LEGISLATIVE COUNCIL

Wednesday 1 May 2013

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

The President read the Prayers.

HEALTH LEGISLATION 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.

FATHER SUPERIOR ANTOINE TARABAY, OLM

Motion by the Hon. JOHN AJAKA agreed to:

1. That this House notes the appointment by the Holy Father, Pope Francis, of Father Superior Antoine Tarabay, OLM, (Lebanese Maronite Order) as Bishop of the Diocese of St Maroun (Maronites) in Australia.

2. That this House notes that:

   (a) Father Superior Tarabay was born in Northern Lebanon in 1967 and was ordained a priest in 1993,

   (b) Father Superior Tarabay graduated with a major in Theology at Holy Spirit University in Kaslik, Lebanon in 1993, and continued his studies in Rome in Moral Theology, in which he would later be awarded a Doctorate from the Alfonsiana Academy of the Lateran University,

   (c) Father Superior Tarabay completed his Licentiate in 1996, and was awarded a Masters in Bioethics in 1998 in Rome, and a Diploma in Human Rights Studies in 1999 at the Institute of Human Rights in the Catholic University of Lyon, France,

   (d) Father Superior Tarabay was first appointed as Principal of St Charbel's College in Punchbowl, New South Wales in 2002, serving in the position until he returned to Lebanon in 2005 to take the post of Director of Student Affairs at Holy Spirit University, and

   (e) Father Superior Tarabay returned to St Charbel's in 2007, where he currently serves as Rector, incorporating the roles of Parish Priest, Principal of the College and Superior of the Monastery.

3. That this House acknowledges that:

   (a) the President of the Australian Catholic Bishops Conference has welcomed the appointment of Father Superior Tarabay as Bishop of the Diocese of St Maroun (Maronites) in Australia,

   (b) the Australian Lebanese Maronite Community has welcomed the appointment of Father Superior Tarabay as Bishop of the Diocese of St Maroun (Maronites) in Australia, and

   (c) Father Superior Tarabay possesses immense expertise in Moral Theology, Bioethics and business studies as well as ample pastoral experience and monastic leadership.

4. That this House acknowledges Father Superior Tarabay's great level of service and dedication to the Maronite Catholic and greater community of New South Wales.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 1216 outside the Order of Precedence objected to as being taken as formal business.

ARMENIAN, ASSYRIAN AND GREEK GENOCIDES

Motion by Reverend the Hon. FRED NILE agreed to:

1. That this House notes that:

   (a) on 5 May 1998, the Legislative Council passed a motion recognising and condemning the Genocide of the Armenians, and

   (b) Assyrians and Greeks were subjected to qualitatively similar genocides by the then Ottoman Government between 1914 and 1923.

2. That this House:

   (a) joins the Assyrian, Armenian and Greek communities of New South Wales in honouring the memory of the innocent men, women and children who fell victim to the first modern genocides,

   (b) condemns the genocides of the Assyrians, Armenians and Greeks, and all other acts of genocide as the ultimate act of intolerance,

   (c) recognises the importance of remembering and learning from such dark chapters in human history to ensure that such crimes against humanity are not allowed to be repeated,

   (d) condemns and prevents all attempts to use the passage of time to deny or distort the historical truth of the genocides of the Assyrians, Armenians and Greeks, and other acts of genocide,

   (e) recalls the testimonies of Anzac prisoners-of-war and other servicemen who were witness to the genocides of the Assyrians, Armenians and Greeks,

   (f) recalls the testimonies of Anzac servicemen who rescued Assyrians, Armenians and Greeks genocide survivors,

   (g) acknowledges the significant humanitarian relief contribution made by the people of New South Wales to the victims and survivors of the Assyrians, Armenians and Greeks, and

   (h) calls on the Commonwealth Government to condemn the genocides of the Assyrians, Armenians and Greeks.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 1219 outside the Order of Precedence objected to as being taken as formal business.

VIETNAM SYDNEY RADIO

Motion by the Hon. DAVID CLARKE agreed to:

1. That this House notes that on 1 March 2013 Vietnam Sydney Radio marked the twelfth anniversary of its launching at a celebration held at Canley Heights, which was attended by several hundred members of the Vietnamese-Australian community, as well as guests from the wider community.

2. That this House acknowledges that those who attended included:

   (a) Mr Chris Bowen, MP, Federal member for McMahon,

   (b) the Hon. Jason Clare, MP, Federal member for Blaxland, Minister for Justice, and Minister for Home Affairs,

   (c) Mr Craig Kelly, MP, Federal member for Hughes,

   (d) Mr Chris Hayes, MP, Federal member for Fowler,

   (e) the Hon. David Clarke, MLC, New South Wales Parliamentary Secretary for Justice,

(f) Councillor Dan Nguyen of Bankstown City Council and Vice-President of the Vietnamese Community of Australia (NSW Division),

(g) Councillor Nhan Tran of Fairfield City Council,

(h) Mr Cong Le, Federal Vice-President of the Vietnamese Community of Australia and President of the Vietnamese Community of Australia (ACT Division),

(i) Mr Jack Lake, President of the Blue Mountains branch of the Vietnam Veterans Association,

(j) Mr Vo Dai Ton, former Deputy Minister for Information and a member of the Presidential Military Cabinet in the former Government of South Vietnam, and

(k) Mr Quang Luu, former head of SBS Radio.

3. That this House commends Vietnam Sydney Radio, its Program Director Doan Kim, Head Announcer Bao Khahn and other staff members for their work on behalf of the Vietnamese Australian Community, and for reflecting the Vietnamese-Australian community's concerns about human rights violations in Vietnam.

TRIBUTE TO BARONESS THATCHER

Motion by Reverend the Hon. FRED NILE agreed to:

That this House:

(a) notes that Margaret Thatcher served as Prime Minister of Great Britain for a longer continuous period than any Prime Minister in the past 150 years,

(b) notes that Margaret Thatcher was a Conservative politician and leader with strong political convictions which caused controversy in Great Britain,

(c) acknowledges the significant contributions that Margaret Thatcher made to her country and to the international community, and

(d) extends condolences to her family and supporters for her recent passing.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 1224 outside the Order of Precedence objected to as being taken as formal business.

MEMEME PRODUCTIONS

Motion by the Hon. JAN BARHAM agreed to:

1. That this House notes that:

(a) at the 2013 International Digital Emmy Awards in Cannes, France, on 8 April 2013, New South Wales North Coast production company Mememe Productions won the category of Digital Program: Children and Young People for dirtgirlworld … dig it all,

(b) the International Digital Emmys are awarded by the International Academy of Television Arts and Sciences in recognition of creativity and quality in digital programming,

(c) dirtgirlworld … dig it all is an interactive digital project based on the acclaimed *dirtgirlworld* animated television program, and

(d) Mememe Productions has received support in developing its innovative and successful creative works from the Government's Interactive Media Fund, along with Screen Australia.

2. That this House congratulates Mememe Productions, and in particular Cate McQuillen, Hewey Eustace, Pete Gately, and Tamsin Smyth, on their award, and recognises their achievements in creating and producing outstanding children's content.

PREMIER'S MULTICULTURAL COMMUNITY MEDALS

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that on Wednesday 10 April 2013, five citizens were presented with the Premier's Multicultural Community medals at the annual Premier's Harmony Dinner in the presence of over 700 guests at Doltone House in Pyrmont.

2. That this House commends the extensive service to their communities, and the contributions made to Australia's multicultural society, of the following recipients:

   (a) Ms Maha Krayam Abdo, OAM, for her work in encouraging intercultural and interfaith dialogue within the community, her service to the Islamic community and providing support to women of many cultures and origins,

   (b) Mr John Caputo, OAM, for his outstanding service to the Italian community in Australia, and his efforts in supporting a number of community organisations,

   (c) Mr Hudson Chen, OAM, for his exceptional work in raising over $1 million for disaster relief efforts and his contribution to the Australian Chinese community,

   (d) Mr Ernie Friedlander, OAM, for his tremendous services within the Jewish community and his active involvement in events supporting Harmony Day, and

   (e) Mr Jon Soemarjono for his commitment to providing welfare assistance to members of the Indonesian community, and his ongoing promotion of interfaith dialogue.

3. That this House notes the life achievements of the following individuals who were posthumously inducted onto the Multicultural Honour Roll:

   (a) Ulla Bartels, who founded the South-East Asian Community Assistance Centre which grew to become the Cabramatta Community Centre,

   (b) Francesco (Frank) Calabro, AM, who was the first Italian born member for the New South Wales Parliament, serving 18 years in the Legislative Council following his election to the position in 1970, and

   (c) Wadim (Bill) Jegorow, AM, MBE, who was the foundation president of the Ethics Community Council of New South Wales, for his contribution to the establishment of SBS.

4. That this House congratulates the recipients of these awards and commends their notable achievements and efforts in promoting multiculturalism in New South Wales and Australia abroad.

PEROOMBA INTERIM HERITAGE ORDER

Production of Documents: Order

Motion by Dr John Kaye agreed to:

That, under Standing Order 52, there be laid upon the table of the House by 12 noon on Tuesday 7 May 2013 any documents in the possession, custody or control of the Minister for the Environment and Minister for Heritage or the Office of Environment and Heritage 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.

NATIONAL FESTIVAL OF UKRAINIAN AUSTRALIANS

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:

   (a) the National Festival of Ukrainian Australians will be held in Sydney from 7 June to 9 June 2013 with the theme "Yesterday, Today and Tomorrow",

   (b) the National Festival is led by a Sydney-based organising committee under the auspices of the Australian Federation of Ukrainian Organisations,

   (c) the National Festival will consist of cultural appreciation workshops, art exhibitions, craft workshops, community development workshops, a short film festival, other film screenings, and a major public concert of music, song and dance at Sydney Town Hall on Sunday 9 June 2013 with some 200 performers of all ages,

   (d) the National Festival will feature participants and performers from across Australia, as well as Ukraine and Canada,

(e) the National Festival is an opportunity for the Ukrainian Australian community to commemorate the sixty-fifth anniversary of its substantial migration to Australia and to demonstrate its gratitude to Australia,

(f) the National Festival also seeks to celebrate Ukrainian culture and share it in the spirit of mateship with the broader Australian community,

(g) leading sponsors of the National Festival to date are the Karpaty Foundation, PLAST Ukrainian Scouting Organisation, Sydney Credit Union [SCU], Sydney Foundation of Ukrainian Studies, Ukrainian Catholic Church, Ukrainian Orthodox Church, Dooley's Catholic Club, Soyuz Ukrainok and the Ukrainian Youth Association of Australia,

(h) the Ukrainian Australian community has over 35,000 members including more than 10,000 members in New South Wales, and

(i) Ukrainians, mainly as post-war refugees from Soviet and Nazi totalitarianism, were among the first groups selected by the Commonwealth Government to break the White Australia Policy in the late 1940s and early 1950s.

2. That this House acknowledges that:

(a) the Ukrainian community has made a significant contribution to Australia and New South Wales, including in leadership positions in politics and public service, academia, the arts and sport,

(b) Ukrainian Australians have supported Australia's successful multicultural model and have recently shown that support by adopting a Statement on Multiculturalism, and

(c) Ukrainian Australians remain committed to promoting greater Euro-integration, democratisation and sovereignty for Ukraine as it continues to emerge from decades of foreign rule and dictatorship.

LATVIAN AUSTRALIAN ARTISTS EXHIBITION

Motion by the Hon. DAVID CLARKE agreed to:

1. That this House notes that:

(a) between 28 March and 25 April 2013, the Australian Latvian Artists Association and the Sydney Latvian Society presented an exhibition of paintings by Latvian Australian artists in the Fountain Court of the Parliament of New South Wales, and

(b) the exhibition comprised works by the following artists:

(i) Walter Barda,

(ii) Anita Berzins-Misins,

(iii) Juris Cerins,

(iv) Peteris Ciemitis,

(v) Biruta Clark,

(vi) Ieva Deksne,

(vii) Guntis Jansons,

(viii) Andra Krumina,

(ix) Dzidra Mitchell,

(x) Haralds Noritis,

(xi) Harijs Piekalns,

(xii) Anita Rezevska,

(xiii) Alda Rudzis,

(xiv) Raimonds Rumba,

(xv) Ilze Senberga-Nagela,

(xvi) Jan Senbergs,

(xvii) Vija Spogis-Erdmanis,

(xviii) Janis John Supe,

(xix) Imants Tillers.

3. That this House:

(a) commends the Latvian Australian Artists Association and its President Mr Ojars Greste, as well as the Sydney Latvian Society for their initiative in organising this successful cultural event, and

(b) acknowledges the strong and positive contribution of the Latvian Australian community to the State of New South Wales.

JOINT STANDING COMMITTEE ON ROAD SAFETY

Membership

Motion by the Hon. Cate Faehrmann agreed to:

That Ms Faehrmann be discharged from the Joint Standing Committee on Road Safety and Reverend the Hon. Fred Nile be appointed as a member of the committee.

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

TRIBUTE TO CHRISSY AMPHLETT

Motion by the Hon. JAN BARHAM agreed to:

1. That this House notes the sad passing of Christine Joy "Chrissy" Amphlett on Sunday 21 April 2013 at the age of 53.

2. That this House notes that:

(a) as lead singer of Divinyls since its formation in 1980, Chrissy Amphlett had a highly successful music career, establishing herself as an innovative and entertaining performer and songwriter, with four of the band's studio albums reaching the Top 10 in the Australian charts,

(b) Chrissy Amphlett also had a successful career as an actor on stage and screen, including her role as Judy Garland in the original production of *The Boy from Oz*,

(c) in 2001 the Australian Performing Rights Association named Divinyls' song *Science Fiction* as one of the Top 30 Australian songs of the past 75 years,

(d) on 2 April 2013 it was announced that Amphlett had been chosen in the Top 10 Australian singers of all time in a poll of more than 100 leading Australian singers and musicians, and

(e) in its 2006 announcement of Divinyls' induction to the ARIA Hall of Fame, ARIA stated that, "In a male-dominated world of rock, Amphlett's role as part of Divinyls was a thrilling phenomenon; here was a woman who expressed both violence and vulnerability in her music, and whose ardent, sexually charged performances took audiences to new heights, and who became an icon and an inspiration to women in rock around the world."

3. That this House acknowledges the frankness and strength of character that Amphlett displayed, as a performer and more recently in dealing with the challenges of multiple sclerosis and breast cancer.

4. That this House expresses its sympathy to all of Chrissy Amphlett's family and friends, in particular her husband Charley Drayton, her parents Mary and Jim, and her sister Leigh, and joins with her many fans in marking her loss.

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. Greg Pearce tabled, pursuant to Standing Order 59, a list of all papers tabled in the previous month and not ordered to be printed.

IRREGULAR PETITIONS

Leave granted for the suspension of standing orders to allow the Hon. Penny Sharpe to present an irregular petition.

Proud Schools Program

Petition calling on the Government to continue and expand the Proud Schools program in order to prevent homophobia and transphopia in schools, received from the **Hon. Penny Sharpe**.

The Hon. WALT SECORD: I seek leave of the House for the suspension of standing orders to allow the presentation of an irregular petition from 16 citizens of the Tweed and surrounding areas concerning Byrrill Creek Dam.

Dr John Kaye: Point of order: I cannot hear what the petition is about because the Leader of the Government seems to have decided it is his job to yell.

The PRESIDENT: Order! I have the gist of the member's point of order. While I could hear what the Hon. Walt Secord was saying, there was a lot of noise in the Chamber. I ask members to listen to the Hon. Walt Secord in silence.

Leave granted for the suspension of standing orders to allow the Hon. Walt Secord to present an irregular petition.

Byrrill Creek Dam

Petition opposing the creation of a dam at Byrrill Creek on environmental and economic grounds, received from the **Hon. Walt Secord**.

BUSINESS OF THE HOUSE

Routine of Business

[*During the giving of notices of motions*.]

The PRESIDENT: Order! Today will be a long day and members will have a number of opportunities to contribute to debate. I ask members to restrain themselves while other members are giving their notices of motions. It difficult for members to hear the terms of the motions and it is difficult for Hansard to hear the member with the call.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business item No. 1213 outside the Order of Precedence withdrawn by Dr John Kaye.

BUSINESS OF THE HOUSE

Postponement of Business

Business of the House Notice of Motion No. 1 postponed on motion by the Hon. Duncan Gay.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notice of Motion No. 1 postponed on motion by the Hon. Michael Gallacher.

DISTINGUISHED VISITORS

The PRESIDENT: I welcome to the President's gallery Mr Hermiz Shahen, Deputy Secretary General of the Assyrian Universal Alliance, Mr David David, President of the Assyrian Australian National Federation, and Mr Simon Essavian, member of the Assyrian Universal Alliance, and hope they enjoy their visit to Parliament today.

SMALL BUSINESS COMMISSIONER BILL 2013

In Committee

Consideration resumed from 30 April 2013.

Clause 3 agreed to.

Clauses 4 to 12 agreed to.

Clause 13 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.34 a.m.]: I move amendment No. 2 on sheet C2013-003B:

No. 2 Page 5, clause 14, line 32. Insert "(including compulsory mediation)" after "services".

Clause 14 deals with the general functions of the commissioner. This amendment reflects the great desirability of one of the tools in the armoury of the Small Business Commission, that is, if necessary, a scheme of compulsory mediation in the resolution of disputes involving small business. To date, it has been the experience of a number of persons who have sought to avail themselves of the mediation services that are currently offered by the Small Business Commissioner that the other party to the dispute—usually the larger, wealthier and better resourced larger business—simply refuses to engage. Because of that refusal to engage there is no mediation and nothing happens. There is no mechanism for exploring the difficulties that the small business has experienced through the expert assistance of a small business commissioner's endeavours to resolve matters before parties put their minds to the greatly time-consuming and expensive alternative of litigation.

For two decades public policymakers, courts and tribunals in this State, in the Commonwealth and in other jurisdictions have done what they can to support alternative dispute resolution and to promote the desirability of mediation and other forms of non-litigious resolution of disputes. For more than 120 years, conciliation has been a feature of systems of industrial relations in all States and federally. Consequently, in the usual course, more than 90 per cent of all matters are resolved without resorting to formal litigation. It seems to the Opposition that a compulsory scheme of mediation in relation to disputes before the Small Business Commissioner would have great utility.

There is great utility in ensuring that representatives of the parties who are in a position to make decisions about the matter should be required to attend and sit around the table to at least discuss the matter. In the great majority of cases, that would have a hugely beneficial effect and would lead to the overwhelming majority of matters being resolved without any further steps being taken. For those reasons, I have moved Opposition amendment No. 2. Other proposed amendments are directed to a similar objective, but this amendment is sufficiently stand-alone for the Opposition's amendments not to be dealt with in globo. I strongly urge all members to carefully consider the inclusion of compulsory mediation mechanisms in this legislation.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.38 a.m.]: The Opposition's amendment is relatively simple. It proposes to incorporate the phrase "including compulsory mediation" in clause 14 of the bill, which outlines the general functions of the commissioner. The Government's opposition to this amendment also is very simple. The amendment is just not necessary, due to the inclusion of clause 17 in the Government's bill which thoroughly deals with the provision of compulsory mediation.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.38 a.m.]: I am pleased the Minister has mentioned the woefully flawed clause 17.

The Hon. Duncan Gay: I am sure Parliamentary Counsel will be pleased to read that.

The Hon. ADAM SEARLE: The Parliamentary Counsel have carefully crafted clause 17, no doubt in complete conformity with the crafty instructions given to them by the Government. Clause 17 does not create a scheme of compulsory mediation. It prevents parties from litigating while an alternative dispute resolution is on foot. Neither party can go to court while an alternative dispute resolution is in place. That is a sensible mechanism. It does not create a scheme of compulsory mediation or mediation that both parties have to partake in. Subclause (2) of clause 17 is quite clear that alternative dispute resolution has failed if one or more of the parties involved in the dispute have refused to take part in or have withdrawn from the alternative dispute resolution services provided by the commissioner.

In a sense, clause 17 (2) sets up the mediation service offered by the commissioner to fail. It says to larger or better resourced parties that it is not compulsory for them to attend. Clause 17 (2) says that if they refuse to attend, the commissioner will have to certify that the resolution process has failed and, therefore, the weaker party or the party with more to lose will have to resort to litigation. It does not create a scheme of compulsory mediation. Far from it, it is merely a limited suspension on a party's rights to go to court in relation to a dispute.

The Hon. Duncan Gay: It doesn't, and that is why it is better.

The Hon. ADAM SEARLE: I acknowledge that interjection. The Minister has been seriously ill advised because it does not do that. It does not create compulsory mediation. We urge the Government—in fact, all parties in this Chamber—to accept the idea of compulsory mediation because it is not only desirable but necessary if the role of the Small Business Commissioner is to have any efficacy.

The Hon. Duncan Gay: The Law Society will give you free membership next year.

The Hon. ADAM SEARLE: I do not wish to be a member of that esteemed body, thank you, Minister. We welcome the limited benefit of clause 17. If an alternative dispute resolution procedure is on foot, it is important that parties are not running off to court. However, it does not create a better environment for resolving disputes, that is, before parties go to court. A compulsory scheme of mediation should be offered by the Small Business Commissioner where parties sit around a table and discuss the dispute before anything else happens. It is my belief, based on what has happened in other fields, that when a party has to front up and explain to a neutral third party what is going on—

The Hon. Dr Peter Phelps: It is a quasi-judicial body, is it?

The Hon. ADAM SEARLE: No, it is not a quasi-judicial body.

The Hon. Dr Peter Phelps: But you want to give it quasi-judicial powers.

The Hon. ADAM SEARLE: No, I do not, but it gives the parties and the commissioner the framework to at least address their minds to the elements of the dispute. It does not require the parties to spend too much time on it and it does not require any particular outcome. It merely says that the parties have to attend, turn their minds to the dispute and at least partake in a discussion. This legislation is about providing a framework not just for the purposes of the commissioner but also for the commissioner to assist small business. As we know from our own experiences and from talking to friends and family and people we meet in our professional travels, often small businesses are not financially well resourced. Small business people are flat out running their businesses and attending to their family needs. They do not have the resources to engage in often costly litigation.

The implementation of a framework where the larger and better resourced party to a dispute at least has to attend and discuss the matter will be of great benefit in assisting small businesses to resolve disputes without litigation. That is a tool we should all urge upon the Government in order that the Small Business Commissioner can effectively provide assistance to small business. Where is the harm in requiring parties to attend a dispute mediation procedure? We urge Parliament to embrace this amendment.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.44 a.m.]: The Opposition spokesman may have forgotten that during debate on his amendment No. 3 I indicated that a similar but better amendment was likely to be proposed and that we would consider that amendment more favourably.

The Hon. PAUL GREEN [11.44 a.m.]: I have taken note of all the considerations put forward by the Deputy Leader of the Opposition. The Christian Democratic Party will move an amendment to this clause which will address many of the concerns he has raised.

The Hon. Trevor Khan: And better.

The Hon. PAUL GREEN: And better. The Opposition's comments are on track. If there is to be mediation, the least a party can do is be courteous, turn up and try to reach a conciliatory outcome. If one party does not attend, that results in a waste of resources and time and increases anxiety about the future. The best outcome is that businesses deal with their troubles and move on to build their dreams and achieve their goals. Our proposed amendment addresses the issues of time, expense and litigation and the attendance of all parties at mediation. Therefore, we will not be supporting this amendment.

The Hon. JEREMY BUCKINGHAM [11.46 a.m.]: The Greens support the Opposition's amendment No. 2. It is a common-sense amendment that goes a long way towards providing the Small Business Commissioner with the authority to carry out her important role. In a dispute between small business and a much larger entity, what faith will small business have in a dispute resolution process where the major player

does not have to turn up to discuss the matter? If we do not address this fundamental flaw in the bill we risk undermining the purpose of the bill, that is, to provide the Small Business Commissioner with the necessary powers so that small business can be confident that the commissioner is able to assist them. The situation where a small business attends for mediation but the large player does not will spread around the small business community and undermine the role of the Small Business Commissioner. The Opposition amendment No. 2 and the foreshadowed Christian Democratic Party amendment are eminently sensible and have merit.

The Hon. Trevor Khan: You can't have it both ways.

The Hon. JEREMY BUCKINGHAM: As a matter of fact, we can, and you should know that. The Greens will be supporting this amendment.

Question—That Opposition amendment No. 2 [C2013-003B] be agreed to—put and resolved in the negative.

Opposition amendment No. 2 [C2013-003B] negatived.

Clause 14 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.48 a.m.], by leave: I move Opposition amendments Nos 1 and 2 on sheet C2013-006C in globo:

No. 1 Page 6, clause 15. Insert after line 31:

(5) A complaint relating to an unfair contract to which a small business is a party may be made by or on behalf of the small business and be dealt with by the Commissioner even though the contract is no longer on force, but only if the complaint is made within the period of 6 months after the contract ceased to be in force.

No. 2 Page 6. Insert after line 31:

16 Orders in relation to unfair contracts

(1) The Commissioner may, in dealing with a complaint relating to an unfair contract involving a small business, make such orders as the Commissioner considers necessary to remedy the unfairness.

(2) A person must comply with an order under this section to the extent to which it applies to the person.

Maximum penalty on summary conviction: 50 penalty units.

These two amendments travel together. Amendment No. 1 enables a small business, or someone on its behalf, to make a complaint about an unfair contract to which it is a party and for it to be dealt with by the Small Business Commissioner. Amendment No. 2 gives the commissioner the power relating to such a complaint to make necessary orders to remedy the unfairness, and provides a penalty for failing to abide by the outcome. This addresses the Opposition's critique of the bill that although the Small Business Commissioner can receive complaints about matters, she really has no powers to take any action to remedy the matter. Clause 19 underscores this problem because it identifies that when the Small Business Commissioner receives a complaint or makes a finding of persistent anti-competitive practices in contravention of any law—obviously requiring a high standard of proof—all she can do is refer it to the Director General of the Department of Finance and Services.

Even on the Government's bill, the Small Business Commissioner can receive as many complaints as people are willing to make, but she cannot do anything about them other than offer informal mediation. I understand what the Deputy Leader of the Government has said and I can read: The amendment proposed by the Christian Democratic Party bears a passing resemblance to another amendment. Hopefully, at some point in this debate a scheme of compulsory mediation may emerge, but that still does not detract from the fact that the Small Business Commissioner is bereft of any powers to remedy any small business complaint.

Opposition amendments Nos 1 and 2 will remedy the ability to receive and deal with complaints of the kind proposed therein. We have pitched the amendment without undue regulation or legalism simply to say that if the contract is or has become unfair, a person can make a complaint to the Small Business Commissioner and she can deal with it and, if needed, make orders to correct the unfairness. The amendments do not require the Small Business Commissioner to investigate a complaint; that is dealt with adequately elsewhere in the bill. The

Government bill makes it clear that the commissioner can deal with a complaint or not pursue it if she does not consider it has merit. These amendments simply give the Small Business Commissioner another tool in her toolbox.

If she is persuaded that a contract is unfair and that corrective measures need to be taken, she may do so within her discretion. She is not required to do so. This important facility will ensure that this body has real teeth. Apart from the Small Business Commissioner's educative and community function fulfilled in her travels—the dissemination of information and the running of a compulsory mediation scheme, which I hope she will be able to do at the end of this debate—she will have another tool in her toolbox to make sure that complaints by small businesses in this State can be heard by an independent body with the power to deal with those complaints without undue technicality or legalism only if the holder of that office is persuaded by its necessity. This is a limited but carefully focussed measure that significantly improves the legislative regime proposed by the Government and the range of activities and powers available to the Small Business Commissioner. We urge the Government and all persons in this place who are concerned with the wellbeing of small businesses to embrace this concept.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.54 a.m.]: I have the distinct impression that the Deputy Leader of the Opposition is addressing his comments to others and not to me.

The Hon. Adam Searle: I have given up on you, Duncan.

The Hon. DUNCAN GAY: He keeps looking across the Chamber. The Government opposes Opposition amendments Nos 1 and 2 on sheet C2013-006C. As the Deputy Leader of the Opposition indicated, the amendments propose to include retrospective and, we believe, unfair contract relief and the granting of orders to remedy unfairness. Clause 15 (1) (b) of the Small Business Commissioner Bill includes the ability for the commissioner to deal with complaints regarding unfair contracts. This addresses the objective of dealing with unfair contracts in a direct and practical manner to encourage parties to avoid resorting to costly and time-consuming litigation.

I was excited about the picture painted of the Small Business Commissioner like a latter-day Bob the Builder going about her business with extra parts to her toolbox, but a host of legal remedies exist under other courses of action more appropriate for small business to pursue complaints about contracts that no longer are in force. Once a contract ceases to be in force, remedies by way of damages may be the only effective form to redress any inequities between the parties. The commissioner's powers are sufficient to gather information about past contracts for the purpose of the commissioner's reporting and recommendation functions under clauses 13 and 14. We oppose these amendments.

The Hon. PAUL GREEN [11.56 a.m.]: The Hon. Duncan Gay mentioned that clause 15 deals with the ability to address unfair contracts, but when the Christian Democratic Party worked through this bill with the different stakeholders it believed the Opposition amendments certainly added value. We encourage the Government not only to note in clause 15 but to go further and perhaps cement in the regulations the spirit of the Hon. Adam Searle's amendments. Perhaps those issues could be addressed in the third reading speech to ensure that a spirit of dealing with unfair contracts is fairly solid and that the commissioner has the ability to enforce compliance by those who have been served orders. While the Opposition's amendments have value, we are not ready to support them at this time. However, we encourage the Minister to note the Opposition's amendments and put them in the regulations to give it more backbone.

The Hon. JEREMY BUCKINGHAM [11.58 a.m.]: The Greens will support the amendments. Again, we believe there is enormous merit in giving the Small Business Commissioner the capacity to make orders and have the power to force participants in disputes to comply with those orders. It is common sense that the Small Business Commissioner should have the power to make those orders and also force compliance. One key thing in the Small Business Commissioner's toolbox should be a stick for occasional use to motivate participants to engage fairly. The Greens will support these amendments.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.59 a.m.]: I have listened closely to what the Deputy Leader of the Government and the Hon. Paul Green have said. I am quite prepared to accept that Opposition amendment No. 1 overlaps with the existing clause 15 (1) (a) and, more particularly, clause 15 (1) (b). Given the concerns raised by the Government about contracts no longer in force, if there were

sufficient support in this Chamber for Opposition amendment No. 2 I would be content to withdraw Opposition amendment No. 1. If Opposition amendment No. 2 were to find favour with the Government or the crossbenches I would be content to withdraw Opposition amendment No. 1.

I say that for this reason: being able to make the complaint is only the first step. I am prepared to accept that paragraphs (a) and (b) of clause 15 (1) provide the facility for a small business party to a contract that is or has become unfair to make such a complaint to the commissioner. What is missing in the Government's bill is any capacity for the Small Business Commissioner, or anybody else, to do anything about it. Currently the bill allows people to make a complaint and the Small Business Commissioner to investigate it, but what can the commissioner then do? It is a testament to the Government's capacity for smoke and mirrors.

The commissioner can make a report as a result of investigating the complaint and one assumes the commissioner can give that report to the parties, but there is nothing else the commissioner can do. If the Small Business Commissioner investigates an alleged unfair contract and says, "Yes, this contract is shocking. I have never seen anything so terrible in all my life", where does that leave the small business? The small business says, "Thank you. Someone has recognised my terrible experience and it is validated and in the report." But what can the small business do with the report? It cannot sue based on it, and it cannot give it to the other party and have the unfairness remedied. Nothing in the bill provides substance to an investigation of any complaint made by the Small Business Commissioner.

As I have said, I would be prepared to withdraw Opposition amendment No. 1 if Opposition amendment No. 2 were to find favour with either the Government or the crossbenches. As the Hon. Jeremy Buckingham indicated, it is necessary that at some point there be an enforcement mechanism. Where a contract is or has become unfair and that is recognised not only because the party suffering has made the complaint but it has been independently verified through careful investigation by the Small Business Commissioner—an independent statutory office holder—it stands to reason that there has to be a remedy. If not, the bill creates expectations in the broader community and the small business community that will not be delivered on.

We will see the commissioner investigating complaints made to her, yet where those complaints are validated and upheld there will be no remedy for the small business. That will create a democratic deficit. It will undermine the credibility of her office, the legislation and the Government's agenda in this area. As much as it would be nice for the Opposition to say, "We told you so", it would be much better if the Chamber, as the House of review, embraced Opposition amendment No. 2 and provided for that enforcement measure. I invite the Government and the Christian Democratic Party to rethink their position.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.03 p.m.]: I thank the Deputy Leader of the Opposition. I listened carefully to his comments and those made by the Hon. Paul Green. As members would be aware, comments made by the Minister in charge of the carriage of a bill certainly have bearing on the interpretation of a bill. I will take the request of the Hon. Paul Green on board. I emphasise that the Minister will be watching and taking note of the member's concerns. Once the bill is in operation, if the commissioner feels that she—or he in the future—needs further power to cover unfair contracts the Government will bring either the regulation or the bill back to the Parliament. Members have raised fair concerns. I make that undertaking on behalf of the Minister as the Minister with carriage of this bill in this place.

Question—That Opposition amendments Nos 1 and 2 [C2013-006C] be agreed to—put.

The Committee divided.

Ayes, 18

Ms Barham	Mr Primrose	Ms Westwood
Mr Buckingham	Mr Roozendaal	Mr Whan
Ms Cotsis	Mr Searle	
Mr Donnelly	Mr Secord	
Ms Faehrmann	Ms Sharpe	*Tellers,*
Mr Foley	Mr Shoebridge	Mr Moselmane
Dr Kaye	Mr Veitch	Ms Voltz

Noes, 20

Mr Ajaka	Mr Green	Mrs Mitchell
Mr Blair	Mr Harwin	Reverend Nile
Mr Brown	Mr Khan	Mrs Pavey
Mr Clarke	Mr Lynn	Mr Pearce
Ms Ficarra	Mr MacDonald	*Tellers,*
Mr Gallacher	Mrs Maclaren-Jones	Mr Colless
Mr Gay	Mr Mason-Cox	Dr Phelps

Pair

Ms Fazio Ms Cusack

Question resolved in the negative.

Opposition amendments Nos 1 and 2 [C2013-006C] negatived.

Clause 15 agreed to.

The Hon. JEREMY BUCKINGHAM [12.13 p.m.]: I move The Greens amendment No. 1 on sheet C2013-009B:

No. 1 Page 7, clause 16. Insert after line 5:

(4) A person must not, without reasonable excuse, fail or refuse to comply with a requirement under this section.

Maximum penalty on summary conviction: 50 penalty units.

As outlined by the Deputy Leader of the Opposition and the Hon. Paul Green, there is concern that the Small Business Commissioner runs the risk of becoming a Clayton's commissioner, lacking the power people in the small business community expected. This amendment seeks to give the Small Business Commissioner an essential tool in the toolbox, which is a big stick—

The Hon. Walt Secord: And some teeth.

The Hon. JEREMY BUCKINGHAM: —to give people some friendly persuasion and a little motivation. Clause 16 (4) states:

A person must not, without reasonable excuse—

and the Hon. Walt Secord would know about that—

fail or refuse to comply with a requirement under this section.

It then applies a maximum penalty of 50 penalty units. This clause gives the Small Business Commissioner some teeth. If these provisions are not included in the bill, we will revisit the matter, as the Minister said, to apply them at a later date.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.14 p.m.]: The Opposition will support The Greens amendment No. 1.

The Hon. JOHN AJAKA (Parliamentary Secretary) [12.14 p.m.]: The Government opposes The Greens amendment No. 1 in its current form regarding the requirement to provide information.

Question—That The Greens amendment No. 1 [C2013-009B] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2013-009B] negatived.

The Hon. JEREMY BUCKINGHAM [12.15 p.m.]: I move The Greens amendment No. 2 on sheet C2013-009B:

No. 2 Page 7, clause 16 (4), lines 6–10. Omit all words on those lines.

The Greens believe that this is another way to empower the Small Business Commissioner to require government agencies to provide information to the Small Business Commissioner. We believe that the same requirements that apply to large and small business—for example, in a dispute—should apply to government agencies. It is not reasonable to require the Small Business Commissioner to go through the Government Information (Public Access) Act process to acquire information from government agencies. At times the Small Business Commissioner may have to determine disputes between small business and government agencies and we do not believe it is appropriate to apply that public interest test. That is why we seek to omit that provision from the bill.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.17 p.m.]: I am mindful that subclause (4) of clause 16 will be resurrected at a latter part of this debate so I will be very careful in what I am saying. As we understand the provision, it simply states that if one does not have to provide it as a result of the Government Information (Public Access) Act, one does not have to provide it to the Small Business Commissioner in this process. It is one of those tricky areas where I can see both sides of the argument—that is, if a government agency does not have to provide it to the general public why would it have to provide it to the Small Business Commissioner?

However, given the public purpose for which the office of the Small Business Commissioner is being created, I think it would be desirable were that office not to be restricted by the Government Information (Public Access) Act. However, it must be borne in mind that this is information the Small Business Commissioner is accessing to try to resolve a dispute and that may benefit the small business that is in a commercial dispute. Notwithstanding the great desirability of the Small Business Commissioner not to be restricted by the Government Information (Public Access) Act, in terms of not undermining the very important public purpose for which that legislation was created by this Parliament, the Opposition regrettably will not be able to support The Greens amendment No. 2 because we believe the integrity of the Government Information (Public Access) Act should be maintained and promoted. Therefore, regrettably, we cannot support The Greens amendment No. 2, although we have a great deal of sympathy for what the Hon. Jeremy Buckingham is trying to achieve with this amendment.

The Hon. JOHN AJAKA (Parliamentary Secretary) [12.19 p.m.]: The Government opposes The Greens amendment No. 2, which proposes to remove clause 16 (4) from the bill, which states that government agencies are not required to provide any information under section 16 if there is an overriding public interest against the disclosure of the information for the purposes of the Government Information (Public Access) Act 2009 where access to the information would otherwise be denied under that Act. The commissioner's power should be consistent with the Government Information (Public Access) Act; it is based on sound principles with inbuilt dispute resolution mechanisms. Government Information (Public Access) Act principles include important protections such as Cabinet information and legal professional privilege, which this Parliament has recognised. It also includes principles for which an overriding public interest against disclosure exists. There is no reason why such principles should not apply to mediations.

Question—That The Greens amendment No. 2 [C2013-009B] be agreed to—put and resolved in the negative.

The Greens amendment No. 2 [C2013-009B] negatived.

Clause 16 agreed to.

Clause 17 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.21 p.m.]: I move Opposition amendment No. 3 on sheet C2013-006C:

No. 3 Page 7. Insert after line 35:

18 Attendance of persons at alternative dispute resolution and production of documents

(1) For the purposes of resolving a complaint or other dispute involving a small business, the Commissioner may, by notice in writing, require any person:

(a) to attend a meeting at a time and place specified in the notice, or

(b) to produce, at a time and place specified in the notice, to the Commissioner any document or thing described in the notice that is in the custody or under the control of the person and that, in the opinion of the Commissioner, would benefit the resolution of the complaint or dispute.

(2) A person must not:

(a) without reasonable excuse, refuse or fail to do anything required of the person by a notice under subsection (1), or

(b) in response to such a notice, make a statement that the person knows is false or misleading, or

(c) alter, suppress or destroy any document or thing that the person is required by such a notice to produce.

Maximum penalty on summary conviction: 50 penalty units.

Without the risk of re-running an earlier debate, the amendment goes to creating a compulsory scheme of mediation to ensure that the office and the functions of the Small Business Commissioner are effective not only for the discharge of her statutory duties but to deliver proper service to the small business community of this State. It is simply not good enough, as is provided in clause 17 of the Government's bill, that there is a big, flashing neon sign over the mediation function that says one does not have to participate and one can get a free leave pass if one refuses to engage. We believe that undermines the credibility of the office. No doubt that provision was very carefully drafted by the draftsperson in accordance with the instructions from the Government. However, this has been the subject of some powerful advocacy around not just this Chamber but beyond and into the business community.

I know of at least one substantial stakeholder, the Master Builders Association, that is very concerned that when mediating disputes there should be a compulsory mediation mechanism to at least get people in the same room and around the same table to talk about the issues. Parties will not be compelled to agree; there will not be any prohibition on taking whatever legal courses of action are open to parties thereafter if matters are not resolved, but people must be made to come into the room to look at each other across the table and at least discuss the issues. That is what Opposition amendment No. 3 proposes. We understand that it may not succeed, at least on the first go in this place, but we are hopeful that the principles that are embedded in this Opposition amendment will ultimately prove durable and will be embraced even by the most sceptical persons opposite—and yes I do mean the Hon. Dr Peter Phelps.

The Hon. PAUL GREEN [12.23 p.m.]: The Christian Democratic Party will not support the Opposition's amendment simply because it has a better one, which I will move shortly.

The Hon. JEREMY BUCKINGHAM [12.23 p.m.]: The Greens will support this amendment. If it is not successful we will look favourably upon the Christian Democratic Party's amendment.

The Hon. Walt Secord: A new coalition.

The Hon. JEREMY BUCKINGHAM: That is it. As has already been stated, the business community is advocating for this provision to ensure that there is a compulsory nature to these deliberations and this mediation; otherwise, it will be a fruitless exercise and will undermine the very position of the Small Business Commissioner. We therefore support this amendment.

The Hon. JOHN AJAKA (Parliamentary Secretary) [12.24 p.m.]: The Government opposes the Opposition's amendment No. 3 in its current form regarding attendance of parties at alternative dispute resolutions and the production of documents. However, the Government acknowledges that this amendment is likely to be proposed in another form shortly and the Government will consider that amendment at that time.

The Hon. Dr PETER PHELPS [12.24 p.m.]: I thank the Hon. Adam Searle for his intervention and naming me in this place because he has prompted me to come forward and issue my position. It is a fundamental principle of the Liberal Party that there should be no compulsion. There is a fundamental principle behind everyone who believes in liberty that there should be no compulsion, and certainly no State-sponsored compulsion. I recognise that the Government has decided to support one of these amendments that mandates compulsion. I also recognise the rules of our party that where a matter has not come before the party room it is certainly within the prerogative of the leadership group to make decisions in relation to amendments. However, as a person who believes in liberty and in economic freedom and as a member of the Liberal Party, I quote this from the Liberal Party's website before I place my position on the record. The Liberal Party's document states:

The NSW division of the Liberal Party works to provide the best possible standard of living for the people of New South Wales.

We believe:

- in the inalienable rights and freedoms of all people; we work towards a lean government that minimises interference in our daily lives and maximises individual and private-sector initiative;

- in government that nurtures and encourages its citizens through initiative, rather than putting limits on people through the punishing disincentive of burdensome taxes and the stifling structures of Labor's corporate state and bureaucratic red tape;
- that, wherever possible, government should not compete with an efficient private sector; and that businesses and individuals - not government - are the true creators of wealth and employment.

I finally state from the Liberal Party's document:

> We believe in individual freedom and free enterprise and if you share this belief, then ours is the Party for you.

I recognise that the compulsory attendance at mediation and production of documents amendment will get up; it has the support of the Opposition, of The Greens, of the crossbenches and of the Government. However, it would be remiss of me not to put on the record my concerns about this. If there is one thing that New South Wales already has too many of it is quasi-judicial authorities in the executive masquerading as judicial authorities. I am sure the Opposition will agree with me about the preponderance in this State of Executive agencies exercising quasi-judicial authority.

One has to ask: What is the point of the judiciary if we have a situation in which the Executive takes it upon itself to create quasi-judicial authorities time after time? If there is a problem with the judiciary in New South Wales—if it is inefficient, if it is unreasonable, if it is overly complex, if it is overly expensive—surely the duty of any government is to seek redress of that situation rather than to go around the existing set of legal principles and legal institutions that have served us well for many years and create, effectively, a whole new series of quasi-judicial Executive agencies.

Of course, we do not want to go back to the days of the Star Chamber and inquisitions and things like that, but we have to ask: What is the point of continually re-creating Executive agencies which purport to exercise quasi-judicial authority? I for one am concerned about that. I believe there is a fundamental reason we have a Legislature, an Executive and a judiciary. I believe it would be much better if the great triangle of government was made manifest by a clear delineation in the New South Wales Constitution, as is the case in the Federal Constitution, the Constitution of the United States and the Canadian Constitution. Those constitutions have said time and again that there should be separation and clear delineation of powers. The Hon. Adam Searle may love the idea of having quasi-judicial bodies exercising that power through the Executive.

The Hon. Adam Searle: Point of order: The member has completely misrepresented my position. Members on this side of the Chamber fundamentally support the separation of powers, and we will come back to that subject shortly.

The CHAIR (The Hon. Jennifer Gardiner): Order! There is no point of order.

The Hon. Dr PETER PHELPS: I note that the Government will support the second of the amendments, but I am pleased to have been able to put my personal position on the record. I am also pleased to have allowed the Deputy Leader of the Government to return from his press conference. I think I have filled up the time quite nicely.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.32 p.m.]: I thank the honourable member for his very entertaining contribution. It is good to know that members do not feel inhibited about speaking from the heart even if the vote they cast in this place is completely contrary to their stated views. I look forward to seeing that shortly. I also thank the Deputy Leader of the Government for his timely return to the Chamber. That obviously called the Government Whip to order and neatly truncated his wideranging and discursive contribution.

The Hon. Dr Peter Phelps: Point of order: There was no call to order on me. The member is misleading the Committee.

The CHAIR (The Hon. Jennifer Gardiner): Order! There is no point of order.

The Hon. ADAM SEARLE: To return to the substance of the amendment, it seems that there is broad agreement in this place about the desirability of compulsory mediation. I note the hard work of many members, including the Hon. Paul Green, to achieve that. Nevertheless, we will first vote on the Opposition's amendment. We urge all members to have the courage of their convictions and support it. Even if we do not succeed on the first go I am sure we will succeed on the second.

Question—That Opposition amendment No. 3 [C2013-006C] be agreed to—put and resolved in the negative.

Opposition amendment No. 3 [C2013-006C] negatived.

The Hon. PAUL GREEN [12.34 p.m.]: I move Christian Democratic Party amendment No. 1 on sheet C2013-022B:

No. 1 Page 7. Insert after line 35:

18 Compulsory attendance at mediation and production of documents

(1) For the purposes of mediating a complaint or other dispute involving a small business, the Commissioner may, by notice in writing, require any person:

(a) to attend a meeting at a time and place specified in the notice, or

(b) to produce, at a time and place specified in the notice, to the Commissioner any document or thing described in the notice that is in the custody or under the control of the person and that, in the opinion of the Commissioner, would benefit the resolution of the complaint or dispute.

(2) A person must not:

(a) without reasonable excuse, refuse or fail to do anything required of the person by a notice under subsection (1), or

(b) in response to such a notice, make a statement that the person knows is false or misleading, or

(c) alter, suppress or destroy any document or thing that the person is required by such a notice to produce.

Maximum penalty on summary conviction: 100 penalty units in the case of a corporation or 50 penalty units in the case of an individual.

(3) A government agency is not required to produce any document under this section if there is an overriding public interest against the disclosure of the document for the purposes of the *Government Information (Public Access) Act 2009* or if access to the document would otherwise be denied under that Act.

After the contribution of the Hon. Dr Peter Phelps I note that the Christian Democratic Party does not mind helping the Government to see the error of its ways in drafting legislation or leading New South Wales; hence this amendment to help the Hon. Dr Peter Phelps along. We also agree with the honourable member about red tape and green tape, which I call Christmas tape. Unfortunately, it is the gift that keeps on giving in legislation concerning the operation of small business in New South Wales.

The essence of the Small Business Commissioner Bill 2013 is to formally create the Office of the Small Business Commissioner and to specify the objectives and functions of that office. Part of the spirit of the bill is to give the Small Business Commissioner the capacity to resolve small business disputes outside the court system. In order to do this a mediation process must be undertaken. The Government agreed with our proposed amendments to make the mediation process compulsory because in the past parties have simply not bothered to turn up to mediation. Unfortunately, the current wording of the bill provides no significant consequence or deterrent outside the court system to a party that does not turn up to mediation.

The commissioner's only power is contained in clause 29, which allows the Small Business Commissioner to take out an injunction to the Supreme Court. However, this action is prohibitively expensive and unlikely to be used. The only other power the bill gives to the Small Business Commissioner is the issuing of a certificate against the party that did not turn up. In reality, that certificate may not have any weight in the court system to prove that a party showed ill will towards the mediation process and resolution of the dispute. There is nothing in the bill that compels a magistrate to take a certificate into consideration.

Furthermore, in our view clause 16 lacks authority. It requires parties to provide information to the commissioner; however, this is without penalty. In other words, proposed section 16 provides no incentive for parties to cooperate with the commissioner. Its passive nature means that it is not worth the paper it is written on. To sum up, the bill currently does not provide for compulsory mediation. There is no requirement for cooperation with the commissioner and in reality court action would be highly unlikely. In essence, the

commissioner would be a figurehead lacking any real capacity or power to resolve small business disputes outside the court system. This is inconsistent with the spirit of a bill that specifies the office and functions of the commissioner.

The Christian Democratic Party amendments specify penalty units for a party not complying with the compulsory mediation process. It would be purely at the discretion of the Small Business Commissioner to apply the penalties in isolated cases of obstinacy. The amendment would give useful muscle to the Small Business Commissioner, who does not have to use this power and would be unlikely to do so, preferring a mediation role. However, the commissioner would have a real power to compel the parties to attend the mediation process. Without penalties the compulsory mediation amendments, in the words of stakeholders and other people with whom we have met in the Parliament, would not be worth the paper they are written on: there would be nothing to compel a party to turn up to mediation.

The role of the Small Business Commissioner should have some bite. In our deliberations with Government members they agreed with us on the importance of including compulsory mediation in the bill. Unfortunately, the current wording of the bill does not do this. The amendment provides that power to the commissioner. I hope the Government will support the Christian Democratic Party amendment and make this good bill even better. I sincerely thank Minister Hodgkinson and her staff for working closely with us. The bill has been a long time coming, but it will be a win for small business. I note also the Hon. Adam Searle's input to the amendment. The essence of producing good legislation is discussing each other's views and formulating a unilateral outcome to serve the best interests of small businesses in New South Wales.

The third subparagraph of the amendment relates to the Government Information (Public Access) Act 2009. I state for the record that inclusion of that provision in the legislation will incorporate Government Information (Public Access) Act mediation principles, which were discussed earlier during debate on clause 16, to ensure that government agencies will be able to continue to protect confidentiality of documents that would be protected under that Act. The Government Information (Public Access) Act principles include protection of documents to which Cabinet confidentiality and legal professional privilege apply. Sometimes commercial interests also need to be protected. Mediation is all about focusing on the issue between the small business person and the government agency, not about exposing information that this Parliament recognises should remain confidential.

Whole-of-government issues that the Small Business Commissioner considers to be systemically unfair to small businesses also can be dealt with by the commissioner under the commissioner's investigative reporting functions. I commend the amendments to the Committee. I thank each member who has contributed to the formulation of the amendments. At the end of the day it is not about who moves the amendment but about improvement of legislation for New South Wales small businesses.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.41 p.m.]: The Government is pleased to support the Christian Democratic Party's amendment, which provides for penalties to apply in relation to failure to attend mediation and/or failure to provide information that is relevant to the resolution of the complaint or dispute. I pay tribute to the Hon. Paul Green's tenacious prosecution of inclusion of the amendment in the legislation. He acknowledged that he worked in conjunction with other members to formulate the amendment. When an amendment is presented as a result of the adoption of a common sense approach and discussion among members of ways in which to improve legislation it exemplifies what a house of review is all about. Nevertheless, as the instigator of the amendments, the Hon. Paul Green has done most of the work to achieve the improvement.

The Government believes that the amendment will be a great help to New South Wales small businesses that are involved in mediation. It also will encourage big business to come to the table. Contravention of the amendment's provisions will not be without substantial consequence, which will include the imposition of 100 penalty units in the case of a corporation or $11,000 or 50 penalty units or $5,500 in the case in an individual. The amendment sends a strong signal to industry that it is in industry's best interests to participate in the mediation process. The comments made by the Hon. Paul Green in relation to the Government Information (Public Access) Act are sensible. It is with great pleasure I support the amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.43 p.m.]: The Opposition also supports the amendment proposed by the Christian Democratic Party that has been sponsored by and addressed during debate by the Hon. Paul Green. I also pay tribute to his tenacity in pursuing this line of country. As he and the Deputy Leader of the Government indicated, ultimately it does not matter who moves an amendment;

what matters is the public policy outcome. The chief function of a house of review, such as the New South Wales Legislative Council, is to improve legislation in the public interest so that it better fulfils the purposes for which it was introduced. Certainly the Christian Democratic Party's amendment, which is not unlike another, achieves that, but with two chief differences. Firstly, I note that the Christian Democratic Party's amendment increases the penalty—in fact, it doubles the penalty—above the penalty proposed in the Labor Opposition's amendment. I note the sharp leftward tilt by the Christian Democratic Party.

The amendment will maintain comity and integrity of this legislation with the Government Information (Public Access) Act, which is important. However, what is not clear on the face of the Christian Democratic Party's amendment is what happens when the Small Business Commissioner requires or seeks information and a business or a government agency withholds it on the basis of that Act. In those circumstances the difficulty will be that the Small Business Commissioner will have to go to the Administrative Decisions Tribunal to obtain the information from a government agency. Hopefully, it will not come to that. That will certainly not apply to disputes with private sector bodies to which the Government Information (Public Access) Act does not apply. Having softly sounded a note of caution, the Labor Opposition will warmly support this significant improvement to the legislation. The amendment certainly fulfils the functions that the Opposition earlier identified as being very desirable.

The very nature of small business means that the contractual relationships a small business has with other small businesses and other businesses generally are likely not to be large scale and impersonal but are likely to be of a more interpersonal nature. When things go wrong it is very difficult on a personal and emotional level to resolve the problems, particularly when the parties retreat to their entrenched positions as a result of the breakdown of the relationship and are unable to engage in sensible dialogue. Having an independent body at which they can lodge a complaint and where all parties are compelled to attend to at least discuss the matters at issue creates a safe place in which all parties to the dispute may come and have their say. They can come forward without compulsion as to the outcome, but they will have to address the issues.

In a very important way, large businesses and government agencies will not be able to hide behind strict legal rights. A person with carriage or knowledge of the matter will be compelled to front up to the Small Business Commissioner, sit around a table, and eyeball the smaller business with which it is in dispute. They will be required to explain themselves and explain their position. In industrial spheres and other spheres of the law where alternative dispute resolution operates, history shows that satisfactory resolution of the lion's share of disputes has been achieved simply by dialogue. The Labor Opposition believes that this amendment is a very important measure. It underscores the role of the Small Business Commissioner and enhances the credibility of that office and its functions as well as the State's entire legislative scheme. For those reasons the Opposition has no hesitation in supporting the amendment.

The Hon. JEREMY BUCKINGHAM [12.47 p.m.]: The Greens will support the sensible amendment moved by the Christian Democratic Party for the reasons we stated in our earlier contribution to debate on the Opposition's amendment. As the Hon. Paul Green has quite strongly stated, clause 16 would not be worth the paper it is written on without the provisions of this amendment in the legislation. There has to be some motivation and power given to the Small Business Commissioner for the parties to participate in the process. I note that the Hon. Dr Peter Phelps has slunk out of the Chamber and will not be present when the vote is counted, but The Greens believe on a philosophical level that it is important to include mediation instead of establishing quasi-judicial bodies.

The Hon. Dr Peter Phelps referred to the Liberal Party's position of nurture being an important part of government action. The Greens believe that this amendment will protect and nurture small business and is not at odds philosophically with the position adopted by the Liberal Party or any reasonable political party. The Greens believe that instead of having an anarchical system of survival of the fittest we should be nurturing and protecting small business. If government intervenes it should do so to protect and nurture small business rather than inflict punitive legislation on the community. The Greens believe the amendment represents a sensible proposition on the part of the Christian Democratic Party and will support it wholeheartedly. I commend the Hon. Paul Green for his work in this area.

Reverend the Hon. FRED NILE [12.49 p.m.]: I put on the record my appreciation for the support of the Government, the Opposition and The Greens for the Christian Democratic Party amendment, and I thank my colleague the Hon. Paul Green for his success and the hard work he put in to negotiating this amendment through both this Chamber and the other House.

Question—That Christian Democratic Party amendment No. 1 [C2013-022B] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 1 [C2013-022B] agreed to.

Clause 18 as amended agreed to.

The Hon. JEREMY BUCKINGHAM [12.50 p.m.]: I move The Greens amendment No. 3 on sheet C2013-009B:

No. 3 Page 8, clause 19. Insert after line 19:

(2) The Director-General is, if satisfied that the person or body has persistently engaged in any such anti-competitive practices, to notify the Australian Competition and Consumer Commission in writing of the finding and cause a report on the matter, along with any response by the ACCC, to be tabled in both Houses of Parliament.

We believe this is an essential amendment to strengthen the bill, to make clause 19 clear what happens next if the commissioner refers any finding to the Director General of the Department of Finance and Services. If the commissioner is satisfied that a person or body has persistently—that is the key word—engaged in any such anti-competitive practice the director general should notify the Australian Competition and Consumer Commission in writing and cause a report of that matter, along with any response from the commission, to be tabled in both Houses of Parliament. We think that is a sensible provision that gives the commission the discretion to consider the persistent and potentially anti-competitive behaviour of a body, a corporation, a business or individual, and to refer that to the Australian Competition and Consumer Commission.

That is a way for the Australian Competition and Consumer Commission to have a role and it is also a way that business can come to understand that the Small Business Commissioner will have power to involve the commission which, of course, is a powerful body in itself. This amendment will give some direction to the director general on what he should do if there is a referral. It is a sensible element to include in the bill the potential to refer persistent anti-competitive behaviour or other practices to the Australian Competition and Consumer Commission.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.52 p.m.]: The Government opposes The Greens amendment No. 3, which proposes to amend clause 19 of the bill to make it mandatory for the Director General of the Department of Finance and Services to refer anti-competitive conduct to the Australian Competition and Consumer Commission for investigation and for any response from the commission to be tabled in both Houses of Parliament. We believe this demonstrates a fundamental lack of understanding of how clause 19 of the bill is intended to work.

The provision relates to the information that can be provided to the director general and used when decisions are being made about large government projects and which contractors are best placed to deliver, not only within the Government's objectives for that project but also in relation to the type of behaviour that delivers fairness in dealing with small businesses. The commissioner can write to the Australian Competition and Consumer Commission or submit a report to Parliament under her own powers. Nothing would be gained by mandating these actions additionally on the director general.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.53 p.m.]: The Opposition supports The Greens amendment No. 3. It does what it can to improve a fairly weak provision in the Government's bill. The provision really gives the game away. Firstly, it has a threshold for the commissioner's intervention or activity that is really too high before the Small Business Commissioner's capacities are engaged. Under clause 19 as it currently is there must be anti-competitive practices, and they must be engaged in persistently; those practices must already be illegal, and they must affect the small business sector rather than just an individual small business. These are significant limitations on when the commissioner may refer matters to the Director General of the Department of Finance and Services.

This provision is already very limited. As we indicated earlier, even where the commissioner finds that a person or body has persistently engaged in anti-competitive practices that are in contravention of any law and that adversely affect the small business sector, she cannot take any action to remedy the situation. She can only refer the matter to the Director General of Finance and Services. This provision in the bill highlights that in the

Government's model the commissioner can receive complaints and she can investigate, but she is not able to do anything to ensure the fair treatment of small businesses. The Government's legislation creates a white elephant, a body that can talk but cannot act except in this very limited way.

We on this side of the Chamber are concerned that because it is so limited it could be read in a way that circumscribes any general power that might otherwise fall to that office to act. It really limits that independence of action. However, The Greens amendment No. 3 does what it can, given those limitations, to make clear that the commissioner can take further steps and notify the Australian Competition and Consumer Commission and can report to Parliament about those matters.

If the strongest case the Government can advance against this amendment is that the Small Business Commissioner can already do that, to the extent that there is a difference of opinion or that the Government simply may not be correct despite its clear intention, where is the harm in The Greens' amendment No.3 just to put it beyond doubt? If there is any doubt let it be put to rest and let us embrace this amendment. If it does no harm, even if it does not much good, it should be enacted to ensure that even within the limited remit created by clause 19 the Small Business Commissioner is not unduly limited in the range of actions she may take.

The Hon. Dr Peter Phelps: It is about the director general, not the Small Business Commissioner.

The Hon. ADAM SEARLE: I acknowledge the interjection from my good friend the Government Whip, who is no doubt doing his best to assist his good friend and colleague the Deputy Leader of the Government. He is helping out.

The Hon. Dr Peter Phelps: You don't understand the amendment.

The Hon. ADAM SEARLE: I do understand the amendment. Clause 19 is about the actions that may be taken by the commissioner—

The Hon. Dr Peter Phelps: And The Greens amendment is about the director general.

The Hon. ADAM SEARLE: Yes, but first the matter has to be referred to the director general. Of course, if there is any doubt about the capacity of the director general or the holder of that office to refer matters it should be put beyond doubt.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.57 p.m.]: The Opposition's comments indicate that not only The Greens but also the Opposition clearly do not understand the purpose of the clause. As I previously stated, this provision relates purely to the information that can be provided to the Director General of the Department of Finance and Services and used when decisions are being made about large government projects, and which contractors are best placed to deliver not only the Government's objectives for the project but also fairness in dealing with small businesses. The referral of anti-competitive conduct to the Director General of the Department of Finance and Services is just one provision at hand to the commission. The commission's ability to deal with small business complaints is not limited to complaints regarding any competitive conduct which affects the sector generally, as has been argued by the Opposition.

Instead, clause 19 needs to be read in conjunction with the rest of the bill. Clause 15 clearly states that the commissioner is able to deal with complaints by or on behalf of the small business if the commissioner is satisfied that the complaint is regarding the unfair treatment of or an unfair practice involving a small business or the complaint relates to an unfair contract to which a small business is a party or it is in the public interest to deal with the complaint.

The Hon. JEREMY BUCKINGHAM [12.59 p.m.]: With all respect, I think the Minister is confused about clause 19, which states:

> The Commissioner may refer to the Director-General of the Department of Finance and Services any finding by the Commissioner that a person or body has persistently engaged in anti-competitive practices that are in contravention of any law and that adversely affect the small business sector.

No mention is made of government contracts, departments or what the Minister has suggested. I do not understand why he puts that argument; it is not in the bill. The bill certainly does not specify government practices. I seek the Minister's advice on that. The Greens' amendment is about what the director general does with the information. The bill contains a referral to the director general of any finding about anti-competitive

practice—a significant issue that adversely affects the small business sector. No suggestion has been made of what the director general should do. We are trying to help the Government, as The Greens often do, to strengthen the bill to provide a further avenue of recourse.

The Hon. Duncan Gay: We appreciate the offer of help. You can understand why we don't always take it.

The Hon. JEREMY BUCKINGHAM: Thank you. I acknowledge that the Minister said that the Small Business Commissioner can write to the Australian Competition and Consumer Commission. The amendment refers to the director general notifying whether he or she is satisfied that the person or corporation has persistently engaged in anti-competitive practices. No mention is made of that notification being compulsory. I seek the Minister's advice also as to why he mentioned government departments and contracts relating to clause 19.

Question—That The Greens amendment No. 3 [C2013-009B] be agreed to—put and resolved in the negative.

The Greens amendment No. 3 [C2013-009B] negatived.

Progress reported from Committee and consideration set down as an order of the day for a later hour.

[*The Assistant-President (Reverend the Hon. Fred Nile) left the chair at 1.02 p.m. The House resumed at 2.30 p.m.*]

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

QUESTIONS WITHOUT NOTICE

NSW POLICE FORCE CHILD ABUSE SQUAD

The Hon. LUKE FOLEY: My question is directed to the Minister for Police and Emergency Services. In light of his answer yesterday that he would find out how long it took for 50 child abusers to be arrested, will he now advise the House how long it took to make those arrests?

The Hon. MICHAEL GALLACHER: As I indicated yesterday, I am sure that my office is well down the track of talking to the Deputy Commissioner of Police. I do not have that information with me. It is important to reflect again on the release of the human resources report into the Child Abuse Squad. For the information of those opposite, I think it is appropriate that the NSW Police Force be given an opportunity to continue the review that has been undertaken for some time and cited by the Ombudsman in 2012 when he put forward a report in relation to child sexual assault in Aboriginal communities. I am sure that some members opposite would have read the report. The Ombudsman acknowledged in the human resources report the appropriateness of the police continuing their review and I draw that to the attention of members. It is a working document by the police; it is a futures document. I encourage the police in this area and in other areas to continue to look at the current and future challenges.

HOLIDAY TRAFFIC POLICE OPERATIONS

The Hon. MELINDA PAVEY: My question is addressed to the Minister for Police and Emergency Services. Will the Minister inform the House of what traffic operations were conducted by police during the recent holidays?

The Hon. MICHAEL GALLACHER: The police conducted two statewide operations in April to cover the Easter and Anzac school holiday periods. Operation Tortoise was the operation for Easter and Operation Go Slow covered the Anzac weekend, which coincided with the end of the New South Wales school holidays. Over the course of the five days of Operation Tortoise—

The Hon. Duncan Gay: Why didn't you call it "Operation Labor Party"?

The Hon. MICHAEL GALLACHER: No, this is effective. Police conducted more than 245,000 random breath tests, charged 302 motorists with drink-driving, booked more than 5,600 drivers for speeding offences and issued 8,844 infringement notices for other offences. Over the Easter long weekend there were 659 major crashes and tragically three people died and another 225 were injured. There were five fatalities over the Anzac long weekend, with 741 major crashes and 263 people needing treatment for injuries. The combination of Anzac Day and the conclusion of the school holidays saw large volumes of traffic on the roads, all compounded by nasty weather at some stages of the weekend.

During Operation Go Slow 2013 police charged 4,187 drivers with speeding offences, issued infringements to 6,410 drivers for other offences, including 454 fines for seatbelt or child restraint offences, 185,500 motorists were breath tested and 363 drink driving charges were laid. I shall outline some examples of extremely dangerous drivers intercepted by police over the course of Operation Go Slow. A 22-year-old P2 motorcyclist was clocked doing 140 kilometres an hour in a 70-kilometre-an-hour zone. A driver at Coffs Harbour was observed by police to lose control whilst going round a corner. When police attempted to intercept him he sped off, did not stop at a stop sign and narrowly avoided colliding with a bus—Eddie Obeid and Ian Macdonald were not in the area that weekend. The driver reached speeds of more than 150 kilometres an hour in a 50-kilometre-an-hour zone. Police were obliged to deploy road spikes to stop the vehicle. After the driver was intercepted and stopped by police a large quantity of drugs and drug paraphernalia were found in the vehicle.

A driver on the South Coast was so impaired by alcohol that he nearly hit a police car that was stopped on the side of the road with its warning lights activated. He ended up driving into a dirt embankment and when breath tested he registered 0.184 blood alcohol concentration, which is more than three-and-a-half times the legal limit. A driver outside Lithgow was seen by police to drive through an intersection, collide with the gutter, mount the kerb and drive for 50 metres down the footpath. The driver then attempted to continue driving back on the road with two deflated front tyres. Police—not surprisingly—required him to submit to a breath test. The unlicensed 44-year-old returned a mid-range prescribed concentration of alcohol. In addition, two motorists were detected driving unregistered vehicles that had been fitted with false numberplates. A number of motorists were charged with high-range speeding—that is, exceeding the speed limit by more than 45 kilometres an hour. In addition to their driver licences being suspended on the spot a number of them also had their numberplates confiscated using the new vehicle sanctions legislation that commenced last year.

These drivers represented a potential major crash or fatality that was avoided because they were stopped by police instead of being stopped by a power pole or an oncoming vehicle. I thank John Hartley and his team at the Traffic and Highway Patrol Command who, together with local area command officers, gave up time with their families so that the rest of us could travel safely on the roads and enjoy our holidays.

NSW POLICE FORCE CHILD ABUSE SQUAD

The Hon. ADAM SEARLE: My question is directed to the Minister for Police and Emergency Services. In light of his answer yesterday that he listens to the police involved in crime agencies and relies on the details provided, why are only 10 additional police officers being provided to the Child Abuse Squad, given the human resources review stated that 175 additional officers were required to reduce the risk associated with child abuse?

The Hon. MICHAEL GALLACHER: I remind the Hon. Adam Searle of the comments that were made by Deputy Commissioner Burn: The NSW Police Force determined the 10 officers to be assigned to the Child Abuse Squad. The NSW Police Force determined that allocation.

COALMINING EXCLUSION ZONES

The Hon. JEREMY BUCKINGHAM: My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Is the Minister aware of the quote in yesterday's *Australian* by the former Howard Government Minister and chief executive officer of the Australian Racing Board Peter McGauran? He stated:

> Mr McGauran, a former Howard government agricultural minister, described the NSW government's land use policy as "slow, cumbersome and creating uncertainty".

Further he stated:

> We'll be doing everything possible to convey to the government that the industry requires a freeze on coal mining in breeding areas that are longstanding.

Will the Government commit to establishing coalmining exclusion zones for critical industries such as the New South Wales thoroughbred breeders?

The Hon. DUNCAN GAY: I am aware of the comments made by the Hon. Peter McGauran. I read them carefully to see whether he had misquoted a former shadow Minister in the portfolio. I am pleased to say that he accurately quoted quite appropriate comments from the former shadow Minister. As for the balance of the question, I will refer the detail to my competent colleague the Minister for Primary Industries.

WESTERN SYDNEY ROADS PROJECTS

The Hon. JOHN AJAKA: My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on the New South Wales Government's commitment to improving western Sydney roads?

The Hon. Greg Donnelly: Put it on notice.

The Hon. DUNCAN GAY: I should put it on notice because there is so much to say that I will be flat out trying to answer the question, so stop distracting me. Yesterday I heard Opposition members say, "Name some roads in western Sydney." I will name some roads and I will tell them what we are doing. I will name a lot of roads and I will not get through them in just one answer. I will need several questions to get through the work that we are doing. I am pleased to take this opportunity to remind the Labor Party of its failure to deliver on its promises to western Sydney and how we have stepped in to fix the mess and build for the future. Members opposite do not want to hear this; they did nothing for 16 years. Today we read in the paper that people have said that the Labor Party has deserted them. The Coalition has stepped in and will not desert them. Labor promised to widen the M5; it did the glossy brochures but never delivered it.

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

The Hon. DUNCAN GAY: That project is underway and will be completed next year. We are full steam ahead on the Erskine Park Link Road—

The Hon. Jeremy Buckingham: The what?

The Hon. DUNCAN GAY: Exactly. Half the members on the other side are saying "What?" They have no idea; they have never been there. They have not been west of Sussex Street. We are full steam ahead on the Erskine Park Link Road to connect the western Sydney employment area with the M4 and M7 motorways.

The Hon. Jeremy Buckingham: What about the Bells Line? When are you building the Bells Line expressway?

The Hon. DUNCAN GAY: Did members hear The Greens say they want us to build motorways? I will come back to that one. I want to use my time talking about western Sydney roads. We will talk about you later, corncob. We have turned the first sod—

The Hon. Greg Donnelly: Point of order: The Minister referred to a member in the House in a disrespectful way. It was unparliamentary. I have taken offence and I ask him to withdraw it.

The PRESIDENT: Order! I call the Hon. Greg Donnelly to order for the first time. I remind members that they must refer to other members by their correct titles.

The Hon. DUNCAN GAY: I have not finished; I have only just started. I am talking about the first sod on the $46 million first stage of the Richmond Road upgrade. There it is in this photo, with a couple of good looking blokes turning the first sod. Members opposite do not want to hear about good news.

The Hon. Walt Secord: Point of order: The Minister is aware of the standing orders with respect to using props in the Chamber.

The PRESIDENT: Order! There is no point of order. The Minister has the call.

The Hon. DUNCAN GAY: It is unbelievable that the person responsible for the most spin and the least action in the former Government is the person who wants to stop me talking about our actions. All he did was put together glossy brochures and he is the loser from the losers lounge. [*Time expired.*]

The Hon. Steve Whan: Point of order: My point of order is relevance. The Minister was talking about members on this side of the House, not about western Sydney roads. In that whole time he mentioned only two.

The PRESIDENT: Order! A number of members are already on one call to order. Question time is particularly unruly today. I call the Hon. Amanda Fazio to order for the first time. Members should cease interjecting and members with the call should resist the temptation to respond to interjections.

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

The Hon. Lynda Voltz: Point of order: Mr President, I remind you of Standing Order 64 (5), which allows Ministers to seek an extension of time for their answers by one minute. In the first two minutes of his answer the Minister did not even refer to the relevance of the question. He should do as the Minister did yesterday and seek an extension.

The PRESIDENT: Order! Is the Minister seeking leave?

The Hon. DUNCAN GAY: I was asked a supplementary question.

The PRESIDENT: Order! Yes, that is quite right. There is no point of order.

The Hon. DUNCAN GAY: I was talking about the first sod being turned on Richmond Road. In September last year construction started on the $65 million upgrade of Schofields Road between Windsor Road and Tallawong Road in the north-west growth centre. We have started building the $110 million, 4.4-kilometre section of Camden Valley Way between Ingleburn and Raby roads as part of the upgrade of Camden Valley Road to a four-lane divided road. Construction of the $75 million, three-kilometre section of Camden Valley Way between Raby Road and Oran Park Drive will start soon—more roads. Of course, the $550 million widening of the M2 motorway between Windsor and Lane Cove roads will be completed later this year.

We are fixing seven pinch points in western Sydney. We recently completed the upgrade of the Cumberland Highway at the M4-Old Prospect Road-Great Western Highway interchange. In fact, we have committed more than $351 million to western Sydney roads this financial year. I was interested to watch Channel 9 the other night when three taxis were used to get the best routes into Sydney. One of the taxidrivers said, "I'm staying off the main roads because the Government has spent money and done such a great job on the pinch points in western Sydney it now makes sense to use those smaller roads." The other taxidriver said, "The work that's happening on the M2 has made it worthwhile to go straight down the M2." I have not started talking about WestConnex and many other roads, but that is for next time.

NSW POLICE FORCE CHILD ABUSE SQUAD

The Hon. STEVE WHAN: My question is directed to the Minister for Police and Emergency Services. In the last two years has the Government received a request for funding to provide the Child Abuse Squad with additional resources?

The Hon. MICHAEL GALLACHER: We sit down and look at every area of policing. There is no doubt the Government must continue to look at the challenges and the needs of those working in the child abuse area, which is extremely important, and in other areas of policing. I have had discussions with police. When in opposition I saw first-hand the need for additional resources in the policing of child abuse. To suggest that somehow this is new is completely fallacious. We have known for many years. Even the report that I sighted from the Ombudsman yesterday referred to the systemic problems in this area going on for many, many years. We continue to work with these police officers.

Again, the Opposition fails to recognise the difficulty this area of policing has and has had for many years in attracting personnel. Yesterday the Opposition simply wanted to move police from somewhere else in the State—although it would not say where the police would have to be taken from. The Opposition fails to recognise the specialised nature of this work and that a person must desire to go into this area. As I have said to the police and will continue to say to them, the result of their internal workings in relation to this report—

The Hon. Penny Sharpe: Rhubarb, rhubarb, rhubarb.

The Hon. MICHAEL GALLACHER: I hear the Hon. Penny Sharpe saying "rhubarb, rhubarb, rhubarb". It is important to recognise that this side of the House wants to work with police to develop a plan.

Those opposite are not interested—that is obvious when they make silly comments like, "rhubarb, rhubarb, rhubarb". It shows that their ignorance and attitude towards this section of policing when they had responsibility as a government is continuing in opposition.

The Hon. Steve Whan: Point of order: My point of order relates to relevance. The Minister was asked a very specific question about whether the Government had received a request for funding to provide the Child Abuse Squad with additional resources. I ask you to draw him to that question instead of making a commentary on his version of the Opposition's comments.

The PRESIDENT: Order! The capacity for Ministers to be relevant is—

The Hon. Amanda Fazio: Very challenged.

The PRESIDENT: Order! I call the Hon. Amanda Fazio to order for the second time. The capacity for Ministers to be relevant is generally improved when members do not interject while they are giving their answers. I remind Ministers not to respond to interjections.

The Hon. MICHAEL GALLACHER: As I said, I continue to work with police. I have asked them to develop a plan in relation to this very important area of policing. I have asked them to develop a plan in relation to their needs, how they can attract officers, how they can retain them, how they can look after the welfare of those officers who are there and how they can rationalise the workload. But those opposite are interested in only one thing: numbers, because that is where the spin is for them. That is what we saw yesterday, and when we hear comments today such as, "rhubarb, rhubarb, rhubarb", it shows their total disinterest in this area of policing. They should be talking about holistic problems relating to this area rather than issues that are, like them, superficial.

The Hon. STEVE WHAN: I ask the Minister for Police and Emergency Services a supplementary question. Will the Minister elucidate his comments that he has asked the NSW Police Force to develop a plan? What is the timetable for that plan and when does the Minister expect to receive it?

The Hon. MICHAEL GALLACHER: As I indicated yesterday, I have asked the police to develop a plan and when I receive the plan I will then be in a position to look at that plan and at future directions.

The Hon. Steve Whan: So no time frame.

The Hon. MICHAEL GALLACHER: The discussions that we have in relation to policing go beyond the Opposition's superficial need to look at police numbers.

The Hon. Steve Whan: Just sometime, is it? One day.

The Hon. Penny Sharpe: Do you think the public are not interested in this?

The Hon. MICHAEL GALLACHER: If those opposite took time to read the report they would see that there are significant reforms required in this area that involve not a small number of police but, indeed, field command as well. I again make the point that, as cited in the opening comments of this report, these are quite extensive reforms. These problems have existed for many years and the former Government manifestly ignored them, so those opposite should not—

The Hon. Steve Whan: You didn't know about them until the day before yesterday apparently.

The Hon. MICHAEL GALLACHER: No, I said to you and the Opposition that these problems have existed for many years. It requires significant resources to address them and significant changes in procedure within the NSW Police Force. If those opposite read the document they would see that.

WILD DOG DESTRUCTION BOARD STAFFING

The Hon. JEREMY BUCKINGHAM: My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Is the Minister aware that because of the Government's cap on public sector wage increases the Wild Dog Destruction Board cannot currently fill four out of 12 positions on the dog fence and that the biggest threat to the maintenance of the dog fence is the inability to attract and retain workers?

The Hon. DUNCAN GAY: I thank the Hon. Jeremy Buckingham for his question. He specifically asked me whether I was aware. No, I am not aware, but I know better than to take his allegations at face value. I will forward his question to the Minister for Primary Industries for a considered response.

The Hon. JEREMY BUCKINGHAM: I ask the Minister a supplementary question. Is the Minister aware that there are reports that suggest there are an estimated 3,000 to 8,000 wild dogs on the South Australian side of the fence at Quinyambie Station—

The Hon. Rick Colless: Point of order: That is a new question entirely and it is out of order.

The Hon. JEREMY BUCKINGHAM: I have not finished the question.

The PRESIDENT: Order! I have heard enough of the question to know that it was not a supplementary question as it was not seeking an elucidation of any aspect of the Minister's answer.

WORKERS COMPENSATION SCHEME PREMIUMS

The Hon. MATTHEW MASON-COX: My question is addressed to the Minister for Finance and Services.

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

The Hon. MATTHEW MASON-COX: Will the Minister update the House on how the Government is delivering benefits to New South Wales business and increasing the competitiveness of the New South Wales economy?

The Hon. GREG PEARCE: The Government is returning $204 million in workers compensation premium rate reductions to help the State's employers grow their businesses, create new jobs and help New South Wales be a competitive place to do business. Industries that have demonstrated improved safety and claims experience will receive a reduction to their premiums of up to 15 per cent. This reduction will apply to 346 industries, which is approximately 66 per cent of the market, and will include services, manufacturing and hospitality businesses across metropolitan and regional New South Wales.

A reduction of more than 10 per cent will be applied to 195 industries, including house construction, food manufacturing and electrical services. Approximately 91 industries will receive between a 5 per cent and 10 per cent reduction, including childcare services, cafes and restaurants, supermarkets and grocery stores. But there is more. A total of 59 industries will receive a 1 per cent to 5 per cent reduction, including plumbing, security and accounting services and takeaway food retailing. The average reduction in premium rates is estimated to be 7.5 per cent across the State.

The Government is able to deliver this reduction due to the ongoing successful implementation of its reforms to the workers compensation scheme, which will be complete at the end of the year. Every business in New South Wales has avoided a massive 28 per cent increase on the 2012 rate, which would have been required to prevent the $4.1 billion deficit legacy left by Labor from blowing out further. Base rates will remain the same for those industries that have demonstrated inferior safety and claims experience, which is approximately 34 per cent of the market, and we expect them to improve their performance. The Government is closing the gap between New South Wales and other States, with premium rates now more in line with Victoria and Queensland.

The requirement for businesses to hold a workers compensation policy ensures that our workers and employers are protected and supported in the event of a workplace injury. As with any insurance, the first aim is to avoid having an incident at all and the second aim is to minimise the effects of any incident that does occur. WorkCover continues to work with employers to improve their workplace safety and claims experience, including a return-to-work pilot program to engage business on the benefits of reducing injury and illness; the Focus on Industry program, which targets the State's 10 highest-risk industries to improve their health, safety and return-to-work performance; and a range of vocational rehabilitation programs to assist employers in returning injured workers to suitable employment.

The Government recognises the important role that small employers play in the New South Wales economy and the many cost pressures they face. WorkCover has introduced incentives to encourage small

employers to keep their workplaces safe and to encourage injured employees to return to safe, durable employment. This includes a 10 per cent employer safety incentive premium discount, which will be offered at each policy renewal for 240,000 small employers in the scheme. The discount to employers who pay their premium in full by the due date has also increased to 5 per cent, giving more back to employers who renew their policy on time.

The Government's package of premium reforms for New South Wales employers is affordable because of its recent reforms to the scheme and improved investment returns. The Government is committed to supporting New South Wales businesses and employers in meeting their obligations under the workers compensation scheme and believes in rewarding improved claims and workplace safety performance because that is in the interests of workers.

NEW SOUTH WALES CENTENARY OF ANZAC

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Police and Emergency Services, representing the Premier. Given that last night the New South Wales Parliamentary Friends of Anzac Group, of which the President of this House is the co-patron, met in the Macquarie Room, given also that New South Wales is on the eve of the New South Wales Centenary of Anzac, and given the importance of the New South Wales contribution to the Great War, subsequent wars and peacekeeping deployments, what proposed initiatives is the Government implementing to commemorate the New South Wales Centenary of Anzac? What funding will be committed by the Government to implement such programs? Has the Commonwealth Government committed funding to support the programs in New South Wales? What resources will the Government provide to the New South Wales Office of Veteran Affairs to successfully plan and implement the New South Wales Centenary of Anzac program?

The Hon. MICHAEL GALLACHER: I thank the honourable member for his important question as we head towards the centenary. As the member has requested, I will seek a response to his question from the Premier. We all enjoyed the most recent Anzac Day. The weather was kind to us and it was outstanding to see the number of people—young people in particular—who were out celebrating this day in our history and commemorating the contributions that our forefathers made to the security and independence of our country.

The PRESIDENT: Order! I call the Hon. Luke Foley to order for the first time.

The Hon. MICHAEL GALLACHER: I had the pleasure of enjoying the dawn service at Terrigal. It was great to be there with the outstanding member for Terrigal, Chris Hartcher. He did a wonderful job of representing all members; I was just one of the many in the crowd.

The Hon. Matthew Mason-Cox: Was Eddie's boy there?

The Hon. MICHAEL GALLACHER: No, Eddie's boy was not there. It was wonderful to see the children from the schools of the surrounding community at the event and to see police marching through Terrigal. It was an outstanding way to bring the community together to honour the memory of the warriors of the past and to pay tribute to those who protect us in the current day and age. I will seek a response from the Premier to the Hon. Paul Green's important question.

POLICE TRANSPORT COMMAND

The Hon. PENNY SHARPE: My question is directed to the Minister for Police and Emergency Services. Has the Minister had any discussions with or made any requests to the Minister for Transport to halt the removal of transport officers from active patrol on trains given that the Police Transport Command is yet to be fully staffed?

The Hon. MICHAEL GALLACHER: I thank the honourable member for her question. We continue to see a lack of support from members opposite for this innovation to increase police numbers and create a visible police presence on our public transport system. Members opposite had the opportunity when they were in government. The police put this idea forward to them when they were in government and the travelling public of Sydney were particularly keen to see a visible police presence, but of course members opposite were not interested. The paperwork shows that they were not interested. The police had been looking at this proposal for some time. It was not part of our election commitment when we came to government and we did not go to the polls with this idea. But when we sat down with police we saw the value of listening to the public's concerns and their desire for an increased visible police presence on our public transport system.

The Hon. Penny Sharpe: It has not happened yet. There is less now than there has ever been.

The Hon. MICHAEL GALLACHER: The honourable member says it has not happened yet. She is so far behind the game. The transport command is in place. Assistant Commissioner Max Mitchell is in charge of the command. Honestly, it is quite a disappointment that the Opposition transport spokesperson does not know that the command is already in place. That is a sad indictment on a once proud Labor Party, which used to have some semblance of understanding about our public transport system. But, of course, members opposite do not travel by public transport, so how would they know about the visible police presence?

As we have indicated, between now and 2014 we will place up to an additional 610 officers on our public transport system. That will be a significant advancement from the position in which members opposite left the travelling public. Embracing such an initiative after an election, which requires a significant financial contribution towards police, will be a fundamental milestone of the O'Farrell Government. To announce it after an election and to introduce it nearly three years before the next election demonstrates how quickly this Government moves on public safety.

The Hon. PENNY SHARPE: I ask a supplementary question: Will the Minister elucidate his answer in relation to the fact that there will be half the number of people patrolling trains than ever before and that he has taken no action to address that?

The Hon. MICHAEL GALLACHER: That is not a supplementary question but I will again make the point that the public of New South Wales have long wanted a visible police presence on our public transport system.

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

The Hon. MICHAEL GALLACHER: On their watch members opposite were happy to take a haphazard approach to public transport. Police used to be responsible for our trains, but they were also responsible for every other thing around them. They were often taken away from their duties on trains to do other things, because when in government members opposite did not see it as a priority.

The Hon. Penny Sharpe: Talk about the brawl a couple of weeks ago—

The Hon. MICHAEL GALLACHER: The only brawl that I know of is the one that is taking place within the Australian Labor Party for preselection, particularly between Walt Secord and Shaoquett Moselmane. I have got my money on Shaoquett.

The Hon. Penny Sharpe: Point of order: The Minister has strayed from the question. Mr President, I ask you to bring him back to the leave of the question.

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

The Hon. MICHAEL GALLACHER: Mr President, I will come back to that point later.

STRIKE FORCE DELICATE

The Hon. JENNIFER GARDINER: My question is addressed to the Minister for Police and Emergency Services. Will the Minister inform the House about the NSW Police Force's recent success in dismantling illegal drug supply chains in the south of the State?

The Hon. MICHAEL GALLACHER: I thank the honourable member for her question. This week the NSW Police Force worked in conjunction with the Australian Capital Territory police and made a major dent in illegal drug supply in southern New South Wales, especially around Queanbeyan, Goulburn, Cooma and the Australian Capital Territory. Strike Force Delicate was formed by the Monaro Local Area Command—

The Hon. Dr Peter Phelps: The random name generator needs an update.

The Hon. MICHAEL GALLACHER: I know. Strike Force Delicate was formed in August 2012.

The Hon. Lynda Voltz: Princess.

The Hon. MICHAEL GALLACHER: No, it was not named "Princess". Many things could be said about that. The strike force was formed to investigate the supply of illicit drugs in Queanbeyan and surrounding areas. Strike Force Delicate, as opposed to "Delegate", also made use of the resources and expertise of specialist units within the NSW Police Force. At about 8.30 a.m. on 30 April police attached to Strike Force Delicate executed search warrants at 17 different properties: 10 in Queanbeyan; five in the Australian Capital Territory; one in Goulburn; and one in Cooma.

The Hon. Mick Veitch: Your staff are cacking themselves over there; this is a set-up.

The Hon. MICHAEL GALLACHER: Yes, me too. They are going to name one after Jeremy Buckingham next time; it is going to be called "Operation Precious". I can see The Greens nodding in agreement with my suggestion. The search warrants resulted in police seizing heroin, methylamphetamine, ecstasy and cannabis, with an estimated street value of $420,000. Police also seized ammunition, firearms and other weapons. Strike Force Delicate police have so far arrested 23 people. Of the 23 people, 15 were arrested in Queanbeyan, four in the Australian Capital Territory, two in Cooma, one in Goulburn, and one in Sydney. Police also expect to make further arrests. Throughout this nine-month operation Strike Force Delicate has charged a total of 49 persons with more than 200 drug supply offences. That is an outstanding result.

Strike Force Delicate shows that at every level the police are capable of successfully executing complex operations and achieving outstanding results in arresting and bringing criminals to justice, keeping large quantities of illicit drugs from hitting the streets and disrupting and dismantling entire drug supply chains. Is it any wonder that Dr Don Weatherburn, who is Director of the Bureau of Crime Statistics and Research, indicated last week that it has never been safer than it is now to live in New South Wales. Members who live in the Queanbeyan area may take comfort in the knowledge that when they return home at the end of this week they will be safer than ever before as a result of the work being done by New South Wales police.

The Hon. Duncan Gay: Queanbeyan has a great local member.

The Hon. MICHAEL GALLACHER: These things happen only as a result of great leadership. Although the improvements have been a long time coming, finally the Monaro has good solid leadership. The success of Strike Force Delicate speaks volumes for the professionalism and investigative capability of officers throughout the NSW Police Force. The operation was cross-jurisdictional. The police involved in Strike Force Delicate not only coordinated successfully across a number of different local and specialist commands but also worked with police in the Australian Capital Territory. I am advised that warrants executed by police in the Australian Capital Territory resulted in seizure of cash and drugs, a .22 rifle silencer and a quantity of ammunition. I congratulate the officers of this strike force and police from the Australian Capital Territory on a job well done. I look forward to reporting further good news to this House and the public on future arrests.

NATIONAL LIVESTOCK IDENTIFICATION SYSTEM

The Hon. JEREMY BUCKINGHAM: Mr President—

Mr Scot MacDonald: Gee, three questions.

The Hon. JEREMY BUCKINGHAM: There must be a meeting, or perhaps there is something I do not know. My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Will he confirm whether, at the Standing Council on Primary Industries meeting in May, the Minister for Primary Industries will support New South Wales farmers by voting against any move to introduce a mandatory electronic National Livestock Identification System for sheep and goats?

The Hon. DUNCAN GAY: I am disappointed that the Hon. Jeremy Buckingham has been left on his own in the Chamber. Obviously there is a meeting to which he has not been invited. I suggest he should leave the Chamber very soon.

The Hon. Jeremy Buckingham: It is a serious question.

The Hon. DUNCAN GAY: The question is serious. The Hon. Jeremy Buckingham asked whether the Minister for Primary Industries would be representing New South Wales farmers, and my response to that is: You bet!

POLICE TRANSPORT COMMAND

The Hon. PETER PRIMROSE: My question is directed to the Minister for Police and Emergency Services. How many police officers from the Police Transport Command were rostered on at 10.00 p.m. on Friday 19 April 2013 to patrol the western line?

The Hon. MICHAEL GALLACHER: I congratulate the member on directing his question to the correct Minister this time. Recently he asked approximately 400 questions, half of which were redirected to some other Minister.

The Hon. Greg Donnelly: Point of order: The Minister knows full well that he is reflecting adversely on a member of the Opposition and that he should not do so. Mr President, I ask you to call the Minister to order.

The Hon. Catherine Cusack: To the point of order: The Minister paid a very nice compliment to the member. I suggest there is no point of order.

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

The Hon. MICHAEL GALLACHER: I thank the Hon. Peter Primrose for his question. As he would be well aware, in relation to that type of issue I seek advice from the NSW Police Force to provide an answer. I congratulate the Hon. Peter Primrose; he did well to get the question right by directing it to the correct Minister. He thought he was up for preselection for the next election, and that is why he has asked so many questions lately. He has just realised that he has a couple of years left. However, I congratulate the Hon. Peter Primrose on his enthusiasm. I look forward to obtaining an answer to the question from the police directly.

HEAVY VEHICLE ROAD SAFETY

The Hon. CHARLIE LYNN: My question is addressed to the Minister for Roads and Ports. Will he update the House on new penalties for trucks on Sydney's road network that exceed height and length limits?

The Hon. DUNCAN GAY: As I and most members of the House know, the vast majority of truck drivers do the right thing and use only the roads they are permitted to use. But there are a few rogues and careless drivers.

The Hon. Mick Veitch: Cowboys.

The Hon. DUNCAN GAY: In some instances, yes. But I wonder whether some drivers who ignore signs have put their brains into gear. They disobey all warning devices and signs and drive trucks that exceed height and length limits in restricted areas. The previous Government did the right thing: New South Wales already has tough penalties for drivers who disobey the law. The current penalty is a fine of $2,200 and the loss of six demerit points. I cannot complain about the previous Government not enacting appropriate legislation, but the legislation is not working. The current Government has sought alternative measures that will be effective. We still see heavy vehicles becoming wedged in Sydney's tunnels or coming to grief at Galston Gorge. Sometimes they cause major disruptions to the road network during peak hours. That may be frustrating for me and other members of this House, but it is certainly frustrating for members of the community who regularly use the roads and have to deal with the consequences of transgressions.

We know that drivers are not the only people involved in heavy vehicle transportation of goods. There are commercial operators behind the deliveries and loads, and that is why today I announced some tough new reforms to target the people who are in the best position to ensure compliance. The reforms allow for the suspension of the registration of any heavy vehicle for three months if its driver disobeys warning devices and travels into tunnels or via Galston Gorge. The Government will implement the reforms fairly by ensuring that clear signage is visible before trucks enter a restricted area. The signs will make it clear that breaches could result in registration being cancelled for three months. At the top of the tunnel or at the end of the gorge there will be an extremely large sign indicating that if drivers behave like idiots and drive into a tunnel, thereby blocking traffic and costing the Government hundreds of thousands of dollars to rectify the situation, they will incur demerit points, they will be fined, and the registration of their vehicle will be cancelled for three months.

The Hon. Mick Veitch: You should have a fine to cover fixing the damage too.

The Hon. DUNCAN GAY: That is true, and I will come to that. On top of existing penalties, drivers also will risk losing their right to travel through New South Wales to interstate destinations until the maximum three months suspension expires. The changes will make it easier for the Government to pursue commercial operators and companies in the chain of responsibility who will be required to show they had taken reasonable steps to ensure that a vehicle was not driven along restricted parts of the road network. Offending trucking companies risk having to pay the cost of tow trucks, staff and any other resources that are essential for the removal of a heavy vehicle that becomes stuck. We also will be able to seek compensation for damage to infrastructure or disruptions to the road network caused by such a breach.

While the changes are being introduced, Roads and Maritime Services will work to assist global positioning system [GPS] companies to develop ways of identifying restricted routes and to help drivers make good decisions on the roads they use in the future. A small part of the problem, particularly with interstate drivers, is that they have a beginning and a destination, and the route they are being given by the global positioning system is directing them to the wrong areas of the road network. The Government will take action to address that as well.

RAILCORP VANDALISM REPORTING

The Hon. GREG DONNELLY: My question without notice is directed to the Minister for Police and Emergency Services. Will the Minister confirm that the police assistance line will no longer record graffiti and vandalism reports from RailCorp?

The Hon. MICHAEL GALLACHER: As the honourable member would be the first to appreciate, that is an operational matter, but because he asked so nicely I will consider the matter. I will seek some advice.

The Hon. GREG DONNELLY: I ask a supplementary question. Will the Minister elucidate his answer with respect to specifically when the police assistance line stopped recording graffiti and vandalism reports from RailCorp?

The Hon. MICHAEL GALLACHER: The member is working on the assumption that that happened. As I said to him earlier, I will get some advice from the police assistance line to enable me to consider the question he has asked.

The Hon. Greg Donnelly: You don't know?

The Hon. MICHAEL GALLACHER: No, what I have a real concern about is that the member refuses to explain to the people of the Central Coast that he does not live on the Central Coast. He continues to misrepresent himself—

The Hon. Greg Donnelly: Point of order—

The Hon. MICHAEL GALLACHER: You are not good enough to live on the Central Coast. Shame on you.

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

The Hon. MICHAEL GALLACHER: You are not good enough to live on the Central Coast, and you know it.

The Hon. Greg Donnelly: I do not reside on the Central Coast, but I regularly visit the Central Coast.

The PRESIDENT: Order! Does the member have a point of order or is he making a personal explanation?

The Hon. Greg Donnelly: Yes, my point of order is that the Minister was besmirching my reputation and attacking me personally. I ask him to withdraw.

The Hon. Amanda Fazio: To the point of order: The Minister was making obvious imputations against the Hon. Greg Donnelly by implying that he was being dishonest and misrepresenting where he lives. I believe that imputation should be withdrawn.

The Hon. Dr Peter Phelps: To the point of order: It is hardly unparliamentary to say that someone does not live on the Central Coast.

The PRESIDENT: Order! I make the following observations. None of the words the Minister used was offensive, so his comments were not unparliamentary. Therefore, there is no requirement that they be withdrawn. However, arguably they were a reflection on the member. I remind the Minister—as I would remind all members—that it is disorderly to reflect on other members. The Minister's time has expired.

HAY SHIRE COUNCIL NATURAL DISASTER ASSISTANCE

Reverend the Hon. FRED NILE: I wish to ask the Minister for Police and Emergency Services a question without notice. Is it a fact that the State Government is refusing to pay a debt of $570,000 to the Hay Shire Council for the cost of emergency flood works carried out by the council in wake of the March 2012 floods? These works prevented floodwaters from entering the Hay township and damaging vital infrastructure. Why is the Government's financial assistance under the National Disaster Relief and Recovery Arrangements available only when a council has been directed, in writing, by a combat agency—in this case the State Emergency Service—to undertake counter disaster works? Is this practical in an emergency situation? Does this procedure meet the criteria of an emergency policy, when the State Emergency Service supported the council's actions? Will the Government urgently pay the debt of $570,000 to Hay Shire Council as its budget is seriously affected by this non-payment?

The Hon. MICHAEL GALLACHER: That was a very serious situation involving Hay Shire Council. The flood event affected 75 per cent of the State of New South Wales as floodwaters moved through country and regional areas. As the honourable member has rightly identified, the National Disaster Relief and Recovery Arrangements is a national scheme. I am sure that all members have seen this joint approach by the State and Federal governments to these announcements when assistance is given to communities to help them recover from the trauma of flood events.

It will be of interest to all members to know that the Federal Government has proposed some changes to the scheme that the New South Wales Government is in the process of considering. Be that as it may, I will take note of the specific detail of the member's question in relation to Hay Shire Council and seek some further advice in relation to it. Members can rest assured that the magnitude of what this State and other States have experienced over the past couple of years—whether it be from floods or fire, and on some occasions both simultaneously—has focused the attention of all levels of government to the failings as well as the significant successes of the scheme in providing protection, a safety net if you like, to enable local communities to recover in the event of such tragedy.

I think it is fair to say that what we have in this country most other countries can only dream about. It is important that we look at the scheme in light of recent events that saw us hit with the worst that Mother Nature can throw at us, to learn what we can and see whether we can improve on our responses. That is exactly what we intend to do.

SYDNEY WATER 125TH ANNIVERSARY

The Hon. DAVID CLARKE: My question is addressed to the Minister for Finance and Services. Will the Minister update the House on the 125th anniversary of the establishment of Sydney Water?

The Hon. GREG PEARCE: I am proud to announce to the House that Sydney Water is celebrating its 125th anniversary of supplying water and wastewater services to the people of Sydney. I had the pleasure of officially kicking off the celebrations on Tuesday 9 April, together with Sydney Water's Managing Director, Kevin Young, and the very good Liberal member for Parramatta, Dr Geoff Lee. Today, Sydney is one of the most modern and well-known cities in the world and is at the forefront of new technology to supply water and wastewater services, operating more than 21,000 kilometres of water pipes, 269 reservoirs and 177 pumping stations, and 24,000 kilometres of wastewater pipes and 674 pumping stations.

However, in 1888 when the Board of Water Supply and Sewerage was formed, Sydney was a very different place. The city was booming and new buildings and infrastructure were going up, but it was a city without adequate water and sewerage services. The city was at the mercy of limited water supply, droughts and

sanitation problems that led to serious health issues—including an outbreak of typhoid fever. Since then, in its 125-year history, Sydney Water has helped secure the city's water supply and wastewater network, including building Warragamba Dam, deep ocean outfalls at Bondi, Malabar and North Head, a desalination plant—perhaps an unloved desalination plant—water recycling plants and thousands of kilometres of pipes to serve a fast-growing population.

As the portfolio Minister, I am proud that Sydney Water continues to do tremendous work to support Australia's single truly global city with essential services. Just last year alone Sydney Water spent $659 million on capital works projects to renew and upgrade existing assets, deliver government programs and support urban growth. Sydney Water also displays remarkable leadership and is at the forefront of new technology. For example, its collaborative work with National ICT Australia to improve the assessment of water pipes using smart technology will shape the future for water utilities. This outstanding piece of technology will potentially save Australian water utilities and the community many millions of dollars a year through avoiding reactive repairs and maintenance by predicting mains breaks before they occur.

Behind these great feats of engineering and infrastructure are Sydney Water's people. It is the people, some of whom have contributed to the organisation spanning four generations, who have ensured that Sydney Water continues to be the leading water utility in Australia and one of the best in the world. It is easy to take for granted the hard work of our previous generations who built building Sydney into one of the world's most liveable cities, but this celebration is about acknowledging that dedication and commitment to providing the most essential of services for our community.

I had the pleasure of meeting Robert Kirkpatrick, a former staff member who had worked at Sydney Water for more than 40 years. Many of Mr Kirkpatrick's family members also worked at Sydney Water, including his ancestor, James, who worked on the Upper Nepean Scheme in 1888. Over the next four generations a further 13 members of the Kirkpatrick family worked at Sydney Water. I am amazed and grateful that the Kirkpatrick family contributed four generations to Sydney Water's workforce from the very beginning—since at least 1888. It is the hard work of many generations of Sydney Water staff that has led to today's water services for the people of Sydney, the Blue Mountains and the Illawarra, and I thank them all. They have a lot to be proud of.

TAFE FEES

Dr JOHN KAYE: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Education.

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

Dr JOHN KAYE: Can the Minister advise the House what, if any, alternative sources of revenue were considered by the O'Farrell Government prior to announcing the decision to fund part of the State's portion of the Federal Government's schools funding reform package by increasing TAFE fees? Can the Minister please describe the process by which these sources of revenue were evaluated?

The Hon. Greg Pearce: No, he can't.

The Hon. DUNCAN GAY: I am listening to my colleague behind me. First, I thank the member for his question: It is an important question. My colleague said, "No, he can't." He is absolutely right because that is a Cabinet decision and I cannot disclose what happens in Cabinet. The member can find out what happens in Cabinet: He could take a slight step to the right and join the Labor Party.

The Hon. Greg Pearce: Then they'll never find out.

The Hon. DUNCAN GAY: No, a slight step to the right and then in 20 or 25 years, when Labor is back in power, he could be part of a Cabinet and then will be able to find out. The short answer is that it was a decision made within Cabinet and those decisions remain in Cabinet.

The Hon. MICHAEL GALLACHER: The time for questions has expired. If members have further questions, I suggest they place them on notice and they will be answered in the fullness of time.

POLICE INTEGRITY COMMISSION

The Hon. MICHAEL GALLACHER: On 27 March 2013 Mr David Shoebridge asked me a question, directed to the Hon. Barry O'Farrell, about the Police Integrity Commission. I provide the following response:

> The Police Integrity Commission is an independent corporation established by statute. It is accountable to the Parliamentary Joint Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission, as well as to the Inspector of the Police Integrity Commission.
>
> I am advised by the Commissioner of the Police Integrity Commission, the Hon Bruce James, QC, that:
>
> > The Director Operations, Andrew Nattress, and Commission Solicitor, Michelle O'Brien, have been married since 2008. Both the Director Operations and the Commission Solicitor report independently to me. It is not a function of either position to supervise the holder of the other position or evaluate the performance of the holder of the other position. It is not a function of either position to evaluate the performance of the staff of the holder of the other position. Members of the Commission's Executive, such as Mr Nattress and Ms O'Brien, are accountable to me as the Commissioner of the Commission and their performance is assessed by me. I am not aware of any situation having arisen in which either Mr Nattress or Ms O'Brien would have been subject to a conflict of interest because of their relationship.

ACTING PREMIER REMUNERATION

The Hon. MICHAEL GALLACHER: On 27 March 2013 the Hon. Walt Secord asked me a question, directed to the Hon. Barry O'Farrell, about the Acting Premier's remuneration. I provide the following response:

> The Parliamentary Remuneration Amendment (Deputy Premier) Regulation 2013 removes the changes made by the Parliamentary Remuneration (Acting Premier) Regulation 2013. It is available on the New South Wales legislation website.

GAS INDUSTRY DEVELOPMENT PLAN

The Hon. MICHAEL GALLACHER: On 27 March 2013 the Hon. Jeremy Buckingham asked me a question, directed to the Hon. Barry O'Farrell, about gas industry development. I provide the following response:

> The New South Wales Government is committed to appropriate and sustainable development of gas reserves in New South Wales and its supply to businesses and households.
>
> A Legislative Assembly inquiry is already considering future issues relating to the delivery of gas to consumers. The inquiry commenced on 2 April 2013 and is being conducted by the State and Regional Development Committee who will consider:
>
> - the adequacy of transmission pipeline systems and distribution networks for future downstream gas needs and supply challenges;
> - barriers to the expansion of downstream gas supply and distribution networks;
> - the effectiveness of competition in the downstream gas market and consumer pricing implications;
> - the effectiveness of existing protections for consumers and measures to facilitate access to gas connection and supply; and
> - possible measures to encourage gas network operators to extend existing distribution networks.

WATER USAGE CHARGES

The Hon. MICHAEL GALLACHER: On 27 March 2013 the Hon. Steve Whan asked me a question about water utilities bills in Goulburn and Marulan. On behalf of the Minister for Primary Industries I provide the following response:

> The policy of full cost recovery pricing is not a new initiative of the current New South Wales Government. The principle of full cost recovery for the provision of water and sewerage services was initially introduced under the 1994 COAG Agreement on National Water Reform, and subsequently reinforced in the National Water Initiative in 2004. New South Wales and other jurisdictions are signatories to both Agreements.

TOURISM STAR RATING SCHEME

The Hon. MICHAEL GALLACHER: On 27 March the Hon. Paul Green asked me a question about the Star Rating Scheme for hotels and resorts across New South Wales. The Minister for Tourism, Major Events, Hospitality and Racing provided the following response:

> The New South Wales Government's Visitor Economy Industry Action Plan supports the Federal Government's National T-QUAL Program (National Tourism Accreditation Framework) and the need for accreditation standards for tourism businesses.
>
> I am advised that Star Ratings was invited to become a master licensee of the T-QUAL program. T-QUAL also acknowledges the role that online consumer-generated content plays in rating tourism businesses. I have been informed that Trip Advisor now hosts a T-QUAL microsite where accredited star rated businesses are displayed on the Trip Advisor website and consumers can add their comments.
>
> The New South Wales Government encourages accommodation owners to consider the role that independent rating systems play in assisting consumers when they have to make a choice between different options.
>
> Destination NSW is not a regulatory body therefore has no role in enforcing or setting standards, but encourages accommodation owners to maintain high standards in both the facilities and services they offer to visitors.

Questions without notice concluded.

POWERS OF ATTORNEY AMENDMENT BILL 2013

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

SMALL BUSINESS COMMISSIONER BILL 2013

In Committee

Consideration resumed from an earlier hour.

Clauses 19 to 23 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.35 p.m.]: I move Opposition amendment No. 4 on sheet C2013-003B:

No. 4 Page 9, clause 24, lines 22–26. Omit the clause. Insert instead:

24 Annual report

(1) The Commissioner is, as soon as practicable after 31 December in each year, to prepare a report:

(a) on the Commissioner's work and activities for the 12 months ending on that 31 December, and

(b) on the regulatory burden on small business in relation to the period of 12 months ending on that 31 December,

and provide a copy of the report to the Presiding Officer of each House of Parliament.

(2) The report on the regulatory burden on small businesses is to include the following:

(a) the sources (such as legislative, procedural or administrative requirements) of the regulatory burden on small businesses,

(b) recommendations for alleviating any such burden.

Clause 24 requires the commissioner to make a report to Parliament each year on her work and activities for a 12-month period. As currently configured, clause 24 is limited to the work the commissioner actually carries out in a given year. I acknowledge that clause 25 provides a facility for the commissioner to make special reports on any matter to the Parliament should the holder of that office choose to do so, but presently the Small Business Commissioner is not required to report specifically to the Parliament on the regulatory burden placed on small businesses or on the sources of those burdens, and the making of any recommendations for lifting or alleviating any burdens.

Our amendment charges the commissioner in her annual reporting function to address those specific matters. If the Government is serious about reducing the red tape burden on small business, one function of the

Small Business Commissioner as she gathers information through the hearing and investigation of complaints should be to specifically report those matters to the Parliament. Parliament then would be apprised chapter and verse of the specifics of the red tape burden on small businesses: where they come from and how they can be alleviated. Parliament would have specific information, not some kind of generalised complaint.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [3.37 p.m.]: The Government opposes Opposition amendment No. 4, which requires the Office of the Small Business Commissioner to report annually on the regulatory burden on small businesses. The Opposition's proposal duplicates the role of the Better Regulation Office [BRO] to report as prescribed in the amendment. The Independent Pricing and Regulatory Tribunal also is doing significant work in this space already through reviews commissioned by the Premier. Therefore, the Opposition's proposal duplicates current government measures and unnecessarily requires additional resources. Reporting in the manner proposed would increase red tape rather than reduce it. A more effective role for the commissioner is to reduce the administrative burden on small businesses by addressing issues at the grass roots level by engaging directly with them. Currently the role of the Office of the Small Business Commissioner is to reduce red tape, not increase it.

Question—That Opposition amendment No. 4 [C2013-003B] be agreed to—put.

The Committee divided.

Ayes, 19

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

Noes, 21

Mr Ajaka	Mr Green	Reverend Nile
Mr Blair	Mr Harwin	Mrs Pavey
Mr Borsak	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Cusack	Mr MacDonald	
Ms Ficarra	Mrs Maclaren-Jones	*Tellers,*
Mr Gallacher	Mr Mason-Cox	Mr Colless
Mr Gay	Mrs Mitchell	Dr Phelps

Question resolved in the negative.

Opposition amendment No. 4 [C2013-003B] negatived.

Clause 24 agreed to.

Clauses 25 to 28 agreed to.

The Hon. JEREMY BUCKINGHAM [3.47 p.m.]: I move The Greens amendment No. 4 on sheet C2013-009B:

No. 4 Page 12, clause 29, lines 6-14. Omit all words on those lines. Insert instead:

29 Interfering with investigation by Commissioner

A person must not, without lawful excuse, interfere with an investigation conducted by the Commissioner under this Act.

Maximum penalty on summary conviction: 50 penalty units.

The amendment replaces existing clause 29 (2), which states:

(2) An injunction may be granted under this section as an interim injunction (without an undertaking being required as to damages or costs) or as a permanent injunction.

The amendment includes a maximum penalty on summary conviction of 50 penalty units. The Greens submit that it is important that there be no interference with the investigation of the Small Business Commissioner and that a penalty must apply for that contravention. The Greens submit that if this amendment is unsuccessful a situation will emerge where an entity or person with resources such as a large corporation or wealthy business person may be able to seek redress through injunctive relief in the Supreme Court, thereby delaying the investigation. That would be prejudicial to smaller businesses without the resources to contest an injunction and oppose delay in an investigation. It is extremely important to ensure that the commissioner has the power and capacity to do the job without interference. Therefore I commend the amendment to the Committee.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [3.50 p.m.]: The Government opposes Greens amendment No. 4, which proposes to remove the current injunction provision under clause 29 and instead include penalties for interference with an investigation being conducted by the commissioner. Frankly, we believe the threat of the commissioner making a public statement or issuing a report to Parliament about any interference with an investigation is much more powerful than a monetary penalty.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.50 p.m.]: Regrettably, the Opposition also does not support Greens amendment No. 4. I accept what the Hon. Jeremy Buckingham says and is trying to achieve and we would certainly have supported the amendment if it were in addition to what was already in clause 29. We think that the injunctive powers available on application by the commissioner from the Supreme Court are a broader and more flexible remedy. This would better achieve and secure adherence to the Act and the commissioner's own functions than a fine of only up to $5,000. I understand the deterrent value of a penalty and the sort of public opprobrium that may come from that but the same objective can be better achieved by the injunctive powers already provided for in the bill.

Question—That The Greens amendment No. 4 [C2013-09B] be agreed to—put and resolved in the negative.

The Greens amendment No. 4 [C2013-009B] negatived.

Clause 29 agreed to.

Clauses 30 to 33 agreed to.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.52 p.m.]: I move Opposition amendment No. 7 on sheet C2013-003B:

No. 7 Page 14, Schedule 1. Insert after line 1:

1.1 Contracts Review Act 1980 No 16

[1] Section 4 Definitions

Insert at the end of paragraph (e) of the definition of ***Court*** in section 4 (1):

, or

(f) in accordance with section 31 of the *Small Business Commissioner Act 2013*—the Tribunal.

[2] Section 6 Certain restrictions on grant of relief

Insert after section 6 (1):

(1A) However, a corporation may, to the extent that it is conducting a small business, be granted relief under this Act.

[3] Section 6 (2)

Insert "a small business or" after "other than".

[4] Section 7 Principal relief

Insert after section 7 (1):

(1A) In the case of a contract to which a small business is a party, the Court may also make any such decision or order if the Court finds that the contract has become, since the time it was made, unjust to the extent that it applies to the small business.

[5] Section 9 Matters to be considered by Court

Insert after section 9 (5):

(6) A reference in this section to a contract or a provision of a contract being unjust at the time the contract was made includes, in the case of a contract to which a small business is a party, a reference to a contract or a provision of a contract that has become, since the contract was made, unjust to the extent that it applies to the small business.

[6] Section 10 General orders

Insert at the end of the section:

(2) Without limiting subsection (1), if the Court is satisfied, on the application of the Small Business Commissioner, that a person has embarked, or is likely to embark, on a course of conduct leading to the formation of unjust contracts that are likely to involve small businesses, the Court may, by order, prescribe or otherwise restrict, the terms upon which that person may enter into contracts of a specified class that involve small businesses.

[7] Section 12A

Insert after section 12:

12A Small Business Commissioner may bring proceedings for relief on behalf of small business

(1) The Small Business Commissioner may, with the consent of the operator of a small business, bring proceedings for relief under this Act on behalf of the small business.

(2) If the Small Business Commissioner brings proceedings for relief under this Act on behalf of a small business, the Small Business Commissioner:

(a) is to have the conduct of those proceedings on behalf of the small business, and

(b) may appear personally or by a legal practitioner or an agent, and

(c) may do all such things as are necessary or expedient to give effect to an order or a decision of the Court, and

(d) is liable to pay the costs (if any) of the small business.

[8] Section 13 Intervention

Insert at the end of the section:

(2) In the case of any proceedings in which relief under this Act is sought by a small business, the Small Business Commissioner has the same functions as are conferred on the Minister or the Attorney General under subsection (1). This subsection does not limit the functions conferred on the Small Business Commissioner under section 12A.

I will not repeat what I said in the second reading debate on this bill or on the Opposition's Small Business Commissioner and Small Business Protection Bill 2012, which was debated last year and voted on this year. Essentially, we are of the view that we should not pretend any longer that the corporate world is occupied only with corporations on a level playing field, with the same level of legal and resource sophistication. That is the fiction under which the law operates. That is manifestly not the case. We have seen many examples of unequal bargaining power, unequal market power and unequal resourcing and experience leading to small businesses being disadvantaged. There is a clear and undeniable need for remedial provisions such as this to provide small business operators with unfair contract relief powers.

I was of the view that the better way forward would be to repose that power in the Small Business Commissioner but this Chamber has respectfully disagreed with that proposition. If the Chamber does not want the independent umpire, namely the commissioner, to have that power, I ask that it consider whether power should be given to each small business operator to seek redress and relief from unfair contracts. I spelt out the rationale for such measures at reasonable length during the debate on the Opposition's 2012 protection bill and in the second reading debate on this bill. The need is undeniable and should certainly be granted, although I recognise that many small businesses would not have the resources or inclination to seek relief, which is why earlier today I moved to have those functions and powers reposed in the Small Business Commissioner.

Notwithstanding that and the Chamber having disagreed with that proposition, I ask the Government and the crossbench members to apply their minds to the proposition that small businesses in this State should have access to the tried and tested jurisdiction created and given to the courts and tribunals by the existing

Contracts Review Act 1980. There is no mystery in that legislation. It has been interpreted for over 30 years and applied successfully in a range of situations. Each small business operator in this State should have access to those remedial provisions. With those comments I ask the Chamber to embrace this measure.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [3.55 p.m.]: As the Deputy Leader of the Opposition indicated, as a consequence of the Government's lack of support for Opposition amendment No. 5, the Government also opposes Opposition amendment No. 7, which proposes to amend the Contracts Review Act 1980 regarding unfair contract relief for small businesses. Section 15 (1) (b) of the Small Business Commissioner Bill includes the ability for the commissioner to deal with complaints regarding unfair contracts. This addresses the objective of dealing with unfair contracts in a direct and practical manner to encourage parties to avoid resorting to costly and time-consuming litigation. The Contracts Review Act amendments, as proposed by the Opposition, provide for a litigious solution as opposed to a practical, low-cost solution for individuals in their private capacity and farmers.

The Opposition amendment proposes to extend the operation of the Contracts Review Act 1980 to a defined class of small businesses. This proposal does not address the practical needs of all small businesses in a low cost and timely manner. The broadening of the Contracts Review Act to apply to small business contracts may lead to uncertainty in commercial relationships, thus making it less desirable to deal with small businesses. Instead, we are proposing a simpler and more effective early intervention process through the use of dispute resolution services, which have a proven success rate of preserving the commercial relationship between the parties. If parties fail to reach a workable solution to their dispute through the commissioner's dispute resolution services litigation is already available to them. It is not in the best interests of small businesses to force them into a legal process when the Government is offering a much better solution through dispute resolution services. The Government opposes the amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.57 p.m.]: I thank the Deputy Leader of the Government for his words about the Government's desire to provide an effective and low-cost solution through the mediation process and investigation process that the Commissioner for Small Business will be able to undertake. I acknowledge also his earlier comments that if over time it becomes clear that the commissioner requires powers in relation to unfair contracts the Government will revisit the issue. Indeed, the Opposition will hold the Government to account on that matter should it become necessary.

I note the point about not forcing parties into a litigious solution, which is why the Opposition moved an amendment earlier to seek to permit the Small Business Commissioner to adjudicate on whether contracts are unfair and what, if any, remedies flow from that. The Opposition thought that was an effective and low-cost solution. However, the Chamber did not agree, so of necessity it was the Opposition's view that the next best thing was to provide the legal right to small businesses to seek relief from unfair contracts individually, while noting that it may not be within the capacity of each small business to access such provisions.

We do not think it would give rise to uncertainty in commercial relationships of the kind adverted to by the Deputy Leader of the Government. We understand the position of the Government but we disagree with it and we will continue to pursue this matter over time. Certainly, if not being able to obtain proper relief from unfair contracts continues to be a feature of difficulty for small businesses we will continue to raise this matter both in this place and in the wider community.

Question—That Opposition amendment No. 7 [C2013-003B] be agreed to—put and resolved in the negative.

Opposition amendment No. 7 [C2013-003B] negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. Duncan Gay agreed to:

That the report be adopted.

Third Reading

Motion by the Hon. Duncan Gay agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly with an amendment.

LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) AMENDMENT BILL 2013

Second Reading

Debate resumed from 26 March 2013.

The Hon. STEVE WHAN [4.03 p.m.]: The Opposition supports the Law Enforcement and National Security (Assumed Identities) Amendment Bill 2013. Changes to the legislation arise from efforts to improve the law and harmonise it with Commonwealth law. Assumed identities are adopted for a range of proactive or reactive purposes. The first object of the bill is to require that applications for assumed identity are heard in chambers. That is a sensible provision. A hearing in open court, as is currently the case, could undermine the effectiveness of the newly assumed identity. The second object of the bill is to clarify that the Australian Security Intelligence Organisation [ASIO] may apply for orders for assumed identities and/or have them cancelled by the Registry of Births, Deaths and Marriages. The current Federal Act defines the Australian Security Intelligence Organisation as an "intelligence agency" as distinct from a "law enforcement agency" in relevant Commonwealth legislation.

The third object of the bill is to increase from four to five the number of delegations a chief officer may hold. That is a reasonable provision. The fourth object of the bill is to update references to certain offices in relation to the NSW Crime Commission and the Australian Crime Commission, the holders of which may be delegated a chief officer's functions under the principal Act. This legislation follows recommendations of a report on the Statutory Review of the Law Enforcement and National Security (Assumed Identities) Act 2010. The Act commenced on 29 September 2010 to facilitate cross-border recognition of assumed identities. The amendments to the bill seem entirely reasonable and will ensure that these agencies continue to effectively undertake their duties in enforcing the law. The Opposition supports the bill.

Mr DAVID SHOEBRIDGE [4.04 p.m.]: On behalf of The Greens I speak on the Law Enforcement and National Security (Assumed Identities) Amendment Bill 2013. Item [1] of schedule 1 of the bill changes the place where an application can be heard from a closed court to chambers. That is not a material difference but it will have some minor administrative benefits for the court. The Greens do not oppose that amendment. The proposed amendment in item [2] of schedule 1 inserts section 11 (5), which includes a clear reference to a law enforcement agency under a corresponding law, including an agency under part IAC of the Crimes Act 1914 of the Commonwealth.

That is a very obtuse way of referring to the Australian Security Intelligence Organisation [ASIO] and the Australian Secret Intelligence Service [ASIS]. It would appear that the intent of this regime is to allow the Australian Security Intelligence Organisation and the Australian Secret Intelligence Service to operate with assumed identities in New South Wales, and it makes sense to include that provision in this bill. The balance of the changes—increasing the number of delegations from four to five, clarifying references to the Crime Commission, and tightening up the personnel within the Crime Commission who can make application under the Act—are all supported by The Greens. The Greens do not oppose the bill.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [4.06 p.m.], in reply: I thank members for their contributions to the second reading debate on the Law Enforcement and National Security (Assumed Identities) Amendment Bill 2013. I commend the bill to the House.

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

STATE EMERGENCY AND RESCUE MANAGEMENT AMENDMENT (CO-ORDINATION AND NOTIFICATION OF RESCUES) BILL 2013

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Michael Gallacher.

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [4.07 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the State Emergency and Rescue Management Amendment (Co-ordination and Notification of Rescues) Bill 2013. The bill amends the State Emergency and Rescue Management Act 1989 to implement two key recommendations arising from Mr Philip Koperberg's report, "Inshore Water Rescue—A review of procedures". Members may be aware that Mr Koperberg was commissioned by the Minister for Health and me to oversee the implementation of new emergency response protocols for inshore water rescues.

The catalyst for this review was the tragic drowning death of a rock fisherman at Little Bay in November 2012. That matter is before the coroner. In accordance with the terms of reference, Mr Koperberg was asked to oversight the strengthening of response procedures between different emergency service organisations where a person in the water requires rescuing. To assist with the review, a series of stakeholder meetings were held and views were sought on the adequacy of existing response arrangements and the areas in need of improvement and how these improvements may be achieved.

Agencies consulted included the NSW Police Force, the Ambulance Service of New South Wales, Surf Life Saving NSW, the Australian Professional Ocean Lifeguard Association, Marine Rescue NSW, and the Westpac Life Saver Rescue Helicopter Southern Region. The Commissioner of the NSW Rural Fire Service was also consulted in his capacity as chair of the State Rescue Board. The Koperberg review identified a number of opportunities for the establishment of more robust protocols for inshore water rescues. Eighteen recommendations were made, including the two legislative amendments included in this bill.

Largely procedural in nature, the remaining recommendations included: a requirement for the State Rescue Board to direct all agencies that the NSW Police Force rescue coordinator be notified immediately when a call necessitating a rescue, including an in-water rescue, is received; a requirement for all emergency services to amend existing procedures and protocols to incorporate common guiding principles, including that the NSW Police Force be recognised as the tasking authority for rescue coordination; and that multi-agency notification protocols be exercised on a regular basis.

The recommendations also included that the definition of "marine rescue" in the New South Wales State Rescue Policy be amended to include the rescue of persons in water; the Ambulance Service of New South Wales amend its computer-aided dispatch system to include a category of "person in water" rescue; and that the marine standing operating procedures for accredited search and rescue co-ordination centres, marine rescue units and marine radio bases be amended to include the rescue of a person in the water, regardless of whether they originated from a vessel or on land. The Government has accepted all 18 recommendations arising from Mr Koperberg's review, and these are in the process of being implemented. I am pleased to advise that those recommendations that require an amendment to the State Rescue Policy have already been approved by the State Rescue Board. These will be implemented in advance of the review of the State Rescue Policy, which I understand is scheduled to take place later this year. I commend the bill to the House.

Debate adjourned on motion by the Hon. Lynda Voltz and set down as an order of the day for a future day.

ROAD TRANSPORT AMENDMENT (OBSTRUCTION AND HAZARD SAFETY) BILL 2013

Second Reading

Debate resumed from 26 March 2013.

The Hon. LYNDA VOLTZ [4.13 p.m.]: The Opposition supports the Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013. This important legislation amends the Road Transport Act with respect to safe driving near obstructions and hazards, such as road accidents. All members would remember the tragic deaths of a young female driver and tow truck driver who were struck by a passing vehicle whilst they were in a constricted area. Drivers should take heed of road conditions and slow down when they see an accident. It is implicit in the Road Transport Act that motorists drive according to the road conditions, particularly when driving near an accident, a vehicle breakdown or a vehicle with flashing hazard lights. Motorists also should reduce their speed in adverse weather conditions such as fog, sleet and rain. Essentially, the substance of the bill is that motorists should slow down when driving in difficult conditions.

The object of the bill is to amend the Road Transport Act 2013 to make it clear that a court is to take into account the presence of obstructions and hazards on a road in determining whether a person has committed an offence of driving a motor vehicle negligently, furiously, recklessly or at a speed or in a manner dangerous to the public. Members of the public have called on the Government to introduce this type of legislation in order to increase road safety and prevent tragic accidents. Anyone who has travelled on our freeways has seen vehicles speeding in appalling conditions. Some drivers will not slow down. They will speed up and try to squeeze in front of a large truck, rather than slow down and give the truck driver some space. When drivers see an accident they should not maintain a speed of 110 kilometres per hour. They should consider that people working around the accident site are at risk from passing vehicles and slow down. Motorists who do not take into account the road conditions place others at significant risk. I understand that the Opposition will be moving an amendment to this bill. Hopefully that will be circulated for consideration.

The Hon. Dr Peter Phelps: It has been circulated.

The Hon. LYNDA VOLTZ: That is good news. This legislation is welcome; it is good legislation and has been introduced to improve road safety. The community has demanded the introduction of this legislation. However, the Opposition considers that it can be improved and, accordingly, we will be moving an amendment at the Committee stage.

The Hon. JOHN AJAKA (Parliamentary Secretary) [4.17 p.m.]: In May 2012 a petition signed by 23,000 members of the community was presented to this Parliament. The petition advocated for legislative change to improve safety in vehicle breakdown situations. In addition to individuals, the petition had the support of local and large businesses, sporting organisations, schools and professional associations. In response to the petition, the Government moved swiftly to implement a range of measures to ensure safety for broken down vehicles and first responders. That included upgrades to the Hume Highway at a location where a tragic incident took place and the release of the Breakdown Safety Strategy in late 2012. The strategy includes a range of actions to improve safety around breakdown incidents and increase visibility in breakdown situations. A significant component of the strategy is communicating key safety messages to all road users.

In December 2012 the Government also produced a Breakdown Safety Glove Box Guide for motorists, which detailed a range of measures to reduce crashes in breakdown situations. The aim of the guide is to show road users how they can improve their safety if they find themselves broken down or passing someone who has broken down. We recommend that drivers carry high-visibility vests and warning triangles inside their vehicles, especially if they are caught in low-light conditions. The glove box guide is available at Roads and Maritime Services registries and online through the New South Wales Centre for Road Safety website, and NRMA Roadside Assistance distributes the guide to customers who have broken down. Information on the breakdown safety guide will be added to the New South Wales Road Users Handbook. Further, to increase breakdown safety awareness during the recent summer holiday periods, variable message signs displayed, "If you see a breakdown—Slow down". That message also was displayed on variable message signs during the recent Easter holiday period. In conjunction with those initiatives, the bill will assure all those who campaigned for change that their concerns have been heard by the Government.

The bill clarifies that the existing offences of negligent driving and driving a motor vehicle furiously, recklessly or at a speed or in a manner dangerous to the public, can apply in breakdown situations. In

determining whether an offence has been committed, a court will be required to also consider "any obstructions or hazards on the road". For example, "obstruction or hazards" may include broken down or crashed vehicles, fallen loads, and accident or emergency scenes that warrant the exercise of care by a driver. The message to all road users is that unsafe driving around broken down and crashed vehicles is not acceptable. The amendment will be coupled with the Breakdown Safety Strategy communications campaign. The campaign not only warns of the dangers in breakdown situations but also provides practical advice, as set out in the glove box guide, on how stranded motorists and passing drivers should respond to a breakdown situation. By amending road transport legislation, the New South Wales Liberals and Nationals Government again demonstrates its commitment to ensuring safety on our roads. I congratulate the Minister and commend the bill to the House.

The Hon. PAUL GREEN [4.20 p.m.]: On behalf of the Christian Democratic Party, I participate in debate on the Road Transport Amendments (Obstruction and Hazard Safety) Bill 2013. The primary purpose of the bill is to amend the Road Transport Act 2013 to make it clear that a court when determining whether a person has committed an offence of driving a motor vehicle negligently, furiously, recklessly or at a speed or in a manner that is dangerous to the public will take into account the presence of obstructions and hazards on a road, such as a broken down or crashed vehicle. Early last year a petition with 23,000 signatures was presented to the New South Wales Parliament in a bid to achieve legislative change and introduce actions that will improve road safety around vehicle breakdowns. The petition followed the tragic deaths of Sarah Frazer and Geoff Clark on the Hume Highway near Mittagong in February 2012.

Sarah's car had broken down on the Hume Highway while she was on her way to begin university studies in Wagga Wagga. The 23-year-old student and the tow truck driver who came to her aid, Geoff Clark, both died when a passing truck sideswiped them on the narrow shoulder of the road. Tragically it is not an isolated case. While common sense and caution should be key qualities in a driver, unfortunately that is not always the case. That is why this bill is necessary. It follows an announcement by the New South Wales Government regarding its Breakdown Safety Strategy, which was developed in collaboration with road safety stakeholders and industries. It includes a range of actions to improve safety around breakdowns and traffic incidents, including legislative change to clarify that existing offences apply in breakdown situations.

Specifically, the bill amends section 117 of the Road Transport Act 2013 to require a court to take into account an additional consideration when determining whether negligent driving or furious or reckless driving offences have been committed. The consideration will include "any obstructions or hazards on the road". For example, that may be constituted by broken down or crashed vehicles, fallen loads, and accident or emergency scenes. This amending bill does not affect the ability of a court to weigh all the circumstances of the case when determining whether an offence has been committed; rather, it ensures that in relevant cases, such as when an alleged offence may have occurred in the vicinity of a vehicle breakdown, the court will be made aware of the particular obstructions and hazards in the road environment that may have warranted the exercise of additional caution.

The Christian Democratic Party values and cherishes human life. Every action that we take or do not take in life affects others around us. As responsible citizens of our society, we are called upon to look out for each other. That is important not only when we carry out our everyday activities but also when we are travelling on our roads. Being a driver requires us to exercise responsibility towards ourselves and others. Looking out for each other on roads should be an automatic human response and not one that is required by law. It is sad that bills such as the one before the House are necessary; but, unfortunately, it is a sign of the times in which we live.

I applaud the Government and Transport for NSW's glove box guide and breakdown safety instructions. I am sure that this little tool will make a difference and possibly save a life. I applaud the Government for taking steps to upgrade road safety. I also applaud Mr Frazer who, despite his great grief over the loss of his daughter, has been incredible, as have other families who have been affected by tragedy. I believe that this legislation will go some way towards protecting the lives of many others—someone else's daughter, someone else's son, someone else's family, or someone in the community we may know. The Christian Democratic Party applauds the introduction of this bill by the Government. I note that the Opposition has foreshadowed moving amendments that may have merit. The Government may wish to closely consider those amendments with a view to adding substantial value to the legislation that is before the House.

The Hon. NIALL BLAIR [4.25 p.m.]: I support the Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013, the main purpose of which is to amend the Road Transport Act 2013 to make it clear that a court is to take into account the presence of obstructions and hazards on a road, such as a broken down or crashed vehicle, when determining whether a person has committed an offence of driving a motor vehicle

negligently, furiously, recklessly or at a speed or in a manner that is dangerous to the public. Importantly, the bill seeks to strengthen and clarify section 117 of the Act. The bill does not introduce a new offence that may confuse drivers or present enforcement challenges for the NSW Police Force. As the amendments are minimal, they will not adversely impact upon prosecutions under section 117 that are not related to breakdown or crash situations. That is important from a road safety perspective because unsafe driving in a variety of circumstances which results in or has the potential to cause harm currently is prosecuted under the provisions of that section.

The maximum penalties applying under section 117 of the Act are significant. The maximum penalty for the offence of negligent driving occasioning death currently is $3,300 and/or 18 months imprisonment. The maximum penalty for driving a motor vehicle furiously, recklessly or at a speed or in a manner that is dangerous to the public is $2,200 and/or imprisonment for nine months. The bill will raise awareness of breakdown safety and ensure that courts consider the presence of hazards or obstructions on the road when determining whether an offence has been committed under section 117. This is a significant step towards improving the safety of all road users, especially first response and emergency personnel. In addition, the New South Wales Government also has implemented a range of measures to ensure safety for broken down vehicles and first responders. The upgrades include roadworks on the Hume Highway at the site of the tragic incident to which the Hon. Paul Green referred earlier and the release in late 2012 of the Breakdowns Safety Strategy.

I regularly pass the location of that tragic accident on the Hume Highway where unfortunately Miss Frazer and Mr Clark lost their lives, and I know that the Minister for Roads and Ports also passes the location when he returns home to the Southern Tablelands. The site is located not far from where I live, but it is good to see the improvements that Roads and Maritime Services have made. The width of the breakdown lane and the line markings have been changed, and construction is ongoing. The progress of the works and all the improvements represent a positive response by the Government to this tragic accident. The strategy includes a range of actions that are designed to improve safety around breakdown incidents and increase visibility in breakdown situations. In December 2012 the Government produced a breakdown safety glove box guide for motorists which details a range of measures that are designed to reduce crashes in breakdown situations.

The aim of the guide is to show road users how they can improve their safety if they break down or pass someone who has broken down. These initiatives solidify the New South Wales Liberal-Nationals Government's commitment to ensuring the safety of broken down vehicle drivers and the people who come to their aid. I commend the bill to the House.

The Hon. PENNY SHARPE [4.29 p.m.]: I lead for the Opposition on the Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013. The Opposition welcomes this bill but I flag that we will move a substantial amendment during the Committee stage. The purpose of the Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013 is to amend the Road Transport Act 2013 to make it clear that the court is to take into account the presence of obstructions and hazards on the road, such as a broken down vehicle or vehicles involved in an accident, when determining whether a person has committed an offence of driving a motor vehicle negligently, furiously, recklessly, at speed or in a manner dangerous to the public.

We all know, of course, that this bill comes about as a result of a tragedy. In February 2012 Sarah Frazer's car broke down on the Hume Highway near Mittagong. Sarah Frazer stopped at the side of the road in the breakdown lane. Despite parking against the safety guard rail, Ms Frazer's car remained stranded out in a 110 kilometre per hour lane. Geoff Clark, a tow truck driver, was assisting Sarah when a truck ran them down. The loss of both Sarah and Geoff was a tragedy that their families and friends carry with them to this day and every day. Unfortunately, they have not been the only ones to lose their lives in these circumstances. Roads and Maritime Services report that between 2007 and 2010 146 crashes occurred in breakdown lanes and road shoulders across New South Wales. Eight people have been killed and 102 people have been injured. In 2012 five people, including Geoff and Sarah, were killed in breakdown lanes or on road shoulders.

This bill is the result of the tireless work undertaken by Safer Australian Roads and Highways—also known as the SARAH Group—founded by Sarah Frazer's father, Peter. As a result of the SARAH Group's efforts, the Government developed a Breakdown Safety Strategy, again a welcome development. The bill makes changes to the Road Transport Act to incorporate recommendations from the Breakdown Safety Strategy. This is something the Labor Opposition welcomes. The bill amends section 117 of the Consolidated Road Transport Act 2013. The amendment will introduce an additional consideration to be taken into account by the courts when determining whether a negligent driving or a furious and reckless driving offence has been committed. The court will consider relevant whether there were any obstructions or hazards on the road. This may include, for example, broken down vehicles.

As members are aware, the Opposition believes this legislation does not go far enough. We will move an amendment that will seek to enact what we call slow down, move over legislation. The Breakdown Safety Strategy made a specific reference to slowing down by 30 kilometres an hour at accident and incident sites. However, the bill does not incorporate this change and it is a change we know the SARAH Group has pushed for. We want to see motorists slow down by 30 kilometres per hour at accidents, breakdowns or incidents on the road. The bill does not introduce a rule to require motorists to slow down when passing incidents, and our amendment seeks to do that. It will slow traffic by 30 kilometres per hour when motorists observe a vehicle displaying emergency or hazard lights at an incident, accident or breakdown and will require drivers on a multilane road to move to an adjacent lane away from the incident when it is safe to do so. As I have indicated, the Opposition supports this bill and congratulates the Government on taking a positive step forward in improving safety for motorists. However, we believe it does not go far enough. I will go into the detail of our amendment during the Committee stage.

The Hon. JOHN AJAKA (Parliamentary Secretary) [4.33 p.m.], in reply: I thank honourable members who spoke on the Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013: the Hon. Lynda Voltz, the Hon. Paul Green, the Hon. Niall Blair and the Hon. Penny Sharpe. The bill will amend the Road Transport Act 2013 to make it clear that the court is to take into account the presence of obstructions and hazards on a road, such as a broken down vehicle, when determining whether a person has committed an offence of driving a motor vehicle negligently or driving furiously, recklessly or at a speed or in a manner dangerous to the public. It is important that this amendment is considered in context.

In 2012 five people, including Sarah Frazer and Geoff Clark, were killed on New South Wales roads in breakdown situations. This loss of life is unacceptable to the community. At this time I acknowledge Peter Frazer, who is in the gallery today, the father of Sarah Frazer. Again we express our condolences. The Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013 is one of a suite of initiatives being delivered by the New South Wales Government as part of the Breakdown Safety Strategy. The Breakdown Safety Strategy includes actions to improve public education about breakdown safety, including communications across a broad range of channels. The glove box guide to breakdown safety, which was launched in December 2012, is an example of how this road safety advice is reaching the community. The glove box guide is being distributed to all New South Wales vehicle owners with their registration renewal notices.

Roads and Maritime Services has completed an audit of breakdown lanes on major non-metropolitan, multilane high-speed highways, covering approximately 2,100 kilometres. A web application is currently being developed to make shoulder width information collated as part of this process accessible to first response personnel. This additional knowledge will enable the safe planning of incident responses and improve safety around breakdowns. Transport for NSW and Roads and Maritime Services are working in partnership with the tow truck industry and WorkCover NSW to ensure road safety information is provided to operators, that the visibility of vehicles and operators is enhanced, and that procedures are in place to reduce road safety risks. Together, these measures aim to raise public awareness and improve road safety around breakdowns.

This bill is important not only because I know that it is in response to community concerns and has broad public support but also because it will improve public awareness of breakdown safety, a road safety issue that has only recently received the attention it deserves. I take this opportunity to thank Mr Peter Frazer and the SARAH Group for their advocacy on this important issue. In all, 23,000 people signed the petition to request action on this issue, and the Government and the Minister have responded to deliver a suite of measures designed to improve road safety. This is a perfect example of community concern leading to government action. The bill is an important initiative that reminds all drivers of their responsibility to act with care when approaching and passing a broken down vehicle or emergency. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Jennifer Gardiner): Order! I am advised that further amendments with minor typographical changes are being circulated.

Clauses 1 and 2 agreed to.

The Hon. PENNY SHARPE [4.39 p.m.]: As I indicated previously, the Opposition supports the Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013 and congratulates the Government on taking these positive steps. However, we believe that the bill does not go far enough. At this point I propose to move the Opposition's amendment. I clarify for members that the amendment is on sheet C2013-036C and is not dissimilar to that circulated previously. My understanding is that the Parliamentary Counsel Office corrected a few typographical errors only and there is no substantive change. I move Opposition amendment No. 1 on sheet C2013-036C:

No. 1 Page 2. Insert after line 16:

Schedule 1 Amendment of Road Rules 2008

[1] Rule 25–2

Insert after rule 25–1:

25–2 NSW rule: speed limits when approaching accidents, emergencies or breakdowns

(1) This rule applies to a driver if:

(a) the vehicle being driven by the driver is approaching a police or emergency vehicle that is displaying a flashing blue or red light (whether or not it is also displaying other lights) or a tow truck that is displaying a flashing light, and

(b) it appears to the driver that the police or emergency vehicle or tow truck is attending the scene of an accident or other emergency or a breakdown, and

(c) the speed limit applying to a driver for the length of road concerned is 80 kilometres per hour or more.

(2) This rule also applies to a driver if:

(a) the vehicle being driven by the driver is approaching a stationary vehicle that is displaying flashing hazard lights, and

(b) it appears to the driver that:

(i) a vehicle has been involved in an accident or other emergency or has broken down, and

(ii) any person is outside any such vehicle, and

(c) the speed limit applying to a driver for the length of road concerned is 80 kilometres per hour or more.

(3) The speed limit applying to a driver to whom this rule applies is 30 kilometres per hour less than the speed limit that applies to the driver for the length of road under another rule of this Part.

(4) This rule has effect despite any other rule in this Part that specifies a speed limit applying to a driver for a length of road that is greater than the speed limit applying to the driver under this rule.

[2] Rule 139–1

Insert after rule 139:

139–1 NSW rule: driver on multi-lane road must move over when approaching accidents, emergencies or breakdowns

(1) This rule applies to a driver driving in a lane on a multi-lane road (***the first lane***) if:

(a) the speed limit applying to the driver for the length of road where the driver is driving is 80 kilometres per hour or more, or

(b) a *keep left unless overtaking sign* applies to the length of road where the driver is driving.

(2) If:

(a) the vehicle being driven by the driver is approaching any of the following vehicles in the first lane or on the side of the road that is next to the first lane:

(i) a police or emergency vehicle that is displaying a flashing blue or red light (whether or not it is also displaying other lights),

(ii) a tow truck that is displaying a flashing light, and

(b) it appears to the driver that the police or emergency vehicle or tow truck is attending the scene of an accident or other emergency or a breakdown,

the driver must move from the first lane to another lane on the multi-lane road away from the police or emergency vehicle or tow truck, but only if, in all the circumstances, it is safe for the driver to do so.

Maximum penalty: 20 penalty units.

(3) If:

(a) the vehicle being driven by the driver is approaching a stationary vehicle that is displaying flashing hazard lights, and

(b) it appears to the driver that:

(i) a vehicle has been involved in an accident or other emergency or has broken down, and

(ii) any person is outside any such vehicle, the driver must move from the first lane to another lane on the multi-lane road away from the stationary vehicle, but only if, in all the circumstances, it is safe for the driver to do so.

Maximum penalty: 20 penalty units.

(4) A *keep left unless overtaking sign* on a multi-lane road applies to the length of road beginning at the sign and ending at the nearest of the following:

(a) an *end keep left unless overtaking sign* on the road,

(b) a traffic sign or road marking on the road that indicates that the road is no longer a multi-lane road,

(c) if the road ends at a T-intersection or dead end—the end of the road.

Note. ***Road marking, T-intersection*** and ***traffic sign*** are defined in the Dictionary.

(5) In this rule:

lane, for a driver, means a marked lane for vehicles travelling in the same direction as the driver, but does not include a special purpose lane in which the driver is not permitted to drive.

Note 1. ***Marked lane*** and ***special purpose lane*** are defined in the Dictionary.

Note 2. Rule 95 deals with driving in emergency stopping lanes, and Division 6 of this Part deals with driving in other special purpose lanes.

The Opposition does not believe the matter goes far enough. Members would be aware of the long campaign by the Safer Australian Roads and Highways [SARAH] Group on this matter. Our amendment seeks to reflect the desires of that group. The Opposition amendment will require motorists to slow down by 30 kilometres per hour as they approach a breakdown or accident on a road with a speed limit of 80 kilometres per hour or above. The purpose of introducing the SARAH Group's proposal of a slow by 30 law requiring motorists to slow down by 30 kilometres per hour is to encourage driver behavioural change when approaching these sites instead of having courts decide whether a person drove recklessly after a crash had occurred.

The Labor Party believes that this legislation is an opportunity to provide an active process of preventing a crash, not acting after its occurrence. Safer Australian Roads and Highways' website explains, "While drivers are compelled to slow to 40 kilometres per hour when passing a council worker mowing the grass, it is still perfectly legal to do 110 kilometres per hour while passing an ambulance officer assisting at a car crash. This has to change. Therefore, along with ensuring adequate breakdown lanes we need a law in place to protect first call and emergency services personnel and those that assist on our roads by making sure that drivers passing these accidents slow down and move over."

Indeed, the issue of drivers slowing down when approaching an accident, incident, crash or breakdown is the same concept that exists requiring drivers approaching school zones to slow down to ensure the safety of pedestrians—in this case, schoolchildren. Legislation requiring motorists to slow down by more than 30 kilometres per hour is in place in Canada and the United States. It is possible to do it here. My colleague the shadow Minister for Roads advises that the Minister's office has argued that this legislative condition is not required because Roads and Maritime Services does not want police focussing on an accident sign that would be difficult to enforce if the measure was adopted.

The Opposition argues that that misses completely the point of its amendment. The purpose of introducing a slow by 30 law to require motorists to slow down by 30 kilometres per hour at these sites is to encourage motorist behavioural change as they approach and not have courts decide whether a person was driving recklessly after the crash occurred. The amendment inserts a number of changes to Road Rules 2008. After Rule 25-1 the amendment inserts "NSW Rule: speed limits when approaching accidents, emergencies or breakdown" and states:

25–2 NSW rule: speed limits when approaching accidents, emergencies or breakdowns

(1) This rule applies to a driver if:

(a) the vehicle being driven by the driver is approaching a police or emergency vehicle that is displaying a flashing blue or red light (whether or not it is also displaying other lights) or a tow truck that is displaying a flashing light, and

(b) it appears to the driver that the police or emergency vehicle or tow truck is attending the scene of an accident or other emergency or a breakdown, and

(c) the speed limit applying to a driver for the length of road concerned is 80 kilometres per hour or more.

(2) This rule also applies to a driver if:

(a) the vehicle being driven by the driver is approaching a stationary vehicle that is displaying flashing hazard lights, and

(b) it appears to the driver that:

(i) a vehicle has been involved in an accident or other emergency or has broken down, and

(ii) any person is outside any such vehicle, and

(c) the speed limit applying to a driver for the length of road concerned is 80 kilometres per hour or more.

(3) The speed limit applying to a driver to whom this rule applies is 30 kilometres per hour less than the speed limit that applies to the driver for the length of road under another rule of this Part.

(4) This rule has effect despite any other rule in this Part that specifies a speed limit applying to a driver for a length of road that is greater than the speed limit applying to the driver under this rule.

Basically, we want a driver travelling on a road with a speed limit of more than 80 kilometres per hour going past a broken down vehicle to slow down by 30 kilometres per hour. This will enable the driver to watch out for emergency and other personnel and also for someone who may have stopped their car awaiting assistance from the NRMA. It is a fairly straightforward amendment that we believe is absolutely achievable and will save lives. The second part of the amendment governs the rules around moving over on multi-lane roads. It states:

(1) This rule applies to a driver driving in a lane on a multi-lane road (***the first lane***) if:

(a) the speed limit applying to the driver for the length of road where the driver is driving is 80 kilometres per hour or more, or

(b) a *keep left unless overtaking sign* applies to the length of road where the driver is driving.

(2) If:

(a) the vehicle being driven by the driver is approaching any of the following vehicles in the first lane or on the side of the road that is next to the first lane:

(i) a police or emergency vehicle that is displaying a flashing blue or red light (whether or not it is also displaying other lights),

(ii) a tow truck that is displaying a flashing light, and

(b) it appears to the driver that the police or emergency vehicle or tow truck is attending the scene of an accident or other emergency or a breakdown,

If a driver in the nearside lane approaches a scene and believes it is a breakdown, we want that driver to move from the first lane to another lane, where possible, to get out of the way. Our amendment imposes a maximum of 20 penalty points for any breach. We do not believe this is a complicated amendment. We believe it is achievable and sets out to fully implement the breakdown implementation strategy. We believe this will make it safer for those who break down on the side of the road, for emergency personnel, NRMA personnel and tow truck drivers who work our highways every year and see horrific things. We believe this amendment makes the road safer for them and for motorists. We believe this amendment is worthy of inclusion in the bill.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [4.46 p.m.]: I acknowledge that the Opposition's amendment has been moved in goodwill and certainly within its kernel are some good ideas. I shall explain in detail why, unfortunately, they do not sit practically. As my colleagues have acknowledged, I too acknowledge Peter Frazer, who is in the gallery for the debate on this bill. He told me privately some good news from the Federal area that will become apparent in the next few days or weeks. The Government is committed to ensuring the safety of motorists whose vehicles have broken down and the responders who come to their aid. We introduced this bill to make it clear that the court is to take into account the presence of obstructions and hazards on a road, such as broken down or crashed vehicles, when determining whether a person has committed an offence of driving a motor vehicle negligently, furiously, recklessly or at a speed or in a manner dangerous to the public.

The New South Wales Government appreciates the amendment's intent to improve safety around breakdowns by clarifying the requirements of drivers under the road rules. However, we do not support the amendment as currently drafted without extensive consultation with New South Wales police and other jurisdictions. In addition, advice we have received from the NSW Police Force indicates its strong concerns regarding these amendments. The New South Wales Road Rules 2008 are based on the Australian Road Rules, a set of national model laws that have been in place since 1999. In fact, they were put in place by our predecessors, those on the other side of the Chamber. In the interests of consistency and in reducing the burden on motorists, it is preferable that any change to the Road Rules be agreed to and implemented nationally. The adoption of similar rules has been considered nationally previously but not supported by all jurisdictions due to enforcement difficulties. That is why we will take this issue for national consideration by all jurisdictions to ensure that any rule that may be introduced can be enforced.

The content of the Opposition's amendment falls into areas that the Government will take to the national level. Proposed road rule 25-2 requires drivers to slow down by 30 kilometres an hour below the posted speed limit when they approach a broken down vehicle. That action is reflected in the recently released Breakdown Safety Guide that was co-produced with the NRMA. It recommends that drivers slow down to 30 kilometres an hour below the posted speed limit if they see a breakdown. The glove box guide is being distributed to all New South Wales vehicle owners with their registration renewal notices. Every vehicle that is registered in New South Wales will receive a copy of that glove box guide. It is anticipated that at least 50,000 glove box guides will be distributed every two months and thousands have already been distributed through Roads and Maritime Services registries and NRMA response vehicles.

The Government opposes the Opposition's amendment. Proposed road rule 25-2 would be difficult to enforce. Offences in the Road Rules are strict liability offences, but the Opposition proposes the creation of laws that are anything but clear. The Government notes that the proposed Opposition amendment to road rule 25-2 (1) applies to a driver if:

> (b) it appears to the driver that the police or emergency vehicle or tow truck is attending the scene of an accident or other emergency or a breakdown, and

Further, proposed Opposition amendment to road rule 25-2 (2) (b) states:

> (b) If it appears to the driver that:
>
> (i) a vehicle has been involved in an accident or other emergency or has broken down, and
>
> (ii) any person is outside any such vehicle.

The issue is that because these proposed rules rely on how a driver sees a situation there are no means by which the police or the courts could clearly establish that the offence has been committed, thus making the laws unworkable. The risk is that drivers would not take the Opposition's approach seriously—even though it is intended to be serious and the Government does not question the motives—as they realise it cannot be enforced or proven. This would create useless rules. The proposed amendment to road rule 139-1 requires a driver to move away from the incident. The Government agrees that motorists should slow down and exercise caution if they see a breakdown. As drafted road rule 139-1 would be difficult to enforce. Both parts of the proposed road rule 139-1 include the subjective phrase "it appears to the driver". Rule 139 states in part:

> A driver on a multilane road must move over when approaching incidents, emergencies or breakdowns if:
>
> (2) …
>
> (b) it appears to the driver …

The key words:

> … that the police or emergency vehicle or tow truck is attending the scene of an accident or emergency or a break down.

Further, proposed road rule 139 states in part:

> (3) …
>
> (b) it appears to the driver ...

The same problems arise with that wording. It is not that the Government questions the intent of the amendments, but the wording used is loose. The drafting of the proposed amendments to the road rules is overly complex for a driver to understand and does not take into account all of the circumstances in which a vehicle could break down or an accident could occur. A more concerning outcome is that drivers could interpret the rules differently, leading to some drivers dramatically slowing down or changing lanes while other drivers do not. For these reasons the Government reluctantly opposes the Opposition's amendment to the road rules.

The Government intends to put the issues, including those raised by the Opposition, on the national agenda via the Australian Road Rules Maintenance Group, comprising the Commonwealth and all States. In that forum careful consideration is given to the issues, to drafting the rules, to getting it right so it is not confusing and to ensuring there is a national set of road rules. The Government will be doing that.

The Hon. MICK VEITCH [4.54 p.m.]: I speak in support of the amendment. I acknowledge Peter Frazer, who is in the President's gallery. I have a particular interest in this issue.

The Hon. Duncan Gay: You travel the same road.

The Hon. MICK VEITCH: I travel the same road quite a bit and often drive past the location of Sarah Frazer's accident. Sarah was a good friend of a niece of my uncle, Jess Bailey and Pat Taylor. They were students together at Charles Sturt University. I often drive past the location of the accident and every time I do it runs through my mind what could have been done better. What could we all have done to try to prevent that terrible accident? The Minister would be aware of the changed road conditions: The third lane has been removed and there is now a wider emergency lane. The duplication of the highway was done with good intentions many years ago. The addition of the third lane was thought to be a good thing. There are a couple of places along the highway where a third lane is in place. It is good to see that the emergency lane has been widened and it will work well. That is one of the strategies that we have to look at as legislators to try to prevent accidents such as this happening again.

My young daughter is 22 years of age and drives a car on country roads. Every time I pass the place where Sarah died I cannot help but dwell on the scenario of what would happen if my daughter broke down on the side of the road, what training have I put in place for her to know what to do and what sort of things would I like in place to ensure that Madlen is safe. It is a basic instinct for a parent to wonder and worry about their children when they are driving on their own and often long distances in country New South Wales. I am heartened to hear the Minister say that whilst the Government will not support the amendment it supports the intent of the amendment and that it will not finish here if it is not passed. I think the amendments to the road rules are essential and common sense. There is a lot more that can be done around that issue.

The glove box material is one element of a campaign that educates not only old folks like myself but also younger drivers as to what happens when they get a flat tyre or break down and they need to pull over to the side of the road. On many occasions while driving on the Hume Highway I have seen middle-aged men on the lane-side of the car changing a tyre, with no protection and poor visibility.

The Hon. Dr Peter Phelps: No reflectors.

The Hon. MICK VEITCH: No reflectors.

The Hon. Duncan Gay: Dark clothing

The Hon. MICK VEITCH: Dark clothing. They take too many risks. The glove box material is a good initiative, but there is a lot more to be done. One of the things we can do is talk about what to do when you break down on a roadway in New South Wales in order to raise awareness of the correct procedures. The

education campaign is not just glove box material, as good as it is; there is a lot more to be done beyond today. The Minister has said that he will continue to raise this matter at other levels because it is not just a New South Wales issue. We would be silly to consider this as a New South Wales issue. It cannot be done in isolation and is something that needs to be done nationally—and that includes the education campaigns. I support the amendment. I acknowledge the Minister's comments around the difficulties for the Government with the amendment, but the next time I drive past Sarah's accident site I would like to be able to say that the amendments to the road rules have been adopted.

The Hon. PENNY SHARPE [4.59 p.m.]: I make a couple of comments in response to the Minister's contribution. The decision to adopt the amendment revolves around asking the question: Should this provision be included in the legislation because it has an educative purpose and we want drivers to slow down while passing a vehicle stopped in a breakdown lane? We already ask drivers to slow down for kids in school zones, so it is possible for the Chamber to pass the amendment. An educative role is involved here. It is possible and indeed it is important to put in place penalties for people who fail to slow down. If we are saying that drivers should slow down, why are we not putting our money where our mouth is and actually legislating to make it a road rule that people are expected to follow. I understand the Minister's arguments but I disagree. The Chamber can pass the amendment and it would be a better outcome for the bill if that were the case.

Question—That Opposition amendment No. 1 [C2013-036C] be agreed to—put.

The Committee divided.

Ayes, 18

Ms Barham	Mr Moselmane	Ms Westwood
Mr Buckingham	Mr Primrose	Mr Whan
Ms Cotsis	Mr Roozendaal	
Mr Donnelly	Mr Secord	
Ms Faehrmann	Ms Sharpe	*Tellers,*
Mr Foley	Mr Shoebridge	Ms Fazio
Dr Kaye	Mr Veitch	Ms Voltz

Noes, 20

Mr Ajaka	Mr Gay	Mr Mason-Cox
Mr Blair	Mr Green	Mrs Mitchell
Mr Borsak	Mr Harwin	Reverend Nile
Mr Clarke	Mr Khan	Mrs Pavey
Ms Cusack	Mr Lynn	*Tellers,*
Ms Ficarra	Mr MacDonald	Mr Colless
Mr Gallacher	Mrs Maclaren-Jones	Dr Phelps

Pair

Mr Searle	Mr Pearce

Question resolved in the negative.

Opposition amendment No. 1 [C2013-036C] negatived.

Clause 3 agreed to.

The CHAIR (The Hon. Jennifer Gardiner): Order! With respect to Opposition amendment No. 2, I rule that the amendment has lapsed because of a previous ruling that an amendment cannot be admitted if it is governed by or dependent on an amendment that has already been negatived.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Duncan Gay agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Duncan Gay agreed to:

That this bill be now read a third time.

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

RACING LEGISLATION 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) [5.11 p.m.]: I move:

That this bill be now read a second time.

The Racing Legislation Amendment Bill 2013 makes two important changes to racing and wagering legislation which will, first, assist in ensuring the viability of New South Wales licensed bookmakers and their ongoing contribution to the State's racing industry and economy and, secondly, provide the controlling body for thoroughbred racing in this State, Racing NSW, with additional tools to effectively manage the conduct of race clubs and ensure the continued viability and future development of the industry throughout the State. I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

Leave granted.

At present the Totalizator Act 1997 prohibits a person from offering to bet on an event or contingency where the payout on the winning bet is based on the dividend declared by a totalizator for that event or contingency.

This practice known as tote odds betting involves a bookmaker offering odds on a winning bet based on the dividend declared by a totalizator such as the TAB. This may include offering a slightly higher dividend than the TAB or guaranteeing the best dividend of the Australian TAB pools.

While the practice is prohibited in New South Wales, the legislation's lack of extraterritorial operation has been exploited for many years by corporate bookmakers licensed in other jurisdictions who have a large New South Wales client base and conduct tote odds betting on a significant scale.

Tote odds betting has become widespread amongst bookmakers licensed in other jurisdictions to the point that it is now a permitted practice in other States including the Northern Territory, Victoria, Queensland and South Australia. In effect, the contemporary view is that tote odds betting is a form of "price matching" and therefore acceptable in a competitive national market.

New South Wales licensed bookmakers are now disadvantaged competitively in comparison with their interstate counterparts. The New South Wales Bookmakers Co-operative has requested that the Government remove the prohibition on the practice to assist in its members achieving "competitive neutrality" with the operational conditions and wagering products that are available to their competitors.

The three controlling bodies of racing—Racing NSW, Harness Racing NSW and Greyhound Racing NSW—have given their support for the co-operative's proposal.

Further, the proposal to lift the prohibition of tote odds was recommended at the Australasian Racing Ministers Conference last year. The recommendation was supported by all Ministers. New South Wales and Tasmania were the only jurisdictions to have this prohibition in place. The bill will add a clause to section 88 of the Totalizator Act 1997 to provide that a person is not guilty of the offence of tote odds betting if they are:

(a) a New South Wales licensed bookmaker, and

(b) are present at a licensed racecourse when such a bet is offered, whether face-to-face with a punter or by authorised telephone or electronic means.

This measure will not weaken the regulatory controls over bookmaker operations and New South Wales licensed bookmakers will still be subject to the current level of scrutiny by racing authorities and government. In addition, the prohibition on tote odds betting by unlicensed people is retained as a deterrent to off-course "SP" bookmaking activities.

The second purpose of the bill is to amend the Thoroughbred Racing Act 1996 to provide Racing NSW with the power to impose a wider range of sanctions on race clubs which fail to comply with a condition of registration. This is a reform which is directed at achieving consistency with Racing NSW's existing powers in respect of a race club's failure to comply with directions in relation to minimum standards for an array of matters.

These minimum standards include the manner in which race meetings are conducted, the financial governance of a race club and the level of facilities and amenities at a racecourse.

If a race club fails to follow certain directions made by Racing NSW in regard to minimum standards, the controlling body may publicly admonish the race club, impose a civil penalty of 50 penalty units and up to 100 penalty units for further breaches, or suspend or cancel the race club's registration.

At present, Racing NSW does not have the same powers when dealing with a race club for a breach of its conditions of registration. The only sanction available to Racing NSW when dealing with a race club in these circumstances is to cancel the race club's registration.

Cancelling a race club's registration effectively prohibits it from conducting racing and this could have an adverse effect on those industry participants and others reliant upon the race club's operations for their employment and income. This does not serve any constructive purpose unless it is the intention of Racing NSW to specifically prevent a race club from continuing to operate.

The proposed amendment is practical and will provide Racing NSW with additional powers to ensure that the widely recognised standards of excellence and integrity in New South Wales racing and its associated administration are maintained and developed into the future.

I commend the bill to the House.

The Hon. STEVE WHAN [5.12 p.m.]: The Opposition supports the Racing Legislation Amendment Bill 2013. The bill has two key purposes and they arise from amendments requested by Racing NSW and the NSW Bookmakers Co-operative. The amendments are aimed at achieving consistency with the existing powers of Racing NSW in respect of a race club's failure to comply with directions in relation to minimum standards of operations and to allow New South Wales licensed bookmakers to operate on a more level footing with their interstate counterparts.

The proposed amendments will allow tote odds betting by New South Wales licensed bookmakers, which is a change to existing conditions. Historically, bookmakers have been unable to use tote odds, which I suspect modern technology and communications has made redundant. We need to be aware of the way in which gambling is changing in our State and we need to ensure that New South Wales operations, which return revenue to and create jobs in New South Wales, are not disadvantaged against interstate counterparts or interstate competition or even international competition in their ability to run those operations. That should be considered separately to any debate on gambling overall but we need to look at the way gambling is changing in New South Wales.

As shadow Minister it causes me some concern on a number of fronts to see the way that online gambling is changing our operations. First, from a New South Wales revenue point of view, it is changing the way that international and interstate operations can extract revenue which once would have come to New South Wales and assisted with the provision of services in this State. Another aspect of the way that online gambling is changing in our State that causes me concern is more a Federal Government responsibility but I take this opportunity to put on record today that I share the concern that many people have about the apparent integration of gambling and betting odds into sports coverage currently, particularly rugby league coverage.

I do not have any problem at all with Tom Waterhouse's business and how he makes money out of that business, but I have an issue with the fact that, presumably through sponsorship, he is being portrayed virtually as a football commentator. That presents a very unhealthy picture of gambling being a part of the game of rugby league. I put out a press release on this last week.

The Hon. Matthew Mason-Cox: We all read it.

The Hon. STEVE WHAN: I am glad to hear that the Parliamentary Secretary avidly reads my press releases. In the early days of political websites I was once advised not to put things on the website because the only people who read them were The Nationals. How do you track through what your opponent is saying? You look at their website and see what is there. I am sure that the Hon. Matthew Mason-Cox religiously reads everything that is on the websites. I put out a press release last week because I heard that free-to-air television

was looking at changing the codes or strengthening the codes to prevent the promotion of odds during football games and the sort of integration of gambling into the commentary of rugby league, which I am against happening during a game. I hope people watch football games for the spectacle of the game. If people want to bet on the game that is fine: they can do that separately.

The Hon. Dr Peter Phelps: Not if you are watching the Raiders these days.

The Hon. STEVE WHAN: The Government Whip is commenting on the Raiders. Certainly their performance against North Queensland is one to be forgotten, but several home games this year have been fantastic and I very much enjoyed going to watch them.

The Hon. Dr Peter Phelps: The last one at home was great.

The Hon. STEVE WHAN: Some very close last-gasp wins were terrific. One would hope that people watch games for the game itself and that people are encouraged to get involved in playing if they have the opportunity to do so. Football matches should provide enjoyment and should not promote an integrated opportunity to bet. I know that whenever Tom Waterhouse's appearances on television during games are criticised people leap to his defence. It is nothing personal against him but I do not like the way that he is operating in these games.

The Hon. Michael Gallacher: Did you back your team last weekend—Manly?

The Hon. STEVE WHAN: It is a gross insult thrown at me across the Chamber to suggest that I am a Manly fan—outrageous. As a die-hard Raiders fan I was out there at Seiffert Oval in their first few years.

The Hon. Dr Peter Phelps: When they were the Queanbeyan Raiders.

The Hon. STEVE WHAN: When they were the Queanbeyan Raiders. I return to the bill. This bill has been on the table for some time: it passed through the other place several months ago. In the time since I have not heard one person in the racing industry express any concern to me about the provisions in the bill. I suggest that probably means that most people are quite happy with the provisions. The powers being suggested for Racing NSW to take more action in respect to a race club's failure to comply with directions in relation to minimum standards of operation seem reasonable. My understanding is that at the moment Racing NSW can either write a letter with no action attached to it or it can withdraw the club's right to operate—two extremes. It is reasonable that there should be an action in between.

I asked a question on that topic at the briefing. I thank Minister Souris and his staff, because they are always extremely good about giving briefings on their legislation, and it is much appreciated. Some other Ministers are not quite as good. I am not looking at the Minister for Police and Emergency Services, but some Ministers in my other shadow portfolios do not behave quite the same. I wondered whether I would hear concerns from smaller racing clubs that were worried that Racing NSW might use these powers excessively. I have not heard any such concerns during the long time since this bill was introduced and this debate, so the Opposition is happy to support the measures.

The changes to allow totalisator odds betting by New South Wales licensed bookmakers will put them on a basis similar to that of many of their competitors. As I mentioned, it seems that the provision prohibiting them from using totalisator odds was probably right at the time that it was introduced but it is well out of date now. Unlicensed people will not be able to offer totalisator odds betting. The Opposition supports the bill.

The Hon. SARAH MITCHELL [5.20 p.m.]: I support the Racing Legislation Amendment Bill 2013. While seemingly small in its ambit, the bill before the House will introduce two reforms to assist in ensuring the ongoing viability of the racing industry in this State. The first, which will remove the prohibition on New South Wales licensed bookmakers offering totalisator odds betting, will enable the tradition of a bookmaker fielding at a racecourse to continue. Bookmakers at one time in our history accounted for a major proportion of wagering turnover in this State. In fact in the early 1980s there were around 1,000 licensed bookmakers across New South Wales, and those bookmakers accounted for a significant amount of the total wagering turnover by New South Wales punters.

A day at the races was not complete without the hustle and bustle of the betting ring and the chance for a punter to beat the bookies. However, times have changed. Today there are only around 200 New South Wales

licensed bookmakers standing. At their peak in the middle of the last century there would be more than that on any Saturday at Randwick or Rosehill. This is due in part to the pressure for punters to spend their leisure dollar on other options, other forms of entertainment and the myriad wagering and gambling platforms that exist in today's world. New South Wales punters already have access to many large interstate wagering operators who offer tote odds betting. Allowing on-course licensed bookmakers to offer tote odds will provide little more than what is already available to New South Wales punters through the internet or their mobile phone with wagering operators in other jurisdictions.

The controlling body for thoroughbred racing in this State, Racing NSW, could never be described as reticent when it comes to the viability of the New South Wales racing industry. The evidence of this is there in the lengthy legal battle that Racing NSW and this State engaged in to defend the racing industry's right to earn an income from wagering operators who use New South Wales race fields as a wagering platform. In March last year the High Court vindicated the stance taken by New South Wales and all three codes of racing now have an additional revenue stream. As has been noted, all other States and Territories have introduced their own version of the New South Wales race fields scheme.

I am informed that Racing NSW is of the view that there would be a negligible effect on totalisator turnover should the current restriction on tote odds betting be lifted. However, there is a significant benefit to racing to support on-course bookmakers adding to the colour and spectacle of a race day. Total wagering on racing events through the New South Wales system and fixed odds betting by the TAB is around $4.96 billion per annum. Turnover with New South Wales licensed bookmakers is around $220 million a year. Therefore bookmakers only make up about 4 per cent of the total invested with New South Wales wagering operators.

Historically, bookmakers had a monopoly on all fixed odds betting in this State. These days they are faced with major competition from: interstate corporate bookmakers who operate in a deregulated environment and have unlimited access to New South Wales clients; the Tasmanian based betting exchange, Betfair; interstate on-course bookmakers who are able to offer tote odds betting; and TAB Limited, which operates a fixed odds service on racing and accounts for 3½ times more turnover per year than the total of turnover by New South Wales licensed bookmakers. The proposed lifting of the prohibition on tote odds betting by on-course New South Wales bookmakers is a modest reform that will enable our bookies to compete on a more equal footing with their many competitors.

The practice of tote odds betting will be restricted to the racecourse, and it is hoped that it will provide the satchel swingers with a well-needed boost and attract patrons to attend a race meeting and experience the colour and excitement. The second reform contained in the bill is a practical matter which will assist Racing NSW in its ongoing supervision and development of thoroughbred racing in this State. This is sensible legislation. I commend the bill to the House.

Dr JOHN KAYE [5.25 p.m.]: On behalf of The Greens I address the Racing Legislation Amendment Bill 2013. From the outset I say that The Greens do not oppose this piece of legislation; however, we raise a number of concerns associated with the bill and with the industry this legislation covers. The legislation broadens the range of activities that can be classified as an act of non-compliance by racing clubs to include a failure to comply with directions or minimum standards set for the conduct of races and race meetings. The second provision allows licensed bookmakers to offer on-course bets based on totalisator odds—the famous starting price betting—which now of course are to be extended from the TAB to bookmakers who are acting on course. One of the interesting features of this legislation is that bookmakers who are physically located at the racetrack can take starting price bets from individuals who are not at the racetrack. It is a fairly substantial gift to the bookmakers of New South Wales.

I understand what previous speakers have said. It is true that bookmakers in this State are suffering at the hands of online betting and interstate betting in what I think the Hon. Sarah Mitchell referred to as a largely deregulated industry or an industry that is on the trajectory to become largely deregulated. That is true. I comprehensively agree with the statements of the Hon. Steve Whan about Tom Waterhouse and the consequences of the activities that Mr Waterhouse has been engaged in.

[*Interruption*]

There is a stranger in the House. I welcome our newest member.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The stranger will leave the House.

Dr JOHN KAYE: The issue is that the growth in online betting opportunities has not only had an impact on New South Wales bookmakers; it has also had an impact on potential problem gamblers. The establishment of yet more gambling opportunities creates traps for people who have a predisposition to problem gambling. This is a serious policy issue for State and Federal governments to grapple with. We have not yet worked out how to appropriately regulate online gambling. The Minister has sensibly spoken about but has not yet acted on the idea of banning advertising for gambling at outdoor sporting events. I encourage the Minister to put some effort into beginning that process. I do not attend many large-scale outdoor sporting events—in fact, I attend hardly any—but I am constantly told that it is almost impossible to attend a rugby league game or an Aussie rules game and not be confronted with an advertisement for gambling. That is an important policy issue that must be dealt with.

Another aspect of this legislation that is not often discussed is the issue of horses. Of course, the racing industry is a glamour industry. I often go past the Royal Randwick Racecourse and notice men and women who, dressed in their finery, are off to the races. They always look better when they are going to the races than they look when they are coming back, no doubt owing to the effect of the consumption of alcohol. Racing is referred to as the sport of kings. As is the case with many of the mediaeval kings, behind the glamour there are appalling acts of cruelty. In this case, the treatment of racehorses is no different.

The Animals Australia and the Horse Racing Kills websites provide insights into the appalling cruelty that is inflicted upon horses. One such cruelty is the individual stabling of horses. Any member of the House who has lived on properties that kept, raised or owned horses, which I had the pleasure of doing as a younger man, would know that horses are intensely social creatures. They like to live in groups and they form close emotional bonds with each other. They experience loneliness and display physiological symptoms of loneliness. Yet most racehorses are individually stabled for most of every day, apart from when they are on the racetrack. Individual stabling is regarded as the most practical way to provide horses with their high-performance training and racing diet. The lack of social and environmental stimulation results in stereotypical behaviour, such as crib biting, wind sucking and self-mutilation. They are strong indicators among horses of a welfare problem. Behind the glamour of race day, animals are biting themselves, wind sucking air into their windpipes and crib biting. All of those symptoms are clear indications of distress that the horses are experiencing.

However, the life of a racehorse gets worse. Most racehorses are fed on a high concentration of grains rather than having extended periods of natural grazing. A study of horses at Royal Randwick Racecourse found that 89 per cent of them had stomach ulcers. Presumably that is the result of their diet and the absence of extended grazing periods. During training periods, the horses are not allowed to eat natural grasses. They are fed grains, and that interferes with their normal digestive processes. Within eight weeks of the commencement of their training, many of the horses had deep bleeding ulcers. A paper by J. Newby entitled, "Welfare issues raised by racehorse ulcer study", which was published in 2000 in the *Veterinarian*, is frightening reading. It shows that 89 per cent of the horses had stomach ulcers. For horses, and for human beings, stomach ulcers are an intensely painful and distressing condition that results in 24-hours-a-day pain. Many horses suffer from musculoskeletal injuries and lameness that is caused by training. The exertion of races leads a large proportion of horses to bleed into their lungs and windpipes, which is referred to as exercise-induced pulmonary haemorrhaging.

An increasing number of studies have been done on horseracing. In recent years, as a result of an increasing use of endoscopes on horses, we have begun to obtain a deeper understanding of what is happening inside the windpipes and lungs of horses. A study carried out by the University of Melbourne found that a massive 50 per cent of horses had blood in their windpipes and 90 per cent had blood deeper in their lungs. There is also the problem of soft tissue injuries that are not covered by insurance. The horses that do not perform to their owner's expectations are made to deliberately break down or are killed so that an insurance claim can be made. In common with greyhound racing, the other welfare issue for horses is the wastage of young animals. Only approximately 300 out of every 1,000 foals will start in a race. The remainder end up being killed. In other words, of the 18,000 thoroughbred foals that are born each year in Australia, approximately 12,600 will be ruthlessly discarded, and most of them will end up at what is referred to as the doggers.

Racing is a business in which the profit margins can be quite thin so it is central to the economic survival of stables and racehorse owners that a horse be discarded as soon as possible after deciding that it no longer is a viable racer. To facilitate that, many trainers have arrangements with transport contractors, knackeries or abattoirs that pick up horses on demand. The horses are often picked up at discreet times to spare the track workers, strappers and trainers, as well as the owners, the guilt and distress of seeing horses with whom they have worked closely and with whom they have formed a close bond, as one does with a horse, being taken to the knackery. Younger horses generally are killed for human consumption. There are two horse

abattoirs in Australia—one in Caboolture in Queensland and one in Peterborough in South Australia—but older horses generally end up as dog meat. The problem with abattoirs was graphically illustrated by material that recently turned up on the Animals Australia website. Videos and information were collected from the Laverton Knackery in Victoria showing unwanted horses being beaten, neglected and savagely slaughtered.

The images showed that just 20 minutes from Melbourne's Flemington racecourse a thoroughbred mare was ushered into a killing box. The mare, Nature's Child, had been spelling since her last race in 2003, according to Racing Victoria's website, which means that for nine years she was used to produce small horses for the racing industry. She had an unimpressive track record, having won only $22,000 in prize money for her owners. Nature's Child was shot in the head in front of her equine companion. It must be acknowledged that horses understand when another horse is being killed. They understand guns and become extremely distressed when another horse is killed in front of them.

The equine companion of Nature's Child fearfully rushed into the killing box behind his friend when she was shot. It gets worse. While Nature's Child was still alive, she was dragged by a tractor onto the slaughter room floor where a worker proceeded to slit her throat and cut off her tail. In another paddock, a brown stallion stood tall but looked very ill. He also was shot in the head. By law, the shot should have rendered the horse dead, or at least immediately unconscious, but in this case it did not. The stallion was hooked up to a tractor by one leg and while still alive was dragged 60 metres across gravel and concrete into the slaughter room where he was shot for a second time. That inflicted unspeakable cruelty on an animal that was already deeply distressed.

Investigators have documented horses being beaten with polypipe, animals being transported while injured, foals, small horses and mares being kept in the same unshaded yards as stallions, sick and injured horses being left untreated, and in one case a dead horse being left in a holding yard while others stood around him. These incidents constitute a track record of unspeakable cruelty that is a million miles away from the glamour of Royal Randwick Racecourse and other New South Wales racecourses. It is a case of out of sight is out of mind. While the State makes a substantial amount of money out of gambling and wagering activities from horses, a substantial industry thrives on horseracing, and a scandal in the horse training industry fills the pages of the *Daily Telegraph* and the *Sydney Morning Herald*, behind those scenes lies an appalling reality for the tens of thousands of horses that are killed each year before they even get to the racetrack, the horses that suffer from stomach ulcers, blood in their wind pipes and blood in their lungs, the horses that are not fed a proper diet but, rather, a racing diet, and the horses that are kept in loneliness and isolation and live in fear and pain.

It is all very well for us to talk about the great sport of kings and about the industry and the employment it generates, but we should never forget that this industry thrives on the pain and suffering of animals. The industry requires a thorough review that looks closely at the process of feeding and stabling horses, discarding horses that are not successful on the racecourse and disposing of horses when they are no longer successful on the racetrack. Short of such reforms, we are all condoning an industry that is based on cruelty. If this cruelty occurred before our eyes, if it were shown on racing channels or in the pages of the *Daily Telegraph*, I do not think we would be worrying about what was happening to bookmakers at Randwick racecourse or minor infractions of codes of ethics. We would be far more concerned about one of the great animal welfare tragedies of the twentieth and twenty-first centuries: the industrialised treatment of horses at racetracks.

I implore the racing Minister and the Minister for Police and Emergency Services to take these matters seriously and to acknowledge that this industry needs far closer regulation when it comes to animal welfare. The welfare of racehorses cannot be ignored. We cannot just sweep it under the carpet and continue to treat the matter lightly. We cannot allow a glamour industry, with the excitement of race day and the Aussie tradition of having a punt, to continue without the cruelty to the animals being remarked upon. While The Greens do not oppose this legislation, we raise serious issues about the racing industry and the animal welfare impacts.

The Hon. PAUL GREEN [5.42 p.m.]: On behalf of the Christian Democratic Party, I speak on the Racing Legislation Amendment Bill 2013. We do not oppose the bill. The objects of the bill are to provide that Racing NSW may impose sanctions on a registered race club for the breach of conditions of the club's registration which are consistent with sanctions that may be imposed for failure to comply with directions for minimum standards for the conduct of race meetings, and to allow licensed bookmakers to offer totalisator odds on bets taken at a licensed racecourse whether or not the other party to the bet is also at the racecourse. I want to comment on some issues raised by previous speakers.

The Hon. Steve Whan commented on the changing face of gambling. The Christian Democratic Party has great concerns about that issue. The Assistant-President (Reverend the Hon. Fred Nile) has been a champion

of addressing gambling problems in New South Wales, and I have no doubt he will continue along that path and will meet the challenges referred to by the Hon. Steve Whan. There is no doubt that the growth of online gambling is having a major impact on our society. Its accessibility to our kids through apps and android games is phenomenal.

Just the other day my son told me he wanted to build further on one of his games. He plays Minecraft and similar online games with his friends. He asked if I would sign in so that he could buy into a game and possibly win new weapons for his game. To win and obtain the weapons he had to play a game of poker. Does that not induce the new generation to gambling? It lowers the standard of responsible gambling. There is a plethora of such apps and android games, and there is no doubt that some markets are aimed at our children so that they will continue that behaviour into the future. While many people gamble responsibly, many others tragically end up in an ever-deteriorating state and are not able to control their gambling. Their families are destroyed by their need to gamble their next dollar. The Christian Democratic Party will do everything it can to address the issue of problem gambling in our community.

I acknowledge Dr John Kaye's input on the sport of kings and the ugly side of the racing industry, that is, cruelty to horses. He gave a sobering expose of the past-the-post treatment of horses. The horses that are deemed no good for breeding or racing face a deplorable outcome. I thank Dr John Kaye for making us aware of that situation. Animal welfare is a considered point in the racing industry and there are guidelines relating to the whipping of horses and other aspects of preparing horses for racing. The veterinarians are very strict about the health of the horses, but there is no doubt that horses that have served their purpose and are no good for other activities are bound for the abattoir. That is food for thought for all of us. I learned the other day, during a discussion with my family, that the Japanese kill and eat about 4.9 million horses annually. That is an interesting statistic. The Christian Democratic Party does not oppose the bill but is mindful of the gambling issues that have been raised in this debate. We will contribute further to debate on ways to stem the incredible growth of gambling in our communities.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.48 p.m.], in reply: I thank honourable members for their contributions to debate on the Racing Legislation Amendment Bill 2013. The racing Minister has vigorously pursued with the Commonwealth the matter raised by Dr John Kaye in relation to the advertising of gaming products at sportsgrounds. The Commonwealth is reviewing such advertising. I am sure Dr John Kaye is aware that Commonwealth legislation overrides State legislation. Therefore, we must understand the Commonwealth's position before we act. As to the member's concerns about tote odds, bookmakers will be required, as always, to adhere to the New South Wales responsible gaming laws.

I want to correct an error that the Hon. Steve Whan made in his contribution about television advertising. The member referred to Robbie Waterhouse when he meant Tom Waterhouse. That will make greater sense to those reading his speech because Robbie Waterhouse is not involved in television advertising. The gist of Dr John Kaye's concerns regarding animal welfare appears to be Victorian based, relating to an incident in a Victorian slaughter yard. It is not consistent with the situation in New South Wales. Citing a case, even a small number of cases, is one thing, but to cast an aspersion across an entire industry with terms such as "track record of unspeakable cruelty" or "thrives on the pain and suffering of animals" is wide sweeping to say the very least.

Many equine events involve the dexterity, speed and agility of a horse and rider, not just racing. Three-day eventing is probably one of the toughest, if not the toughest, sporting equine event in the world. Most certainly it has claimed the highest number of riders' lives and injuries over many years. Cutting horses is a difficult sport requiring a horse to be finely tuned and given necessary grains and feed. Cross-country events, show jumping and polo, right through to pony club events require dexterity and speed and a relationship between horse and rider.

Having been involved with horses for over 20 years, I acknowledge that some people are cruel to horses. People are cruel to pets and to other people. It is unfair to make a wide-sweeping statement that everyone in that industry and sport is cruel. Many horses that do not make the grade have gone on to have outstanding careers in dressage, pony club and any number of events and have lived very rich and full lives away from the racetrack. Many thoroughbred horses that have not made the grade as racehorses have benefitted.

Dr John Kaye: A tiny number.

The Hon. MICHAEL GALLACHER: The member says "tiny" but many horses derive a benefit.

Dr John Kaye: What about the 50 per cent with stomach ulcers?

The Hon. MICHAEL GALLACHER: The member says 50 per cent have stomach ulcers, but I have seen many horses grazing in paddocks—

Dr John Kaye: Not racing horses.

The Hon. MICHAEL GALLACHER: Not necessarily racehorses, but I have seen little ponies living in paddocks, not in sheds or stables or in the ideal world about which the member spoke, that end up suffering founder from rich feeds at certain times of year. Those horses also suffer health consequences. That is why professional veterinary assistance and advice are available for pets, racehorses and any other animal involved in sport. People take advantage of veterinary science to identify and correct problems. The member's suggestion that everyone in the industry has a track record of unspeakable cruelty is far-reaching and grossly unfair. Dr John Kaye said that on a number of occasions passing Randwick he had seen people dressed in finery entering the racecourse and then coming out not so finely attired. I suggest that instead of going to Randwick he attend a racetrack in any part of country New South Wales.

The Hon. Dr Peter Phelps: Wyong is a good place.

The Hon. MICHAEL GALLACHER: Go to Wyong's Gold Cup day and spend time with the horses. The member talked also about the psychology of the racehorse. Racehorses are incredibly smart. Horses generally are incredibly smart, but they also love to compete. I have seen horses in paddocks, not racehorses, racing from one end to the other. Their incredibly inherent desire to compete is obvious whether they are on the racetrack, at pony club or in paddocks. Summer storms and winds cause them to suddenly become flighty and play up, but they naturally compete and play against each other.

Dr John Kaye: What about when they bleed internally?

The Hon. MICHAEL GALLACHER: The member mentions internal bleeding. Again I point out that not only will the stewards and officials step in when a horse has a health issue but also owners and trainers because the overwhelming majority of people involved in this sport bond with the horse. People talk about bonding with dogs and cats; horses are no different. Some people will be cruel to animals and some will be cruel to people for whatever reason. The member should not cast aspersions upon everyone involved in this sport. As a matter of fact, all of our police horses are thoroughbreds. The great racehorse Arwon was a great New South Wales police horse. Today was Patron's and Volunteers Day at the New South Wales police horse stables at Surry Hills, which houses many former racehorses. When the horses are in work they are stabled all the time, but they are spelled just like racehorses. Racehorses do not race all year every Saturday and Wednesday at Rosehill, Warwick Farm and Randwick. They race for a very short season and then are spelled.

Those who have the good fortune of driving through the New England-Murrurundi area will see where racehorses are spelled in various paddocks on either side of the road. Police horses also go to spelling paddocks. Most people involved in the sport of horse racing, the horse industry or who ride horses as a pastime genuinely love their horses. Those who treat it as a business love their investment and will take care to ensure it is protected and operates at its optimum. It is unfair to suggest that everyone involved is cruel. Not for one moment would I suggest that authorities or those involved in protecting animals lose sight of remaining vigilant. As I said earlier, it is unfair to include everybody in the group because it is not a true reflection of those involved in equine sports. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Gallacher agreed to:

That this bill be now read a third time.

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

DISTINGUISHED VISITORS

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): I acknowledge in the President's gallery a former distinguished President of the upper House, the Hon. John Johnson.

PARLIAMENTARY BUDGET OFFICER AMENDMENT BILL 2013

Second Reading

Debate resumed from 20 March 2013.

The Hon. STEVE WHAN [6.00 p.m.]: The Parliamentary Budget Officer Amendment Bill 2013 is a disappointing piece of legislation. The appointment of a Parliamentary Budget Officer introduced by the previous Government was a positive initiative that would have assisted all parties and members in this place, including small parties, to have their policies costed. They would have been able to go to an election, and show after an election, properly costed policies that provide good information for members of the public in New South Wales. It is extremely disappointing that this Government, with continuing vindictiveness, has essentially gutted the Parliamentary Budget Office and through this legislation is seeking to remove the functions that were important to the office, particularly the ability of the Parliamentary Budget Officer to provide advice to the minor parties.

As a result of the bill the Parliamentary Budget Office will not be able to provide costings at the request of the Christian Democratic Party, the Shooters and Fishers Party or The Greens. It will be obliged to provide costings only to the Leader of the Opposition and the Government. Essentially, instead of being a position with the consistency of up to a nine-year appointment that worked with parties over a period of time it will be one that is a temporary appointment and aimed at becoming a political tool for the Government. The basis for this bill is pure vindictiveness by the Government, which I will explain later. It originates from the work that the Parliamentary Budget Officer did that proved so embarrassing for the Government following the election. The Parliamentary Budget Officer revealed the blatant lie that was the claim of a budget black hole put forward by Government members.

The Parliamentary Budget Officer Act 2010 established the Parliamentary Budget Officer as an independent officer of the Parliament. The Parliamentary Budget Officer was a full-time officer selected from a list of at least two persons recommended by a panel comprising the Ombudsmen and the Information Commissioner. The Parliamentary Budget Officer was to hold office for a period of not less than four years and not more than nine years and was eligible for reappointment. Under the original Act the Parliamentary Budget Office had a wide range of functions. At the request of any member of Parliament—I highlight that—the office could prepare a costing of a proposed policy and provide any analysis, advice or briefing of a technical nature on financial, fiscal and economic matters, including in relation to the costings of proposals included in the State budget.

Further, under the Act the Parliamentary Budget Officer could make a request for information from the head of any government agency to assist the officer in the preparation of costings for an election or any other policy. The government agency was required to respond within 10 days and was not to disclose any information or document provided to him or her for the purposes of a request for information from the Parliamentary Budget Office, except to a member of the staff of the government agency. Under section 18 of the Act the parliamentary leader could also request the Parliamentary Budget Office to prepare election costings of publicly announced or proposed policies. In submitting the preparation of costings a parliamentary leader was required to comply with the other requirements of the Act. That provided a wide-ranging capacity for the Parliamentary Budget Office to provide important assistance for Opposition parties and minor parties in putting forward and considering the policies that they could take to a general election or even responses to budget initiatives.

The bill completely guts that legislation. The Government has shown its contempt for this position through its failure to appoint anyone to this position for the last two years. The Government has clearly given direction to the Presiding Officers that the position should not be appointed. Section 6 of the Act provided that the Presiding Officers may appoint a person as a Parliamentary Budget Officer. Probably the only mistake that the previous Government made in this legislation, as was pointed out by the member for Cessnock in the other place, is that "may" should have been "will". This bill requires the Presiding Officers to appoint a person as Parliamentary Budget Officer for each State general election.

The appointment under the Government's model is to take effect as soon as practicable after 1 September immediately before the election is held and the appointee will hold office for a period that cannot exceed more than three months after the holding of a general election. The practicality of this is that the term of the Parliamentary Budget Officer is nine months. The bill will delete section 13 of the Act, which means that the Parliamentary Budget Office cannot prepare costings for any member of Parliament of a proposed policy, provide any analysis, advice or briefing of a technical nature on financial, fiscal and economic matters including in relation to the costings of proposals included in the State budget. Under this proposed legislation the function of the Parliamentary Budget Office will be limited to providing costings of general election promises for a parliamentary leader.

Under this proposed legislation the Christian Democratic Party will not be able to request any costings or assistance with costings or formulation of policy that it may want to take to the next election, which was provided for under the previous legislation. The Shooters and Fishers Party and The Greens are in the same position. The Government will no doubt have all sorts of justifications for that. It will probably say that the Parliamentary Budget Officer was costly under the old model. Yes, it would have cost money but it would have been well worth it for the people of New South Wales to see seriously costed policies provided by minor parties.

Each day we see in this place the relevance of minor parties to the operation of government. We frequently see the Government negotiating the passage of bills and doing deals with minor parties to pass bills. It is vital that we know the costing of those proposals put forward by minor parties. When we have a situation where minor parties are standing candidates in lower House electorates around the State in general elections it is entirely relevant that costings be available of, for example, The Greens policies—which sometimes appear out of dreamland and could well do with serious costing. It is appalling that the Government is arrogantly gutting the Act in this way.

It is not hard to find the reasons for the Government's actions in this case. We only have to go back to 27 April 2011 when the Premier issued a press release that stated, "Budget black hole blows out". At the time the Parliamentary Budget Officer was asked to investigate those claims. Over and over again in this place we heard members opposite—particularly the Hon. Matthew Mason-Cox when he was in his Dory flounder mode, circling around and having to be told over and over again, and then forgetting as soon as he circled around—claim there was a budget black hole. It was a fiction created by the Liberal-Nationals Coalition. The Parliamentary Budget Officer was asked to assess the Government's claim of a $4.5 billion black hole in the State's finances. The Government said, "Labor has cooked the books to distort the true state of New South Wales' finances." The independent Parliamentary Budget Officer with expertise—

[*Interruption*]

There are interjections from the other side. Would members opposite suggest that Tony Harris, a former Auditor-General of this State, was not a well-qualified and independent person to analyse the claims of budgets and costings?

The Hon. Rick Colless: You were part of the kitchen cooking the books.

The Hon. STEVE WHAN: The member opposite is not willing to interject on that.

The Hon. Matthew Mason-Cox: He is carving you up.

The Hon. STEVE WHAN: You're a funny man, aren't you? The Parliamentary Budget Officer responded to a request from the Leader of the Opposition to assess the claims made by the Government and he did so. The Parliamentary Budget Officer, Mr Harris, an independent officer and a former Auditor-General of this State, concluded:

> The media release offers other claims of "gross economic incompetence". Insofar as fiscal policy is concerned, the state's AAA status does not support this claim. A fear that the budget deficit "could grow even further" is merely an assertion made without evidence—

that is, the Premier has made an assertion without any evidence. Mr Harris continued:

> A claim that "Labor had 'cooked the books' to distort the true state of NSW's finances" is not supported either by the report issued by Mr Lambert—

a Treasury official—

> or by this Office's [the Parliamentary Budget Office] examination of available data.

The independent Parliamentary Budget Officer has stated that the claims of a budget black hole and rhetoric were complete fiction by the Government designed, as we so often see from incoming conservative governments, to shift the blame away from their proposed cuts. They always wanted to make cuts; they have made no secret about that. Time and again in the other place the Government has stated that we spend too much on wages in New South Wales and it wanted to reduce the percentage of the budget spent on wages. What the Government omitted to say at the time was that that meant the wages of nurses, teachers and public servants, who do a fabulous job serving people throughout the State. The Parliamentary Budget Officer concluded:

> The above analysis suggests that most of the claims made in the relevant media release of 27 April 2011 are unsupported by evidence or conflict with available information on the state's fiscal position and budgetary processes.

The Parliamentary Budget Officer laid it on the table that the Government was telling lies about the state of New South Wales' finances in its press releases claiming budget black holes. It is a profound embarrassment that the ambitious, want-to-be finance Minister, the Parliamentary Secretary time and again in this place continues to repeat the lie about the fictional budget black hole.

The Hon. Matthew Mason-Cox: Point of order: The shadow Minister is casting aspersions on my character by suggesting I have told a lie in this place. I ask you to ask him to withdraw that comment.

The Hon. STEVE WHAN: To the point of order: I suggested that the press releases and the Government's claim was a lie and that simply the Parliamentary Secretary had repeated that. I did not say that he had lied.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I do not uphold the point of order.

The Hon. STEVE WHAN: The Parliamentary Secretary time and again repeats fictions about the state of New South Wales' finances. After that episode the Government decided that it did not want a Parliamentary Budget Officer who was there for any time longer than was absolutely necessary to scrutinise what was going in the budget of New South Wales and coming from the Government of the day. We have seen some very strong reasons why. We have heard claims, often repeated by the Parliamentary Secretary, about the Federal Government slashing funding for New South Wales when in fact GST receipts went down. They are automatically transferred through to State governments. Therefore, it is actually the consumers of Australia who have cut the projected funding. It was in fact a forecast of revenue from the GST that was out because of a turnaround in consumer spending. In fact, the Government is receiving more revenue in GST than the previous years but not by the amounts that were originally forecast.

The Hon. Matthew Mason-Cox: Which is precisely what I said.

The Hon. STEVE WHAN: Time and again Government members have said there has been a $5 billion cut in GST revenue to New South Wales. The Parliamentary Secretary in his more thoughtful moments actually puts it truthfully, but he also has repeated it.

The Hon. Matthew Mason-Cox: No, no, no.

The Hon. STEVE WHAN: The Parliamentary Secretary interjects and I will listen carefully to him in future to check that he puts it in exactly the right language. The point is that GST revenue to New South Wales did not increase by as much as was projected but it certainly was not cut. That was yet another spin that the Government wanted to put on the process. Since then we have seen more reasons why the Government would not want an independent Parliamentary Budget Officer. We saw the fiasco of the last budget where the Auditor-General presented to the Parliament his Auditor-General's Financial Audit Volume Three and in focusing on the State's finances he identified a total of 37 errors in amounts greater than $10 million in the Government's previous budget; 19 errors between $20 million and $50 million; seven errors between $50 million and $100 million; nine errors between $100 million and $1 billion; and two errors greater than $1 billion. For the first time in the history of this State we had a Treasurer who had lost $1 billion.

The Hon. Dr Peter Phelps: It was probably just down the back of the sofa.

The Hon. STEVE WHAN: Funny you should say that.

The Hon. Dr Peter Phelps: Did I just take your line?

The Hon. STEVE WHAN: No. In fact, that was exactly the way the shadow Treasurer put it in the other place.

The Hon. Dr Peter Phelps: Great minds think alike.

The Hon. STEVE WHAN: It is great to hear the Whip and the shadow Treasurer thinking along the same lines on these things. We see plenty of reasons why the Government wants to avoid the scrutiny that could be undertaken by the Parliamentary Budget Officer. The Government attempts to justify its measures around spending in New South Wales when essentially the Government is cutting costs in a range of areas simply so that it can fund its big iconic project, the North West Rail Link. The cost of this project has already blown out, even in the planning stage. It would have been interesting if that project had been properly costed by a Parliamentary Budget Office. No doubt the Parliamentary Secretary and other members will talk about what they see as the good economic credentials of Liberal governments. In fact, nothing could be further from the truth. If members read books such as George Megalogenis' *The Australian Moment* and David Love's *Unfinished Business: Paul Keating's interrupted revolution*, they would see that Labor has driven economic reform.

The Hon. Matthew Mason-Cox: Point of order: My point of order is relevance. The member is drifting away from the leave of the bill. I ask that you direct him back to the bill.

The Hon. Amanda Fazio: To the point of order: The point of order is not valid. I was listening carefully to the contribution by the Hon. Steve Whan. He was clearly going to the Government's motives for introducing the bill. Therefore, I believe his comments are relevant.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! There is no point of order.

The Hon. STEVE WHAN: Coalition members are fond of proclaiming that they are great economic managers. In fact, the record shows that nothing could be further from the truth. If members opposite read the books I have referred to they will see that the great economic reforms to which those books refer were driven by Labor governments. The Megalogenis book refers to the Howard Government and the GST.

The Hon. Dr Peter Phelps: Opposed by Labor.

The Hon. STEVE WHAN: I was an opponent of the GST; that is absolutely true. It talks about how it was one of those economic reforms, but it goes on to talk about the way that the Howard Government squandered the positive budget years; that instead of putting the money away for the future the Government squandered it by making massive tax cuts, which, as we have rolled through the different economic conditions, have led to budget deficits.

The Hon. Matthew Mason-Cox: Point of order: I have been listening closely to the contribution of the Hon. Steve Whan. My point of order relates to relevance. He is now entering into a delirium about Federal politics when we are here in the State Parliament debating the Parliamentary Budget Officer. I ask you to bring him back to the leave of the bill.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The Hon. Steve Whan will confine his remarks to the leave of the bill.

The Hon. STEVE WHAN: We can look to New South Wales and the budget positions left to us by previous governments. The biggest debt to gross domestic product ratio that we have seen in the past 30 years was 13.3 per cent of gross domestic product left to the incoming Carr Government by the Greiner Government. It was a debt level that had very seriously started to eat into the capacity of the New South Wales Government to borrow and to borrow at reasonable rates. I have spoken in this place before about why triple-A credit ratings are important and about the cost of borrowings. The Greiner Government left us at a level where we were seriously in danger.

The Hon. Amanda Fazio: They sold everything and still couldn't leave a surplus.

The Hon. STEVE WHAN: I acknowledge the interjection from the Hon. Amanda Fazio: they sold everything and still could not leave a surplus. It was an appalling situation that the Greiner Government's economic management—

The Hon. Matthew Mason-Cox: Let's talk about the electricity sale under Kristina.

The Hon. STEVE WHAN: I may take up that invitation from the Parliamentary Secretary in a moment. As at 2012, we had a net debt of 3.1 per cent—I need to check whether that is total State sector debt. Even so, the total State sector debt, which I believe was around 7 or 8 per cent, was far lower than the position with gross domestic product. I take that from Treasury figures, which compare like with like. The fact is that New South Wales has a record of Coalition governments racking up debt and Labor governments bringing that down again and still being able to invest in infrastructure.

The Government talks about its investment in infrastructure but in country New South Wales that is simply not the case. We hear a lot of bragging from the Minister for Roads and Ports about the 17 bridges that will be replaced under the Bridges for the Bush program. In Labor's last eight years more than 400 country bridges were replaced. That program has ceased under this Government. There is no comparison: 17 bridges compared with 400 bridges. Under a Labor Government, infrastructure investments—

The Hon. Matthew Mason-Cox: Point of order: The Hon. Steve Whan is now talking about timber bridges. We are dealing with the Parliamentary Budget Officer Amendment Bill, not timber bridges in New South Wales. This is a bridge too far.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! There is no point of order.

The Hon. STEVE WHAN: Imagine taking a point of order just to get a pun in.

The Hon. Marie Ficarra: At least it was entertaining.

The Hon. STEVE WHAN: I am seeking to give an informative speech that the Hon. Matthew Mason-Cox might learn something from. The Government has given no new allocations to the Country Towns Water Supply and Sewerage Program, but the previous Labor Government invested in infrastructure that was vital to the health and wellbeing of the community. Under the previous Labor Government, 72 country hospitals were built or rebuilt.

Mr Scot MacDonald: Rebuilt down in size.

The Hon. STEVE WHAN: Mr Scot MacDonald does not have a clue. Seventy-two country hospitals were built or rebuilt under the previous Labor Government. The Monaro electorate had a new Queanbeyan hospital, a new hospital in Bombala, a new hospital in Delegate—

The Hon. Dr Peter Phelps: Point of order: There is a wide degree of latitude granted in second reading speeches. However, I fear that the Hon. Steve Whan has strayed onto what is effectively a budget-in- reply speech or a budget take-note speech. It does not have any direct or even slightly direct relevance to the ambit of the bill before us. If the member wishes to make a speech about these issues he should do so either through the mechanisms of an adjournment debate or through the proper processes of the budget take-note speech, which is available on Tuesday afternoons.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I do not need to be informed when debate on budget estimates takes place. I have instructed the Hon. Steve Whan to confirm his remarks to the leave of the bill. I again encourage him to do so.

The Hon. STEVE WHAN: The importance of having Labor's model of the Parliamentary Budget Office is that it gives the capacity for scrutiny of policy proposals while they are being developed. The Labor Opposition will not just go to 1 September 2014 and say that it will suddenly develop its policies; it is doing that now. We are talking to the community about potential options for policy. In country New South Wales we are talking to the community about fixing the debacle of what was going to be an up to $160 million fund for the Resources for Regions program, which is turning out to be a very ad hoc process with no proper basis. Wollongong should have always been in the Resources for Regions process but it was not. Suddenly it was included because of pressure from the media and from the Opposition.

Labor is considering that policy currently and it would be extremely useful if we could have a Parliamentary Budget Officer who could assist us with that process. As members of the Government know, the resources of Opposition are limited, and particularly limited since the vindictive measure by the Premier to cut a

third of the staff available to the Opposition than was available to the Premier when he was in Opposition—and the Premier constantly blew his budget while he was in Opposition. We need a Parliamentary Budget Officer to assist the Opposition and minor parties. The Christian Democratic Party, the Shooters and Fishers Party and The Greens all have a right—or they did under the Labor legislation—to get some assistance with the costing of their proposals. It is also reasonable for them to be able to go to the electorate with an idea.

Lately, in State elections around the country, independent accounting firms are getting more and more reluctant to take on the business of costing pre-election policies. The independent accounting firms get paid for their services but in many cases they are now reluctant to take on that work because of the political focus and pressure on them from the media. Having an independent Parliamentary Budget Officer to do that work would be critically valuable to every party in this place, and I urge the Christian Democratic Party and the Shooters and Fishers Party to consider very carefully whether they are willing to vote for this horrendous gutting of the Parliamentary Budget Office.

Government members in the other place tried to justify this legislation by saying that a parliamentary committee had looked into this issue and had made recommendations which the Government was now implementing. My colleagues who were on that committee tell me that amongst all the evidence put to the Parliamentary Budget Office committee there was not a single bit of evidence to support the recommendations which the majority of the committee finally made and which the Government is putting forward in this legislation. The vast bulk of the submissions, including particularly the submission to the inquiry from the former Auditor-General, Tony Harris—who was the Acting Parliamentary Budget Officer—were strongly in favour of the retention of the model put forward by Labor. The Government has ignored the suggestions from those submissions and instead is going ahead with gutting the Parliamentary Budget Office.

It is a sad day for this State to have a Government that is so vindictive that it wants to get rid of an organisation that it suspects can scrutinise its outrageous claims, such as the $4.5 billion black hole. It is nothing more than vindictiveness and another attempt by this Government to use its numbers in this place to remove political opposition. We have seen that time and again since this Government came to office. We have seen its efforts on political donations and staff cuts. This week the Government attempted to restrict the number of questions that members can place on notice. That was another attempt by the Government to restrict the opportunity for scrutiny of its actions. That is what this is all about.

The Government is seeking to turn this into a Star Chamber for the Leader of the Opposition. Rather than allowing the Opposition to consult and thoughtfully develop its policies, this legislation will require it to appoint a person for a nine-month period—not a person who has tenure and who is able to develop relationships—to represent what is left of the Parliamentary Budget Office. This is a disgraceful move and it should be opposed by all members of this place. Members opposite should be embarrassed by their support for this. It is simply their attempt to use their numbers to be vindictive and remove scrutiny. All members in this place, including the crossbenchers, should vote down this legislation.

Mr SCOT MacDONALD [6.31 p.m.]: I support the Parliamentary Budget Officer Amendment Bill 2013. The bill arises from a joint select committee inquiring into the Parliamentary Budget Office. The Government has adopted most of the committee's recommendations. The Liberal-Nationals Coalition supported the budget office in opposition and continues its support in a focused manner now that is in government. That focus is to prepare the costings of election policies of the two major parties. That is a public good: the Parliamentary Budget Office meets community expectations to be credibly informed about the two parties that could form government. It is not a crutch for a lazy Opposition. It is not meant to be a year-round research service to facilitate long lunches at the Marigold Restaurant.

The Parliamentary Budget Office has a defined lifespan. It comes into operation on 1 September prior to an election and should finish its work with a report to Parliament three months after the general election. The Parliamentary Budget Office will be reviewed by and made accountable to the Public Accounts Committee. This bill meets the test of common sense and affordability and ensures that the major parties keep their shoulders to the wheel with properly costed policy development. I commend the bill to the House.

Debate adjourned on motion by the Hon. Matthew Mason-Cox and set down as an order of the day for a future day.

ADJOURNMENT

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [6.33 p.m.]: I move:

That this House do now adjourn.

ARMENIAN, ASSYRIAN AND GREEK GENOCIDES

Reverend the Hon. FRED NILE [6.33 p.m.]: Today the New South Wales Legislative Council unanimously agreed to my motion that recognised the Armenian, Assyrian and Greek genocides. In remembering these events we do not seek to apportion blame. This is a matter of history and history must be neither erased nor forgotten. We must remember and speak the truth. New South Wales was recently visited by world-renowned scholar Professor Taner Akcam, whom I met. He had previously been in Turkey. Professor Akcam said:

> We must create a global awareness of genocides and their prevention. Genocide denial and the struggle against it are part of global democracy and human rights ... Recognition is an issue relevant to all of humanity.

Anzacs from New South Wales were eyewitnesses to the genocides. Anzacs rescued survivors of the massacres and deportations across the Ottoman Empire between 1915 and 1918. People of our great State donated generously to save the lives of those who had reached sanctuary in Greece, French Syria, British Iraq and British Palestine. The stories of the Armenian, Assyrian and Greek genocides are a part of the Australian story and they deserve their rightful place in that narrative.

The genocide of the indigenous peoples of the Ottoman Empire that took place during World War I and its aftermath is a historical event. The victims of this criminal act were the indigenous peoples of the Ottoman Empire: Greeks, Armenians and Assyrians. Many members of this Chamber have substantial numbers of Australian Assyrian, Australian Greek and Australian Armenian people in their communities. Hundreds of thousands of them have made their homes in New South Wales over the past two centuries. All of these groups suffered at the hands of the government of the Ottoman Empire.

As early as 1910 plans were formulated and published for the elimination of the indigenous Christians of the Ottoman Empire as part of the government's efforts to homogenise its population. Those documents, and millions more like them, are available today. They demonstrate the intention of the Ottoman government of the time. There was a determination on the part of Ottoman politicians to eliminate non-Turkish identities. With the outbreak of the war their plans began to be implemented. When the Anzacs landed on the Gallipoli Peninsula there were Greek people living there tilling the soil and fishing the waters. There were also Turkish tax collectors, police and soldiers. The non-Turks are the people who were deported. These are the people who were massacred during World War I and after. International reaction was immediate to what British Secretary of the Admiralty Winston Churchill labelled an "administrative holocaust". Relief committees sprang up all over the world. A Joint Allied Declaration issued on 24 May 1915 stated:

> In view of these new crimes of Turkey against humanity and civilization, the Allied governments announce publicly ... that they will hold personally responsible ... all members of the Ottoman government and those of their agents who are implicated in such massacres.

When the Anzacs left the Gallipoli Peninsula they left behind hundreds of prisoners of war—men such as Sydney-born Private Frederick Ashton of the 11th Battalion AIF and Bourke-born Petty Officer Cecil Arthur Bray of HMAS A.E.2 RAN. The Anzac prisoners of war went through a series of prisoner of war camps, typically being marched from one to another on bread and water rations in bitter cold or blistering heat. While Ashton, Bray and many of their comrades were eventually released, more than 60 other Anzac prisoners perished from a combination of exposure, disease, malnutrition and exhaustion.

A small number of Anzacs became rescuers, saving the lives of those who had survived the massacres and deportations. Most famous of these are the men of the Dunsterforce. Australian officers in this unit, including Captains R. H. Hooper, Andre Judge and Stanley Savige, who have left a legacy of written and photographic records of their rescue of some 40,000 Assyrians and Armenians in the mountains of north-west Iran and eastern Iraq in the summer of 1918. In response to the needs of destitute survivors scattered across the Near East, committees of the Armenian Relief Fund and Save the Children Fund emerged in Sydney and Melbourne between 1915 and 1919. Among the leading lights of this movement were Sydney Lord Mayor J. Joynton Smith and many other leading citizens. It was a truly national effort, with New South Wales at its heart.

I am indebted to the research of Dr Diamadis and Mr Vicken Babkenian, Directors of the Australian Institute for Holocaust and Genocide Studies. Their pioneering efforts have provided the evidence of these genocides. The truth of the genocides—the truth of what happened to the Armenian, Assyrian and Greek peoples—is in the records of our Australian servicemen. We should remember and learn from such dark

chapters in human history. In the same spirit, we can secure recognition of a genocide which is still very real and very heartfelt by the Australian Assyrian community, the Australian Greek community and the Australian Armenian community today. Lest we forget.

TRADE UNIONS AND WORKPLACE SAFETY

The Hon. LYNDA VOLTZ [6.38 p.m.]: I have previously raised in this Chamber the case of Ballard, which some members of the media have run as a one-sided event and a done deal which was thrown out of court by Justice McDougall. Justice McDougall found Ballard had become "obsessed" by the termination of his contract and its consequences, which "shaped his recollections". He also found Ballard's evidence unreliable, including his denial about meeting convicted Sydney businessman James "Big Jim" Byrnes before 2006. He also found that Bates, who gave evidence, was "a totally disgraced former union official and serial liar". He stated that Bates's extensive criminal history and his repeated lying to the Cole Royal Commission cast doubt upon his evidence. The judge said that his claim about a corrupt "preferred contractor" union scheme was "fabricated" and "utterly implausible".

Justice McDougall rejected Bates' claim of a union executive meeting after the telecast of a program on A *Current Affair* in which the union should get rid of Ballard because "for the next 11 months ... there was no industrial confrontation between the unions and Ballard". Yet Chanel Seven's Adam Walters, who cannot quite disguise his bias, was just one of a number of media commentators who launched an attack on Andrew Ferguson, the previous secretary of the Construction, Forestry, Mining and Energy Union, based on the allegations of Ballard—all of which not only were found to be without foundation but had some of the witnesses pinned as serial liars.

We can only hope that the significant payment that Channel Seven made to settle those defamatory claims against Andrew Ferguson will remind it that the normative values in our community do not rest with taking cheap pot shots at the trade union movement but with the pursuit of real stories based on some type of fact. This type of media reporting downplays the reality in workplaces and the work of unions in pursuing employers who expose their workers to danger or fail to pay their workers' entitlements. No better example of why the unions so ferociously pursues occupational health and safety, particularly in the construction industry, which, alongside mining, is one of the most unsafe in the country, is the case of Mathieu Lopez-Linares. On 13 April Mathieu Lopez-Linares was killed when he was hit by a steel beam that fell during demolition of a building in Australia Street, Camperdown. He was only 23 years old and had been enjoying a working holiday Down Under, but he lost his life. Not only did he lose his life but, because of the dodgy arrangements of his employer, his parents stand to receive no financial payout.

Mathieu had been working on the site with a friend for two weeks when the accident happened. Despite Mathieu and his friend raising concerns about safety they were told to continue working. An investigation by the Construction, Forestry, Mining and Energy Union's construction division has shown that Mathieu and other workers were not paid any superannuation, were not registered for long service leave, and were not provided with payslips. As Mathieu's employer paid no superannuation, his parents will receive no death benefit insurance that normally is attached to superannuation payments. As members should be aware, each year more than 300 Australian workers are killed as a result of workplace accidents. This year already there are 75 families whose loved one will never be coming home.

It is a poignant reminder for members of the importance of unions and their fight to ensure workplace safety. Last Monday I attended the unveiling of a plaque for the International Day of Mourning for workers killed or injured in the workplace on the banks of the Hunter River. The memorials, which are places in which to remember those who are never coming home again, are important to ensuring that the people whose lives have been lost will never be forgotten. For trade unionists such as Gary Kennedy and Rebel Hanlon, whose hard work ensured that a memorial was built on the banks of the Hunter River, this is a legacy that will be remembered. But, more importantly, for Georgia Fitzgibbon, it is a place to remember her father, Greg, who was killed when a 20-tonne pallet of aluminium that was being loaded onto a ship at Carrington fell on him. I also met a young boy whose father had died when he was only a baby on his way home from work. I was grateful that at least for this young lad his mother received some compensation. Unfortunately, as a result of changes introduced by the O'Farrell Government, if his father's death were to occur today his mother would receive nothing.

It is also disappointing to learn that the O'Farrell Government has decided to sacrifice the jobs of 60 of Fair Work's New South Wales inspectors and close four more NSW Industrial Relations offices. It is ironic that one of

the four offices of NSW Industrial Relations that are set to close is indeed Newcastle, where the plaque has just been laid. The others are at Wollongong, Lismore and Dubbo. This follows the Government's closure last year of offices in Gosford, Penrith, Wagga Wagga, Coffs Harbour and Orange. Quite frankly, this Government should be ashamed.

RURAL AND REGIONAL HEALTH SERVICES

The Hon. JENNIFER GARDINER [6.43 p.m.]: This evening I will update the House on the state of the State's health services that are being delivered by the Liberal and Nationals Government in rural and regional areas. The New South Wales budgets for local health districts in regional areas received increased funding at the rate of an average of 4.6 per cent comprising a 6.8 per cent increase in the budget for the Far West Local Health District, which is $5.7 million; an increase in growth funding of $55.8 million for the Hunter New England Local Health District; a $12.4 million increase in funding for the Murrumbidgee Local Health District, which amounts to an increase of 2.9 per cent; an increase in funding of $18.6 million for the Mid North Coast Local Health District, or an increase of 4.2 per cent; an increase in funding for the Northern New South Wales Local Health District of $27.7 million; an increase of $17.9 million for the Southern New South Wales Local Health District; and an increase in funding of $27.4 million for the Western New South Wales Local Health District. The regional average for increased funding is $24.9 million, which represents an average among regional local health districts of 4.6 per cent, which is quite a remarkable increase in the budgets of regional health districts.

The increased funding assists in growing the NSW Health workforce. Prior to the 2011 State election the New South Wales Liberals and Nationals promised to very substantially increase the number of nurses in our health system. Halfway through the first term of the Government it already has recruited an additional 4,000 nurses, half of whom are working in rural and regional hospitals across the State. Since the 2011 election 178 additional nurses have been provided in the Illawarra-Shoalhaven Local Health District; 616 additional nurses have been employed in the Hunter New England Local Health District; 397 additional nurses have been employed in the Northern New South Wales Local Health District; 145 additional nurses have been employed in the Southern New South Wales Local Health District; and 222 additional nurses have been employed in the Western New South Wales Local Health District. All of that has been done in just the first two years of the O'Farrell-Stoner Government.

With respect to increasing the number of doctors in regional health districts, new programs have been implemented by the New South Wales Government, including the Rural Preferential Recruitment Scheme. The scheme allows doctors to spend the majority of their first two years of training in a rural location. At the end of 2012, 75 interns had commenced their prevocational training under that scheme. Another program is the Regional Preferential Allocation Scheme, which aims to build a sustainable regional workforce. Under that scheme 144 medical graduates were offered training positions in regional hospitals and commenced in 2012. One of the previous Labor Government's policies that led to local district health budgets being eaten up was reliance on locums instead of locally based medical officers. The current Government's focus on reducing the use of locums already is having an effect. For example, in the Murrumbidgee Local Health District more emphasis is being place on recruitment of permanent staff than on hiring locums. For example, in July last year the district recorded 686 locum days whereas in February 2013 there were 409—277 fewer.

There has been a terrific response to a program for recruitment of doctors in places such as Dubbo and Griffith. Dubbo has five additional visiting medical officers and five staff specialists. Griffith has 12 additional staff specialists in the fields of emergency treatments, obstetrics and gynaecology, surgery, anaesthetics and internal medicine. The Government's massive capital works program to rebuild health infrastructure in rural and regional New South Wales is beginning to take shape. Early work commenced on the Bega Hospital in March 2013 when the first sod was turned. Projects are underway in Dubbo, Kempsey, Lismore, Port Macquarie, Tamworth, Wagga Wagga, Forbes, Maitland with its new Hunter Hospital, Byron Bay, Parkes, Lockhart, Gulgong, Hillston, Peak Hill, Manilla, Werris Creek and Gundagai, or planning has well and truly begun. In some places, construction is well underway. Improved infrastructure makes it much easier to attract doctors, nurses and other health professionals through recruitment. I take this opportunity to congratulate the Government in general and the Minister for Health, and Minister for Medical Research, the Hon. Jillian Skinner, in particular on the results that we are starting to see in rural and regional health.

INTERNATIONAL WORKERS DAY

PORTABLE LONG SERVICE LEAVE

Mr DAVID SHOEBRIDGE [6.48 p.m.]: I acknowledge that today is International Workers Day, which has been celebrated by declaration of a national holiday in more than 80 countries, but unfortunately not

Australia. I also acknowledge trade unionists, including my Greens colleagues, who are at the May Day Toast tonight in Petersham. It is timely to note new research showing that more than 70 per cent of The Greens are also proud members of their unions. On this May Day it is important to recognise a major issue facing working people, which is insecure employment. Over the past three decades long-term permanent employment has become more scarce, with casual and contract employment significantly increasing. The Australian Council of Trade Unions estimates that only approximately 60 per cent of Australian workers have full or part-time ongoing employment, which means that approximately 40 per cent of working people have insecure employment.

One of the consequences of this is that more and more people are not accruing long service leave. In fact, more than 90 per cent of employment growth over the past 20 years has been in casual and contract work, which ordinarily does not include long service leave. After 10 years of solid work people deserve a break. Traditionally, most Australian employees could have that break when they took long service leave, accrued after 10 years continuous work with one employer. Significant numbers of people on casual or contract employment do not accrue long service leave. Nor do people who have permanent employment and who move between jobs every few years. The same applies for that growing number of people who are forced to contract, not as employees, but as independent contractors.

Long service leave has an interesting history, beginning in South Australia and Victoria in the 1860s as a scheme that allowed civil servants six to 12 months leave to go home to Britain after 10 years' service in the colonies. It is unique to Australia and New Zealand. In many other countries length of service is, instead, rewarded with increased leave entitlements. The best estimate is that more than two million Australian workers are casual, some 350,000 are on fixed-term contracts and more than a million are engaged as independent contractors. On top of this it is estimated that between 60 and 75 per cent of permanent employees leave their positions within five years of employment.

In New South Wales alone 1.7 million employees are locked out of long service leave as they have shifted workplaces too frequently. The end result is that most Australians are losing the right to long service leave. This is where portable long service leave can come in. By granting every employee, whether casual, contract or permanent, the right to accrue pro-rata long service leave wherever they work we can reinvigorate this right and return some balance to working people's lives. Portable long service leave already applies in some industries at a State level, such as the construction and cleaning industries in New South Wales. Contract cleaners and construction workers are able to accrue long service leave entitlements even though they may have worked as self-employed contractors, or as casuals or temps, or moved, as they do, from employer to employer as jobs opened and closed. Their entitlements are portable—retained by the workers as they move between different employers in the same industry. However, their entitlements only accrue when an employee works in those specific industries.

A limited form of portable long service leave also applies in many State and Federal public service jobs. These schemes prove that portable long service leave can work. The Greens want to extend the portable long service leave scheme to all employees in New South Wales, and then nationally. Under The Greens' plan every employee regardless of their type of engagement would be eligible for portable long service leave. Ideally it would also cover those people engaged as independent contractors but who do not themselves employ people and who perform the great bulk of their work for a single entity. These people are in effect employees of that entity and should have access to long service leave.

Under The Greens' plan for portable long service leave workers would receive an entitlement to two months paid leave after they have accrued the equivalent of 3,650 days service in any industry. This is the equivalent of 10 years of service. The scheme would be funded by a modest levy on employers. That levy would be calculated as a set percentage of the ordinary wages of workers in the industry, said to be in the range of 1.7 per cent. This is the levy used for most existing schemes. Of course, this is not the net cost to employers of introducing a scheme; it would be significantly less.

A new portable long service leave scheme would replace the existing reserves that employers currently set aside to meet accruing long service leave entitlements under the existing law. The funds would be held in a trust. The funds would be administered by a long service leave corporation. After initial set-up costs paid for by the Government the scheme would be self-funding. Workers who register would not be required to sacrifice salary to accumulate leave or be eligible for registration. While a portable long service scheme could function effectively at just the New South Wales level, it would work best nationally. A truly national scheme would be a major step forward. Changing workplaces and the rise of insecure employment mean we need to be looking for

fresh ways of protecting workplace entitlements. Portable long service leave is far from a complete answer to precarious employment but it does have the potential to bring back that much-needed break that working people should get after a decade of hard slog.

LOCAL GOVERNMENT REFORM

The Hon. SOPHIE COTSIS [6.53 p.m.]: Last week the long-awaited draft report into local government was released. As usual, there were no surprises. Monster councils are on the cards and ratepayers will pay the costs of amalgamations, which will cost millions. Ask Queenslanders: In March 2013, four regional council communities voted at local referendums to de-amalgamate. Queensland Treasury has estimated it will cost well into the millions of dollars to de-amalgamate. My concern is that the report does not deal with the fundamental issues of service delivery, what works and what does not. What is even more bizarre is that the local government taskforce reviewing the Local Government Act and the independent local government panel looking at amalgamations are holding workshops concurrently, and it is a waste of taxpayer dollars. I will make further contributions at various events.

The proposed amalgamation report states that supplementary revenue options include the greater use of fees and charges. So parking meters will be jacked up and entry fees to swimming pools and leisure centres will increase. Asset sales are on the cards, as well as rationalisation of facilities such as road reserves, open space, community halls and even libraries. If members think I am joking they should check page 19 of the report. Tonight I call on the Government to rule out these proposals. I have advanced and always will advance the interests of ratepayers and have called on the O'Farrell Government to support councils to deliver council services efficiently and cost effectively. The O'Farrell Government has missed a very important opportunity to be real partners with local communities. The biggest disappointment is that it has taken the O'Farrell Government 22 months to sign a four-page document in relation to cost shifting. In opposition the Coalition did not even have a local government shadow Minister—the title was intergovernmental relations—and the main objective was to campaign on cost shifting. The agreement about cost shifting states:

> Where local government is asked or required by the State Government to provide a service or function to the people of New South Wales any consequential financial impact is to be considered within the context of the capacity of local government.

This breaks the clear election promise made by the O'Farrell Government to councils prior to the 2011 election. As reported in the *Sydney Morning Herald* on Tuesday 16 April 2013, Harvey Grennan, the local government contributor, stated:

> A new agreement between the State Government and local government New South Wales fails to guarantee that the State will not continue to impose further costs on councils.

In its pre-election response to local government on 2 March 2011 the Coalition said:

> We believe in a clear demarcation between State and local government responsibilities. If there is any agreement between State and local government on additional responsibilities for councils there will be an appropriate funding contribution by the New South Wales Government.

That is a clear breaking of an election promise. Council reform is ongoing, and council business and delivering services should be reviewed periodically. Over the last 10 years there have been many changes to local government. I will mention two very important ones that were introduced by the Labor Government. The first is the integrated planning and reporting process. Page 8 of the TCorp finance report into councils states:

> The introduction of the IP&R process in 2009 has increased councils' focus on longer-term planning and strategy. TCorp recognises that councils are at different stages of implementing the full suite of IP&R requirements and continued work on refining AMPs and methodologies for valuing infrastructure backlog will improve the quality of their long-term financial plans and assets information.

I commend the former Minister for Local Government, Barbara Perry, and the Keneally Government for this very important reform that has been mentioned in the TCorp report. One of the other reforms is the special rate variation when the Labor Government moved the determination of rates to the Independent Pricing and Regulatory Tribunal. This was also mentioned in the TCorp report.

Professor Brian Dollery stated in the *Sydney Morning Herald* that extensive Australian and international experience regarding forced amalgamations has repeatedly failed to generate financial sustainability and has shown that process change rather than structural change represents the best approach to successful local government reform. He also mentioned that the integrated planning and reporting framework

and the rate pegging special variation processes administered by the Independent Pricing and Regulatory Tribunal represented excellent examples of thoughtful regulation. They not only enhance local council financial viability but also encourage bottom-up community engagement and thorough planning by local authorities.

YELLOW RIBBON ROAD SAFETY CAMPAIGN

The Hon. JOHN AJAKA (Parliamentary Secretary) [6.58 p.m.]: Earlier this evening the House dealt with and passed the Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013. I will now speak on the Yellow Ribbon national road safety campaign launch, which I will be attending, on behalf of the Minister for Roads and Ports, the Hon. Duncan Gay, on Sunday 5 May 2013 at the Museum of Fire at Penrith. The Yellow Ribbon campaign has as its slogan "Drive so others survive". This is a registered event of the United Nations Global Road Safety Week. Yellow Ribbon was created and is run by Safer Australian Roads and Highways, otherwise known as the SARAH Group. The campaign is now in its second year of focusing on those who are vulnerable on our roads and highways, and those who work to assist and protect road users every day, such as the emergency service workers, tow truck drivers and roadside assistance personnel.

The campaign asks that we tie a yellow ribbon to our vehicles to remember those who have been injured or killed in crashes, and to stand with family members, friends and communities that have been profoundly affected by tragedies on our roads. The yellow ribbon signifies also our appreciation for and commitment and duty to protect those who assist and protect us on the roads, often at risk of their own safety.

The SARAH Group was founded by Mr Peter Frazer, who was in the gallery earlier, whose 23-year-old daughter, Sarah, died in a tragic accident on the Hume Highway on 15 February 2012. Sarah was on her way to Wagga Wagga to start a degree in photography at Charles Sturt University when her car overheated and lost power. Broken down, she pulled her car into the breakdown lane where she was assisted by tow truck driver Mr Geoff Clark. The breakdown lane at this 110 kilometres-an-hour section of the Hume Highway was just 1.5 metres wide—less than the width of many cars. As this section of highway also had a barrier fence, Sarah could not park her car off the road completely, which left the car protruding into a lane of traffic. Tragically, both Sarah Frazer and Geoff Clark were killed by a passing truck that sideswiped Sarah's car. Since that incident, the SARAH Group has lobbied governments to take action to prevent such a tragedy from recurring. This crash highlighted the vulnerability of motorists on the roadside, as well as that of emergency and incident response personnel in the course of their duties.

In May 2013, a petition signed by nearly 23,000 members of the community advocating legislative change and other government action to improve breakdown safety was presented to Parliament. At the launch event this Sunday a range of vehicles will be exhibited as a focal point of those who work to improve road safety. The NSW Police Force will display two highway patrol cars alongside other emergency services and roadside assistance vehicles and tow trucks. I will be present at the launch event together with Mr David Bentham, Director, NRMA; Assistant Commissioner John Hartley, Traffic and Highway Patrol Command; Ms Louise Markus, Federal member for Macquarie; Ms Roza Sage, member for Blue Mountains; Mr Stuart Ayres, member for Penrith; and Mr Ryan Park, shadow Minister for Roads and Ports and member for Keira. Although I cannot imagine the pain suffered by the families of Sarah Frazer and Geoff Clark, I know that we can all work to improve road safety so that other families do not have to experience such loss.

Following the incident, a Breakdown Safety Working Group was formed with representatives from the NRMA, WorkCover, the NSW Police Force, the NSW Centre for Road Safety, Transport for NSW; the Transport Management Centre, Transport for NSW; Customer Experience, Transport for NSW; Tow Truck Licensing and Compliance, Roads and Maritime Services; Motorway Management, Roads and Maritime Services; and Traffic Management, Roads and Maritime Services. The Breakdown Safety Strategy was developed and launched by the New South Wales Liberal-Nationals Government in September 2012. It is a comprehensive response to this road safety issue. The strategy states that provisional data in an analysis conducted by the NSW Centre for Road Safety showed that during the period 2007 to 2011 New South Wales had a total of 145 breakdown lane crashes, resulting in eight fatalities and 102 injuries.

The strategy outlines a range of actions, including improved communications to motorists and the tow truck industry, auditing of the road network and improved visibility of response vehicles. By December 2012, we launched a glove box guide to breakdown safety. The launch coincided with the busy holiday period on our roads and was the first of its kind in New South Wales. This guide provides advice to motorists on how to stay safe in the event of a breakdown in a range of road environments and when passing or assisting a broken down vehicle. Work has been undertaken also to audit and map shoulder widths on high-speed, non-metropolitan

highways across the State. This information will soon be available to incident response personnel to enable the planning and delivery of safer operations. I am sure I join with all members of this House in expressing our sympathies to those who have experienced the tragedy of a death of a loved one on our roads. We will keep working to improve safety for all road users in New South Wales.

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

Motion agreed to.

The House adjourned at 7.03 p.m. until Thursday 2 May 2013 at 9.30 a.m.