxication. As others have mentioned, the bill is putting the discretionary onus on police. We need to be absolutely sure that the police have adequate training to ensure they can clearly identify symptoms of intoxication versus the symptoms of disease and disability. Symptoms of slurred speech and poor balance are common to people who have had a stroke, people who suffer with multiple sclerosis, people who have cerebral palsy, people who are suffering concussion and other circulatory disorders. The symptoms can also be the side effects of prescribed medication. It would be of grave concern to us all if people were being locked up and detained when they are not intoxicated. There must be a measure of certainty concerning those issues.

I hope the Minister will advise us about the process regarding the non-government organisations that have expressed an interest in running these sobering up centres. As I have outlined, I and other members of the Opposition have real concerns with the bill that the Government must consider. There are alternative models that can address the alcohol-related violence that is prevalent in our communities. The Newcastle model is one example. I am glad this is only a 12-month trial. After the 12-month trial, this trial will be shown to be a failure. I hope that healthcare workers are not placed at risk or injured when staffing these centres. That issue has been poorly considered as has been the bill that is before us tonight.

**Reverend the Hon. FRED NILE [9.17 p.m.]:** The Christian Democratic Party is pleased to support the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. The aim of the bill is to promote the safety of public places and public amenity by facilitating the trial of a scheme to reduce alcohol-related violence and other antisocial behaviours. Members understand this is an initiative that the Government announced prior to the election, so it is fulfilling an election commitment. It has studied the sobering up shelters that are operating in Canberra in the Australian Capital Territory and wants to ensure that the legislation we have has the positive aspects of the Canberra trial.

I agree with the Government that the people of Sydney and other places have a right to enjoy a night out without the intrusion and safety concerns caused by rowdy, violent drunks. The trial of the sobering up centres will test the mandatory and non-mandatory approaches. The centres will operate on Friday and Saturday nights with the flexibility to include other nights of the week when major events warrant it. This legislation will promote the safety of public places and has a number of benefits. As I have stated, the first benefit is to ensure the safety of families when they go for a night out. The second is that it gives the police an option. We see often on the television that the police are confronted with drunks and are sometimes injured by people who are violent as a result of the effects of alcohol. The third is that it will help the people who are influenced by alcohol. They will not be left in the gutters and they will not get into trouble with the police as a result of violent actions. They will be helped as well. That is the reason the Christian Democratic Party supports this legislation.

The bill provides for the detention of intoxicated persons found in a public place in the catchment area for an authorised sobering up centre and their transport to the relevant centre. It provides the eligibility criteria for sobering up centres, and in such circumstances a police officer may require a person detained under the Act to disclose his or her identity. It will be an offence to fail or refuse to comply with this requirement without reasonable excuse or to give a false name or address. The bill outlines the process for admission to or detention in a sobering up centre as well as exit processes. It specifies the safeguards to be employed during the operation of sobering up centres, such as health assessments of intoxicated persons and regular monitoring. I am surprised at the members who oppose this proposal because I believe they enthusiastically supported the proposal to establish a medically supervised injecting centre in Kings Cross.

The legislation specifies that an intoxicated person is not to be detained or housed in a sobering up centre for a period exceeding eight hours and provides that a person who has been admitted to the Sydney City sobering up centre must pay a cost-recovery charge. The legislation has to provide for the enforcement of that cost recovery charge, but a person has the right to apply to the Local Court to have a cost recovery charge waived or reduced. The bill also provides for an accreditation process for operating sobering up centres because the police will operate only one of them, that is, the Sydney city centre; others will be operated by an accredited non-government provider or providers.

The bill provides for the establishment of the first two accredited sobering up centres without requiring development consent. The bill provides also for the sharing of information between certain agencies for the purposes of the proposed Act and clarifies that nothing in the proposed Act limits a police officer dealing with intoxicated persons under existing police powers legislation. The Government intends that the proposed Act will be repealed on 1 July 2014 or such later date as prescribed by regulation. Therefore, the legislation proposes a trial. All members of the House should support the trial and then decide whether their fears have been met or whether the sobering up centres are a great success that should be expanded and continued. The Christian Democratic Party supports the bill.

**The Hon. AMANDA FAZIO** [9.22 p.m.]: I speak against the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. I acknowledge that the Government took this policy to the election and, therefore, may argue that it has a mandate for it. However, this Government took many things to the election for which it has a genuine mandate but has failed to deliver to the people of New South Wales. Two years after the election we should take with a grain of salt the Government's claims to have mandates to do anything in particular because it is being selective in what it will and will not do. This bill proposes a trial of sobering up centres until July 2014. These centres will be only an option for police to use and only adults aged 18 years and over will be admitted. I have a number of concerns with this bill. I would have thought a reasonable person would acknowledge that intoxicated young people under the age of 18 years should be a priority for any Government.

This bill proposes a trial to deal with intoxicated adults. As a parent and concerned member of the community, I believe that dealing with intoxicated juveniles would be a far greater priority for any reasonable Government. What happens if someone is 15 years of age and drunk on the streets? Will the police just leave that person there or will they have the time to ring up the responsible adult and try to get that child sent home or collected from a police station? I am more concerned about what happens to intoxicated juveniles on the street because they are far more vulnerable than adults and should not be left to their own devices. This legislation presents a number of concerns for me. The first is that an intoxicated person refusing to provide identity can constitute an offence in itself, even in the absence of any other offence.

I am sure we have all had the misfortune of being out at night and seeing intoxicated people not particularly in control of themselves. The simple fact that the Government is setting up this trial centre will mean that those who have not done anything else apart from being intoxicated on the streets and too drunk to

disclose their identities, who may be so affected by alcohol that they do not feel obliged to comply with a police request to provide proof of their identity, will be charged with an offence. For all the Government Whip's claims about reducing red tape, this proposal introduces more red tape and more opportunities for police to victimise those they deem warrant a lesson. Under the provisions of this bill, admission to a sobering up centre is voluntary. Clause 11 of the bill states:

- (1) As soon as is practicable after arriving at an authorised sobering up centre, an intoxicated person must be informed that:
  - (a) In relation to the Sydney City sobering up centre:
    - (i) admission to the centre is compulsory, and
    - (ii) the person and the person's belongings will be searched ...
    - (iii) the person will be detained at the centre for ... not less than 4 hours but not more than 8 hours ...
    - (iv) the person will be required to pay a cost recovery charge ...

The Government will pick you up off the streets if you are intoxicated and over 18 years of age, take you to a centre where it is compulsory to admit you and, regardless of your economic circumstances, charge you for the cost of keeping you in that centre. Clause 17 of the bill refers to "cost recovery charge" and clause 18 refers to "enforcement of unpaid cost recovery charges". Somebody can be picked up to be admitted to the Sydney City sobering up centre and if that person does not immediately provide proof of his or her identity or refuses to provide proof, that person will be charged with an offence. Then that person will be locked up for between four and eight hours. There is no guarantee that that person will be sober enough to be safe on the streets after eight hours, but that person will be locked up and then charged for the privilege of being locked up and having his or her liberty taken away.

This bill is a huge infringement on people's civil liberties. It is unbelievable that a Government will compulsorily take people off the street, lock them up, charge them if they do not have identification, then fine them for not having identification and then hound them through the courts for the cost recovery of the privilege of locking them up. Some intoxicated people on the streets who cause a nuisance from time to time are the sorts of people who probably do not have any identification and do not have the financial means to pay cost recovery. What will happen then? Will they get locked up a second and third time for not providing their identification? They will be locked up for not paying their debt. This is similar to what happens to Aboriginal kids in country towns who are arrested multiple times for riding a pushbike without a helmet.

These kids are fined for riding without a helmet, which they do not pay. They end up with a massive record of unpaid fines, which means they cannot get a driver's licence. But they need to drive to get from one town to another, so they drive without a licence. They continue to accrue fines and convictions and end up getting locked up. Why? Because when they were 13 they rode a pushbike without a helmet and they did not have the money to pay fines. We all know that happens. Exactly the same thing will happen under this proposal. Sydney has many street drinkers who cause trouble. Many young aggressive males cause trouble, but this bill will not do anything about rehabilitating them; this bill is about criminalising them.

It is just wrong. Any fair-minded person who read this bill would agree that it is draconian and unwarranted and that it will not work. It is likely to criminalise and penalise the most vulnerable people in our society. My colleagues have spoken about the difficulties faced by police officers on the streets. They have a hard enough job to do because they must keep on top of continually changing regulations. They do not need to be required to determine visually whether someone is intoxicated. Anyone who watches Foxtel shows such as the *World's Wildest Police Videos* will see the problems that American police officers encounter when using field sobriety tests to determine whether someone is too drunk to drive. Yet we are asking our police officers to do the same sort of thing to determine whether someone should go to a sobering up centre. I know the Minister will say that there will be medical staff in attendance to determine whether a person is intoxicated.

**Mr David Shoebridge:** That is not the plan.

**The Hon. AMANDA FAZIO:** Medical staff will be there to keep an eye on them. Police officers will be given this extra power. What if someone was not very drunk but a police officer said something to him that he did not like and he told the police officer in fairly choice and ripe language where to go and what to do with himself.

**The Hon. Trevor Khan:** He would be charged with using offensive language.

**The Hon. AMANDA FAZIO:** Yes, and probably taken to the sobering up centre and charged for not providing identification and a range of other things.

**The Hon. Trevor Khan:** If they engage in criminal conduct then the sobering up centre is not the place for them.

**The Hon. AMANDA FAZIO:** There might be some nuances that the lawyers in the House would like to discuss, but I am concerned about the denial of civil liberties and the opportunity this legislation provides for police officers to target individuals they do not like. It will provide them with the opportunity to criminalise people who otherwise would not come into contact with the police and the criminal justice system. For people with no identification and no money it could be the beginning of a cycle of appearing in court for not paying a fine that they will never be able to pay.

**Mr David Shoebridge:** What if their drink is spiked? They will still be charged.

**The Hon. AMANDA FAZIO:** There are many scenarios in which a person who should not be taken to a sobering up centre will be under this legislation. This is a flawed bill and a desperate attempt by this Government to get some legislation passed and to tick off something for its second-year-in-government report, which no doubt will be issued to everyone later this week. This bill does not deserve to be supported. It is likely to create victims rather than assist people, and for that reason I urge members to oppose it.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [9.33 p.m.], in reply: I thank members for their contributions to debate on the Intoxicated Persons (Sobering Up Centres Trial) Bill 2013. At times those contributions have been absolutely breathtaking. I was intrigued by the statement made by a number of members opposite—including Mr Shoebridge but not limited to him—that the definition of "intoxication" was concocted in my office or words to that effect. Members opposite repeatedly referred to giving police officers new powers to determine intoxication. It is a shame that none of them took the time to read the existing legislation, which from my recollection was introduced by the Labor Government. I refer them to section 206 of the Law Enforcement (Powers and Responsibilities) Act 2002.

**The Hon. Dr Peter Phelps:** That was 2000 and when?

**The Hon. MICHAEL GALLACHER:** It was enacted in 2002. I refer members to section 206, which is headed "Detention of intoxicated persons" and which provides:

- (1) A police officer may detain an intoxicated person found in a public place who is:
  - (a) behaving in a disorderly manner or in a manner likely to cause injury to the person or another person or damage to property, or
  - (b) in need of physical protection because the person is intoxicated.

Of course, that unravels the argument put by the dribblers opposite—

**Mr David Shoebridge:** Point of order: My point of order is twofold. First, describing people as "dribblers" is unparliamentary. Secondly, I have never supported the Labor Party's position on police powers.

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order! There is no point of order.

**The Hon. MICHAEL GALLACHER:** Personal explanations will be accepted at the end of the debate. Mr Shoebridge had some questions about the definition of "intoxication", but they were not limited to him. The Hon. Amanda Fazio and the Hon. Helen Westwood talked about giving police officers this responsibility and questioned whether we could trust them. I refer them to section 198 of the Law Enforcement (Powers and Responsibilities) Act, which defines intoxication and the way in which police officers must apply the law. That provision will continue to apply under this legislation. I am shocked by the level of ignorance displayed by members opposite. This bill provides for something new—that is, sobering up centres. Members opposite have wailed about sobering up centres and said that this is a terrible concept. In 2004, Simon Corbell, the Australian Capital Territory's current Labor Minister for Police and Emergency Services and Attorney General, proudly announced a 12-month sobering up centre trial.

**The Hon. Helen Westwood:** So what?

**The Hon. MICHAEL GALLACHER:** Members opposite say that the Australian Capital Territory is different because it is so cold that everybody goes to bed early. They do not know what they are talking about. I listened intently to their pleas about health professionals. They should go to St Vincent's Hospital on a Friday or Saturday night to see health professionals dealing with intoxicated people. In fact, they could go to any hospital in New South Wales and see the same thing. I was particularly floored by the members of the Labor Party, who started their contributions by saying that this legislation is a stunt, a two-year tick-off and nothing more than a press release trying to find somewhere to park. They said that they are fundamentally opposed to this legislation despite the fact that their colleagues in the Australian Capital Territory have supported the establishment of a sobering up centre.

**The Hon. Amanda Fazio:** So what? We are in New South Wales.

**The Hon. MICHAEL GALLACHER:** Here we go. The Labor Party's hypocrisy is absolutely breathtaking.

**The Hon. Steve Whan:** So Corbell is your new hero.

**The Hon. MICHAEL GALLACHER:** No, I am endorsing the fact that members opposite have been exposed for the frauds that they are. This legislation provides for a 12-month trial to find an alternative option—

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order! Opposition members will cease interjecting.

**The Hon. MICHAEL GALLACHER:** —for the police officers and health professionals who must deal with the stream of intoxicated people who make their way into the emergency department of St Vincent's Hospital every Friday and Saturday night. Rather than going to St Vincent's Hospital or being charged at a police station there will be a potential third option. It will kick in before people get to the point at which they are charged with having assaulted a police officer, a health professional or an innocent person walking along the street or at which a police officer decides there is insufficient reason to lay charges and instead takes them to St Vincent's Hospital where they will be the health professionals' problem.

A police officer has to sit with the intoxicated person for the protection of staff at St Vincent's hospital. Like the scenarios spoken about by those opposite, the intoxicated person may be calm and collected but then the effect of the alcohol or drugs, or both, may take hold and the person becomes violent. Whilst the intoxicated person is in the presence of the health professional, the police officer has to be taken off the street and look after the intoxicated person.

**The Hon. Steve Whan:** What is the difference between that and being in a sobering up centre?

**The Hon. MICHAEL GALLACHER:** Again it shows your ignorance.

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order! I remind the Hon. Steve Whan he is on two calls to order.

**The Hon. MICHAEL GALLACHER:** You did not read the bill; you have not listened to the speeches.

**The Hon. Amanda Fazio:** You did not explain it.

**The Hon. MICHAEL GALLACHER:** She who must be obeyed from across the Chamber. The Opposition is totally opposed to the legislation, as Opposition members have said. If they have any queries in relation to the bill, I refer them to the second reading speech.

**The Hon. Charlie Lynn:** Put her picture in a sobering-up centre; that would speed up the process.

**Mr David Shoebridge:** Point of order: The interjections particularly from the Hon. Charlie Lynn contain scurrilous allegations about another member of the Chamber suggesting that she was intoxicated in the course of her contributions. The Hon. Charlie Lynn should be called to order.

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order! I remind members that interjections are disorderly at all times. There is far too much noise on both sides of the Chamber. Several members are already on one or two calls to order. In the interests of keeping proceedings civil this evening, I ask all members to remain silent while the Minister gives his speech in reply.

**The Hon. MICHAEL GALLACHER:** I will not labour the point other than to say that the Government is committed to trialling an alternative system.

**Mr David Shoebridge:** What about the fees?

**The Hon. MICHAEL GALLACHER:** The Government will reveal the cost recovery aspects in relation to this bill in the regulations.

**The Hon. Helen Westwood:** What about community consultation?

**The Hon. MICHAEL GALLACHER:** We hear again the interjections and noise that they made earlier in debate.

**The Hon. Steve Whan:** We asked you questions. If you don't have the answers own up.

**The Hon. Helen Westwood:** They are legitimate questions.

**The Hon. MICHAEL GALLACHER:** The Opposition members say they have asked legitimate questions, but throughout their speeches they have said they are fundamentally opposed to the legislation.

**The Hon. Helen Westwood:** At what stage is the community consultation?

**The Hon. MICHAEL GALLACHER:** We have spoken about this legislation for the past two years. We have spoken extensively about the legislation. The Opposition members have not been listening. It is clear from their lack of understanding they do not know the law that is currently in place in New South Wales. They are embarrassed by the fact that they do not know that many of the powers in this bill are currently in place and they are simply being modified to adapt and include a sobering up centre, which does not yet exist. It is an adaptation of what is currently in place in New South Wales. You silly people do not know and you do not understand.

**The Hon. Steve Whan:** Point of order: This Minister is giving his usual patronising load of rubbish. He continues to refer to people on this side using words such as "silly". I ask you to direct the Minister to address members by their proper title and to take this bill seriously.

**DEPUTY-PRESIDENT (The Hon. Sarah Mitchell):** Order! The Hon. Steve Whan will resume his seat. I ask that all members are referred to by their parliamentary title. The Minister has the call. If members continue to interject they will be called to order.

**The Hon. MICHAEL GALLACHER:** I commend the bill to the House.

**Question—That this bill be now read a second time—put.**

**The House divided.**

#### **Ayes, 19**

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

Miss Gardiner  
Mr Gay  
Mr Green  
Mr Khan  
Mr Lynn  
Mr MacDonald  
Mrs Maclaren-Jones

Mr Mason-Cox  
Reverend Nile  
Mrs Pavey  
*Tellers,*  
Mr Colless  
Dr Phelps

**Noes, 16**

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

Dr Kaye  
Mr Moselmane  
Mr Primrose  
Mr Searle  
Mr Shoebridge  
Mr Veitch

Ms Westwood  
Mr Whan  
*Tellers,*  
Ms Fazio  
Ms Voltz

**Pairs**

Mr Clarke  
Mr Harwin  
Mr Pearce

Mr Roozendaal  
Mr Secord  
Ms Sharpe

**Question resolved in the affirmative.**

**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 transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.**

**PUBLIC INTEREST DISCLOSURES AMENDMENT BILL 2013****Second Reading**

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [9.52 p.m.], on behalf of the Hon. Michael Gallacher: 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 which will strengthen the protections for public officials who make public interest disclosures and enhance the public interest disclosures regime.

The Public Interest Disclosures Act 1994 (PID Act) plays a critical role in maintaining the integrity of public administration in this State.

The object of the Public Interest Disclosures Act is to encourage and facilitate the disclosure of wrongdoing in the public sector in the public interest.

It does this by protecting public officials who disclose wrongdoing in the public sector in accordance with the Public Interest Disclosures Act.

The Public Interest Disclosures Act makes it a criminal offence to take detrimental action against a public official substantially in reprisal for making a public interest disclosure.

There have been a number of amendments to the Public Interest Disclosures Act since 2010, including the establishment of the Public Interest Disclosures Steering Committee in 2011.

The members of the Steering Committee are the Ombudsman, the General Counsel of the Department of Premier and Cabinet, the Auditor-General, the Commissioner of the Independent Commission Against Corruption, the Commissioner for the Police Integrity Commission, the Chief Executive, Local Government in the Department of Premier and Cabinet, the Commissioner of Police and the Information Commissioner.

The Steering Committee's functions include providing advice to the Premier on the operation of the Public Interest Disclosures Act and recommendations for reform.

The bill seeks to make the first changes to the Public Interest Disclosures Act recommended by the Steering Committee since its establishment.

The bill will remove the requirement that a disclosure must be made 'voluntarily' in order for the public official who made it to be protected under the Public Interest Disclosures Act.

Currently, the Public Interest Disclosures Act requires disclosures to be made "voluntarily" in order for the public official to be protected under the Act. While there are some exceptions, section 9 expressly provides that a disclosure is not made voluntarily if it is made by a public official in the exercise of a duty imposed on that official by legislation.

This means that a public official who makes a disclosure of wrongdoing in the public sector under a statutory obligation is not protected against reprisals for that disclosure by the Public Interest Disclosures Act.

For example, a public official who has a duty to report certain corrupt conduct to the Independent Commission Against Corruption under the Independent Commission Against Corruption Act 1988, and does so, would currently not be protected under the Public Interest Disclosures Act.

The Government supports the Steering Committee's recommendation to remove this requirement in order to broaden the protection provided by the Public Interest Disclosures Act.

As public officials who report wrongdoing under a statutory obligation also may face the risk of reprisals, they should also be protected by the Public Interest Disclosures Act.

As recommended by the Steering Committee, the bill will also extend the period of time within which proceedings may commence for reprisal action against a person who made a public interest disclosure.

Currently, prosecutions for reprisal action must be commenced within two years of the alleged offence.

The bill will extend this period to three years after the offence is alleged to have been committed.

This is because the Steering Committee advises that allegations of reprisal action can be made some time after the action is alleged to have occurred.

The bill will also include the Public Service Commissioner as a member of the Steering Committee.

The Public Service Commissioner's principal objectives include promoting and maintaining the highest levels of integrity, impartiality, accountability and leadership across the public sector.

The Public Service Commissioner supports this proposal.

The bill will also clarify that certain individuals are "public officials".

To be protected by the Public Interest Disclosures Act, a disclosure must be made by a "public official," as defined by the Act.

To remove some ambiguity about the scope of the definition of "public official", the Public Interest Disclosures Act is being amended to clarify that certain individuals are public officials. This includes certain employees or officers of a corporation that is engaged by a public authority under a contract to provide services to or on behalf of the public authority, volunteer rural fire fighters and RSPCA inspectors.

In relation to these particular individuals, the amendment is not intended to broaden the scope of the definition of "public official". It should assist, however, a person considering making a public interest disclosure in the future to understand whether he or she is a "public official" who can be protected under the Public Interest Disclosures Act.

The Steering Committee has been consulted on and supports the bill.

I commend the bill to the House.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [9.53 p.m.]: I lead for the Opposition on the Public Interest Disclosures Amendment Bill 2013. The Opposition will not be opposing the bill, although the Opposition does not think it goes far enough. The object of the bill is to amend the Public Interest Disclosures Act 1994 in a number of respects. The Government presents the bill as being proposed by the Public Interest Disclosures Steering Committee. The committee consists of the Ombudsman, the Auditor-General, the Independent Commissioner Against Corruption, the Police Integrity Commissioner, the General Counsel of the Department of Premier and Cabinet, the Commissioner of Police, the Information Commissioner and the Chief Executive of the Local Government Division in the Department of Premier and Cabinet.

The proposals from the steering committee are unobjectionable but in some respects do not go sufficiently far. The alternative way of dealing with the issues is to adopt the model used in some other jurisdictions and say that any person can make a protected disclosure, which very neatly avoids the definitional



difficulties and the need for constant amendment. The criticism of that approach is that it detracts attention from public officials who should properly be the focus of whistleblower legislation. While the Opposition understands the force of that argument it also prefers an approach that avoids unnecessary definitional complexity and uncertainty.

The bill also removes the requirement that a public interest disclosure be made voluntarily. In practical terms, this alters the current situation where a public official who makes a disclosure because of a statutory obligation is not protected against reprisals under the Act. The bill also extends the times in which prosecutions for reprisal actions can be taken from two years to three years. The bill includes the Public Service Commissioner on the Public Interest Disclosures Steering Committee. The bill also proposes to amend section 6D of the principal Act, the effect of which is to exempt public authorities from the requirement that their public interest disclosure policy requires an acknowledgement of receipt of a disclosure and that a copy of the policy be provided to the public official making the disclosure.

In relation to any disclosures made by public officials in performing their day-to-day functions, this does not seem to have been dealt with in the second reading speech, at least in the Attorney's version. I have not had a chance to see the Parliamentary Secretary's version. However, I do not think much turns on it and the Opposition certainly does not oppose the provision. As indicated earlier, the Opposition does not oppose any of the provisions should they also be supported by the House. However, the Opposition believes more fundamental changes are desirable. The current benchmarks in Australia in this area are the Dreyfus report and the model Act compared with the New South Wales model, which show that the New South Wales model could be significantly improved.

A good starting point might be to rewrite the Act in plain English. The earlier amendments referred to by the Attorney near the commencement of his second reading speech have produced a current Act that is in need of tidying and rewriting. Substantive changes should include broadening the type of activity justifying a disclosure to include dangers to the environment, public health and safety, and scientific misconduct; protection should be extended to anonymous complaints; a disclosure should be able to be made directly to a member of Parliament or journalist in limited and carefully defined circumstances; and the detrimental actions offence would be made if a disclosure were a contributing factor rather than it being substantially in reprisal for disclosures.

Some of these ideas were included in the new standard proposed by the Leader of the Opposition in the other place. In relation to increasing or toughening whistleblower protections, the Leader of the Opposition also proposed that protections for whistleblowers should be strengthened to cover not only employees in the public sector but also employees in the private sector—anywhere where a protected disclosure needs to be made. That would improve safeguards for whistleblowers, wherever they may be. This is particularly apposite when one considers the downsizing in the public sector that the current Government is embarking upon. It is not hard to imagine many functions that are currently done by public servants in future being carried out by contractors who may or may not be covered by the provisions of the bill.

The bill provides that the definition of a "public official" who gets the protection of the principal Act is expanded. It is made clear that an employee or officer of a corporation who is engaged by a public authority under a contract to provide services to or on behalf of a public authority, and who provides or is to provide those services, is a public official for the purposes of the Act, which is more expansive than at present. Proposed new section 4A (2) also includes a number of specific people who will be regarded as public officials.

These are volunteer rural fire fighters in a rural fire brigade, a State Emergency Service unit volunteer, an RSPCA inspector, an employee of a privately owned correctional centre and an accredited certifier under the Environmental Planning and Assessment Act. The specifying of these provisions and the tweaking of the public official definition results from the drafting decision to refer to a public official but, again, as I indicated earlier, once that is done, one will have to keep updating that definition to ensure that it is comprehensive enough to afford protections to people who need to avail themselves of the protections. With those brief observations, the Opposition will certainly not be opposing this bill, although with a bit of extra thought and effort the Opposition is of the view that it should be expanded in the way I have identified.

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

## ADJOURNMENT

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [9.58 p.m.]: I move:

That this House do now adjourn.

## SAME-SEX MARRIAGE

**The Hon. TREVOR KHAN** [9.58 p.m.]: On Saturday 23 March 2013 I had the pleasure of witnessing the wedding of my daughter Jennifer to her partner, Adam. The ceremony was performed in a park on a sunny day in Newcastle before a marriage celebrant. The ceremony was short, inspiring and moving. Following the ceremony I had the chance to reflect on how different things were from only a couple of decades ago, but also how different it is for some couples and their families today.

In the mid-eighties, when I married, there was still an expectation that couples would marry before a minister in a church. How different it is now. Data from the Australian Bureau of Statistics shows that between 1990 and 2010, a mere 20 years, there was almost a halving of the number of marriages performed by ministers of religion: 58 per cent of marriages were performed by ministers of religion in 1990, but this percentage had fallen to just over 30 per cent in 2010. Put another way, the number of marriages performed by civil celebrants had almost doubled: 42 per cent in 1990 to 69 per cent in 2010. That means that within a single generation marriage ceremonies have moved from being primarily church-based to secular ceremonies before a celebrant. In reality, if the trend were to continue, then within another generation the percentages of marriages performed in churches would be negligible.

It is not, however, simply a matter of where, and before whom, today's Australians are choosing to marry. The Australian Bureau of Statistics data also shows that young people are choosing to marry later. In 1990, 44 per cent of those marrying were in the age group of 20 to 24 years, 54 per cent were in the age group 25 to 29 years, and 28 per cent were in the age group 30 to 34 years.. By 2010 there had been a dramatic shift, with only 16 per cent in the age group of 20 to 24 years, 44 per cent in the age group of 25 to 29 years, and almost 36 per cent in the age group of 30 to 34 years. In short, there has been a significant ageing of the cohort of those marrying.

The changes do not end there. The explanation for this shift in age groups is at least partly explained by the increasing prevalence of couples choosing to live together prior to marriage. Since the Australian Bureau of Statistics began collecting data on cohabitation prior to marriage in 2000, there has been an increase in the rate of couples cohabiting prior to marriage from 71 per cent of married couples in 2000 to 78 per cent of married couples in 2010. While the data is more limited with respect to cohabitation, it reflects a significant increase over a decade. When one combines the age group data with data relating to cohabitation it is fair to conclude that Australians are choosing to marry later, most commonly after a period of cohabitation. In short, marriage is no longer seen as the starting point at which young people move from the family home, commence an intimate relationship and set up home. Instead marriage is, for the majority of young Australians, occurring as a later step in the relationship.

The Australian Bureau of Statistics data reinforces the argument that younger Australians today see marriage as a public expression of their commitment to each other, as an expression and recognition of the decision to enter into a binding and long-term relationship. However, it remains true that marriage is important in promoting positive relationships in our community. As was said in the United States of America decision of *Griswold v Connecticut*:

Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.

I speak not only for myself but also for my newly married daughter when I say: To deny the opportunity to marry to members of the Lesbian, Gay, Bisexual, Transgender and Intersex [LGBTI] community is a failure by all governments to protect and promote the interests and well-being of our fellow Australians. History is on the side of those like my daughter who wish to see their same-sex attracted friends have the same opportunity to marry. It is time we all work to fix this injustice.

## NEW SOUTH WALES CRICKET

**The Hon. LUKE FOLEY** (Leader of the Opposition) [10.03 p.m.]: New South Wales has fielded a first-class cricket team since 1856, the very year that responsible government began in the colony. And since

1856 the administration of cricket in New South Wales and our parliamentary democracy have developed side by side. When a Sydney grade cricket competition was organised in the 1890s the organisers took the boundaries of the Legislative Assembly districts as the basis for their eight clubs. For more than 150 years members of this Parliament have taken leading roles in the organisation and administration of cricket. The first chairman of the New South Wales Cricket Association was a serving member of this Parliament, Sir John Darvall. Another early chairman of the New South Wales Cricket Association was William Joseph Trickett, who enjoyed a 35-year career in this Parliament.

Today, Trickett's great-grandson is the voice of Australian cricket—the ABC's Jim Maxwell. The first three Australian Prime Ministers from New South Wales—Edmund Barton, George Reid and Chris Watson—were all vice-presidents of the New South Wales Cricket Association. As the President knows, the Liberal and Reform Association politician Joseph Carruthers achieved a distinguished double in the year 1907, serving as both Premier of the State and as chairman of the New South Wales Cricket Association. John Storey, later to become a Labor Premier, helped found the Balmain electorate cricket club in 1897. One of Storey's successors as member for Balmain, H. V. "Doc" Evatt, was another vice-president of the New South Wales Cricket Association.

In later decades Labor's Ron Mulock and the Country Party's Roger Wotton both enjoyed long careers in this Parliament while also serving on the board of the New South Wales Cricket Association. The tradition continues to this day, with Kevin Greene the current president of Sydney grade cricket's most storied club, St George. Kevin Greene is also a director of Cricket New South Wales, as is Patricia Forsythe. Rodney Cavalier, the widely known chairman of the Sydney Cricket Ground Trust, also serves the game today as chairman of the Highlands District Cricket Association.

The Australian first-class cricket season will end tomorrow, when the Sheffield Shield competition final concludes. The New South Wales team's season ended eight days ago, when it failed to qualify for the shield final. The team is known as the SpeedBlitz Blues. This is the eleventh year that a public sector agency—Roads and Maritime Services, and lately Transport for NSW—has been the principal sponsor of the New South Wales men's cricket team. I understand the sponsorship to be valued at \$1.21 million for the current two-year term. I am not opposed to this sponsorship. Yet I do think there should be accountability to members of this Parliament given the significant amount of public money involved here.

As far as New South Wales cricket is concerned, the season can only be described as tumultuous. Throughout the course of the season the coach, followed by the chief executive officer, then the chairman and finally the captain all resigned. I believe that is unprecedented. The men's team failed to qualify for the four-day or one-day finals, although I do note that New South Wales female cricketers have been unstoppable this season. The talent drain, where many of our state's finest cricketers have moved interstate in recent summers, has alarmed many cricket followers. Ed Cowan, Phil Hughes, Usman Khawaja, Peter Forrest and Jackson Bird are but a few of the elite New South Wales cricketers who have found greener pastures elsewhere.

The flirtation with ANZ Stadium at Olympic Park should end. It is not a cricket ground. While I support some Sheffield Shield and one-day interstate games being played at Blacktown, Newcastle and country cricket grounds, the New South Wales cricket team's home base should always remain at the finest cricket ground in the world, the Sydney Cricket Ground. International matches hosted by Cricket NSW should always be played at the Sydney Cricket Ground. I advise honourable members that I have today written to the chairman of Cricket NSW to invite him and other senior representatives to Parliament House to meet with members of this Parliament to discuss the state of cricket in our State. Alan Davidson, in his foreword to Colin Clowes' voluminous labour of love *150 years of New South Wales first-class cricket: a chronology*, wrote proudly of "the heritage and history of the greatest county, state or provincial cricket team—New South Wales". I want to see a plan to make New South Wales cricket number one again.

### CHRISTIAN EASTER CELEBRATION

**Reverend the Hon. FRED NILE** [10.08 p.m.]: I wish to speak on the Easter celebrations that will take place next weekend. Next weekend Christians celebrate the two fundamental doctrines of the Christian faith. The first is the crucifixion, which is commemorated on Good Friday; the second is the resurrection, which is celebrated on Easter Sunday. The crucifixion is described in the Gospel of John, chapter 3 verse 16, in these words:

For God so loved the world, He gave His only begotten Son, that whosoever believeth in Him should not perish but have eternal life.

It is difficult for people to comprehend that wonderful, simple truth. Jesus Christ physically rose from the dead on Easter Sunday but not as a ghost or spirit. Some reject the resurrection in saying that Jesus Christ rose like the sun rises in the morning; it is far more than that. Jesus Christ rose bodily. When the disciples told the disbelieving Thomas—whom we call "Doubting Thomas"—that they had seen Jesus he said, "I do not believe that. I will not believe until I can put my fingers into the nail holes in Jesus Christ's hands and put my hand into his side where the spear entered his body." Then, to the great surprise of Thomas, Jesus appeared and said, "Put your fingers into the nail holes and your hand into my side where the spear entered my body." He then ceased to be Doubting Thomas and said he believed in Jesus Christ as the son of God.

Interestingly, because of the Australian immigration policy the number of different religions in this country is growing. People of faiths such as Buddhism, Hindu and so on do not have material that attacks or criticises Jesus Christ because they existed before the Christian faith. The Islamic religion is the only religion formed after the Christian period, and it has a lot to say about Jesus Christ. The *Koran*, which Muslims believe is the literal word of Allah, their God, rejects anyone who believes Jesus Christ is the son of God. In the Oxford University Press translation of chapter ix: repentance, verse 30, page 182 of the *Koran* it says:

The Christians say the Messiah is 'The Son of God'. That is the utterance of their mouths conforming with the unbelievers before them. Allah assail them. How they are perverted.

The Muslim religion, as distinct from other religions, criticises the fundamental doctrines of the Christian faith. Even the belief of Christians that Jesus Christ died on the Cross of Calvary is rejected in the *Koran* at chapter iv: women, verse 155, page 95, where it says:

And for their (the Jews) saying, 'We slew the Messiah, Jesus son of Mary, the Messenger of God' ... Yet they did not slay him, neither crucified him, only a likeness of that was shown to them.

They reject the resurrection and the crucifixion and that creates tension in Australia and other countries such as in the Middle East and Indonesia. It is wonderful that God did so love the world that he gave his only begotten son. With that simple truth, it is a wonder that not everyone is a Christian. It is so simple to believe that Jesus Christ died on the Cross of Calvary for our sins. By believing that truth Christians receive forgiveness for their sins and eternal life. I urge everyone to give serious thought to the meaning of Easter this coming weekend.

### SNOWY SCIENTIFIC COMMITTEE

**The Hon. STEVE WHAN** [10.13 p.m.]: More than 10 years ago Bob Carr and Steve Bracks stood together on the banks of the Snowy River to announce the release of water down that river. Sometime after those environmental flows commenced in the river the Snowy Scientific Committee was established by the Labor Government and included New South Wales and Victorian representatives. But the term of that committee expired not long after the O'Farrell Government won office and for almost two years this Government has done nothing about reappointing it. The work of the committee has been allowed to cease and a number of the scientists who had been monitoring the river have now left the department's employ. Yet still the Government said nothing. However, a couple of weeks ago a discussion paper was released on the establishment of a Snowy advisory committee.

After two years of waiting one would have expected that paper to have been well thought out and to have contained plenty of background information. But no, it looks as though it was knocked-up in about 1½ hours by someone in the Minister's office or under the guidance of the Minister. The true colours are revealed in its discussion of the pros and cons of the former committee. The scientific committee was deliberately set up to be independent of government. Its purpose was: to advise the New South Wales Government on the regime for the release of environmental flows under the Snowy Water Licence into the Snowy River and the Snowy Montane systems; to review the adequacy of releases; to review the program's management and restoration of the catchments; and to produce an annual state of the environment report.

The Government has said that one of the weaknesses of the committee is that it is independent of government. Other weaknesses include nominations being set by statute, its funding and no mechanism to require other specialists. That the Government sees the committee's independence as a weakness is a clue as to where the Government is heading. The Government wants a new body set up to do its bidding. It wants the committee to have a greater focus on providing advice on releases; to have a flexible representation that covers a broad skill set; that comprises government and stakeholder representatives; that retains the requirements for some positions to be nominated by the Victorian Government; to be chaired by an independent chair nominated

by the New South Wales Minister for Primary Industries to whom the committee is to report; to be an advisory committee created by statute rather than a statutory corporation; and to be funded by Snowy Hydro Limited rather than by the Government.

A number of parts of that proposal are completely out of keeping with the original intention of having environmental releases down the Snowy River—one of the greatest environmental achievements of the Labor governments of Bob Carr and Steve Bracks and for which the community worked tirelessly over many years. It is great that we have a 21 per cent flow down the Snowy River but that does not mean it is time to ditch the independent scientific committee. The job of that committee is far from finished; it is just starting. The Snowy River will take decades to recover and the environmental flows will require constant monitoring. It is completely inappropriate to make that committee a tool of the Minister for Primary Industries. It is also unfair to suggest that it should be funded by Snowy Hydro Limited, which removes the impression of independence that many believe to be so important.

The committee should be government funded. The three governments involved in the release of water down the Snowy River—the New South Wales, Victorian and Federal governments—should be responsible for its funding. Snowy Hydro Limited should not be expected to fund it. Why was only Snowy Hydro Limited nominated? Why were the owners of the water, including the irrigation companies and environmental water holders et cetera not nominated? This inappropriate response adds to the list of disasters by the Minister for Primary Industries, who has the reverse Midas touch—she touches gold and it turns to dust.

#### **UNIVERSITY OF NEW SOUTH WALES FORMER EMPLOYEE DR PAUL BARACH**

**Dr JOHN KAYE** [10.18 p.m.]: At the end of January the *Australian* and the University of New South Wales launched a disgraceful, mendacious and malicious attack on an innocent individual. News Ltd reproduced the university's allegations that former employee Dr Paul Barach is a conman with "a 15-year history of deceit, a fraud a cheat and an incorrigible liar", who "plagiarised the work of colleagues and repeatedly falsified his credentials". Each and every accusation of misconduct in these two articles is categorically and spitefully wrong. I possess copies of documents that conclusively refute any reflection against Dr Barach's behaviour, his professional competence or probity at each of the academic institutions mentioned in the articles. I also possess documentary proof that he holds the qualification he is supposed to have lied about.

As I have previously informed the House, Dr Barach, a trained anaesthetist, is an international leader in the field of safety science, particularly as applied to creating higher-value and patient-centred care in hospitals. Shortly after being headhunted and vetted using 10 international references to be the director and professor of the University of New South Wales Injury Centre in 2008 he reported on mismanagement and malfeasance in the biomechanics laboratory that provided pre-surgery analysis and management of the gait of children with cerebral palsy. Unfortunately for Dr Barach, the head of that laboratory, Associate Professor Andrew Macintosh, is Vice-Chancellor Fred Hilmer's son-in-law. Shortly after delivering his report, which was fully supported by an independent review, Dr Barach was sacked without due process from the University of New South Wales on what can only be described as trumped-up charges. While Professor Hilmer denies he had any direct involvement in the sacking and subsequent persecution of Dr Barach, it is clear that each player in the systematic destruction of his career knew what they needed to do.

The article claims that the university is presenting the Supreme Court with "more than 130 examples of what it claims are misrepresentations and falsehoods in Dr Barach's curriculum vitae [sic], grant applications, and other statements going back to 1998". I will address the five most egregious of those. First, the university accuses Dr Barach of falsely claiming to have Harvard Medical School affiliations. That will come as news to Reginald Jenney, Professor of Anaesthesia at the Harvard Medical School and Warren M. Zapol, MD, who on 23 March 2003 signed a letter certifying that Dr Barach completed 52 months of postgraduate clinical training in anaesthesiology at Massachusetts General Hospital. A June 1998 certificate from the Harvard University Department of Anaesthesia declared that Dr Barach had "served with distinction as a resident physician in anaesthesia".

Secondly, it is claimed that as an anaesthetist at the University of Chicago from 2000 to 2003 Dr Barach was found to have "made poor clinical decisions that caused patients to suffer, was the subject of complaints from patients and colleagues, and was removed from his position in a patient-safety centre". That too would be news to Professor Solomon Aronson, Director of the Division of Cardiothoracic Anaesthesia at the University of Chicago, who in a February 2003 letter described Dr Barach as an "exceptional clinician" who "has demonstrated continued excellence and outstanding achievement in his professional endeavours".

Similar letters from four other department leaders commend Dr Barach. Not one of them mentions restrictions placed on him or removal from any position—matters which surely would have been raised if they had any basis in reality.

Thirdly, the University of New South Wales claims that "during Dr Barach's divorce proceedings in Florida in 2007 his wife gave evidence that he had been fired from his job at the University of Miami two years earlier". The university is in possession of an October 2007 letter from Ernesto Pretto, Professor of Anaesthesiology at the University of Miami, stating that "since arriving at the University of Miami his achievements and expertise have been unparalleled". On 11 December 2005 University of Miami Vice-Provost Professor Steven Ullman at the Miller School of Medicine wrote that Dr Barach's "departure will be a major loss for the University" after Paul had told him he was seeking employment elsewhere. Professor Ullman praised Dr Barach's "academic integrity, financial management and his excellent clinical skill".

On 31 January 2013 Professor Stephen Lipshultz, Associate Executive Dean of the University of Miami Miller School of Medicine, stated that "Paul's tenure at the University of Miami was immensely successful and unparalleled in achievements". Those are hardly the words from an institution about an employee who had been sacked. The article claims that "during his 10 months at the University of New South Wales, the university alleges Dr Barach mismanaged the Injury Risk Management Research Centre, misused funds, bullied staff, and inserted his name and submitted false information to ARC and NHMRC." In a letter dated 31 January 2013 Dr Barach's dean at the University of New South Wales, Professor Mike Archer, directly contradicted allegations of mismanagement, citing the centre's achievements under Paul's leadership. [*Time expired.*]

#### PHOTO CREATE PTY LTD

**The Hon. SCOT MacDONALD** [10.23 p.m.]: At the end of last year I was fortunate to be given a tour of a remarkable business in Glen Innes. Very often in this place and in the media we hear about the challenges facing businesses in regional New South Wales but we should also celebrate the successes. I have known Mr Howard Eastwood for many years and finally accepted his invitation to inspect his family's enterprise, Photo Create. Photo Create developed from the Eastmon Camera House. Howard described to me the impact of the internet on the previous business model. The old model was based on shopfronts and foot traffic. Customers brought their films and, more lately, their camera memory cards into Eastmon stores and either printed their photos on the spot or picked up the finished product later.

Some years ago the Eastwood family recognised the power of the internet and its influence on consumer behaviour. They realised it was a fundamental threat to their business. But they did not complain or appeal to government; they adapted. The retail stores were closed or sold and Photo Create was developed. Photo Create is a leader in the digital photographic industry. Customers from all over the world download their images to Photo Create's sites and order photos of all sizes and formats—small, very large, framed, in books, on mugs, in calendars and so on. What particularly impressed me was that the business is competitive in North America and elsewhere across the world. Three truckloads of orders are usually despatched every day, many of them to international destinations.

Photo Create has overcome distance and geography. It matters not that Glen Innes is located outside a capital city. As Howard described it to me, the key ingredients were skilled staff, cheap commercial land, technology, access to transport and a spirit of entrepreneurialism. Its marketers are constantly trying new products and services. When I visited the staff were in overdrive catering for Christmas products. I am now convinced that Santa Claus does not live in the North Pole but operates out of Glen Innes. The benefits for Glen Innes are substantial. The normal workforce of Photo Create is around 200 and can peak at more than 600 at seasonal times such as Christmas. I met a range of Photo Create's staff, including the IT-savvy folk, innovative marketers, technicians and photo developers. They were obviously proud to work for Photo Create, and some of them remarked about the lifestyle benefits of being based in Glen Innes.

Obviously any successful business in regional New South Wales is worth talking about, but what appealed to me and why I wanted to bring it to the attention of this Chamber is that I see Photo Create as a case study for regional communities and for government. I made a point of asking Howard if the company had received any assistance or grants from government. The answer was no. Very often governments at all levels believe they have to construct programs, grants, committees and the like to assist regional Australia. In reality, probably the best thing we can do is get out of the way. From government, Photo Create needs good roads; broadband—and, no, it is not on the national broadband network—an affordable business environment with competitive taxes, including workers compensation and payroll tax; and a minimum of pointless regulations.

The New South Wales Liberal-Nationals Government is doing its part, putting downward pressure on the add-on costs to employment, bringing energy costs under control and providing better infrastructure. It is time we had a Federal Government that understood business and acted on inefficient green schemes and flawed broadband rollout and provided funding for the New England Highway and an industrial relations framework that is workable for employees and employers. Photo Create understands that it has to be competitive in a global economy. It did not bury its head in the sand as online retailing took off. It did not complain to investors and government; it adapted. Let us celebrate this regional success story and support Howard, Pam and Hugh Eastwood, their families and all the staff at Photo Create in practical ways. I also recognise the birthday of the Hon. Marie Ficarra.

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

**Motion agreed to.**

**The House adjourned at 10.28 p.m. until Tuesday 26 March 2013 at 11.00 a.m.**

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