

LEGISLATIVE COUNCIL

Tuesday 23 June 2009

The President (The Hon. Peter Thomas Primrose) took the chair at 2.30 p.m.

The President read the Prayers.

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

ASSENT TO BILLS

Assent to the following bills reported:

Personal Property Securities (Commonwealth Powers) Bill 2009
Electricity Supply Amendment (Energy Savings) Bill 2009
Courts and Other Legislation Amendment Bill 2009
State Emergency and Rescue Management Amendment Bill 2009
Land Acquisition (Just Terms Compensation) Amendment Bill 2009
Residential Tenancies Amendment (Mortgagee Repossessions) Bill 2009
Coroners Bill 2009

ROOKWOOD NECROPOLIS REPEAL BILL 2009

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

AUDITOR-GENERAL'S REPORT

The President tabled, pursuant to the Public Finance and Audit Act 1983, a performance audit report of the Auditor-General entitled "Tackling Cancer with Radiotherapy—NSW Department of Health", dated June 2009.

Ordered to be printed on motion by the Hon. Tony Kelly.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 142 outside the Order of Precedence objected to as being taken as formal business.

GENERAL PURPOSE STANDING COMMITTEES

Budget Estimates 2009-2010: Portfolios and Hearing Dates

Motion by the Hon. Don Harwin agreed to:

That the resolution referring the Budget Estimates and related papers to the General Purpose Standing Committees for inquiry and report, adopted by this House on 27 November 2008, be amended by omitting paragraph 3 and inserting instead:

3. That the initial hearings be scheduled as follows:

Day One: Monday 14 September 2009

GPSC1 Roads	9.15 am – 11.15 am
GPSC2 Health, Central Coast	9.15 am – 1.00 pm
GPSC1 Ports and Waterways	11.30 am – 1.00 pm
GPSC1 Finance, Infrastructure, Regulatory Reform	2.00 pm – 5.00 pm
GPSC2 Ageing, Disability Services	2.00 pm – 4.30 pm
GPSC2 Aboriginal Affairs	4.45 pm – 6.00 pm
GPSC1 The Legislature	5.15 pm – 6.00 pm

Day Two: Tuesday 15 September 2009

GPSC1 Treasury	9.15 am – 1.00 pm
GPSC3 Local Government	9.15 am – 11.45 am
GPSC3 Mental Health	12.00 pm – 1.00 pm
GPSC1 Premier	2.00 pm – 5.00 pm
GPSC3 Attorney General, Industrial Relations	2.00 pm – 3.45 pm
GPSC3 Corrective Services, Public Sector Reform, Special Minister of State	4.00 pm – 6.00 pm
GPSC1 Arts	5.15 pm – 6.00 pm

Day Three: Wednesday 16 September 2009

GPSC2 Education and Training, Women	9.15 am – 1.00 pm
GPSC4 Fair Trading, Citizenship	9.15 am – 11.00 am
GPSC4 Emergency Services, Small Business	11.15 am – 1.00 pm
GPSC2 Education and Training, Women (continued)	2.00 pm – 2.45 pm
GPSC4 Planning, Redfern Waterloo	2.00 pm – 6.00 pm
GPSC2 Community Services	3.00 pm – 6.00 pm

Day Four: Thursday 17 September 2009

GPSC4 Transport, Illawarra	9.15 am – 1.00 pm
GPSC5 Primary Industries, Mineral Resources	9.15 am – 11.45 am
GPSC5 Commerce	12.00 pm – 1.00 pm
GPSC4 Science and Medical Research, Health (Cancer)	2.00 pm – 3.45 pm
GPSC5 Climate Change and the Environment	2.00 pm – 6.00 pm
GPSC4 Tourism, Hunter	4.00 pm – 6.00 pm

Day Five: Friday 18 September 2009

GPSC3 Lands, Rural Affairs	9.15 am – 10.15 am
GPSC5 Energy	9.15 am – 11.30 am
GPSC3 Police	10.30 am – 1.00 pm
GPSC5 State Development	11.45 am – 1.00 pm
GPSC3 Gaming and Racing, Sport and Recreation	2.00 pm – 4.00 pm
GPSC5 Water, Regional Development	2.00 pm – 4.15 pm
GPSC3 Juvenile Justice, Volunteering, Youth, Veterans' Affairs	4.15 pm – 6.00 pm
GPSC5 Housing, Western Sydney	4.30 pm – 6.00 pm

LEGISLATION REVIEW COMMITTEE**Report**

The Hon. Amanda Fazio tabled, on behalf of the Chair, a report entitled "Legislation Review Digest No. 9 of 2009", dated 23 June 2009.

Ordered to be printed on motion by the Hon. Amanda Fazio.

TABLING OF PAPERS

The Hon. John Robertson tabled the following paper:

Annual Report (Statutory Bodies Act 1984)—Report of the Wine Grapes Market Board for the year ended 31 December 2008

Ordered to be printed on motion by the Hon. John Robertson.

GENERAL PURPOSE STANDING COMMITTEE NO. 4**Government Response to Report**

The Clerk announced the receipt, pursuant to standing orders, of the Government's response to report No. 19, entitled "The Transport Needs of Sydney's North-West Sector", tabled on 19 December 2008, received out of session and authorised to be printed on 23 June 2009.

PETITIONS**Marine Parks, Sanctuaries and Habitat Protection Zones**

Petition requesting a moratorium on the creation of all new proposed marine parks, sanctuaries and habitat protection zones and rejecting extensions to existing parks, sanctuaries and zones that further restrict fishing activities and removal of the National Parks Association report the Torn Blue Fringe for consideration by the Parliament, received from the **Hon. Duncan Gay**.

Balmain Hospital

Petition opposing a reduction in the hours of operation of Balmain Hospital, received from the **Hon. Don Harwin**.

Livestock Health and Pest Authorities Rate Increases

Petition requesting that the Government place an immediate moratorium on current livestock health and pest authority rates, received from the **Hon. Duncan Gay**.

BUSINESS OF THE HOUSE**Postponement of Business**

Business of the House Notice of Motion No. 1 postponed on motion by the Hon. Tony Kelly.

Government Business Orders of the Day Nos 1 to 6 postponed on motion by the Hon. Tony Kelly.

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

Ms LEE RHIANNON [2.45 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business No. 215 Outside the Order of Precedence, relating to the Somersby Fields sand extraction project, be called on forthwith.

This matter should be debated urgently because within two weeks the New South Wales Minister for Planning will rule on the proposal to establish the Somersby Fields sand extraction project on the Central Coast. This matter needs to be debated in full and urgently today because the Somersby Action Group, which has been campaigning with residents against a part 3A sandmining proposal on the Central Coast—opposed by everyone except the proponents and possibly the Government—has found grave errors in the information provided by the mining company to the Government.

This clearly is a matter for urgent debate because despite two meetings with the department, the last of which was held on 10 June, the community's concerns are not being addressed. This matter should be debated urgently because the proposed sandmining will be carried out only a stone's throw—170 metres, to be exact—from the Somersby Public School, creating an intolerable health risk to a community as 100 students go to school, and 65 families and many businesses, live and work within one kilometre of the mine site. Clearly this is urgent because Californian studies show that dust plumes travel over 750 metres from mining sites. This matter should be debated urgently because sandmining of minerals containing silica produces fine silica dust containing crystalline silica, which is classified as a group 1 carcinogen by the International Agency for Research on Cancer.

The Hon. Amanda Fazio: Point of order: My point of order is that the member is not debating the urgency of the motion at this stage.

The Hon. Rick Colless: You are so predictable, Mandy!

The Hon. Amanda Fazio: I do not like being referred to in that tone by the Hon. Rick Colless. I might sound predictable but that is because the Greens abuse the standing orders in a very predictable way.

The Hon. Michael Gallacher: You abuse everybody all the time. When you get it back, you chuck a wobbly. He was being nice.

The Hon. Amanda Fazio: I was not speaking to the Leader of the Opposition, either.

The PRESIDENT: Order! I would like to hear the point of order.

The Hon. Amanda Fazio: Ms Lee Rhiannon was debating the substantive motion. She was not debating why it was urgent. I ask you to direct the member to confine her remarks to establishing urgency so that we waste no more Government time on her predictable and frequent calls for urgency.

The PRESIDENT: Order! I remind all members who wish to participate in this debates that they should confine their remarks to establishing why the motion should take precedence of other motions rather than to addressing the substantive issue.

Ms LEE RHIANNON: This clearly is a matter for urgent debate. We are dealing with the health of young public school students, there is new information to hand, and the decision on the proposal for a sand mine near Somersby Public School will be made in the next two weeks. Clearly, the House does not have much time in which to debate the matter thoroughly. As I was saying, crystalline silica is classified as a group 1 carcinogen—a fact established by the International Agency for Research on Cancer. The substance causes cancer and silicosis, which is an incurable disease formed when silica dust particles become trapped in the lungs. This matter should be debated urgently because it goes to the heart of having a healthy community.

The matter is urgent because a recent independent analysis of soil samples that was commissioned by the Somersby Action Group shows that the amount of respirable silica, which is silica that schoolchildren can inhale, found in a sample collected by an accredited National Association of Testing Authorities [NATA] technician on a common boundary to the site is approximately five times greater than the proponents have led the community to believe exists and that the proponents have stated in their environmental assessment documentation. Again, underlining the urgency is the incorrect information being provided, and that information could be used to make the final decision within two weeks. This matter is urgent as the health of students will be put at risk, and we need to have a thorough debate.

The sandstone to be mined contains 97 per cent crystalline silica quartz. The area is surrounded by six existing sand mines, which means that exposure to silica is already extremely high. Surely members of this House should be ready to debate whether we want to add to the burden of the people of Somersby. This matter is urgent because these test results mean that the existing annual average PM10 silica concentration already exceeds allowable limits set out in international standards without the sand mine going ahead. The environmental assessment documentation for the project does not include any benchmark levels for background crystalline to determine current exposure levels for students, staff and residents. [*Time expired.*]

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.50 p.m.]: The Opposition supports this call for urgency by the Greens. I place on the record that we were not advised that this matter would be brought on this afternoon. Be that as it may, this issue is extremely important. Ms Lee Rhiannon has drawn to the attention of the House that the Government will make a decision in the next two weeks, and the Parliament will not be sitting at that time. For the people of Somersby and the Central Coast this debate today may be the last opportunity for members to voice their concerns about what is proposed at Somersby. One need only look at the motion to see that the Greens are calling on the Government to delay its decision until an independent study of the health and environmental impacts of the Somersby mine has been conducted.

This matter has been debated in the community for years and local residents have been living under the cloud of this proposed mine for some years. Today we find that the Government will make a decision in the next couple of weeks. That means that when Parliament resumes later in the year we may not have an opportunity to debate this matter. It may be too late. For that reason, Ms Lee Rhiannon is correct to bring on the matter at this time. As I indicated, the Opposition will support the matter being brought on urgently.

Ms SYLVIA HALE [2.52 p.m.]: This matter is urgent. Only recently, in the past couple of months, crystalline silica has been classified as a toxic air contaminant, putting it into the same league as asbestos, which also attracts the same label. So clearly this matter is urgent. This categorisation has become available only in the past two or three months. If we regard it as urgent to act on asbestos issues, then equally it should be urgent to act on crystalline silica issues. The matter is urgent because the new findings support the tests completed by the University of Sydney on dust samples collected from the homes of residents living within three kilometres of existing mines on the Somersby plateau which show that the plateau already has a high background level of respirable crystalline silica. It is important that a decision on the Somersby sand mine project be postponed so that further testing can be done to ensure that the health and wellbeing of Somersby schoolchildren is not put in jeopardy. Clearly, this issue is of great concern. A decision may be made within the next fortnight. For the reasons outlined by Ms Lee Rhiannon and the Leader of the Opposition, this matter should be debated today.

The Hon. TONY KELLY (Minister for Police, Minister for Lands, and Minister for Rural Affairs) [2.53 p.m.]: The Government objects to bringing this matter on in this fashion. The Government has about 20 bills that must be processed in the next three or four days. Normally this day is for Government business.

Although there are 200 items of business on the *Notice Paper*, nine items are in the order of precedence, which is the system that has been used in this House for many years. This motion is simply another attempt at queue jumping. I will not go into the reasons.

Ms Lee Rhiannon: Come on!

The Hon. TONY KELLY: I was about to congratulate Ms Lee Rhiannon on her preselection to be a New South Wales candidate for the Senate. However, I am not making any connection between the two matters. I ask the House to vote against this motion.

Dr JOHN KAYE [2.54 p.m.]: Mr President, you asked us to address the issue of urgency. Indeed, you asked us to address the question of whether this matter is more important than legislation. I draw your attention to one item on the *Notice Paper*, that is, the Motor Sports (World Rally Championship) Bill 2009. What is more important: the health of the lungs of young kids and the future health of their respiratory systems, or running a motor sports rally in northern New South Wales?

Question—That the motion be agreed to—put.

The House divided.

Ayes, 22

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Brown	Ms Hale	Mr Pearce
Mr Clarke	Dr Kaye	Ms Rhiannon
Mr Cohen	Mr Khan	Mr Smith
Ms Cusack	Mr Lynn	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Reverend Dr Moyes	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 19

Mr Catanzariti	Reverend Nile	Ms Voltz
Mr Della Bosca	Mr Obeid	Mr West
Ms Fazio	Mr Robertson	Ms Westwood
Ms Griffin	Ms Robertson	
Mr Hatzistergos	Mr Roozendaal	<i>Tellers,</i>
Mr Kelly	Ms Sharpe	Mr Donnelly
Mr Macdonald	Mr Tsang	Mr Veitch

Question resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by Ms Lee Rhiannon agreed to:

That Private Members' Business item No. 215 outside the Order of Precedence be called on forthwith.

SOMERSBY FIELDS SAND EXTRACTION PROJECT

Ms LEE RHIANNON [3.01 p.m.]: I move:

1. That this House notes that:
 - (a) currently for approval before the NSW Minister for Planning is a Part 3A proposal to establish a Somersby Fields sand extraction project on the Central Coast, a 42 hectare sand mine to operate for 18 years,
 - (b) on two occasions the same development has been abandoned due to resistance from the community,

- (c) the project is opposed by residents, the local school community, the regional education director for the Central Coast, Gosford City Council, the Labor member for Gosford, Marie Andrews, and the Shadow Minister for the Central Coast, Chris Hartcher,
 - (d) the sand mine will be 170 metres from Somersby Public School, resulting in students being exposed to noise and dust from the mine site, with particular concern about the risk of respiratory diseases such as bronchitis, asthma, cancer and silicosis,
 - (e) there are 65 families, a school of over 100 students and many businesses within a one kilometre radius of the proposed mine,
 - (f) the mine will impact on scarce local water sources drying up permanent spring flows on surrounding properties and interrupting flows from three streams on the site which feed into the Central Coast water supply catchment,
 - (g) community opposition to the mine is also based on an impact on more than 500 local residents and many more who work in the area, increased truck movements, disruption to the local agricultural and horticultural industry, destruction of native flora and fauna, and the impact on property prices,
 - (h) crystalline silica is the hidden carcinogen on the Central Coast plateau and while this substance is known to contribute to silicosis, the rate of cancer in people exposed to crystalline silica is six times higher than the rate of silicosis and studies in California show dust plumes travel over 750 metres from mining sites,
 - (i) the environmental assessment documentation for the project does not include any benchmark levels for background crystalline to determine what the current exposure level is for students, staff and residents,
 - (j) the Somersby Action Group's own test results conducted by an independent Federal Government laboratory found that the sandstone to be mined contains 97 per cent crystalline silica quartz and, as the school and residents are surrounded by six existing sand mines and many agricultural operations, the local population's exposure to silica is already extremely high as found in extensive dust sampling tests carried out, and
 - (k) the Somersby Action Group has commissioned a dust emission expert to confirm the group's research into the environmental assessment documentation which suggests that the estimated emission calculations for the proposed mine are exceptionally low, underestimated and need urgent checking.
2. That this House calls upon the Government to delay making a decision on the Somersby Fields sand extraction project proposal until thorough independent testing, for a minimum of 12 months, is conducted to determine the existing health risk to surrounding residents due to background levels of PM10 respirable crystalline silica, a group one carcinogen, which poses a real threat to the community and a school at Somersby.

I thank members for allowing me to move this most important urgent motion that relates to the public health of all residents in the area, particularly the young students at Somersby Public School. It is not a large number of people but we know that public health should always be put first. Last year I visited Somersby school and many houses and businesses around the area of the proposed mine. I could not believe how close the mine will be to the school. The Greens position is that this mine should not go ahead. We believe that members of the House should support my motion and send a clear message to the Minister for Planning that the concern about sandmining so close to this school has been recognised by the upper House and that we call for the project not to proceed.

This sandmining project is opposed by residents, the local school community, the regional educational director for the Central Coast, Gosford City Council, the Labor member for Gosford, Marie Andrews, and the shadow Minister for the Central Coast, Chris Hartcher, all of whom have put their position on the record. This proposal has broadbased opposition and a wide understanding of how damaging it will be. The mine will impact on scarce local water sources, drying up permanent spring flows on surrounding properties, and interrupt flows from three streams on the site which feed into the Central Coast water catchment. Members of the House need to recognise that while the key reason to oppose this project is the issue of public health, particularly of young students, there is also the worrying impact of such a project on water supply, which, as we know, is already scarce.

Since the mid 1990s attempts to establish a sand mine in the Somersby area have been resisted. It is timely and responsible for members of this House to debate the motion today because it has been a long-running and contentious issue. Rezoning to extractive industry has occurred since the 1990s, which is another reason, if this project is ticked off by the Minister. The area concerned is west of the F3 on the Peats Ridge Road and about 250 metres from the Wiseman's Ferry Road, where Somersby school and the village centre are located, and is the latest proposal for the Mangrove Mountain plateau. The area is on top of a hill from which four creeks fall. The proposal is to locate a sand mine in the vicinity of the school and the lovely little Somersby village.

If the matter is approved the sand mine will be 42 hectares and will operate for 15 to 18 years, with a total output equivalent to the sand usage of the Sydney region for one year. The proponents say this proposal

will create 12 jobs but the Government cannot argue it is justified because of jobs. The Central Coast needs jobs growth but not at the expense of the health of people, particularly young people. This mining operation will occur within 170 metres of the school and, understandably, the community is concerned. When I visited this area I spoke to many worried parents of school students. I put to all members who have children that they would be deeply concerned if someone wanted to locate a sand mine 170 metres from the school their children attend.

Time and time again the big concern expressed to me has been about respiratory diseases. Earlier I said that it has been detected that there are already high rates of polluted air in this area. The pollutant has been identified and it is approximately five times greater than what the proponents have led the community to believe in their environmental assessment documentation. As more information has been collected the seriousness of this matter has been widely recognised. It is worth noting that a sand mine is now operational near Maroota Public School, in Wisemans Ferry. A school survey at Somersby shows that the majority of parents will take their children out of school if the mine goes ahead, and that is not acceptable. Somersby Public School is an integral part of the community. A project that will cripple attendance at school will have devastating impacts on that community.

Another key concern is the impact on environmental flows and very scarce Central Coast water supplies, which I have already outlined. The sandmining industry is a very heavy user of water for dust suppression and washing. The extraction involves mining below the water table. Huge amounts of water will be extracted from that plateau, which has four creeks feeding into the Central Coast catchment area. This matter should be debated today because the proposal comes under part 3A of the planning laws, which strips away the rights of the community to have any meaningful input into a proposal. It gives enormous power to the Minister for Planning, who does not have to take note of environmental laws, advice from her director general, or reports she has received. Ms Keneally, as Minister for Planning, can make a decision as she chooses without being obliged to follow any laws that are in place. The proponents for the development are Michael Hoskins, Geoffrey Kells and John Locket, some of whom are ex-employees of CSR. I also understand that the companies—CSR, Rinker, Readymix and Vulcan Materials, which are involved in mining in different ways—have donated to Labor over recent years.

Again I urge members to support the measure before them. Remember that we are talking about school children. From where I stood at the school gates I could see where the mine would be located just 200 metres away. From the back fence I understand that the proposed site is only 170 metres away. More than 1,000 submissions against the sand mine were forwarded to the former planning Minister, Mr Sartor. As I mentioned earlier, Gosford council also opposes the sand mine. One would really think that this would be an easy decision for the Government to make, but the issue keeps dragging on and there is mounting distress in the community about what the Government will do. Many residents feel that the Government is ready to go with the project. But it really should be a no-brainer. Surely public health should always be put first.

In a media release issued last year, the Somersby Public School parents and citizens association and the Somersby Action Group stated that the proponents of the development denied local residents the opportunity of independent soil sampling. Peter Donnelly, a member of the Somersby Action Group, stated:

During the independent panel of experts hearings we asked the proponents of this development to allow us to independently analyse soil samples from their site. The proponents agreed to this happening at the time. We were all set to go ahead with the planned sampling on Saturday only to be told Somersby Fields no longer grants the local community access.

It is deeply disturbing that the proponents are denying local residents the right to have access so that independent sampling can be carried out. One has to ask why that decision has been made.

The Somersby Action Group has been analysing soil samples on the mountain plateau for about six months during 2007-08. The action group received assistance from the University of Sydney for the project and that was much appreciated. What the group informed me about was quite disturbing because even at that stage the findings were extraordinary and led to the group questioning the methods used by Somersby Fields dust experts. Many of us have time and time again encountered the problem of proponents coming up with studies that are deeply biased, because proponents who want a particular outcome will mould the reports to work for them rather than treat them as being independent and objective. Peter Donnelly from the Somersby Action Group stated at the time:

We have found that the general silica content in the sand up here on the plateau is in the vicinity of 50-60 per cent silica dioxide, not the 4 per cent that is reported in the Somersby Fields environmental assessment ...

We are very concerned about this as the bulk of the silica content found in our studies is respirable and recent studies have shown this is what causes silicosis and other serious respiratory diseases.

How extraordinary! The Government should have laid down the law to this company and asked the very obvious question: How can the company produce an environmental assessment report that finds only 4 per cent silica dioxide when a Sydney university study has found the level to be 50 to 60 per cent?

I think it is also worth remembering that the Minister for the Central Coast, Mr Della Bosca, is also the Minister for Health and has been the Minister for Education and Training and the Minister for Industrial Relations—all portfolios in which this issue surely would have been brought to his attention again and again. It is not surprising that the local residents are angry, which was raised with me many times when I spent the day at Somersby. Local residents were frustrated, angry and hurt that their own local Minister was not there speaking on their behalf. That is why it is so wrong for the project to proceed.

The motion gives a very clear direction to the Government because it calls upon the Government to delay making a decision on the Somersby Fields sand extraction project proposal until thorough independent testing is conducted for a minimum of 12 months to determine the existing health risk to surrounding residents due to background levels of PM10, respirable crystalline silica, a group 1 carcinogen, which poses a real threat to the Somersby community and school. If the motion is passed, that is what we will be calling on the Government to do. That does not rule out the mine, although I think a mine should not be so close to a school. I hope all members will support this reasonable motion to delay the decision for 12 months so that independent testing can be carried out. I hope that the Minister for Health, and Minister for the Central Coast will participate in this debate. Surely he has a responsibility to his own constituents to put his Government's position on the line. We are talking about public health, and particularly the health of the young people of Somersby.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.16 p.m.]: On behalf of the Opposition I put on record our intention to support the motion. The area of the Central Coast that is probably best described as the hinterland of the southern part of the Central Coast, the Gosford shire, or the Gosford city side of the Central Coast, is no doubt very well known to many members. They might not necessarily know Somersby, but most would know of the surrounding environment, having travelled along the F3, or indeed the pre-existing main road, which was the Peats Ridge Road before the F3 extension was built some years ago. Members would have had ample opportunity to travel through the area.

Members have also had ample opportunity to see communities fight for their existence, as the Somersby-Mangrove Mountain community has done for many years. Back in 1994 the area was ringed by one of the biggest and most devastating bushfires the State has ever seen and it was the fighting spirit of people in areas like Somersby, Mangrove Mountain and nearby Kariong that protected their homes. It is an area where the avian influenza had a devastating effect in 1999. Members might recall that the answer to the problem of the transportation of millions of dead chickens and ducks was to bury them within shipping containers in the surrounding community, and debate continues about leaching from those shipping containers into the Somersby Springs water catchment area. Many of us would have had the opportunity to drink the waters of this beautiful part of the Central Coast; indeed the pristine waters of the Central Coast are recognised throughout the country. This area has fought, tooth and nail, against Government incursion into basic ways of life, and now we are witnessing one of the biggest fights for many years, by the people of Somersby.

The proposed site is situated on the escarpment in the hinterland above Gosford. Westerlies and north-westerlies would easily find their way down the face of the escarpment and carry dust into suburbs like Niagara Park, Narara and indeed West Gosford, because the proposed mine is perched high above these areas. It is worth having a look at the proximity of the proposed site to the Somersby community and Somersby school, and indeed to the larger urban areas of the Central Coast that are, as the crow flies, only a very short distance away.

Ms Lee Rhiannon has raised a number of serious concerns that the Somersby Action Group has been putting to the Government for some years. The Government finds itself in a very interesting position because if it votes against the motion it will be voting against the views expressed by the community, by the shadow Minister for the Central Coast, Chris Hartcher, and by the member for Gosford, Marie Andrews, who is opposed to this mine—or so she says publicly—for the very same reasons being put by Lee Rhiannon.

One need only look at the contribution that the honourable member for Gosford made in this Parliament in a private member's statement in the Legislative Assembly in November 2007, in which she spelt out very clearly that she was opposed to this mine. She said in 2007 that she did not believe the granting of the permit to mine this area was imminent but that she would still do what she could to oppose the mine. Fast forward to 2009, when we are led to believe that the decision is now imminent, nearly two years since the member for Gosford made her contribution in the Legislative Assembly.

It now falls to the Legislative Council to make a decision and send a message to the Government and the people of Somersby. The message to the people of Somersby is that we have listened and we are prepared to support what they are doing to seek further information with regard to the mine proposal being granted. The message to the Government is that it has dragged its feet continuously and done nothing to allay the fears of the people of Somersby, and indeed those of the wider Central Coast, about contamination by dust particulate. Now is the chance for the Government to recognise that what the Hon. Lee Rhiannon is putting forward is a fair and reasonable motion. She is asking for an independent scientific analysis of the proposed mine, and for it to be done in such a way that there is a level of scrutiny and accountability not only to the people of the Somersby Plateau but indeed those of the Central Coast community as a whole.

It is extremely important that we do not lose sight of the fact that whilst this area is not a growing community it has attracted young families in recent years. Somersby Public School has 100-plus students. It is a historical school in the Central Coast context. This is an area that deserves better from the Government than what the member for Gosford says when she visits the area and the Government's voting record in both Houses on this very issue.

The Hon. Lee Rhiannon is quite right in asking that the Minister for the Central Coast participate in this debate and that it not just be left to the Hon. Amanda Fazio to reply on behalf of the Government, because this is arguably one of the two largest environmental issues affecting the Central Coast. Both relate to mines and water, and both require further advice and assistance from the State Government, which until now appears to have done nothing more than provide lip-service to groups such as the Somersby Action Group and others on the Somersby Peninsula.

I believe this is a matter that is best addressed in the way put forward by the honourable member in the course of the debate this afternoon. The Hon. Lee Rhiannon quite rightly is not saying that the mine should be blocked; she is saying that both she and the community would like more information, and that independent testing be conducted for a period of 12 months to ensure that any concerns about the health risk are determined. I think the Hon. Lee Rhiannon's proposition is a fair one and the Opposition is pleased to support this motion.

We have continued to indicate to the people of Somersby that we are opposed to the sand mine but, unlike the member for Gosford and the Government, what we say in Somersby matches what we do in this Parliament. We continue to oppose it here also.

The Hon. AMANDA FAZIO [3.24 p.m.]: I oppose this motion, and in doing so I can say that the Department of Planning is currently assessing an application for the Somersby Fields sand extraction project under part 3A of the Environmental Planning and Assessment Act. The environmental assessment for the project was publicly exhibited in August 2007 and the department received around 3,000 submissions on the project. Many of the concerns raised by Ms Rhiannon have been voiced by the community in these submissions. However, Ms Rhiannon's claim that the same development has been abandoned on two other occasions due to resistance from the community is simply not correct. Today in this House she impugned the reputations of the proponents of the development, the experts who have undertaken studies into the site, and of the Minister for Planning. She has done that without providing any evidence to substantiate the imputations she has raised.

I am advised that the previous owner of the land, CSR Limited, had considered developing a sand extraction project on the site but that this proposal was abandoned in 1999 due to the fact that extractive industries were not a permissible use at that time. In 1999 the land was purchased by the current owners, Somersby Fields Partnership, who lodged an application with the Department of Planning for a sand extraction project. However, the department did not issue its requirements for the environmental assessment of the project because of the zoning restrictions that applied at the time. In 2002 a new local environmental plan was gazetted that, amongst other matters, changed the zoning of the site to allow extractive industries with development consent.

The Minister for Planning is well aware of the community's concerns about the Somersby Fields project. The Minister is also very conscious of the proximity of the project to Somersby Public School. The quarry's proposed extraction pit is about 180 metres from the school's playground at the closest point, and 260 metres from the classrooms. The Minister has met with community representatives to hear their concerns firsthand and has personally inspected the site. Based on this, it is clear to her that the project is in a relatively sensitive location.

However, it must also be acknowledged that the project site has been recognised for a long time as a regionally significant sand resource and the proposal is a permissible use on the site. As such the assessment of

this project, like any other permissible development, is to be undertaken objectively based on full scientific consideration of the merits. In a sensitive case such as this it follows that the assessment must be thorough, conservative and precautionary. To date this assessment has been extremely thorough, including the appointment of an independent panel of experts to look into the proposal, which I do not think members would understand at all if they believed what Ms Rhiannon had to say.

I urge members to act responsibly and not promote the Senate campaign of Ms Rhiannon by supporting this motion. I urge them to reject the motion. The proposal is being dealt with carefully and in a considered manner by the Minister. The issues that have been raised by Ms Rhiannon have been raised directly with the Minister by local individuals and organisations who hold concerns. I believe we should leave it in the hands of the Minister and the independent panel of experts to determine the outcome of this proposal and not support a knee-jerk proposal from Ms Rhiannon, which is yet another attempt by the Greens to grandstand and garner small pockets of community support in local areas so they can enhance their prospects of regaining a Senate position in New South Wales.

Ms SYLVIA HALE [3.28 p.m.]: Sometimes Ms Fazio takes my breath away. She talks about this proposal as being in a "relatively sensitive location". My goodness, what is relative about it? It is 180 metres from a schoolyard and the substance involved, crystalline silica quartz, is the equivalent of asbestos, and young children are breathing it in. There is the evidence of the proponent not providing appropriate analysis of the site and the local community being denied access to the site, yet Ms Fazio has the hide to say it is only a relatively sensitive site. I would hate to see what she considers to be a sensitive site.

This is a typical part 3A application. We all know that part 3A has had the extraordinary effect of uniting communities across the State—communities that otherwise might not have had a great deal in common—in opposition to, and in intense dislike of and contempt for, this Government. In part 3A the Government is stating to the community, "You can write as many submissions as you like, you can protest as much as you like, but when it comes down to it if the Minister forms the opinion that it is a part 3A project, it is a part 3A project. No matter how many submissions you make, we will not make those submissions public. We will decide the outcome of those submissions, and we will decide that in secret, behind closed doors and in camera. We will not make any pretence of answering the community's concerns."

What do we have? As Ms Fazio said, there are 3,000 submissions. I bet my bottom dollar that 2,995 of them are probably opposed to the proposal and the few in favour would be those that are sympathetic to the development. We have a proposal that is clearly contrary to the public interest and from which only the developer will benefit. Again, we have a lack of independent evidence—independent public scrutiny—of the material that has been placed before the Minister. That is why members of the public dislike part 3A so much. They are encouraged to participate in a process that is a sham. It is a process that time and again has shown that, despite overwhelming public submissions to the contrary, the success rate of applicants for part 3A developments is almost 99.6 per cent. In fact, the record shows that very few—only one or two—of the applications that make it to part 3A status are ever refused.

The Government's record on this matter is appalling. That record is known not just by communities in Gosford or in Sydney—whether they be in Lewisham or in Double Bay—but also by all the mining communities where public health is suffering as a result of this Government's desire to proceed with developments that it sees primarily as being in its own interests. One of the other outstanding characteristics of part 3A is that so many of the applications come from significant donors to the Labor Party. Members of the public are particularly outraged about the fact that the decisions being made by a Minister behind closed doors favour significant party donors rather than the public interest. I congratulate Ms Rhiannon on moving this urgent motion. A decision will be made shortly. If the application is approved it will be one more nail in the coffin of this hated State Government.

The Hon. ROBYN PARKER [3.33 p.m.]: I support the motion moved by Ms Lee Rhiannon. This is not a discussion about the pros and cons of Somersby sand mine; it is a discussion about transparency. The motion calls on the Government to provide information that the public has a right to know. The public has a right to know all the facts about the proposed Somersby sand mine. If this mine is approved, the public has a right to know that all the bases have been covered and that every bit of information is available. A decision must be made on the basis of good scientific investigation, good planning decisions, and in the best interests of the proponents and the health of the community. That is the process that should be followed with all planning decisions. This motion will provide time for proper investigation.

Ms Lee Rhiannon said earlier that, after many years, the Government has now reached a point where it wants to make a decision about this issue. If that is the case, that decision should be delayed until independent testing has been done. I congratulate the Somersby Action Group on doing what this Government should have done. Those volunteers and concerned citizens have taken action to provide for independent testing, which is what the Government should have done. The Government should also have made the results of those independent tests available to the public. This proposed sand mine will be located only 170 metres from a public school. A number of residents in that area have expressed total opposition to this proposal because of health concerns and other issues. Independent testing might establish that the health of people in the area has been unaffected, but at the moment we do not know whether that is the case as the Government has not provided the community with the necessary information.

We have heard differing statements from Labor members representing electorates on the Central Coast and in the Hunter. Labor members say one thing locally and something else in this place. When they are in their electorates they represent the people in those electorates, but once they cross the Hawkesbury River something comes over them and they take the Government's position on any matter. They say one thing locally but once they have crossed the Hawkesbury River they are on the road to Damascus—or the road to Macquarie Street—and they have a sudden change of views. I would like to hear what the Minister for Health and former Minister for Education and Training has to say about the Somersby sand mine. Local residents are of the view that he is opposed to, and concerned about, the health implications of this mine. It would be good to get his views on the record in this place so that we can assess whether there is consistency about what is being said locally and what is being said in this place.

As I said earlier, this motion is not about the merits or otherwise of the Somersby sand mine; it is about transparency and an independent analysis over a long period. As this issue has been ongoing for many years it is reasonable to ask the Government to delay its decision for a little longer to enable independent analysis. As this area is a vital part of our natural environment, that is a reasonable request on behalf of residents in the Somersby area, and throughout New South Wales. The Leader of the Opposition said earlier that the Somersby and Peats Ridge areas were a critical part of our environment and that we should not get this wrong. Opposition members will support the motion to ensure transparency and to enable the provision of information before a final decision is made. The health and welfare of current and future generations and our environment depend on that decision. I support the motion moved by Ms Lee Rhiannon.

Ms LEE RHIANNON [3.39 p.m.], in reply: I thank all those who participated in debate on this motion. Ms Parker, in her contribution, sensibly spelt out the key aspect of the motion and what it calls for. When Ms Fazio, the Government's representative, spoke to the motion she did not address—and I imagine she did it deliberately—its key aspect.

The Hon. Amanda Fazio: No, I was just talking about the facts of the matter.

Ms LEE RHIANNON: I acknowledge the interjection. Ms Fazio went beyond just talking about what she calls "the facts of the matter" and made assertions. One would have thought that she would have addressed the key aspect of the motion. I thank Ms Parker for spelling that out. The motion calls on the Government to delay making a decision on the Somersby Fields sand extraction project until thorough independent testing is undertaken. That is the essence of this debate. It is disappointing that the only Government representative did not address that issue. Therefore, we are left with the clear impression that the Government will vote against the motion without knowing the reason it objects to something so reasonable and necessary for Somersby residents.

It is necessary to know the Government's reason because, as many members have said, public health is critical in this instance. If the motion is carried, I urge the Minister—we know Ministers are not obliged to take heed of motions in this House—to respond positively and take the lead by announcing that testing will be undertaken for a minimum of 12 months. When I visited the area it was quite clear to me that many residents are stressed and living with a great deal of uncertainty and insecurity because they do not know what is going to happen with this mine. If the Government accepts the proposal set out clearly in paragraph (2) of the Greens motion, Somersby residents will have some certainty for the coming 12 months.

I thank Ms Hale for detailing again the effects of part 3A and the sham of the independent panels. I was disappointed, though not surprised, to hear Ms Fazio trying to make out that the process is thorough and good. I found her contribution to the debate curious because it leaves the impression that Parliament really has no role in this process. She attempted to make out that the Minister is aware of the concerns and is doing the job

thoroughly, so we should just let the Minister undertake the work. Parliament has a role and it has a responsibility to address these issues. That is precisely what we are doing now. Ms Fazio struggled to downplay the motion, but she was attempting—

The Hon. Amanda Fazio: I did not.

Ms LEE RHIANNON: I acknowledge that Ms Fazio is trying to defend her contribution, but I certainly felt she struggled to elucidate the arguments, which really were not supported. She said this is a regional sand source at Somersby, but I remind the House that that is because of rezoning. The rezoning of that area was quite unsavoury in many aspects, and certainly is another reason to object to the current process. I congratulate the Somersby Action Group, the Somersby Public School parents and citizens association, and the residents. It has been a long campaign, but one that certainly, in the first instance, is about the wellbeing of residents. However, I believe we have to face wider implications when communities take on government by making a stand for public health, decent process and protection of the environment. I commend the motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 22

Mr Ajaka	Ms Hale	Mrs Pavey
Mr Brown	Dr Kaye	Mr Pearce
Mr Clarke	Mr Khan	Ms Rhiannon
Mr Cohen	Mr Lynn	Mr Smith
Ms Ficarra	Mr Mason-Cox	
Mr Gallacher	Reverend Dr Moyes	<i>Tellers,</i>
Miss Gardiner	Reverend Nile	Mr Colless
Mr Gay	Ms Parker	Mr Harwin

Noes, 17

Mr Catanzariti	Mr Obeid	Ms Voltz
Ms Fazio	Mr Robertson	Mr West
Ms Griffin	Ms Robertson	Ms Westwood
Mr Hatzistergos	Mr Roozendaal	<i>Tellers,</i>
Mr Kelly	Ms Sharpe	Mr Donnelly
Mr Macdonald	Mr Tsang	Mr Veitch

Question resolved in the affirmative.

Motion agreed to.

APPROPRIATION BILL 2009

APPROPRIATION (PARLIAMENT) BILL 2009

APPROPRIATION (SPECIAL OFFICES) BILL 2009

STATE REVENUE LEGISLATION AMENDMENT BILL 2009

Second Reading

The Hon. ERIC ROOZENDAAL (Treasurer) [3.51 p.m.]: I move:

That these bills be now read a second time.

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

Leave granted.

This is a budget to support jobs, rebuild the surplus, and protect services for New South Wales families.

It's a budget crafted to meet the most severe economic challenge in living memory—a fully imported downturn which originated on Wall Street.

Jobs are the heart and soul of this budget. We will support, protect and defend jobs in every part of the State and confirm New South Wales as the infrastructure engine-room of the nation.

This is also a fiscally responsible budget—restoring the surplus, without any new taxes.

Economic Outlook

This budget was shaped in the toughest economic conditions in 75 years. The IMF described it in March as "the great recession". Most of our major trading partners are in recession, a fate Australia has largely avoided thanks to the Rudd Labor Government's decisive intervention.

With our globally-linked economy New South Wales was hit first and hardest when the global financial crisis struck. However, economic activity in New South Wales is expected to broadly follow the national average as confidence returns.

Economic activity is likely to remain soft in 2009-10 returning to modest growth of 2¼ per cent in 2010-11. It will rise to above-trend growth in 2011-12 and 2012-13, as excess capacity is absorbed and the economy gathers momentum.

That growth will be sustained by higher consumer spending and increased housing construction activity—underpinned by lower interest rates, lower petrol prices, and government stimulus measures.

Stronger Public Finances

The New South Wales budget is not immune to the effects of global recession—with revenues written down by around \$10 billion over the four years to 2011-12. This impact on the budget result has however been lessened due largely to the positive effect of stimulus measures and our firm control over government expenses.

Today I confirm that in 2008-09, New South Wales will incur its first deficit since 1996—a forecast deficit of \$1.3 billion—reflecting the direct impact of global events on our bottom line. Smaller deficits of \$990 million in 2009-10 and \$116 million in 2010-11 are expected to follow. The budget will then return to surplus with surpluses of \$86 million expected in 2011-12 and \$642 million in 2012-13.

Just two short years and New South Wales will be back in the black.

Remember this Government has delivered a record 12 surpluses since 1996—more surpluses than any previous New South Wales Government—a record that guarantees a quick and decisive return to surplus in this economic cycle.

This Government maintained its commitment to fiscal discipline through:

- ◆ our cumulative 4 per cent agency efficiency dividends,
- ◆ our 2.5 per cent public sector wages cap, and
- ◆ our Mini-Budget, which shaved \$3.3 billion of unnecessary spending.

We will continue to be fiscally responsible and will embark on a strong new program of efficiency improvement through our *Better Services and Value Plan*. This plan includes the creation of a Better Services and Value Taskforce, led by an independent external chair, to:

- ◆ critically examine government agency spending line-by-line,
- ◆ strategically review all State-owned corporations, and
- ◆ rationalise whole-of-government spending in areas such as IT and legal services.

Our plan will also see a comprehensive reform of the public sector amalgamating 160 government agencies and offices to just 13 departments—the biggest overhaul in 30 years.

We will also continue our public sector wages policy requiring offsets for all increases above 2.5 per cent and we'll continue the employment freeze on non-frontline positions.

Our *Better Services and Value Plan* will sustain a new program of efficiency dividends continuing at 1 per cent in 2009-10 and 2010-11 rising to 1.5 per cent in the last two years of the forward estimates. These are necessary actions ensuring the budget remains structurally sound and improving service delivery for the families of New South Wales.

Borrowing for the Future

When we came to office in 1995, general government net debt was 7.3 per cent of gross State product which we reduced by \$10 billion or to just half of 1 per cent of GSP.

In these very difficult times, our strong balance sheet allows us to borrow prudently for the future.

We will use our strong fiscal position as a shock absorber during this cyclical downturn—an approach made possible because this Labor Government carefully paid off debt in the good years—positioning New South Wales for the tough times.

General government net debt will rise to 3.9 per cent of gross State product in 2010-11 before declining to 3.6 per cent of GSP by 2012-13. That level is appropriate and affordable and less than half the level of debt left by the Coalition in 1995.

Not only will general government net debt as a share of the economy decline over the latter part of the forward estimates, it will become easier to repay as economic growth and revenues improve. We will also use any above-trend revenue to reduce debt along with proceeds from asset sales.

General government net debt will remain modest. For public trading enterprises borrowings will be on a larger scale underpinning our massive building program—delivering the hard infrastructure that will fuel future economic growth.

To put it simply:

borrowing equals infrastructure equals jobs.

Infrastructure and Job Creation

The centrepiece of this budget is job supporting infrastructure investment on an unprecedented scale—a building blitz that takes our investment in jobs to new record levels. \$62.9 billion over the next four years including \$18 billion alone in 2009-10—the largest ever infrastructure investment in a single year by the New South Wales Government.

This funding will support up to 160,000 jobs a year, like:

- ◆ the 300 jobs being generated right now building the new Orange hospital or
- ◆ the 1,250 workers building the Pacific Highway or
- ◆ the 2,000 jobs generated by the Port Botany expansion.

Our building boom extends across the State and across all areas of government.

Thirty seven per cent of our four-year program or \$23.6 billion goes directly to roads and transport.

There is:

- ◆ \$5.7 billion for schools and TAFEs
- ◆ \$4.3 billion for public housing and
- ◆ \$2.2 billion for our hospitals.

Energy and Water Security

A large part of our building program is funding to secure the State's water and energy supplies.

Over the next four years, we will invest a massive \$21.1 billion in energy and water infrastructure—supporting jobs now and building for future economic growth. For example, Tillegra Dam—a \$477 million investment. Not only will it secure Hunter water supplies for the next half-century it will support 280 jobs over construction of the project.

Our \$16.7 billion five-year energy plan will provide businesses and households with one of the most reliable and affordable electricity services in the world. It will also support around 3,700 jobs filling pay packets in regional New South Wales—like the 20 jobs supported by the Cooma to Bega transmission line; or the 30 jobs on the Kempsey to Port Macquarie transmission line.

In tough times like these, every job counts. And every possible job will be supported.

Improving Public Transport

In 2009-10, the New South Wales Government will deliver a record \$7.1 billion public transport budget, including \$3.1 billion for infrastructure—a massive 68 per cent increase on last year.

At the heart of our transport budget is the first major investment in the Metro—a network that will, in time, spread rapid underground transit links across Sydney.

In 2009-10, we will spend \$581 million for the Sydney Metro. It will be the backbone from which the metro network will branch out. Construction starts next year.

Other key transport commitments include:

- ◆ 28 commuter car parks—\$171 million
- ◆ 424 new buses—\$207 million

- ◆ \$350 million to continue our rail clearways program
- ◆ \$117 million towards 626 new state-of-the-art rail carriages for Sydney, which will be delivered from next year
- ◆ \$125 million towards the purchase of 72 new outer suburban train carriages for the Hunter, Illawarra and Central Coast, and
- ◆ \$186 million to begin the South West Rail link.

The Government understands community demands for improved public transport and I offer this assurance:

The funding is real, the projects are real and they are being delivered.

Community Building

The Commonwealth response to the global financial crisis was spot-on:

- ◆ cash upfront to sustain short-term demand
- ◆ larger infrastructure projects to boost long-term development and
- ◆ smaller, medium-term projects to promote employment and build local communities.

Smaller, medium-term projects are particularly important, because it means starting projects quickly and protecting jobs now.

Today I can announce the New South Wales Government will invest in a new fund. The \$35 million Community Building Partnership—to support local jobs and deliver community infrastructure right across New South Wales.

The New South Wales Community Building Partnership will be open to community and sporting groups, non-government organisations and local councils.

Eligible projects will include new and upgraded social infrastructure such as:

- ◆ community halls and playgrounds
- ◆ cultural and sporting facilities
- ◆ parks, cycleways and boat ramps.

Decisions will be made—locally including input from all Members of Parliament—using local knowledge to serve our communities best.

Housing Construction

Housing and construction are critical to the New South Wales economy.

For many years, assistance has been targeted at first home buyers which is entirely appropriate. In fact, the response to our \$3,000 boost for the purchase of newly constructed homes has been so strong that we are extending it until the end of June next year and keeping the stamp duty exemption for first home buyers.

This is our ongoing commitment to first home buyers but to further stimulate the housing construction industry we will provide assistance to other buyers.

Today I announce that from 1 July, the New South Wales Government will implement a new six-month Housing Construction Acceleration Plan—providing a 50 per cent stamp duty cut for purchasers who buy a newly constructed dwelling worth up to \$600,000. That threshold is quite deliberate because 82 per cent of all property sales in New South Wales are valued under \$600,000.

This measure will benefit anyone buying a new dwelling—including empty nesters; growing families who need more room; and "mum and dad" investors seeking the security of bricks and mortar.

This is a building and jobs bonanza. A \$64 million kick start for the housing construction industry that will support employment in every part of the State—and put up to \$11,245 straight back into the pockets of home buyers and investors.

Local Infrastructure Fund

While our stamp duty cut will help individual housing projects, it's clear we also need to open up new precincts where the lack of infrastructure is hindering development.

I announce today the New South Wales Government will provide councils with interest-free loans from a new \$200 million fund to unlock new housing developments.

The \$200 million Local Infrastructure Fund is a partnership to stimulate construction and support jobs—with preference going to projects which are "shovel-ready".

This innovative program will leverage unspent developer levies held by local councils—money we want to put to work, supporting jobs and building infrastructure—the sooner the better.

Our *Local Infrastructure Fund* will target high growth areas where new developments are planned or underway. Funding will go towards council infrastructure such as local roads, kerbing, guttering and stormwater drains.

Supporting jobs. Building communities.

Procurement Reform

Next year the New South Wales Government will spend \$3.9 billion on goods and equipment for our schools, hospitals and other vital services.

I can proudly announce a new purchasing plan—*Local Jobs First* that unashamedly gives priority to Australian-made goods and services. Government agencies must put local businesses first—giving preferred treatment to more than 500,000 firms and small businesses in New South Wales. Our first priority is employment—New South Wales spending to support local jobs.

Better Services

This budget is fiscally responsible and it is socially responsible as well. A Labor budget to the last dollar—putting a safety net under people doing it tough and providing this year alone \$1.6 billion of concessions to pensioners, older Australians and school students—an increase of \$94 million from last year and providing record funding for services.

Education and Training

A good education is the best start in life which is why we are the first New South Wales Government since 1943 to raise the school leaving age. We know students who stay at school longer earn more over their lifetimes and enjoy more satisfying careers.

That's why from Term One next year, all students must remain in full-time study, vocational training or paid employment until 17 and this budget provides up to \$100 million a year to make our plan a reality.

This Government wants to ensure our young people are job-ready as the recovery takes hold.

This budget continues funding for our \$86 million *Learn or Earn initiative* supporting 5,850 extra TAFE places, 15 new trade schools and an extra 1,250 Group Training apprenticeships.

It also builds on the Government's landmark commitment to create 6,000 cadetships and apprenticeships. Overall, our budget invests a record \$14.7 billion in education including \$2.6 billion to build, equip and upgrade schools throughout the State.

Seventeen major new building projects will commence this year, including Homebush West and Neutral Bay Public schools and Cabramatta and Lisarow High Schools. We will also invest \$99 million in the capital program of TAFE NSW—Australia's largest and finest training provider. This investment is 16 per cent above last year's budget and includes 13 major new TAFE building projects including Macquarie Fields, North Sydney and Wagga Wagga.

In our schools, we will invest \$152 million over four years in teacher quality and leadership. And we will deliver \$1.2 billion over seven years to lift the results of disadvantaged students—a resounding affirmation of Labor values.

Safer Communities

New South Wales crime rates remain stable or falling—a tribute to the hardworking men and women of the New South Wales Police Force—backed by this Government with the powers and resources they need to do their job.

This budget funds an additional 250 police, taking the force to 15,556 officers—rising to a record high of 15,956 by the end of 2011—an unprecedented investment in community safety.

Our police deserve the best possible equipment and support. That's why we will begin the rollout of tasers to frontline police from 1 July. We will also fund more forensic staff to fast-track DNA analysis bringing speed and certainty to the justice system.

I am proud to say this year's budget will see the Government continue delivering on its plan to build and upgrade 37 police stations across New South Wales.

Construction will start or continue on police stations at Burwood, Camden, Granville, Kempsey, Lake Illawarra, Raymond Terrace, Riverstone and Wyong.

We've also allocated \$1.2 million to plan new police stations at Bowral, Coffs Harbour, Liverpool, Manly, Moree, Parramatta and Tweed Heads. We're funding the purchase of land for new police stations at Glendale and Leichhardt and allocating \$4.7 million to complete the redevelopment of Windsor police station.

We're also making other strategic investments, including \$13.1 million to upgrade police communications and \$2.1 million towards a new state-of-the-art police helicopter.

Facilities and equipment to back our police and make New South Wales even safer.

Protecting Vulnerable Children

Social justice means repairing the harm done by poverty, abuse and neglect. At the forefront of that effort is the dedicated work of Community Services and its non-government partners. Over the past seven years, it has been rebuilt and refocused but, as Commissioner James Wood found in his landmark report it is time for new directions and new ideas.

In March, the Government announced an additional \$230 million under our *Keep Them Safe* package and that funding is delivered in full in this budget. But we need to go further to continue the good work and that's why I can confirm the Government will invest an additional \$520 million to protect the most vulnerable children in our society. That's \$750 million of new resources over the next five years.

This is more than new money it's a whole new approach—sharing the task of child protection with human service agencies and the community sector—so that more kids get the help they need to grow up safe and healthy.

Our record \$1.6 billion community services budget includes:

- ◆ \$321 million for prevention and early intervention
- ◆ \$197 million for community support
- ◆ \$628 million for out-of-home care, and
- ◆ \$422 million to protect children at risk.

This is child protection on a new scale rebuilding young lives shattered by abuse and neglect.

All too often, that abuse and neglect accompanies domestic violence—violating the sanctity of the family home. Crisis accommodation offers temporary respite but it can't deliver the long-term stability women and children need to rebuild.

That's why the Rees Government is proud to introduce a new \$16 million initiative to help domestic violence victims find new homes. Our *Safe Start* private rental subsidy plan will house 1,650 families over the next four years giving them a safe and stable home. These vulnerable families deserve our compassion and support, especially in tough times.

Better Health Care

Commissioner Peter Garling said in his report last year that New South Wales has "one of the better public health care systems in the developed world".

But he also recognised the job is becoming harder each year; with patient demand soaring, medical conditions becoming more complex and technology costs rising every day.

We will meet these challenges head on with our record \$15.1 billion health budget—delivering high quality health care and real value for money.

At the heart of our health policy is the Government's response to the Garling report—a real opportunity for generational change. Our blueprint for reform—*Caring Together: The Health Action Plan for NSW*—is backed by \$485 million in new funding over four years. It begins the rollout of 500 new clinical support officers; helping nurses and doctors swap paperwork for patient care.

We will also invest \$72 million over four years to establish or expand 13 medical assessment units helping those with chronic sickness receive treatment faster.

Our hospital rebuilding program is unprecedented in its size and scope. Since 1995, we have rebuilt or upgraded most hospitals across the State from the Tweed to Queanbeyan, from Broken Hill to Blacktown. In this budget, I am proud to confirm two major new projects in partnership with the Commonwealth:

- ◆ a major expansion of Nepean Hospital that will deliver six new operating theatres, more beds, and expanded intensive care services, and
- ◆ the redevelopment of Narrabri Hospital as a multi-functional campus.

Funding also continues for two of the largest hospital upgrades in New South Wales history—the \$1 billion Royal North Shore redevelopment and stage two of Liverpool Hospital, costing \$394 million.

And our commitment extends into rural and regional New South Wales with \$31 million for Multi Purpose Services in four country communities which bring together acute, primary and aged care under one roof and \$12.6 million for six HealthOne primary care clinics across New South Wales.

New South Wales leads the nation in cancer treatment and mental health care—a record we proudly protect and build on. Major projects funded in this budget include:

- ◆ integrated cancer centre at Lismore Hospital costing \$27 million
- ◆ new mental health inpatient units in Newcastle and Shellharbour, and
- ◆ new psychiatric emergency care centres at Wollongong and Prince of Wales hospitals.

Each of these facilities means dignity for patients. Respect for staff. And jobs for New South Wales workers.

Conclusion

Jobs are the heart of this budget. Supporting jobs now. And building big to create the jobs of tomorrow.

In the toughest economic circumstances in 75 years this has been a difficult budget to frame. But each measure has been carefully considered with prudence governing our every step.

It is a serious budget for serious times; with a massive investment on infrastructure to support jobs, to cushion the downturn and to lift us back to surplus.

This is also a budget to give hope.

A plan to weather this crisis together—protecting jobs and building for the future.

It's a charter for growth and a roadmap to recovery.

I proudly commit this budget to the people of New South Wales and commend the bills to the House.

The Hon. GREG PEARCE [3.52 p.m.]: I should begin by quoting the Treasurer when he described the budget as a "beacon of hope". It is more like a bucket of hype and fancy projections.

The Hon. Michael Veitch: How long did it take you to think that one up—a week?

The Hon. GREG PEARCE: No, just while I was walking to the Chamber, actually. The budget is nothing but inertia from a government with no agenda and no future. I will commence by citing the most stunning part of the budget, and that is the forecast that the State will return to surplus in 2011-12. It is a wonderful thing that finally the Treasurer has established a test—a series of benchmarks against which he and his Government will be judged.

The Hon. Marie Ficarra: And fail.

The Hon. GREG PEARCE: And fail. The Treasurer said:

[In] just two short years and New South Wales will be back in the black.

Those words will be the words by which his performance is measured in the future. The Treasurer said that at the same time as his budget dramatically marked down the State's forecasts for economic growth. The budget documents predict economic growth to be 0.25 per cent this financial year and -0.5 per cent next financial year. The Treasurer is predicting that the State will be going backwards and that we will be in recession. No doubt he will claim that that is as a result of the global financial crisis. But members know that over the past six or seven years I have raised many times in the House the continual inability of the Treasurer and his predecessors to make any sensible or reliable predictions in relation to growth.

The only reliable indication in relation to growth projections is that New South Wales has been in constant decline under the Treasurer and his immediate predecessors. I will leave it to other commentators to make other comments on growth projections, particularly the unemployment rate, which we note, according to the budget, will be 8.5 per cent in the second half of 2010 and the first half of 2011. If ever there was an admission of failure by a Labor Government, unemployment blowing out to 8.5 per cent is an absolute admission of that failure in the context of the bucket of hype that has been presented in the form of the 2009 budget.

Before I turn to the particular aspects of the budget I wish to address, I will share with members some of the thoughts of a former member and former Treasurer, Michael Costa. I must admit that if anyone told me a year ago that I would be quoting Michael Costa as a commentator on the performance of the Government, I would not have believed it. I did not personally hear Michael Costa make these comments, but I am sure they have been reliably reported by Australian Associated Press. Michael Costa started off slowly and first of all raised doubts about the State Government's ability to rein in expenses. Goodness gracious me, did he never read *Hansard*? Did he not remember the days when he, as distinct from the current Treasurer, would respond when I moved an urgent motion in the House? I well remember Michael Costa in full flight, fuelled by his red lolly water.

The Hon. Duncan Gay: He makes more sense now than he used to.

The Hon. GREG PEARCE: He does. He also apparently said that there are some very ambitious figures, particularly in terms of controlling expenses. How many times has the Opposition drawn to the Government's attention its inability to control its own expenditure? The Government cannot control its own expenditure growth. I could reiterate the discussions we have had with the Hon. Eric Roozendaal since he

became Treasurer about expenses and aligning expenses growth with revenue growth, but the simple point is that the 2009-10 budget is, once and for all, absolute proof that the current Treasurer cannot control expenses and cannot align expenses with revenue growth.

Former Treasurer Michael Costa also said that the figure he used to measure his budgets was the long-term fiscal gap. I will give the current Treasurer one word of praise. Having gone through the mini-budget and now the budget processes, he has become moderately familiar with the concept and even some of the numbers in the budget documents. However, I do not think he is yet on top of the fiscal gap. Perhaps he will be able to discuss that when he replies to the debate. I remind members that the fiscal gap was first referred to in the 2006-07 budget. I will read from Budget Paper No. 2 at page 3-20:

The 2006-07 Budget provided a benchmark estimate of the long-term fiscal pressures that New South Wales may face by comparing the actual budget outcomes for 2004-05 to the projected budget outcome for 2043-44. It was estimated that demographic and other pressures could lead to a fiscal gap of around 3.4 per cent of GSP over the 40 year horizon.

Again, I am not sure whether the Treasurer has yet got onto this concept, but that is the measure of our concern over the longer term in relation to the budget. What is the result in the budget? Two figures are given. The first is stated on page 3-21. The estimated increase in the fiscal gap is now 3.9 per cent of GSP. Page 3-21 of Budget Paper No. 2 further states:

In net terms the impact of policy decisions since the 2008-09 Budget will increase the fiscal gap by approximately 0.4 percentage points, resulting in an overall fiscal gap of 4.3 per cent of GSP.

That is an enormous gap. Members will remember that Michael Costa on many occasions, including during his farewell press conference and gift to the State of New South Wales as he left, said that he could not do anything about the fiscal gap in the health budget and that basically the health budget would be the ruination of New South Wales. I will be interested to see how this Treasurer goes in relation to that.

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

QUESTIONS WITHOUT NOTICE

GOVERNMENT DEPARTMENT AMALGAMATIONS

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Public Sector Reform, and Special Minister of State. Does the Minister recall stating last week in answer to a question that "back-office positions will be reduced by attrition"? Will he indicate to the House how many back-office jobs will be reduced by attrition in the next financial year?

[Interruption]

The Hon. JOHN ROBERTSON: The Hon. Greg Pearce should mind his language. He is excited because he was channelling Michael Costa a minute ago. Next week I expect to see the member with dark glasses and a shaved head so that he does the job properly. In my answer last week I referred to back-office positions being reduced as a result of attrition. I simply refer the member—

The Hon. Michael Gallacher: Don't refer us to papers. Tell us how many you have budgeted for!

The Hon. JOHN ROBERTSON: I would like to think the Leader of the Opposition is able to read—

The Hon. Michael Gallacher: I want to hear the Minister tell us how many the Government has budgeted for.

The Hon. JOHN ROBERTSON: Last week in answer to a similar question I said that the Government had a program to implement super agencies, that no-one would lose his or her job; that departments would be merged and there would be a reduction in the number of positions through natural attrition but that no-one would lose his or her job.

HEALTH SERVICES FUNDING

The Hon. AMANDA FAZIO: My question without notice is addressed to the Minister for Health. Will the Minister update the House on the State's investment in health services, including comparative data?

The Hon. JOHN DELLA BOSCA: New South Wales will invest more than \$15 billion in public health services in the coming financial year, including an increase in the number of public hospital beds, reflecting the growth in and ageing of our population. Measuring public hospital investment by bed numbers alone seems like a trip down a time tunnel, but that is exactly what the Opposition spokesperson has been doing in her recent statements. With no hint of comedy, the Opposition has sought to paint 1994 as the golden era in public hospital investment and bed numbers. This comes from a Coalition that cut 1,000 beds per year during its time in office—a 24 per cent reduction in beds overall. And Coalition members attack this Government about an increase in beds!

Over the past 15 years advances in medical technologies and surgical techniques have brought significant improvements in recovery times to patients. For example, keyhole surgery is routine, day-only procedures are the norm and fewer patients need to spend days and even weeks in hospital beds. New South Wales leads the way in managing patients with chronic diseases such as heart problems, diabetes and lung disease at home. The OECD has observed:

There has been a substantial reduction in the number of acute care hospital beds in most OECD countries.

While technology advances prevent meaningful comparisons over a long period, it is possible to compare our State's position relative to other jurisdictions. Currently, New South Wales has the second-highest number of beds per head of population of any State. Back in 1994 New South Wales was the second lowest. That is a very clear comparison of public hospital bed numbers: second from the bottom under the Coalition, and second from the top under Labor. The Opposition leader's speech in reply to the budget showed the Coalition's lack of commitment to public health care: four and a half lines in the entire speech, with no new dollars and, of course, no new ideas. In response to the most comprehensive review of our hospitals ever undertaken and commissioner Garling's 139 recommendations, the Opposition has accepted just four and issued a six-point plan.

In classic *Yes Minister* style, an examination of the six points shows that four of them are the same as the other two, and the last point is completely impractical. And it does precisely what commissioner Garling recommended we do not do. The Opposition is clearly rejecting the most central point of Commissioner Garling's report with its plan to more than double the number of area health services. The Opposition says that its policy relies on internal savings to support 20 area health services, 20 sets of support staff, 20 offices, 20 lots of executive cars and allowances, and 20 new chief executive officers. Its \$300 million recurrent cost is equivalent to 3,500 nursing positions.

[Interruption]

Members opposite do not like to hear it, but it is true. The shadow Minister has pulled the wrong rein and they will hear about it until the election. The Opposition wants to blow \$300 million of the health budget on more bureaucrats; we want the 3,500 nursing positions. They want a barrel of bureaucrats and nothing for patients. The Opposition's six-point plan does a disservice to the 12,000 doctors, nurses, health workers and community members who contributed to the process. The national scorecard shows that New South Wales leads the nation in both emergency department performance and access to surgical procedures and services. So despite the Opposition's continuing attack on our public hospitals and their staff, an analysis of the facts shows that the New South Wales public hospital system is well resourced and remains among the best in the world.

GOVERNMENT DEPARTMENT AMALGAMATIONS

The Hon. DUNCAN GAY: My question without notice is directed to the Minister for Public Sector Reform, and Special Minister of State. In light of the Minister's comments about a reduction of positions, has he or Treasury modelled how many positions will be reduced in regional New South Wales? Will he give the people of New South Wales the figures? Has the Government conducted a rural impact study on these job losses?

The Hon. JOHN ROBERTSON: As part of the budget, the Premier announced the formation of 13 new super agencies in the most significant reform to the public service in 30 years. As I have informed the House previously, the two key goals of the reforms are the reduction of waste and inefficiency in the sector, and delivering better front-line services. Let me tell the House what the reforms are not about. They are not about throwing people out of work, as the Coalition has always done and still wants to do. The reforms are about improving services to the people of New South Wales. While the Government will achieve savings, the Premier has made it clear that no worker will lose their job or be made forcibly redundant.

This Government is committed to securing employment for New South Wales workers, and that is our number one priority. The consolidation of corporate services in the super agencies will help deliver the savings. This includes functions such as payroll, human resources and procurement. The Government has also announced a recruitment freeze in back-office jobs to assist the amalgamation. As people retire from the service or move to another job, back-office positions will be further reduced by natural attrition in the new super agencies. These measures will help to free up resources so that front-line workers can continue to perform the outstanding work they deliver to the people of New South Wales.

As the Treasurer said in his Budget Speech, our reforms in public sector management are significant and we will be fiscally responsible in delivering better services to the public in New South Wales. We have a clear policy on public sector reform. The Opposition has been silent on its plans for the public sector but the one thing we do know is that the Opposition has Max the Axe—and everybody in the public sector in New South Wales knows Max's game plan.

JAMES HARDIE AND ASBESTOS-RELATED DISEASES LIABILITY

Reverend the Hon. FRED NILE: My question is directed to the Minister for Health, representing the Premier. Is the Government aware that James Hardie Industries has announced a possible move of its headquarters from Holland to Ireland? Can the Government confirm that the James Hardie move to Holland is for alleged tax savings, after giving assurances that it will continue to meet future liabilities towards victims of asbestos-related illnesses? Has James Hardie met those liabilities? Does James Hardie hold enough reserves for payment of compensation to victims? Will another move in any way affect payment by James Hardie to asbestos victims? If so, what action will the Government take to ensure that justice is served and due compensation paid?

The Hon. JOHN DELLA BOSCA: I have had a great deal of involvement with this issue in previous portfolios I have held. Obviously everybody is concerned about the impact of the global financial crisis on the ability of various corporations to make good their liabilities, in particular, James Hardie that has very substantial liabilities to asbestos victims in this country. That is something of great importance to the New South Wales Government, and I believe to the Commonwealth Government and indeed to the general public. I will get answers to this question for Reverend the Hon. Fred Nile.

POLICE INFRASTRUCTURE

The Hon. MICHAEL VEITCH: My question without notice is addressed to the Minister for Police. What is the latest advice on the action the Government is taking to invest in better facilities for the New South Wales Police Force?

The Hon. TONY KELLY: The Rees Government is committed to supporting its front-line police with the equipment, powers and infrastructure that police officers need to do their job. I am determined to make sure that our hardworking police officers have modern and safe police stations. During this term of government we are delivering on that commitment, building or upgrading 37 police stations across the State. We are investing some \$417 million, supporting more than 3,000 jobs, and making sure that our police are working in world-class facilities with access to the latest technology. Nine new police stations have already been built and opened and major upgrades have been completed on another six. The first \$100 million investment is already delivered.

The PRESIDENT: Order! The Hon. Matthew Mason-Cox will cease interjecting.

The Hon. TONY KELLY: We have another 21 new stations and one major refurbishment on the way, backed by \$317 million. Before the end of this month we will be delivering more than \$27 million to meet commitments for this financial year—surely an impressive capital boost to support construction jobs. Since becoming police Minister I have officially opened five new state-of-the-art facilities at Fairfield, Lismore, Dubbo, Orange and Wagga Wagga.

The Hon. Christine Robertson: For the country!

The Hon. TONY KELLY: That is right, four of the five are in the country. I have also attended four sod-turning ceremonies marking the start of construction for new police stations at Windsor, Granville, Kempsey and Lake Illawarra. That is one a month since I became Minister. The Government is investing almost \$70 million in 2009-10 to build and improve police stations right across New South Wales. That is almost \$200,000 that it is investing each and every day to provide our police with first-class facilities they deserve and

local communities with jobs they need. In communities such as Camden, the Government has provided \$8.95 million to start work on its new police station; in Kempsey, it has provided \$8.8 million to start work on the new police station where only a few weeks ago I was accompanied by the Hon. Kayee Griffin at the sod turning. Communities in Burwood, Wyong, Raymond Terrace, Granville, Lake Illawarra and Riverstone will share \$43 million to build new police stations this year. Also \$4.7 million has been provided to finish the new \$11.2 million Windsor police station.

It may read like a shopping list but it is a very impressive list, and those communities will see work underway this year, boosting jobs in planning and construction and local support industries. The Government is also securing land for new police stations at Leichhardt, for \$1.6 million, and Glendale, for \$1.3 million. Funds are also being provided to plan for new police stations in Parramatta, Bowral, Coffs Harbour, Liverpool, Manly, Moree and Tweed Heads. The impressive new facilities alone will not drive down crime, but improving the standard of accommodation for our hardworking police officers and providing them with the resources they need is critical in fighting crime.

POLICE TASER USE

Ms SYLVIA HALE: My question is directed to the Minister for Police. Do the current New South Wales standard operating procedures for tasers limit police officers to firing the weapon no more than once in each incident? Given the recent fatal incident in Queensland, and the manufacturer's advice regarding limiting the number of times a taser is used on a single person, will the New South Wales standard operating procedures be amended to ensure that a person is not tasered more than once? If not, why not?

The Hon. TONY KELLY: In New South Wales tasers are used by officers who are properly trained, and that is governed by strict operating procedures that clearly outline the situations in which taser use is considered appropriate. A tasercam records up to one and a half hours of video and audio and can provide the greatest accountability measure for taser use. New South Wales is the only State in Australia, and probably the world, that uses tasercams. Whenever a taser is pulled out and armed it is recording both sound and vision. All tasercam footage is reviewed by a senior police officer, currently the Deputy Commissioner, Field Operations.

PUBLIC SECTOR JOBS

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Public Sector Reform, and Special Minister of State. What are the projected financial dollar savings to the New South Wales State budget as a result of the Minister's intention to reduce back-office public sector jobs by attrition? The dollars!

The Hon. JOHN ROBERTSON: As I have said previously, the Government has announced the creation of 13 super agencies. This reform will streamline the functions of the agencies and deliver better front-line services. Unlike the Opposition, we are not about job cuts but let me repeat what I have said already for the benefit of those opposite: No-one will lose his or her job or be made forcibly redundant. The recruitment freeze on the back-office positions will continue. However, this does not apply to front-line staff and services.

The PRESIDENT: Order! Hansard has difficulty reporting the proceedings when members keep interjecting on the member with the call.

The Hon. JOHN ROBERTSON: Back-office functions will be consolidated through natural attrition as people retire or move into other employment. The creation of the 13 super agencies is the most significant reform of the public sector in 30 years. The Rees Government, unlike those on the other side of the House, is about supporting jobs and delivering services to the people of New South Wales. We have not heard anything from the Opposition. The problem is that this Government has made its view and position very clear on the future employment of people in the public sector in New South Wales.

The Hon. Duncan Gay continues to refer to the former Opposition leader Peter Debnam—Mr Budgie-Smugglers—and asking me whether I have any. The only thing we know from Opposition members is that they want to cut 20,000 jobs. That still stands on the record, and the Leader of the Opposition can rant and rave, but the fact is that they still have on the record their policy of 20,000 job cuts. We are not cutting jobs, we are reducing positions, and they can rant all they want. We are cutting positions through natural attrition. They can rant and rave all they like. Nobody is losing a job as a result of these mergers and we have made our position abundantly clear, unlike those opposite.

The Hon. CATHERINE CUSACK: I ask a supplementary question. Why will the Minister not tell us the projected financial savings to the New South Wales State budget as a result of his intention—

The PRESIDENT: Order! That is not a supplementary question.

COMMUNITY BUILDING PARTNERSHIP

The Hon. HENRY TSANG: My question without notice is addressed to the Treasurer. Will the Treasurer update the House on the community's response to the New South Wales Community Building Partnership?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question and interest in this very important program that was announced in the budget last week: the Community Building Partnership. This is a \$35 million initiative to support local jobs, stimulate growth and improve community facilities. The cockles of my heart have been warmed by the bipartisan support for this budget, and particularly this program, the Community Building Partnership. Indeed, on 18 June Andrew Stoner welcomed the announcement of \$400,000 for community building projects in his electorate—the first smart thing I have heard Andrew Stoner say in a long time.

The New South Wales Community Building Partnership will invest \$300,000 in building local community projects in each of 93 New South Wales electoral districts and a further \$100,000 in districts with higher unemployment. Under the partnership, the New South Wales Government will contribute to the cost of building important community projects. Other members have put out media releases supporting this important program and supporting the budget, including the member for Burrinjuck. I understand the member for Burrinjuck has been praising or describing as one of the bright spots of the budget the improvements to health services in Gundagai as well as the community building partnership. Numerous lower House members are supporting the budget and this important initiative. The member for Ballina, Don Page, has also come out encouraging people to participate in this program. The praise being heaped by the Opposition on this particular program in the budget is embarrassing.

There have been a few misunderstandings about the budget that I wish to clarify. Barry O'Farrell recently criticised us, saying that Kevin Rudd's contribution to New South Wales has masked up to an \$8 billion surplus over the next four years. Then he went on to say there is no package to get us out of surplus. I know that the Leader of the Opposition cannot tell the difference between a surplus and a deficit. Let me explain it simply: We will be in deficit for two years, and then we go into surplus. The Hon. Greg Pearce and the Hon. Matthew Mason-Cox might want to help Mr O'Farrell, but let me develop a bit more about the economic understanding of the Leader of the Opposition because I think it is important. When he was asked how much debt would he put the State into, do you know what his answer was? His answer was: How long is a piece of string?

The PRESIDENT: Order! I call the Hon. Duncan Gay to order for the first time.

The Hon. ERIC ROOZENDAAL: How is that for an economic response? "How long is a piece of string?" was Barry O'Farrell's answer to the future of this State. He cannot tell a surplus from a deficit. He cannot tell you how much debt he is going to put the State in—it will be a piece of string. Then, of course, we have other important Coalition members like John Turner. John Turner has been in the paper recently saying that in fact he believes we do not need the triple-A credit rating of the State. So he is on the Barry O'Farrell piece of string debt strategy, but of course Michael Baird is out there saying it is an imperative—

The Hon. Marie Ficarra: No Michael Costa?

The Hon. ERIC ROOZENDAAL: No, not Michael Costa, not a has-been, someone who sits on your side now pretending to know what he is talking about. The members opposite cannot tell the difference between a deficit and a surplus. They use pieces of string to measure their debt strategy. The Opposition is the laughing stock of all financial commentators.

NORTH SHORE QUARRY, PORT MACQUARIE

Mr IAN COHEN: My question is directed to the Minister for Lands. Will the Minister advise why the Department of Lands has commissioned a second ecological study on the north shore quarry at Port Macquarie?

Were there any deficiencies in the original report by Professor Arthur White? If so, could he please identify those? Will the Minister refer the matter to the Federal Minister under the Environment Protection and Biodiversity Conservation Act and, if not, why not?

The Hon. TONY KELLY: I thank the honourable member for his question. I undertake to get an answer to his question as soon as I can.

PUBLIC SECTOR JOBS

The Hon. MARIE FICARRA: My question is directed to the Minister for Public Sector Reform and Special Minister of State. The Minister told the House last week that a reduced number of staff would be required to undertake back-office functions under his new super agency model. What is his definition of a "back-office employee"?

The Hon. JOHN ROBERTSON: I answered this question last week, and I certainly answered it again today. Procurement, human resources, payroll and those sorts of support services are back office.

LEGAL DISPUTE RESOLUTION SERVICES

The Hon. KAYEE GRIFFIN: My question is addressed to the Attorney General. What is the latest information on what the Government is doing to help people resolve everyday legal disputes?

The Hon. JOHN HATZISTERGOS: Resolving everyday legal disputes by going to court is not always a viable option for many people, especially those with limited means. Litigation can be an expensive and time-consuming way to go about addressing minor legal problems. Confronting someone in court can also be a very distressing experience. It would be far better to resolve disputes quickly and easily through mediation, if at all possible. Making sure that justice is within reach of ordinary people, not just corporations or the wealthy, is a priority of the New South Wales Government.

The Government has a number of free services that are available to the community to ensure equitable access to justice. Legal Aid New South Wales provides free legal advice, mostly for criminal matters, to disadvantaged people. Community legal centres provide free civil law advice and community education about the law. The Attorney General's Department runs a free legal advice hotline, LawAccess, on 1300 888 529. These services assist many thousands of people across New South Wales every year. The New South Wales government network of community justice centres also provides free legal services. Rather than recommend that parties take their disputes to court, these centres encourage people to mediate. The centres provide free mediation to people who are involved in disputes over everything from boundary fences, faulty goods and services, to trees and noisy animals. Parties are brought together to have their disputes assessed by a professional mediator who helps resolve the issues without the need for lawyers or court proceedings. Moreover, the centres are capable of mediating on any legal dispute apart from criminal matters and spousal domestic violence incidents.

By way of example, let me share a story of two neighbours involved in a dispute. One neighbour worked through the day and kept his dog chained on his property; the other neighbour worked shifts and claimed that the dog barked all day while he was trying to sleep. An attempt was made to poison the dog; however, the shift-working neighbour denied responsibility. The dispute was successfully mediated after community justice centre mediation was held. The dog owner sought advice from a trainer on practical steps to stop the barking. The good news is that stories like this are becoming more and more common. Local courts make most referrals to community justice centres. Others, however, come from State government departments, local government and non-government agencies.

The number of disputes referred to the free mediation service increased by 16 per cent on the last year for the March quarter. That is, the number of referrals from courts and Government and non-government agencies rose from 1,030 for the three months to March 2008 to 1,190 for the same period in 2009. In particular, there has been an increase in neighbourhood disputes. In the past 12 months, community justice centres have received more than 3,000 referrals and organised more than 1,400 mediations concerning neighbourhood disputes. These disputes account for about half of the disputes mediated, with the remainder including disputes over goods and services, contracts for work and workplace issues. The mediations were overwhelmingly successful. During the past 12 months, 70 per cent of the centre's mediations ended in agreement. Providing free

legal advice and mediation services to everyday people and the disadvantaged is an important social responsibility, and the Government is proud of its work in this area. For more information about the service people should call 1800 990 777 between 9.00 a.m. and 5.00 p.m., Monday to Friday.

POLICE TASER USE

Ms LEE RHIANNON: I direct my question to the Minister for Police. Considering that in the past few months there have been a number of serious cases of inappropriate use of taser guns in Australia and that two weeks ago in Queensland a taser gun may have been discharged up to 28 times into a 39-year-old recent psychiatric patient who, within 15 minutes of being tasered, died of a heart attack while still in handcuffs, and given that the United Nations Committee Against Torture report of November 2007 stated that tasers "cause acute pain, constituting a form of torture", what reviews or audits are in place to prevent the abusive use of taser guns by New South Wales police officers? What guidelines are in place to prevent use of taser guns in breach of the manufacturer's specifications?

The Hon. TONY KELLY: As I said earlier, I can assure the House that the training and the standard operating procedures governing the use of tasers in New South Wales is second to none. We have sound accountability measures in place to ensure that police must account for their actions.

SHIPLEY RURAL FIRE SERVICE

The Hon. MELINDA PAVEY: My question is directed to the Minister for Lands. When did the Minister meet with the member for Blue Mountains regarding the release of land for the Shipley Rural Fire Service station? For what reason did the Minister reject the service's application to build the new station on one of the six blocks of Crown land identified as possible sites when its classification was general commercial, local zoning, undetermined or village? Given that the Minister's failure to release the land will result in the disbandment of the Shipley Rural Fire Service Brigade, which comprises 40 members with over 400 years combined service, and given that the bushfire risk management plan of the Blue Mountains Bushfire Management Committee states that Shipley Plateau is a high-risk rural area with relatively poor access and faces a high bushfire threat, will the Minister reconsider the land release so that the area does not face loss of property or, even worse, loss of life, particularly as the local member gave a commitment to the Shipley fire brigade?

The Hon. TONY KELLY: I thank the honourable member for her question. I do not want to mislead the House—

The Hon. Melinda Pavey: That would be unique.

The Hon. TONY KELLY: Did you say that would be a novelty? I undertake to get the full details of when I met the member. It was some time ago. I think he has also corresponded with me on a number of occasions. I will make sure that I get an answer for the member in due course. However, it is very interesting to look at the recent Nationals newsletter, because I notice there a reference to the Wollondilly branch inaugural dinner at which Andrew Stoner was present—

The Hon. Don Harwin: Point of order: the Minister has undertaken to get back to the House in relation to the question and now he is talking about a matter that is totally unconnected. It is irrelevant.

The PRESIDENT: Order! I uphold the point of order to the extent, as indicated by the Hon. Don Harwin, that I would ask the Minister to be generally relevant.

The Hon. TONY KELLY: I wanted to say before I concluded that what is even more interesting is that the Liberal Party has obviously taken a big grip of The Nationals by putting the former vice-president of the Liberal Party in control of the funds of The Nationals as the new Nationals coordinator.

SOLAR ENERGY

The Hon. TONY CATANZARITI: My question is directed to the Minister for Energy. Could the Minister please inform the House what the Government is doing to support solar energy in New South Wales?

The Hon. IAN MACDONALD: I thank the honourable member for his question. The Government has long been at the forefront in the drive to encourage green alternatives to electricity generation. New South

Wales was the first State in Australia to implement a GreenPower scheme. In 2006 New South Wales announced an ambitious mandatory renewable energy target of 10 per cent by 2010 and we have since been working closely with the Commonwealth and the Council of Australian Governments [COAG] to bring about a single harmonised national scheme.

Today I am delighted to announce that the New South Wales Government will be introducing its own solar feed-in-tariff scheme. This Government has worked hard to get the balance right in creating this solar bonus scheme. We have assessed the options to create the most generous scheme of any State today for customers installing solar systems. It will support those small-scale electricity consumers who produce renewable energy through their solar rooftop panels and feed it back into the grid.

We have chosen to go with a net scheme, which means consumers will fulfil their own power needs before selling the remainder back to the grid. The scheme is designed to include systems up to 10 kilowatts in size, which will capture households, small businesses and some schools. As part of this scheme we will pay these eligible systems 60 cents per kilowatt hour for the renewable energy they feed back into the grid. This is three to four times greater than the average price of electricity. As a result we expect the scheme to reward customers with around \$900 annually. This means the average cost of installing a solar photovoltaic [PV] panel system could be recouped in less than 12 years. In addition, our scheme will operate for 20 years, equal to the longest in the country.

We plan to commence the scheme on 1 January 2010. It will be reviewed in 2012 to make sure it is operating effectively. While the scheme will initially apply to rooftop solar panels, we will consider the inclusion of micro wind turbines and community solar farms in the future.

A net system was chosen because it encourages people to better manage their power use and use energy more efficiently by paying them for the energy they produce but do not use. It will also provide a greater degree of harmonisation with schemes in Victoria, South Australia, Queensland and Western Australia. Members must remember that the Council of Australian Governments made it very clear that it wanted a harmonised system across the nation. Because solar bonus schemes such as this are paid for by all electricity customers, it is important to shield vulnerable families who are not in a position to install solar panels from a significant increase in their electricity bills.

It is also expected that this scheme will provide a major shot in the arm for the solar energy industry. The scheme could have the potential to create up to 500 jobs in the solar PV industry. New South Wales has a strong history in solar PV manufacture and is already home to the internationally recognised School of Photovoltaic and Renewable Energy Engineering, which is based at the University of New South Wales.

We have also welcomed the recent announcement that solar manufacturing company Silex Systems Limited will develop the BP solar manufacturing facility at Homebush. Silex will invest an estimated \$30 million in the Homebush plant over coming years, which will create 165 jobs, ensuring this State's future as a high-technology solar manufacturing base. Today's investment is further proof of the success of the Government's comprehensive renewable energy plan, which includes the solar bonus scheme, significant funding for new projects, and renewable energy precincts. It demonstrates the Government's commitment to developing renewable energy alternatives, where green skills and jobs will be increasingly important.

POLICE TASER USE

Dr JOHN KAYE: My question without notice is directed to the Minister for Police. A number of years ago capsicum spray was introduced into the New South Wales Police Force to protect officers in the course of their duty and to assist in subduing people who might be resisting arrest. What is the number of individual uses of capsicum spray by police in New South Wales in the last reporting year? What are the differences in protocol or advice given to police in the use of capsicum spray compared with that for the use of taser guns? Can the Minister advise the House why the rate of taser gun usage is higher by general police officers compared to the rate of taser gun usage by special operations police?

The Hon. TONY KELLY: Police officers in New South Wales are armed with a number of different tools, one is the glock pistol, which they try to avoid using because its use often leads to fatalities. Another tool used by police is the spray that was alluded to by Dr John Kaye. However, capsicum spray does not work in all situations. For it to be effective police officers have to be close to the person at which it is directed, and if it is used in an outside location it is least effective when there is wind about. Last year, when a couple of officers

called to a domestic violence incident used the spray it in an attempt to contain an offender the spray blew back into the faces of the officers causing danger to them. As I said, capsicum spray does not always work. Had those same officers been able to use a taser, they would not have been subjected to the belting that they received from the offender and the offender would not have ended up with the serious conviction that he received. Different tools have different uses. However, I believe that on many occasions the use of tasers in New South Wales will be more beneficial for the safety of police officers and offenders alike.

POKOLBIN ROADS FUNDING

The Hon. ROBYN PARKER: My question is directed to the Minister for Primary Industries, and Minister for State Development. Given that the Hunter's wine industry and associated tourism generated 6.3 million visitors to the region last year and almost \$1.3 billion into the Hunter economy, why did the New South Wales Government fail to provide any funding to improve roads in Pokolbin in last week's budget? Given that the Minister is showcasing Hunter wine and food in Parliament this year, what representations has he or his department made to the Premier or to other Ministers about funding and improving roads in Pokolbin and the surrounding region to support this valuable primary industry?

The Hon. IAN MACDONALD: The member has asked a reasonable question. The wine industry in the Hunter Valley—the powerhouse of economic development in that region—contributes significantly to economic development and tourism in that area. The wine industry, which stands alongside the mining industry in the Hunter Valley, is a critical component of a total and wide economic development strategy. Unfortunately, I was not able to attend last night's showcase or to make a contribution to it. I think that was the first showcase I missed of the seven or eight showcases that have been held in Parliament House. However, I was well represented by my colleagues the Hon. Jodi McKay, Minister for the Hunter, and the Hon. Phil Costa, Minister for Regional Development. I am not the Minister for Roads but I am happy to take the member's question as it relates to roads in that area to my colleague to obtain an answer. On a number of occasions over the years I have raised this issue, as has the productive Wine Industry Association in the Hunter Valley. I am not sure what is in the budget for roads in the region but I am happy to help to enlighten the member about such an allocation.

PRISONER MENTAL HEALTH SERVICES

The Hon. LYNDA VOLTZ: My question without notice is addressed to the Minister for Corrective Services. What action is the Government taking to manage and treat inmates with mental health illnesses and severe personality disorders?

The Hon. JOHN ROBERTSON: Recently I had the pleasure of officially opening the Mum Shirl Unit at Silverwater women's prison. The Mum Shirl Unit is the first dedicated high-dependency women's mental health unit in Corrective Services. The \$5.9 million investment in the facility will enable Corrective Services to provide intensive treatment and support to women with severe personality disorders and mental illness. Part of the Mum Shirl Unit has undergone a complete refurbishment, while the 19-bed accommodation area, an interview room and officer's station are completely new. I am advised that construction of the Mum Shirl Unit alone supported 100 jobs for local tradespeople, and Silverwater Women's Prison underpins more than 180 corrections jobs.

The completion of the Mum Shirl Unit is the latest part of a \$52.75 million refurbishment and upgrade of Silverwater Women's Correctional Centre. The Mum Shirl Unit is named after an inspirational woman who selflessly cared for countless inmates in prisons in New South Wales. Shirley Smith began to visit Aboriginal people in prison in New South Wales after one of her brothers was jailed and she found that her visits also boosted other offenders. Her nickname came from her habit of replying, "I'm his Mum" whenever officers questioned her relationship with offenders. Because of her work visiting Aboriginal prisoners Mum Shirl was the only woman in Australia to have unrestricted access to jails in this State. In recognition of her outstanding welfare work, in 1975 Mum Shirl was made a member of the British Empire, and in 1985 she was awarded an Order of Australia.

Mum Shirl passed away on 28 April 1998. Mum Shirl was a great Australian and I cannot think of a better person after whom to name the department's newest mental health unit. While walking around the facility corrections staff explained to me how the new unit would be integrated into the broader treatment regime at Silverwater women's prison. The Mum Shirl Unit complements the mental health screening unit, the mental health step down unit, the reception unit, the drug court unit, the medical supervision area and the 123 general accommodation beds. Each unit treats and manages patients according to their needs. The Mum Shirl Unit will treat the most severe of mental health illnesses and personality disorders.

The placement of offenders with a mental illness or with complex personality issues in appropriate facilities like those at Silverwater Women's Correctional Centre is an issue that the Rees Government takes seriously. To this end, the Department of Corrective Services and Justice Health work closely together. The Rees Government is making a major investment in diagnosing defendants with an illness at the earliest possible stage and providing the appropriate treatment and care. The Rees Government has provided funding for mental health specialists to be located at a network of local courts to conduct mental health assessments of defendants. These specialists aim to advise the courts on the appropriate management of a defendant, whether it be in the health system or in the correctional system.

The Rees Government is also making a major investment in facilities and services for inmates with mental health issues. Recently the Department of Corrective Services worked with Justice Health to build two new facilities at Long Bay Correctional Centre, including the \$53 million 85-bed prison hospital and the \$64 million 135-bed forensic hospital funded by NSW Health. The new Mum Shirl Unit is a credit to this Government's commitment to treating inmates with mental illness in the system and providing the appropriate care to get people well and to reduce reoffending patterns. I thank the front-line workers who will be staffing the Mum Shirl Unit for their dedication to managing one of the system's toughest challenges.

MALE VICTIMS OF DOMESTIC VIOLENCE

Reverend the Hon. Dr GORDON MOYES: My question without notice is directed to the Minister for Primary Industries, representing the Minister for Community Services. Is the Minister aware of recent figures from the New South Wales Bureau of Crime Statistics that show a dramatic increase of 159 per cent in the number of women charged with domestic violence abuse? Is the Minister aware that some battered men are hiding in shame, fearful of being ridiculed and afraid of restraining their wives in fear of being charged with assault and domestic violence? In particular, is the Minister aware that these offences range from hot liquids being poured over the victims to being attacked with knives while sleeping and being cut or burned? Given the social stigma attached to male victims of domestic violence, what programs will be established to provide both social and legal services for men and their children who are victims of domestic abuse, to encourage male victims to report domestic abuse to the authorities, and to educate women and the wider community about male victims of domestic violence?

The Hon. IAN MACDONALD: Today outside Parliament House the Minister for Community Services launched a domestic violence program. The member asked a serious question and I undertake to refer it to the appropriate Minister.

TAMWORTH HOSPITAL REDEVELOPMENT

The Hon. TREVOR KHAN: My question is directed to the Minister for Health. Now that the Tamworth Health Services Plan has been completed and endorsed will the Minister confirm that this plan will form the basis for the redevelopment of Tamworth hospital? Will the Minister confirm that radiotherapy services will be an integral component of the redeveloped hospital? Will the Minister confirm that the hospital will be upgraded to a 397-bed facility from the present 350 beds? Does the Minister agree with the observation contained in the Tamworth Health Services Plan that the present maternity unit is substandard? When can patients and expectant mothers anticipate that the new facilities will be completed?

The Hon. John Hatzistergos: This is the one you did not want. This is the hospital you opposed.

The Hon. JOHN DELLA BOSCA: I thank the Attorney General for his interjection and acknowledge—

The Hon. Duncan Gay: He is misleading the House.

The Hon. John Hatzistergos: It's true; you opposed it. Your candidate said he didn't want it. It was a waste of money, he said.

The Hon. Jennifer Gardiner: Oh, garbage!

The Hon. Lynda Voltz: They found out he was garbage, Jenny, that's why you didn't win.

The Hon. JOHN DELLA BOSCA: I thank the members for their various interjections and acknowledge them all. The Government recognises the impact that a diagnosis of cancer can have on patients,

families and carers. That is why the Hunter New England Area Health Service continues to review models of care to ensure the ongoing provision of medical oncology in a range of regions, including those relevant to Tamworth residents. The Hunter New England Area Health Service currently is actively recruiting for a medical oncologist to work in Tamworth. Tamworth Rural Referral Hospital's chemotherapy unit operates five days a week, undertaking approximately 3,500 chemotherapy treatments per year. A new purpose-built centre was opened on 28 March 2009 providing a separate procedure room, storage room, nurses station and increasing by three the number of chemotherapy chairs to nine. Suitable space is now available for family members to sit with their loved ones while they receive treatment. Of course, the generosity of Tamworth residents is noted. Approximately \$480,000 was donated as a contribution towards this project, providing a medium-term solution for patients receiving chemotherapy treatment until the development of Tamworth Rural Referral Hospital.

Currently, specialists from Prince of Wales Hospital, Sydney, provide radiation oncology services one day a week at Tamworth Rural Referral Hospital. New England residents also can access radiotherapy services in Queensland, Newcastle and Sydney. The New South Wales Government will continue to work to ensure that cancer patients across the New England area, particularly at Tamworth, have access to the best possible care and treatment. Planning for the service development at Tamworth hospital will, of course, include consideration of radiotherapy services. The New South Wales Government recognises the importance of providing comprehensive maternity health services in regional facilities across the State. We are working hard to deliver appropriate services, particularly maternity units in major hospitals.

The Hon. Duncan Gay: Does "consideration" mean no?

The Hon. JOHN DELLA BOSCA: No, of course not. "Consideration" means what it means. The member has noted that the services plan has concluded. Obviously, as has been said previously, the services plan forms a basis of forward planning for the actual capital and infrastructure investment.

NATIONAL ACCREDITATION AND REGISTRATION SCHEME FOR HEALTH PROFESSIONS

The Hon. IAN WEST: My question is addressed to the Minister for Health. Can the Minister advise the House about the role of the New South Wales Health Care Complaints Commission in the new National Accreditation and Registration Scheme for Health Professions?

The Hon. JOHN DELLA BOSCA: I thank the member for his question and his ongoing interest in this matter. The meeting of the Council of Australian Governments in March 2008 decided on an intergovernmental agreement that provided for a single national registration and accreditation system for health professionals across Australia. The agreement reflects a serious approach to addressing the country's health care needs and ensures that patients, and patient safety, are the top priority. The scheme's primary focus is to provide a safeguard for the public, enable health professionals to move around the country more easily, reduce red tape and promote a more flexible, responsive and sustainable health workforce. These national arrangements will mean that health professionals will be able to practice across State and Territory borders without having to re-register. The scheme is designed to support workforce flexibility, responsiveness, sustainability and innovation.

I have been working hard to ensure that the high standards applied under New South Wales law are not put at risk by transferring to these national arrangements. Clearly, by any standards, New South Wales has the best practice in transparency and accountability of disciplinary processes. The emphasis placed on protection provided to patients under our laws is recognised and reflected where appropriate in the national model. The Commonwealth, States and Territories have reached national consensus on how the new National Registration and Accreditation Scheme for Health Professions will work. I am glad to report that New South Wales has brokered an agreement with the Commonwealth and States for the retention of the New South Wales Health Care Complaints Commission as part of the scheme. The legislation supporting the commission also will be retained.

The cooperation demonstrated between the States and the Commonwealth is to be commended. The retention of the commission will ensure ongoing patient care and safety. Standards we have become used to in New South Wales will be maintained and improved. It is important to have a powerful, independent body to handle complaints about health professionals, such as doctors, nurses, dentists and optometrists. This has generally been supported in this House and the other House and by the community and, indeed, it is strongly supported by the health professions in New South Wales. Under the new national scheme complaints in other States and Territories will be handled by each profession's board. However, New South Wales will continue to carry out these investigations through the Health Care Complaints Commission.

The exposure draft bill "B" has now been released. It outlines how the National Registration and Accreditation Scheme for Health Professions will operate. I urge all interested parties to make a submission to the Commonwealth by 17 July if they have an interest in the operation of bill "B". The Health Care Complaints Commission was established under the Health Care Complaints Act 1993 to protect the health and safety of the public. The commission has the power to receive and assess complaints relating to health service providers, resolve or assist in the resolution of complaints, investigate serious complaints that raise questions of public health and safety, and prosecute serious complaints. The New South Wales Government is committed to maintaining the high standard of transparency and accountability of disciplinary processes and the emphasis on public protection enshrined in the Health Care Complaints Commission legislation.

In recent years New South Wales has made a series of legislative changes to enhance and improve these processes, including providing the commission with the powers to prosecute unregistered health practitioners. Recent amendments to the Health Care Complaints Act further improve the performance of the commission with its assessment, investigation and prosecution capabilities. The new laws will allow the commission to compel any person to provide any relevant information, records or evidence as part of an investigation. While the New South Wales Government is working hard to strengthen the health system, the Opposition has a reckless plan to divert \$300 million away from front-line services, and that will jeopardise patient care and safety. It is an uncostered plan developed without consultation with doctors and nurses and it will not help a single patient. [*Time expired.*]

MINING INDUSTRY SUSTAINABILITY

Reverend the Hon. FRED NILE: I ask the Minister for Mineral Resources a question without notice. In view of the importance of the mining industry to the economy of New South Wales and jobs, what measures are being taken to ease the critical skills shortage in the mining industry to ensure its sustainability? What impact, if any, are the ecoterrorist threats having on the industry?

The Hon. IAN MACDONALD: What an intelligent question. I thank the member for his continued interest in the State's important minerals industry, which makes such a significant contribution to the economy. I am pleased to tell the House today that this Government, in conjunction with the University of Newcastle, will establish a New South Wales Institute for Frontier Geoscience at the university. The institute will enhance research and teaching in earth sciences at the university and prepare graduates for jobs in the New South Wales minerals industry, especially in the emerging carbon sequestration industry and exploration. This is great news for the minerals industry and the university; it is a win-win situation.

Funding for the geoscience institute will be shared between the New South Wales Department of Primary Industries, the Doyle's Creek training mine and the university. The Government will contribute \$1 million to the institute by allocating \$250,000 a year over four years to establish a chair in geoscience to head the institute. This institute will address the critical skills shortage by providing highly trained graduates for the minerals and energy industries.

Further research into clean coal technology also is an important investment in the future. Clean coal technology is about taking action wherever we can to reduce our carbon footprint. It is a necessary strategy to maintain strong and sustainable mining and energy sectors. The New South Wales Government is active in reducing carbon dioxide emissions through the establishment of the New South Wales Clean Coal Council, which administers the \$100 million Clean Coal Fund.

The council brings together representatives of the industry, research institutes and the New South Wales Government to consider how best to support clean coal research and development in New South Wales. The Government also is involved in a number of projects, including the Lake Munmorah pilot carbon capture plant, which is a research facility on the State's Central Coast and which is a joint initiative by Delta Electricity and the CSIRO. A key focus of this year's mineral resources budget, which was announced last week, is a \$16.5 million investment in clean coal technology that will help to accelerate work that we are already doing in New South Wales.

Exploration is another key area of the minerals industry that will benefit from graduates of the institute. Mining must be sustained by new discoveries. It is important that exploration locates new mines to replace those currently in production. The development of new mines and projects is critical to maintaining State and regional economies. The mining industry is the largest commodity export industry in New South Wales, with the total value of mineral and metal exports of 2007-08 exceeding \$13 billion. The wealth created supports more than

200,000 jobs throughout the State. The university is ideally located close to the major suppliers of coal, large coal-fired power stations, the New South Wales Department of Primary Industries coal and petroleum development group, and the geological survey at Maitland.

Skills gained at the university's institute will go a long way towards providing staff in the resources area, such as ore deposit geology, minerals exploration, geophysics and geochemistry. The New South Wales Department of Primary Industries in Maitland has a highly skilled group of traditional geoscientists specialising in the minerals, coal and petroleum areas. The department, which holds all the State geoscience data, such as high resolution maps, will work together with the university on projects, such as mapping, research and promotion of exploration in New South Wales. My Minerals Advisory Council commissioned ACIL Tasman to examine options to enhance the sustainability of the New South Wales minerals industry. The ACIL Tasman report identified the potential of the minerals industry to employ an additional 20,000 people by 2020.

Clearly there is a need for training, both in higher education institutions and in technical and trades education. Of course, there is not just a need for skills in the minerals industry but also increased demand for skills in all sectors of the economy. The ACIL report went on to state that the influencing factors also will include the degree of support that governments give to educational institutions. That is a great initiative. I thank Reverend the Hon. Fred Nile for his timely question.

MONA VALE HOSPITAL MATERNITY SERVICES

The Hon. DON HARWIN: I direct my question to the Minister for Health, Minister for the Central Coast, and Vice-President of the Executive Council. Given that the head of obstetrics at Mona Vale Hospital, Dr Chester Kent, first read about the relocation of the maternity ward from the Mona Vale Hospital to Manly hospital in the *Manly Daily*, and considering that public concern that the relocation of maternity services from the peninsula may prove to be permanent, will he guarantee the return of maternity services to Mona Vale Hospital as soon as possible, following remediation works to the Mona Vale Hospital's maternity ward, to give doctors, nurses, midwives and the local community some certainty to plan for the future?

The Hon. JOHN DELLA BOSCA: I do not get my information about the health service from the *Manly Daily*, but I will obtain the appropriate information for the member and make it available as soon as possible.

I suggest that if members have further questions, they place them on notice.

Questions without notice concluded.

CRIMES (ADMINISTRATON OF SENTENCES) AMENDMENT BILL 2009

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

Motion by the Hon. John Robertson 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.

APPROPRIATION BILL 2009

APPROPRIATION (PARLIAMENT) BILL 2009

APPROPRIATION (SPECIAL OFFICES) BILL 2009

STATE REVENUE LEGISLATION AMENDMENT BILL 2009

Second Reading

Debate resumed from an earlier hour.

The Hon. GREG PEARCE [5.04 p.m.]: As I was saying before question time, one of the key concerns the Opposition has is the Government's ability to control expenses. As we know, just a few months ago

the Treasurer was predicting expenses growth of 5 per cent, but that has now blown out to 8 per cent. One of the key targets in this budget is to reduce the Government's expense growth down to 2.8 per cent in two years. I do not wish to take up a great deal of the time of the House by rehashing the arguments about this. Suffice it to say that the Government simply has not been able to control expenses. Indeed, one of the elements of the Government's plan now to control expenses is its plan to amalgamate 160 state agencies into 13 super departments, which rightly has been described as the largest public sector reform in 30 years. That is another key performance indicator for the Treasurer and whether he can achieve it because his savings depend very greatly on that reform.

I mention in passing that a former Treasurer, Mr Costa, referred to a plan to amalgamate 160 State agencies into 13 super departments as a stunt. Mr Costa said, "It's just a stunt." We will see. The Liberal and National parties are about growth and about seeing the New South Wales economy grow to put people first. We are not about fanciful figures. We are not about establishing unachievable targets such as those we see in the budget. Over the past 14 years we have seen high taxes, anti-competitive policies and a government that has been mired in red tape, all of which have contributed to unemployment that people are now experiencing, the housing affordability crisis and the infrastructure backlog. We have seen the Government squander more than \$17.5 billion in unbudgeted revenue over that period, and now we are seeing the Government take us into recession.

What is of great concern to members of the Liberal and National parties is that the Government has not been able to deliver any real stimulus to the economy. It has been interesting to watch the Treasurer and his Government as gradually they developed the mantra of the infrastructure catch-up, which was initiated by Morris Iemma and Michael Costa a couple of years ago, but which now is supposed to be regarded as some type of stimulus package. The reality is we know that over 14 years the Government has failed to invest in the necessary infrastructure renewal and development that the State requires, and we all know that the Government, under Morris Iemma, admitted that failure and launched an infrastructure catch-up spend which this Government is continuing.

We do not see any infrastructure development by the Government. Although I do not wish to take up too much more of the time of the House because the figures have all been produced, I point out that the mini-budget resulted in a number of projects and infrastructure spends either reduced or cancelled, including the North West Rail Link and the South West Rail Link that were a key part of approximately 15 years of planning to accommodate growth in the city. It is well known that the current budget result has been achieved by the extra money that the Federal Government has been able to provide for New South Wales through its stimulus package. I do not wish to repeat numbers that have been quoted elsewhere, but it is clear that without that stimulus package the budget deficit in New South Wales would be very significantly higher.

One problem we have had is that the Government has not been able to control expenses; it has presided over a level of waste and incompetence that has cost the community billions and billions of dollars. The desalination plant is estimated to cost \$2.9 billion, plus the cost of additional facilities, pipes, et cetera. However, it will never need to be turned on to provide water to Sydney's water supply. Again, I will not labour the details, but the Parramatta to Chatswood rail link was half the rail for twice the cost, the Tcard project was a debacle—the list goes on and on.

Since the global financial crisis became an obvious concern the Liberal-Nationals have promoted policies to stimulate the economy. In particular, we proposed a one-off, one-year 15 per cent payroll tax cut which would assist jobs. I am sure honourable members have read the budget reply by the Leader of the Liberal Party in the other place, in which he set out a further potential stimulus package involving a payroll tax cut of 15 per cent for a year, with an additional 5 per cent for areas of high unemployment such as the Illawarra, which is one of my portfolio areas. What has been the Government's response to that? Our proposal has been derided by the Government. The Premier dismissed it on the basis that apparently not enough businesses would benefit from it.

Honourable members know that I have been talking about the debt for a long time. The budget papers show that the debt figures will blow out by a significant margin. I will not take the time to pull out the figures, but they are of great concern. In the budget reply the Liberal-Nationals also set out a new infrastructure policy. We believe that planning and delivery of infrastructure is essential for New South Wales, and we propose an infrastructure partnerships type model, which we would probably call Infrastructure New South Wales. Again, I refer honourable members to the speech of the Leader of the Liberal Party for a full description of that. We also proposed a doubling of the community transport funding to \$12 million to assist in areas of great need around the State.

I will not take the time of the House to go through the detail of the unfunded superannuation blow-out. Suffice it to say that we will come back to that matter on many occasions as the Treasurer has failed to address the \$1.8 billion to \$2.3 billion a year shortfall identified in the budget papers. The key point is that this budget is not a beacon of hope; it is a bucket of hype. It is based on a set of fantasy figures. The Government has failed to address what New South Wales needs. The Government must put the people first by providing extra stimulus to the economy and dealing with its own mismanagement of infrastructure and its inability to control expenses growth. It will be interesting to see how the budget is delivered over the next year.

Reverend the Hon. FRED NILE [5.13 p.m.]: The Christian Democratic Party supports the Appropriation Bill and cognate bills. Normally we do not have an extended debate on these bills, but I want to put on record my support for the budget measures in the State Revenue Legislation Amendment Bill. The housing construction acceleration plan will reduce by 50 per cent the stamp duty on purchases between 1 July 2009 and 31 December 2009 of newly constructed dwellings costing no more than \$600,000. This will provide a stamp duty benefit of up to \$11,245 per dwelling. However, it is available only to purchasers who have already owned a home. That is a practical measure in the budget.

The legislation also extends the time limit for eligibility for the \$3,000 first home owner supplement from 10 November 2009 to 30 June 2010. People with caravans and camper trailers will be pleased about the abolition of stamp duty on the purchase or transfer of ownership of caravans or camper trailers. Currently, the purchase or transfer of a caravan or camper trailer is subject to stamp duty at the rate of 3 per cent. This bill will abolish the duty on all purchases or transfers of ownership on or after 1 July 2009. The Christian Democratic Party is pleased to support these measures.

Dr JOHN KAYE [5.15 p.m.]: I speak on the appropriation bills on behalf of the Greens. This budget is an improvement over the mini-budget and the false economies of the Egan and Costa years, where the sole emphasis was on running down public spending. Indeed, one got the impression that Costa and Egan would go home, turn to their respective partners and say, quite proudly, "Honey, I shrunk the Government today." At the time it was a bad outcome, but as time has moved on it has become an appalling outcome for New South Wales. We are paying the price for the penny-pinching that went on under the Carr and Iemma Governments. We are paying a considerable price now in both infrastructure and run-down services.

There are some positive steps in the budget. We welcome the focus on increased infrastructure spending and a number of tax measures as outlined by previous speakers that will take some of the burden off households struggling to cope with the global recession. That being said, I want to focus on four key features: first, some extremely bad spending choices in the infrastructure outlines; secondly, grave concern for what will be an outsourced razor gang and its impact on services and the public sector; thirdly, the continued focus on the triple-A rating and the way in which the rating agencies get away with effectively running policy in New South Wales; and, fourthly, unemployment, which is entirely beyond the control of the Treasurer and Treasury. Unfortunately, the global financial settings for the next two or three years look increasingly grim for the people of New South Wales, particularly those who are marginally employed.

First I will focus on Treasurer Roozendaal's \$62.9 billion infrastructure investment. It is almost impossible to open a newspaper and not see the figure of \$62.9 billion. The Roozendaal spin machine—or, more accurately, the Graham Wedderburn spin machine—was in overdrive, selling the record infrastructure spend of \$62.9 billion. So we decided to have a close look at the investment plan and subject the items to four key public interest tests. First, is it an efficient investment, that is, efficient in the sense of generating a large number of jobs per dollar spent? Secondly, is it an effective investment? Will it leave the economy stronger and ready to cope with post-recession levels of demand? Will the infrastructure investment provide for strong jobs growth at the end of the recession?

Thirdly, is the investment sustainable? Does it respect the limits on the environment, especially with respect to the emission of greenhouse gases? Does it encourage new economic activities that reduce the burden on the environment? Fourthly, and finally, is there additionality? Is it just rebadging Federal funds, is it money collected from infrastructure users, or is it genuinely a public sector State investment? On those measures the \$62.9 billion looks quite shabby. If the Treasurer were honest he would say that in terms of useful infrastructure that is sustainable, additional—that is, using money that is really put in—effective and efficient, the \$62.9 billion would probably fall back to about \$38.9 billion. I will go through some of the measures.

The cornerstone about which the Treasurer boasted in his Budget Speech was \$15.7 billion for electricity infrastructure within the distribution system—the relatively low-voltage wires and poles that deliver

electricity to the households and small businesses of New South Wales. This is a very important infrastructure investment. In fact, it is just shy of 25 per cent of the so-called record \$62.9 billion. I ask: Is it efficient? The Treasurer told us in his Budget Speech that 3,700 jobs will be created in the construction of this infrastructure; if that amount is divided, every job requires an investment of \$4.2 million. That is a highly inefficient investment in jobs. A much better way to invest in jobs would be to invest in renewable energy, energy efficiency and more modern infrastructure that is more labour intensive and possibly less capital intensive, hence a higher return rate on jobs per dollar invested.

Is it effective? It is not effective. The Treasurer and the Energy Minister have committed New South Wales to the very best of 1970s-style electricity infrastructure. They have effectively locked the residents and small businesses of this State into spending \$15.7 billion on an electric equivalent of a super highway from coal-fired power stations into homes. It will not in the long run generate new jobs. Is it sustainable? Absolutely not. It encourages a greater reliance on coal-fired electricity. It ignores opportunities for renewable energy and the way in which renewable energy is distributed across the demand side, it can alleviate constraints on wires and poles at times of peak load and it ignores the opportunities for Smart Grids that actually use load control, demand management, and embedded generation to encourage renewable energy and energy efficiency to reduce our dependency on coal-fired electricity.

Is it additional? Not really. The \$15.7 billion will come out of the pockets of households and small businesses connected to the grid in New South Wales. It is not general revenue money that is going into it, as the Treasurer would have us believe. It is not money that somehow magically came out of the Treasurer's back pocket. This money comes directly out of the pockets of retail consumers. Earlier in question time the Minister for Energy boasted about how he had been able to protect households around New South Wales from the terrible impost that a gross feeding tariff might have imposed upon them. That is absolute cant and hypocrisy. This is the same Minister for Energy who is quite happy with the \$15.7 billion investment in old-fashioned wires and poles coming out of the pockets of many low-income households in New South Wales. In terms of each of those tests, the \$15.7 billion, which equates to 25 per cent of the Treasurer's \$63.9 billion, fails.

The other flagship investment named by the Treasurer in his speech was Tillegra Dam. There seems to be some confusion as he called it a \$477 million investment, which is an inflation, as according to Hunter Water it is really only a \$406 million investment. I believe the difference has to do with some land sales that will go on at the end. In fact, if the Treasurer were honest he would call it a \$406 million net investment in a dam in the upper Hunter near Dungog. Is it efficient? At \$1.7 million per job it is still a lot of money to spend just to generate a single job. It really does not come in anywhere near as competitive as spending money on, for example, water efficiency, water recycling, water re-use or water capture measures, which have far higher rates of employment per dollar spent than building a large, very old-fashioned dam in the upper Hunter.

Is it an effective investment in infrastructure? Actually it is the opposite of an effective investment. There cannot be a greater waste of money than spending \$477 million, according to the Treasurer's reckoning, on a dam for which there is simply no justification. The dam is not necessary. I see the Hon. Trevor Khan nodding in agreement with me. Clearly he would say that that money would probably be better spent on augmenting Chaffey Dam, and maybe that is the case.

The Hon. Trevor Khan: A good call.

Dr JOHN KAYE: I do not know. We have not looked at it.

The Hon. Melinda Pavey: Are the Greens supporting a dam?

Dr JOHN KAYE: No, I did not say that. I do know that Tillegra Dam is simply an unnecessary investment, a wasted investment, and \$406 million will be taken out of the Hunter economy and wasted on a white elephant dam project in the upper Hunter.

The Hon. Robyn Parker: And the Hunter residents will be paying for it!

Dr JOHN KAYE: Absolutely correct; I was coming to that point. It is not additional general revenue money; it is money that will come out of the pockets of residents of the Hunter for the next 50 years, during which time they will pay massive amounts of money. Whichever way the Treasurer dices it up and tries to disguise it, it is \$406 million that will disappear out of the economy of the Hunter that could have been invested in the productive economy of the Hunter. We are tying up \$406 million of the Hunter into something that is

simply not productive. It is a total waste of money and an appalling dead hand on the economy of the Hunter. Is it sustainable? No, it is not. It will wipe out and destroy 96 very important dairy and mixed farms. It will devastate the wetlands of the lower Hunter and, as with all dams of that nature, full or empty, it will be responsible for substantial emissions of greenhouse gases, particularly methane.

Tillegra Dam is simply not efficient, effective, sustainable or additional and the Treasurer should not be proud of putting the money of the people of the Hunter into a dam that they do not need. As somebody who claims economic credentials, the Treasurer should be ashamed of the Tillegra Dam and run away from it as fast as he can. He should try to muster the numbers in Cabinet to get out of this project before it becomes another white elephant, like Sydney's desalination plant, around the neck of the Rees Government. As the Treasurer is supposed to be an astute numbers man he should recognise that this project is not only bad economically; it is bad politics and should have been abandoned ages ago.

I now refer to an expenditure to which I do not raise specific objections in this forum but I do have a number of objections. An expenditure that is included in the Treasurer's \$62.9 billion is the money that comes out of the Building the Education Revolution, that is, Kevin Rudd's money. In 2009-10 alone, \$3 billion will come into New South Wales out of Federal expenditures. That \$3 billion forms part of the \$62.9 billion. They are very tired dollars because so many people are claiming credit for them. Julia Gillard and Kevin Rudd say it is their contribution to Building the Education Revolution, and when a lot of it disappears from their hands it goes into the State coffers and then suddenly it is part of the Treasurer's claim for expenditure. The way money moves around, one would expect it to be exhausted by the time it gets to schools, having served so many masters and having delivered so much credit to so many people.

During the four years in which the \$62.9 billion is claimed, on our calculations at least \$5.136 billion is actually Federal funds being rebadged as State funds and being claimed as a State investment. Treasurer Roozendaal's record \$62.9 billion is inflated by \$5.1 billion. There is \$18.877 billion for projects that fail other tests, including the Sydney Metro, which is simply unnecessary, will be environmentally damaging and for which there are far better alternatives. As pointed out on many occasions by my colleague and friend Jamie Parker, the Greens mayor of Leichhardt, the people of his municipality would be far better served by putting that money into extending the existing light rail network, which would cause less damage and provide a perfectly adequate transport system. He says that the money saved—and he is the mayor of an inner-city municipality—would be better invested in outer Sydney. He is not chasing the popular vote; he is doing the responsible thing and saying, "We don't want this money because it is a Greens-Labor marginal seat; we want the money to go where it is really needed: in outer suburban Sydney, where there is a terrible crisis of lack of transport."

When you add up all the figures, there is more than \$24 billion that we would be better off without or that is not really State Government funding. That takes a substantial chunk out of the Treasurer's \$62.9 billion. The \$18.9 billion allocated to projects that we would be better off without would be better spent on railways and light rail; on renewable energy, such as solar thermal power plants; on smart grids; and particularly on projects that would provide a more reliable electricity supply, with lower capital investment and a higher labour component, and renewable energy-efficient power. That would be money spent on the future of this State and on jobs now and jobs in the future, and not money squandered. Let us have some honesty and face up to reality. The \$62.9 billion figure suffers from political inflation—and the Government should be honest about it.

The second concern we raise about the budget is the so-called Better Services and Value Taskforce. What does that really mean? It effectively means that the Rees Government is going to outsource the dirty work of cutting the public sector workforce and slashing services. Instead of taking responsibility for the decision to downsize the public sector and reduce services, the Government is handing that responsibility to a group of faceless men and women. There is no sight more ugly on the surface of the planet than politicians running away from taking responsibility for hard decisions. It is a fine thing to do if you want to go home, like the Treasurer's predecessor, and say to your partner, "Honey, I shrunk the Government today."

The Hon. Greg Donnelly: You've used that line already, John.

Dr JOHN KAYE: I acknowledge the interjection from the Government Whip, and I appreciate the fact that he is paying careful attention to my speech. I hope he learns something from it. However, if he had been paying really careful attention he would have noted that I acknowledged that I had said it to former Treasurers whom I accused of going home to their partners and saying, "Honey, I shrunk the Government". Treasurer Roozendaal wants to emulate them and create the same frisson by going home and saying that he downsized the Government. It might be the right direction if that is his aim, but it is the totally wrong direction if the Government wants a professional public sector, high-quality services and protection for low-income families.

We have heard a lot of stuff about back-office jobs. There is a false dichotomy between the back office and front-line services. It might play out well in marginal seats, but it is simply poor policy. There is no way that front-line police officers, teachers, nurses, doctors and transport workers can operate without the back office. It is all very well for the Treasurer—who I note is leaving the Chamber—to run around saying, "We can waste the back office", but every time he takes an employee from the back office he puts a heavier administrative burden on the front-line service deliverers. He puts more administrative burdens on teachers, nurses, doctors and transport workers, and takes away from front-line services. There is a balance to be struck between the back office and the front line. Perhaps some adjustments are needed, but the idea that you can cut the back office holus-bolus and expect the public sector to continue to operate is simply infantile and naïve.

The public sector and public services are being cut. It is never a good time to cut the public sector, and now is particularly bad. We are moving towards record unemployment so more and more households will depend upon public sector services. More and more households will suffer if they cannot get access to public sector health care, public sector transport, public sector education, and the other important public sector services that mean the difference between abject poverty and adequate living conditions. The budget is about false economies—false economies of efficiency gains and wages caps, and cutting back on public sector employment and services.

I will give one simple example: the Plan-It Youth Program. It costs about \$1 million—not \$1 billion—a year. Since its inception in 2002, the program has organised about 1,780 volunteer mentors to work with youth who are at risk of leaving school. It assists them by establishing contact with a role model. It helps those young people to engage with the school curriculum by understanding and motivating them to go into the workforce. That program is about to be cut. It is a minuscule budget saving that will have massive long-term costs. It is not just that we will lose the value that these young people would bring to society—we can re-engage them in education and get them into the workforce. It is not just the cost of unemployment, health care, and the criminal justice cost, but the human cost of losing those people as productive and engaged members of society.

We are still seeing in New South Wales a fixation on the triple-A credit rating. We are still seeing in New South Wales policy being driven by the highly discredited ratings agencies, Standard and Poor's and Moody's. The same ratings agencies that, by courtesy of their slack analysis of collateralised debt obligations and other sub-prime products, brought the global financial crisis to us in the first place, and that admitted in congressional testimony that they were giving ratings to anybody who would pay for them are still calling the shots. We still have a simpering attitude towards these ratings agencies: "Oh, goodness gracious, we cannot afford to lose our triple-A rating!" Why are we so fixated on the triple-A credit rating? It seems to be what the markets want. But the people of New South Wales want to see investment in their future. The people of New South Wales want a government that delivers economic policy that sees them through difficult times, secures jobs, and ensures that we come out the other end of the global financial crisis with a strong and resilient economy, based on sensible and sustainable infrastructure that is efficient and effective and works for the people of New South Wales.

I conclude my remarks this afternoon on behalf of the Greens with an observation that is not meant as a criticism of the State or Federal governments—or indeed of any government—but as a dire warning to us all. It was reported on the *AM* program this morning—and it has been in the news all day—that the World Bank is predicting that the global recession will be deeper than it previously thought. Whereas three months ago the World Bank was forecasting a 1.7 per cent contraction in the global economy, its revised forecast suggests that the global economy will shrink by 2.9 per cent. Mr Mansoor Dailami, the author of the World Bank report, says the recovery could take many years. He said on the *AM* program this morning:

The scenario moving forward for the next couple of years is that the growth is going to be at subdued levels, investments in many productive sectors, and possibly even in social sectors, as government contracts those expenditures which were very critical for social needs.

You're going to see an increase in the overall poverty in many of these countries.

That has three key consequences for New South Wales. The first is that the optimistic forecast that we will return to surplus within two years may not be correct. I am not saying this by way of criticism of Treasury or the Treasurer; I am giving a warning that as we go forward we might not see the bounce back in the State's revenue that would come from the recovery in the New South Wales economy that was expected originally. That means we may stay in deficit for longer and we may be in deeper deficit and come out with a greater debt than we previously anticipated.

The Greens say to the New South Wales Government that if that is the case, so be it. Do not lose courage in the face of pressure from the ratings agencies and in the face of an ongoing global financial crisis. It

is essential that we maintain investment in infrastructure. It is essential that we maintain public services, regardless of where the economy goes. There should be no back-off from the Government on the grounds that the economy is worse than we thought and we are losing income because of reduced transactions on the property market and reduced GST revenue because of the downturn in consumer activity. If those things happen—and I sincerely hope they do not, although it would be in line with the World Bank's forecast—we must stay the course. We must continue to invest in the economy and we must be prepared to run a substantial debt. Even if it takes us 10 to 15 years to pay it back, the Greens still think—and I still believe—that this is a worthwhile investment in the future of New South Wales. We cannot afford to leave this State in a crippled condition when the recession is finally over. We cannot afford to leave it without infrastructure or with high levels of unemployment. If we do, it will be not 15 years but 50 years before we recover.

The Hon. ERIC ROOZENDAAL (Treasurer) [5.42 p.m.], in reply: Last week the Government presented its budget for the 2009-10 financial year. The focus of the budget is on jobs, helping people to get through these tough times and doing what we can do to assist the New South Wales economy rebuild its strength. We are investing a record \$69.2 billion in infrastructure and that will create up to 160,000 jobs. There are no new taxes and we are increasing spending on vital services such as health, education and police, all of which have record budgets. This budget has also been given a giant tick of approval by the credit rating agencies, something that Mike Baird said in his op-ed piece in the *Sydney Morning Herald* on 9 June was a measure of our financial management. Our upgrade from triple-A negative outlook to triple-A stable is a massive vote of faith in this budget by the credit rating agencies.

Members raised a number of issues in the debate and I will respond to some of them, although I do not intend to take up a huge part of the time of the House. The fiscal gap has increased as a result of policy decisions to increase expenditure on services, including funding high rates of growth in health expenses, additional police and new Council of Australian Governments programs. Offsetting this increase to some extent are the revenue measures taken in the mini-budget and additional Council of Australian Governments funding from the Australian Government.

I consider the comments of one honourable member about the \$62.9 billion investment in infrastructure to be trite. It is a record amount over four years for the people of New South Wales and is in contrast to every other State's commitment to infrastructure. It underpins around 160,000 jobs each year. I am happy to argue with anyone about the quality of that infrastructure, and clearly people from different ideological perspectives will have different views about what they believe to be good or bad infrastructure. Nevertheless, \$69.2 billion is a record amount that will be pumped over four years into the economy of this State and invested in what I and most commentators believe to be good-quality infrastructure, delivering jobs, future economic prosperity and economic growth to this State.

In one sense it is disappointing to hear the comments about the Federal stimulus money but understandable in another sense. We have readily acknowledged that if it were not for the very prompt action of the Rudd Labor Government in pumping Federal stimulus money into New South Wales and the rest of the nation, the impact of the global recession would be substantially greater on the people of Australia—and particularly those of New South Wales, keeping in mind that this State felt the impacts of the global crisis earlier and harder than any other State. Pointing out that stimulus money has flowed through the books of the New South Wales Government ignores the fact that every other State is in exactly the same boat. The appropriate accounting standards require that those funds from the Commonwealth be put through our budget numbers.

Indeed, honourable members should know that that is not the only Commonwealth money the Government receives. We do not raise all our funds through taxation in this State. Indeed, since World War II the Commonwealth has funded the States through special purpose payments, government grants, various Council of Australian Governments agreements, and a GST formula—there is a whole series of ways in which the Federal Government returns money to the State. Now Dr Kaye is getting upset. He was heard in silence but once he gets a little bit of criticism, off he goes.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Dr John Kaye will cease interjecting.

The Hon. ERIC ROOZENDAAL: The point is that this budget is about underpinning jobs in this State—160,000 jobs each year. Frankly, if you are in the workforce you want to see the Government taking as much strong action as it can to support jobs in this State and to invest as much as it can. I do not think people really care whether a dollar originated with the New South Wales Government, the Federal Government or a

combination of both. They understand that these governments—the State Labor Government and the Commonwealth Labor Government—are acting in unison to protect the people of Australia, including those in New South Wales, from the worst impacts of the global financial crisis. That is precisely why we are working hand in hand with the Federal Government to protect, support and encourage jobs in New South Wales.

I want to respond to some clear misunderstandings about the budget. I listened to the rather interesting lecture on cutting the public sector. The fact is there is a record Health budget of \$15.1 billion; a record budget of \$14.7 billion for Education and Training; a record budget of \$7.1 billion for Transport; and a record \$4.4 billion for the Roads and Traffic Authority, which goes straight to roads. I could go on and refer to police and all the other services. We have increased funding in all key areas of government, which is the appropriate and responsible way to respond to a global financial crisis. We are putting more money into front-line services and increasing the budgets in those areas. Let us have none of this mythology that we are somehow cutting front-line services.

What a shock for the Greens in particular that we dare to try to deliver services more efficiently and to make the public sector more efficient so that front-line services can be delivered better to the people of this State. That is precisely what we intend with our Better Services and Value Plan, which is designed to improve the delivery of services to the people of New South Wales. No-one would argue that you cannot improve public sector delivery of services. That is precisely why we are going to drill down into agencies to find better and more efficient ways of delivering services to the people of New South Wales. The honourable member should understand that. You never allow the public sector to stand still; you always strive to improve delivery of services. You strive to help the people of the State all the time. That is what this Government is about.

In relation to fiscal responsibility—which is important—I can understand that some people think it is appropriate not to try to put together a fiscally responsible budget. That is not the way a responsible government should act. We need to be fiscally responsible. Yes, we can borrow as much as we want. We can go the Barry O'Farrell route and borrow a piece of string. How much do you want to borrow? Barry O'Farrell says it is a piece of string. At some stage we will have to pay it all back, which is why we have to be fiscally responsible when we do these things. I observe that total State net debt will increase substantially by the end of the forward estimates but, as a percentage of gross State product, it is far below the levels left to us by the Coalition Government in 1995. Opposition members should not lecture me about net debt or feign concern about it because their concerns are unfounded.

It is important to make the point that when Coalition members were last in office they ran up much more debt than this Government. This Government wants to be fiscally responsible. I refer to the ratings agencies and to the conspiracy theory that somehow I am a magician and I can cook the budget books. In reality, Moody's and Standard and Poor's forensically look over our budget papers, do their own modelling, go through their own processes and apply their own parameters. Both ratings agencies gave us the triple-A stamp of approval. In addition, Standard and Poor's made the decision to take us off negative outlook. In this global financial crisis, when almost all our trading partners around the world—bar China and India—are in recession, New South Wales improved its credit standing. There is record funding to key services in New South Wales, a record infrastructure commitment in this State of \$62.9 billion over four years and, importantly, we have been able to improve our credit rating with the ratings agencies at the same time. Our triple-A credit rating signals to business that are thinking about whether to invest in Australia that New South Wales is the place in which to invest, and we will retain our important status as the financial capital of Australia.

I wish to touch on a few other matters. I place on record the contribution of Treasury and Treasury officials, in particular the Secretary to the Treasury, Michael Schur. I thank them for their work and commitment in delivering a budget—it is a mammoth task to deliver a budget—to the people of New South Wales. I thank Treasury for its commitment, and I place on record my gratitude to staff in my office for their commitment and work—the many hours and weekends that we all gave up working together on the budget, and the many kilograms of confectionary we consumed throughout the process.

The Hon. Dr Gordon Moyes: Did you eat pizza?

The Hon. ERIC ROOZENDAAL: I have to confess that we ate a lot of chocolate and lollies, which did not help my diet. I have been criticised for describing the New South Wales budget as a "beacon of hope" for this State. Frankly, I am sick and tired of people talking down and trying to score points off New South Wales. New South Wales, the largest State in the nation, contributes one-third of the national economy. Our budget stands in massive contrast to any budget brought down in the recent round of budgets in this country—

whether it is Western Australia and its budget cuts, South Australia or Queensland. Our budget, which stands out as a beacon of hope in difficult times for this State, maps out a road to recovery and future economic growth. I was disappointed in the Leader of the Opposition's Toys"R"Us budget response.

Members with children will know that Toys"R"Us is a mecca for young children. Children who visit a Toys"R"Us store will run off and try to fill their trolleys with toys—which is understandable. Parents say to their children in the kindest and most loving way, "Darlings, how can we pay for this? We can't pay for all these things. You can't have everything you want." After parents have negotiated with their children for some time they begrudgingly remove things from their trolleys and walk out of the store with fewer purchases than they would have liked. Unfortunately, Barry has not mastered the art of negotiation. He wheels his trolley through to the register with more than \$40 billion worth of promises and schemes—the Toys"R"Us budget! When he gets to the counter and the checkout assistant asks, "How will you pay for that, sir", he pulls out a piece of string.

The Leader of the Opposition will pay for all his budget promises with a piece of string. The Leader of the Opposition has not worked out the difference between a surplus and a deficit. I am confident that the Hon. Greg Pearce, who is learned in these areas—he always asks very pertinent questions—will scurry out of the House after this debate, go to Barry O'Farrell's office, write down on a piece of paper the words "surplus" and "deficit", and go through it with him. I know that the Hon. Greg Pearce is quite capable of teaching the slowest of learners that there is a big difference between budgets and surpluses.

The Hon. Rick Colless: You said there is a big difference between budgets and surpluses.

The Hon. ERIC ROOZENDAAL: I stand corrected by the Hon. Rick Colless; I meant to say deficits and surpluses. There is a big difference. A budget with a surplus is different from a budget with a deficit; I thank the Hon. Rick Colless for correcting me. The Hon. Greg Pearce has competition. The Hon. Rick Colless wants to go to Barry O'Farrell's office. The Hon. Rick Colless will have to interrupt him, as he will be there with his pieces of string no doubt planning how he will fund his budget promises with them. The Hon. Rick Colless should not take any string with him. We know the Opposition's plans. The only way it can fund its Toys"R"Us trolley of schemes is to cut services—as it did in 1988 when it came into office—raise taxes, or plunge the State deep into the red and come close to bankrupting us.

Clearly, that is not the way we should go. I expected better from the Opposition; I expected it to be fiscally responsible in its budget response. This budget represents a serious strategy to protect families and the people of New South Wales from the worst impacts of the global financial crisis, to get New South Wales back in the black within two years, and to provide a map for the future economic growth and prosperity of this State. We are doing that thanks to the strong balance sheet that this Labor Government has developed over many years. This Labor Government has delivered more surpluses than any other government in New South Wales.

The Hon. Melinda Pavey: At the greatest cost of any government in New South Wales.

The Hon. ERIC ROOZENDAAL: I am glad that the Hon. Melinda Pavey has picked up a few things after listening to my speeches. We have delivered more surpluses than any other government in this State. I commend the bills to the House.

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

Motion agreed to.

Bills read a second time.

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

Third Reading

Motion by the Hon. Henry Tsang agreed to:

That these bills be now read a third time.

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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2009**Second Reading****Debate resumed from 17 June 2009.**

The Hon. DAVID CLARKE [5.58 p.m.]: The Statute Law (Miscellaneous Provisions) Bill 2009 is part of the Government's general statute law revision program and amends some 44 Acts and instruments, the great majority of such amendments being of a minor nature. This bill is not contentious and the Opposition does not oppose it. I propose to refer only to the more significant of these largely uncontroversial amendments. The Adoption Act 2000 is amended to provide that a child between 12 and 18 years of age may give sole consent to his or her adoption if at least 14 days notice of the application for the adoption order containing prescribed particulars has been given to his or her birth parents, or if the court dispenses with the giving of notice. At present, the Act requires such notice to be given but it does not specify the period for giving the notice or the particulars to be included in the notice. The definitions of "spouse" and "step-parent" are amended so that a person is a spouse or step-parent if the person has been in a de facto relationship—that is, a relationship between a man and woman who live together as husband and wife but who are not married—with a child's birth parent or adoptive parent for two years, rather than three years as currently provided.

The Adoption Amendment Act 2008, establishing arrangements to more open access to adoption information, is amended to clarify beyond doubt that the type of information made available to adopted persons under existing access arrangements, including information relating to birth parents and siblings, also can be made available under the new access arrangements. Currently, pursuant to the Crimes (Domestic and Personal Violence) Act 2007 appeals are allowed to the District Court against decisions of the Local Court or Children's Court to refuse to annul an apprehended violence order made by the court. The Act refers to the District Court allowing such an appeal and remitting the matter to the Local Court. The Act will be amended to insert a missing reference to the Children's Court in this context. The District Court Act 1973, the Local Courts Act 1982 and the Supreme Court Act 1970 are amended to provide that judges are not entitled to remuneration for any period for which they are on leave without pay, being leave they have agreed to take.

The Environmental Planning and Assessment Act 1979 is amended to ensure that the power of the director general to make payments out of the Special Contributions Area Infrastructure Fund is not limited by the requirement for the Minister to identify what part of a special infrastructure contribution is for the provision of local infrastructure by a local council or the department. An amendment to the Fire Brigades Act 1989 requires an insurance company to inform property and home and contents policyholders how much of their premium is attributable to any contributions the insurance company is required to make under the State Emergency Service Act 1989 towards the costs of State Emergency Service expenditure. This amendment is in similar terms to requirements applicable to contributions under the Fire Brigades Act 1989 and the Rural Fires Act 1997.

The Firearms Act 1996 is amended to authorise police to seize firearms when a firearms licence has expired or no longer is in force, and the person who held the licence is required to surrender the licence and any firearms to the police. The Land Acquisition (Just Terms Compensation) Act 1991 is amended so as to permit corrections to compensation notices for compulsory acquisitions. The Law Enforcement (Controlled Operations) Act 1997 is amended to ensure that protection given by the Act to a participant in a cross-border controlled operation applies where the participant was unaware of a variation or cancellation of an authority, thus making this consistent with national model laws.

Amendments to the Mental Health (Forensic Provisions) Act 1990 allow information sharing and exchange between the Department of Health, Department of Corrective Services and Department of Juvenile Justice. This information may be disclosed without the consent of any person concerned, but only to the extent that the information is reasonably necessary to assist in the function of the relevant department or agency concerned. The Residential Tenancies Act 1987 is amended to ensure that the tenancy commissioner may prosecute any offence under the Act without the need for the prosecution to follow on from the investigation or resolution of a complaint by a landlord or tenant. The Community Land Management Act 1989, the Residential Parks Act 1998 and the Strata Schemes Management Act 1996 are amended comparably.

Finally, the principal effect of amendments to the Water Management Act 2000 extend the category of persons required to prepare compliance reports to the Minister, and increase the maximum monetary penalty a Local Court may impose in a prosecution under the Act from \$11,000 to \$22,000, thus bringing penalties in this

Act into line with penalties contained in similar genre legislation such as the Protection of the Environment Operations Act 1997. The bill also contains a series of procedural amendments to a number of Acts to correct matters such as duplicated numbering, incorrect or outdated references or to standardise descriptive terms used in multiple Acts. In summary, it can be said that the amendments are of a non-controversial nature, are too inconsequential to warrant separate amending Acts and are part of a continuing statute law revision program in New South Wales. An indication that the amendments are non-controversial is confirmed by the fact that the Opposition to date has received no submissions from stakeholders or interested parties in relation to them. The Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [6.04 p.m.]: The Christian Democratic Party supports the Statute Law (Miscellaneous Provisions) Bill 2009. As occurs in each session of Parliament, the Government combines a number of minor and non-controversial amendments to various Acts in one piece of legislation, and we are now dealing with such a bill. Mostly these amendments make legislation more effective. As the Hon. David Clarke did, I too will comment on particular amendments. The amendments to the Adoption Act 2008 are mainly administrative but will assist in the operation of the Act. Currently, the Act states simply that reasonable notice of an adoption application must be given to the birth parent of a child who is aged between 12 years and 18 years before the child is permitted to give sole consent to his or her adoption. This minor amendment stipulates that 14 days notice must be given, obviously making things clearer for all parties involved in the adoption.

Amendments to the Firearms Act 1996 clarify the present situation when a licence is suspended or revoked. The amendments will require a person who is the holder of a firearms licence under the Act to immediately surrender the licence and any firearm in their possession to police and authorise police to seize any firearm if the licence has expired or ceases to be in force for any other reason. The amendment provides for specific action rather than stating that the licence "must be suspended or revoked". The amendment gives the police more flexibility in certain circumstances when it is necessary to confiscate weapons. Amendments to the Law Enforcement (Controlled Operations) Act 1997 are aimed particularly at assisting operations that involve cross-border controlled operations. It is important that New South Wales, Queensland and Victorian police forces cooperate to apprehend criminals through the powers of this Act. We support the legislation.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.08 p.m.], in reply: I thank members for their contributions to this debate. As a matter of protocol, the Government will move an amendment to remove a provision from the bill that resulted from an objection raised by the Shooters Party. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 4 agreed to.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.10 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

No. 1 Page 14, subschedule 1.16 [1], lines 30–33. Omit all words on those lines.

No. 2 Page 15, subschedule 1.16, Explanatory note, lines 2–6. Omit all words on those lines.

The Government moves these amendments as a matter of protocol.

The Hon. DAVID CLARKE [6.11 p.m.]: The Opposition supports the Government's amendments.

Reverend the Hon. FRED NILE [6.11 p.m.]: I must comment because the amendments will remove what I said in the second reading debate was a good provision in the bill. I understand that the Government has held discussions with the Shooters Party about this. Perhaps they perceive some problems with the provision that I do not. I believe that the provision may have provided greater flexibility, but I am content to support the amendments.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.11 p.m.]: I thank members for their comments.

Question—That Government amendments Nos 1 and 2 be agreed to—put and resolved in the affirmative.

Government amendments Nos 1 and 2 agreed to.

Schedule 1 as amended agreed to.

Schedules 2 to 6 agreed to.

Title agreed to.

Adoption of Report

Motion by the Hon. Henry Tsang agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Henry Tsang 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.

MOTOR SPORTS (WORLD RALLY CHAMPIONSHIP) BILL 2009

Second Reading

Debate resumed from 17 June 2009.

The Hon. TREVOR KHAN [6.15 p.m.]: The Liberal-Nationals will not oppose the bill, but at the outset I make it clear that we will seek to ensure that there is a full and independent review of the rally following the initial running of the event this year. It is anticipated that the Government will support the amendment. I clearly state that the amendment directly reflects the hard work and quite intense lobbying conducted by the member for Tweed, Geoff Provest, and the member for Lismore, Thomas George, both of whom have worked tirelessly to ensure that people who live on the Far North Coast have a voice at the table when Parliament is dealing with legislation relating to the rally. I commend both the member for Tweed and the member for Lismore for their effective advocacy on this issue.

The object of the bill is to facilitate the conduct of a major sport known as the World Rally Championship. It is worth noting that in September 2008 Events New South Wales and the Confederation of Australian Motor Sport announced that the northern rivers region of New South Wales would host the Australian round of the Fédération Internationale de l'Automobile [FIA] World Rally Championship in 2009 and then every two years until 2027. It is worth noting that only now has the legislation been introduced after many months of relatively little action. That is one of the issues that has motivated the Far North Coast community to express concern.

Nevertheless, it is estimated that the rally will generate up to \$100 million in direct economic benefits to New South Wales over the life of the agreement through the creation of up to 2,000 new jobs and an estimated 92,000 visitor nights. These are significant benefits to the local community and, self-evidently, also for the entire State of New South Wales. The first event, the Repco Rally Australia, will be held in the Tweed and Kyogle local government areas from 3 to 6 September 2009. This bill provides that the legislation will be reviewed five years after it receives assent. The Liberal-Nationals, understanding the need to give certainty to the local community, to the rally proponents and to millions of World Rally Championship fans throughout the

world—and I have to admit to being one of them—will not oppose the bill but will seek to move an amendment in Committee that is aimed at producing a full and independent review of the rally following the initial 2009 event.

One of the purposes of the amendment is not only to ensure that the review takes place but also to ensure that the review includes, in a spirit of cooperation, the Kyogle Council and the Tweed Shire Council, thereby remitting some ownership of the event to the local community and ensuring a degree of transparency that presently is lacking. The Liberal-Nationals believe that the amendment will give the legislation reasonable balance between the need for the proponents to get on with the job of planning this year's event and the local community to determine what impact an event such as this will have on their region in the future.

Liberal-Nationals are advised that the Kyogle Council supports the rally, but has requested that a review mechanism be built into the legislation to enable any issues that may arise from the initial event to be examined and resolved. The Liberal-Nationals are advised that the Tweed Shire Council also wants a review mechanism built into the legislation. In a press release dated 10 September 2008, the Tweed Shire Council's general manager, Mike Rayner, welcomed the announcement, saying that the event would boost the local economy and showcase the Tweed to a worldwide television audience as a tourist destination. Mr Rayner is quoted as saying:

This event has a massive audience—last year 50 million people in 180 countries watched each round of the World Rally. That will bring immeasurable exposure to the Tweed and northern rivers region, both nationally and internationally.

In a press release dated 3 June 2009 Tweed Shire Council's mayor, Councillor Joan van Lieshout, indicated that on 3 June representatives from Tweed and Kyogle councils met with the Minister for State Development. Councillor van Lieshout is quoted as saying:

We were advised that the decision was made by the Department in order to secure the event following commitments for the delivery of relevant equipment from overseas.

While I am obviously very disappointed that the event has been taken out of the hands of local government, I have uppermost in my mind the concerns of the community in regard to transparency and full communication with all negotiations.

It has been on the agenda for many months awaiting relevant development application and during this time community members have expressed their concerns that a 'fast car rally' is not within the vision for the "Tweed Naturally" imagine which is foremost in our strategic tourism planning for the future of the Tweed.

I am determined that the process will be fully transparent and have requested that a review of the whole event be taken prior to any further agreements for the future.

We have the opportunity now to set the forum for all future events of this nature through the democratic examples set by this event.

Members of the local community are angered by the course of action taken by this State Labor Government. There has been a lack of proper process and the community has been locked out of the decision-making process. While the Liberal-Nationals support the rally and will not oppose the bill, we condemn the State Labor Government for its heavy-handed approach when dealing with the local community. The role of the Government is to ensure that the local community is fully informed and taken through the process, rather than railroaded. Clearly, there are benefits to the local community and to the entire State. That is why the Liberal-Nationals will not oppose the bill.

However, this does not excuse the State Labor Government from locking the community out in the manner it has. All too often that is what we see from this State Labor Government. We see a lack of proper process, a lack of planning and a lack of infrastructure, and now we see tourism projects drawn up on the back of a desire to achieve positive headlines in the paper. This is not how our State should be run, and the local community is justified in its anger that once again the State Labor Government has demonstrated that it is more interested in a headline than what is right for the local community and, indeed, the State. Once again I congratulate the local member for Tweed and the local member for Lismore on their considerable advocacy on this matter.

Reverend the Hon. FRED NILE [6.22 p.m.]: The Christian Democratic Party supports the Motor Sports (World Rally Championship) Bill 2009, the purpose of which is to facilitate the conduct of the Australian rounds of the motor rally known as the World Rally Championship on a biennial basis in the northern rivers region of New South Wales. The Christian Democratic Party supports the bill because of the advantages to the economy and to tourism—I am a bit surprised by the criticism of the tourism aspect—and in terms of jobs. The

world rally championship organisation is one of the highest profile international four-wheel motor sport championships after Formula One, with approximately 51 million people viewing each round of the televised world rally championship. In September 2008 Events New South Wales and the Confederation of Australian Motor Sport announced that the Australian round of the world rally championship would be staged every second year in the northern rivers region of New South Wales from 2009 until 2017, with an option to extend until 2027.

Events New South Wales estimates that the event will generate more than \$100 million for the New South Wales economy over the duration of the agreement. It is also anticipated that it will boost tourism and jobs and deliver major economic benefits to regional New South Wales. The first event, Repco Rally Australia, will be held in Kyogle and Tweed local government areas from 3 to 6 September 2009. Obviously, when putting on such a large event—as was necessary for the staging of the super 8 event at Olympic Park—special legislation is necessary to streamline what has become a complicated maze of approval processes. If one were forced through the maze of approval processes, the first Repco event would probably not take place until 2027, if at all. It is important to have legislation that will allow a similar approval process to operate but still ensure that appropriate conditions can be imposed to address matters such as public safety and environmental protection.

I have received many requests to oppose the legislation. When I read those requests it became clear to me that it is easy to stir up opposition, as happened recently with mining legislation that was before the House. It is easy to create an atmosphere of fear and concern, and that has been happening with this event. Some have even said that many teenage drivers will go mad and kill each other after this event. In my view what encourages dangerous driving in teenagers are video games which are played by children—not necessarily teenagers—that encourage the smashing of cars and the ramming of police cars and so on. Many children engage in that form of entertainment day after day. I think that video games will have more effect to encourage speed and carelessness by teenage drivers than will a Repco event that will take place between 3 and 6 September. The Christian Democratic Party supports the bill as it will facilitate this event.

[The Deputy-President (The Hon. Amanda Fazio) left the chair at 6.27 p.m. The House resumed at 8.00 p.m.]

The Hon. HENRY TSANG (Parliamentary Secretary) [8.00 p.m.], in reply: I thank members for their contributions to this debate. The Motor Sports (World Rally Championship) Bill 2009 is designed to facilitate the conduct of the Australian round of the World Rally Championship, an internationally popular motorsport that was watched by 860 million people around the world in 2007. The bill puts in place a mechanism to consider important matters such as the environment and public safety. It provides certainty for the event and secures the estimated \$100 million boost to the New South Wales economy. The boost to the economy is recognised by the Murwillumbah and District Chamber of Commerce and Tweed Tourism. Tony Zuschke, business owner and President of the Murwillumbah and District Chamber of Commerce, said:

This event has the potential to deliver massive economic benefit to the region and, recognising that, the Chamber is working with business and with the community to ensure we're geared up fully to make the most of the opportunity. Visitors to the rally can expect a fantastic experience during their stay here, and we're confident that they will take away plenty more reasons to keep coming back.

Phil Villiers, General Manager of Tweed Tourism, said that the rally would give a huge boost to tourism in the region. He said:

From a marketing and promotional perspective the rally will provide the Tweed and surrounding area with a tremendous opportunity to showcase our story to the world. With major corporate attendance expected at the event, we will also be working actively to encourage businesses to discover the Tweed for many other reasons besides the rally, for instance for conferences and events.

Mr Ian Cohen: This is the biggest shaft I've ever had. Were you shafted as well, Reverend Moyes?

The Hon. HENRY TSANG: Mr President, as we will consider the bill in Committee, I am sure that Mr Ian Cohen can make his comments at that time. Is that all right?

Mr Ian Cohen: No, it is not all right.

The Hon. HENRY TSANG: You were not here—

Mr Ian Cohen: You knew that I wanted to speak on this bill.

The Hon. HENRY TSANG: You were not here.

Mr Ian Cohen: You knew I wanted to speak.

The Hon. HENRY TSANG: You were not here.

Mr Ian Cohen: You and the Liberals wouldn't give me the opportunity to speak.

The Hon. HENRY TSANG: The bell was ringing and you were not here.

Mr Ian Cohen: I thought Fred was still speaking.

The Hon. HENRY TSANG: You may have thought that, but he was not speaking. The member will have the opportunity to speak in Committee.

The PRESIDENT: Order! Members will speak through the Chair.

The Hon. HENRY TSANG: As I said, the House will give Mr Ian Cohen the opportunity to comment on whatever he likes. He should not get so angry; life is too short. Consultation with the community and with councils is a priority. The Minister for State Development met with Tweed and Kyogle councils, and is committed to ongoing close consultation with them. I commend the bill to the House.

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

The House divided.

Ayes, 21

Mr Ajaka
Mr Catanzariti
Mr Clarke
Ms Fazio
Ms Ficarra
Mr Gallacher
Ms Griffin
Mr Khan

Mr Lynn
Mr Mason-Cox
Reverend Nile
Ms Parker
Ms Robertson
Ms Sharpe
Mr Tsang
Mr Veitch

Ms Voltz
Mr West
Ms Westwood

Tellers,
Mr Donnelly
Mr Harwin

Noes, 5

Mr Cohen
Reverend Dr Moyes
Ms Rhiannon
Tellers,
Ms Hale
Dr Kaye

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

The Hon. HENRY TSANG (Parliamentary Secretary) [8.09 p.m.]: I move:

That the President do now leave the chair and the House resolve itself into a Committee of the Whole to consider the bill in detail.

Question put.

Division called for.

[In division]

The PRESIDENT: Order! An unfortunate situation has suddenly arisen. A member who intended to contribute to the second reading debate on this bill was locked out of the Chamber at a time when he, if present in the Chamber, could have sought the call. The member sought to gain entry to the Chamber through a side door but the door was locked. The member then knocked on the door but was unable to gain entry to the Chamber. Because no member at that time sought the call, I gave the call to the Parliamentary Secretary to reply to the second reading debate.

That members are not present to participate in debate when the bells have been rung and the House begins to sit is neither here nor there: that is a matter for members. If members wish to contribute to a particular debate, they should be present when that debate is called on. However, if a member is prepared to speak and intends to do so but is physically unable to enter the Chamber, a matter of privilege arises.

I propose to call off the division and to give the call as a matter of privilege to Reverend the Hon. Dr Gordon Moyes, the member who was unable to enter the Chamber, to allow him to contribute to the second reading of the bill. At the conclusion of that speech I will ask the Parliamentary Secretary to move again the motion to enable the House to resolve itself into a Committee of the Whole to consider the bill in detail.

Division called off.

The PRESIDENT: Order! I call on Reverend the Hon. Dr Gordon Moyes to address the House, as he wished to do earlier but was unable because he could not enter the Chamber.

Reverend the Hon. Dr GORDON MOYES [8.17 p.m.]: I thank the House for extending this privilege. It is very rare that one gets the opportunity, in an institution as old as State Parliament, to set precedent in the regulation and conduct of the House. The Motor Sports (World Rally Championship) Bill 2009 is a bill for an Act to facilitate the conduct of the international motor sport known as the World Rally Championship. Clauses 13, 14 and 15 override the Local Government Act 1993, the Forestry Act 1916, and the Water Management Act 2000 by allowing the Motor Sports (World Rally Championship) Bill 2009 to authorise people to take actions that are expressly not permitted by those Acts. Clause 20 protects the exercise of certain functions of the Minister, or any delegate of the Minister, or a public authority, from challenge or review before a court or administrative review body, or from being restrained, removed or otherwise affected by any proceedings.

The Northern Rivers area of New South Wales is pristine and beautiful. It is incredibly rich in flora and fauna, with more species of fish, birds, amphibians and mammals than even the world-famous Kakadu area of the Northern Territory. The region also has many threatened fauna and plant species that need to be protected. The area is recognised as having diverse ecosystems, including different kinds of rainforest, wetlands, heathlands and important zones between the land and the water.

Some areas of Australia are so special and unique that they have received official recognition, and this is one of them. In 2008 the Federal Government launched the National Landscape Program, selecting only a handful of regions. Along with Kakadu and the Great Ocean Road, the Mount Warning Wollumbin Caldera was awarded special status as a national landscape icon by the Ministers for tourism and the environment. The Green Cauldron, as it is commonly called, is a designated area stretching from Byron Bay up past the State border into the Gold Coast, and was selected because of its distinctive natural features, including the world's second-largest shield volcano crater, which has shallow sloping sides, awesome environmental biodiversity and a very rich Aboriginal heritage.

I have wonderful memories of visiting this area on many occasions, particularly the area around Kyogle, which my family has visited several times. Kyogle is a town of approximately 4,000 people in the Northern Rivers region of northern New South Wales. It was founded as a lumber camp in the 1930s, with red cedar and hoop pine being the main timber trees. It is about 750 kilometres north of Sydney, quite close to the border. The Kyogle area has cattle grazing, dairy farming and forestry as its primary industries, and is a tourist gateway to many national parks. The mad rush of the modern lifestyle has lost so much of the simplicity and beauty of the more natural pace of life and the smaller scale of living on the land. The people living in Kyogle and Tweed shires have purposely set out to recapture this preferred quality of life and are living their vision in the most committed way.

The back-to-the-land lifestyle is a homey, environmentally based world view that embraces home-grown organic food, handmade items of daily life, eating actual cooked meals rather than fast food on the

run, raising poultry and cattle, birdwatching, bushwalking and a philosophy that supports the ongoing daily work of a commitment to recycling and a deep love and respect for, and the protection of, wildlife. These are the kinds of quiet pursuits that they embrace and encourage in their region. The people of Kyogle and Tweed collectively have identified the environment and its protection and enhancement as their top priorities, and the extraordinary natural environment is the reason people choose to live there. I emphasise the fact that the people as a community and as a region have purposely chosen that natural, life-affirming, low-carbon-footprint, close-to-the-land lifestyle.

As part and parcel of that world view, they have eschewed big, noisy, air- and water-polluting, old-fashioned, high-energy-using pastimes from the manic-paced cities, such as international motor car racing. It is true that there has been a small Speed for Tweed race of historic motor cars for the past five years on the streets of Murwillumbah, but it is very small scale, low key and charming. It is run as a non-profit event by the locals for the benefit of locals. It has raised thousands of dollars for local charities and Murwillumbah hospital. The race is tiny in comparison with the major-event motor car races of a scale threatened by the Repco Rally, which is simply not welcome there for many reasons—one of which is that it is an international business. It does not even pretend to benefit or serve the interests of local people. It is merely a commercial enterprise, a business. It does not share the ethos of the region and will offer nothing of value to the community.

Most of all, the Repco Rally simply does not belong there; it is seriously out of place. If the rally proceeds, it is an insulting imposition on the locals by external parties with truly alien values who are apparently such arrogant people that they will not take the broad hint that they are not wanted. Indeed, the local people could hardly be more expressive of their point of view on this matter, having written to their representatives and to the newspapers, marched in their localities, attended consultations, and done everything else they could think of to get someone to pay attention to their concerns—which range from indignation at being treated shoddily by the State Government to concerns about damage to the environment, and to issues with the suspect economic claims behind the decision to hold this race in their vulnerable natural environment.

Previous speakers who praised the rally indicated that it will bring \$100 million of value to the area. They do not understand what they are talking about. For example, \$100 million over what period? It is certainly not for this one race that is coming up, or for the one in two years time, or the one in 10 years time. It is the accumulated value they think they might get if everything is done and all options are accepted between now and 2027. A more true picture comes from Western Australia. The Western Australian Government no longer wanted the rally, indicating that it was costing Western Australia \$6 million a year and it was not getting economic value to make up for that \$6 million.

I have received, as I guess have many members, hundreds of emails, letters and visits from people in the area pointing out many different aspects. Obviously I will not go through all of them now. However, one concerned citizen, Dr Jules Lewin of Stokers Siding, pointed out to me that Repco Rally's socioeconomic impact assessment was so poorly put together, without being substantiated or having verifiable projections or references, that in scientific, medical and management circles it would be flatly rejected. The methodology was inappropriate, the numbers were inadequate, the data presentation was obscure and the analysis was unsound and contradictory.

In the assessment there was no consideration of the current economic crisis; nor were there any references to current social trends, such as green driving, concern for many environmental issues, the concept of sustainability or the impact of peak oil. With such a lack of insight and grasp of elemental issues, the so-called impact assessment is utterly irrelevant. No multimillion-dollar contract meant to last a minimum of 10 years, plus a 10-year extension, should be allowed to proceed on the basis of the authenticity, accuracy or recommendations of this flimsy report. Also, in the socioeconomic impact assessment the Repco Rally organisers claim to have consulted with the community, but a letter written to a number of local newspapers stated the following:

We the undersigned wish to advise the community that our respective community associations have been totally misrepresented in the report entitled Rally Australia Socio-economic Impact Statement, which was committed by Repco Rally Australia. We have been listed on page 29 of the report as being the representatives of our respective community associations who were supposedly part of the community consultation process. We wish to advise that no such community consultation ever took place.

The letter is signed by a significant number of leaders of community organisations from the area. Claiming that community consultation took place might look good on paper, but it has now been completely discredited as an untruth. If the Repco Rally organisers have not provided meaningful background research, presented accurate information or genuinely consulted with the community, and they have misrepresented their own activities, what

is their word worth on anything else? One lady wrote to me about Sargents Road in Kyogle, where she lives, which is a core koala habitat crucial for the survival of the species. She cited the New South Wales Department of Environment and Climate Change [DECC] November 2008 Recovery Plan for the Koala, which seeks to ensure the survival of the koala in the wild. This State report reinforces the need to recognise the value of koalas to the community in terms of their presence in the landscape and their potential to attract eco-tourism.

How then can another State department come along and act in opposition to those interests already committed to by that department? Sargents Road is not the kind of road recommended for racing—not if we care about animals and their habitats. In fact, the busy local wildlife rescue volunteers say that already far too much wildlife is injured and killed on the roads by automobiles, and that more cars racing on those roads is the last thing the animals need. They also mention that the methods proposed to scare the animals away from the roads—I wonder how many Government members understand this—will likely lead to stress reactions and heart failure in the animals. There will be extremely loud noises, such as banging and so on, to frighten animals away.

Additional concerns have been reported to me in letters from people, such as problem driving and street racing. I will not comment on those. We all know that streets and roads are already deadly to innocent drivers and pedestrians. The news is always full of copycat racing in every area after it hosts such races. Do we really want to inspire more of them? The answer from the people of the North Coast is a resounding "No". The local Kyogle and Tweed Landcare teams, made up of people who give their time free in cleaning up, salvaging and repairing damaged ecosystems, dread the havoc that will be wreaked by such an event in this area—one that they have tended with such devotion over the years. The members of the Tweed Valley Wildlife Carers and the Caldera Environment Centre, who have worked for decades protecting the natural environment, are sick at heart over this bill, which will force the rally on an area where it should not be allowed.

I assure members that local residents in this area are informed and intelligent; they know their special environment is critical to the growth of tourism in the area and is, in fact, its greatest attraction. Any activities that are destructive of the environment are anathema to them. Some believe that the Government will be in contravention of the Convention on Biological Diversity, which was signed in 1992. Motor sports are incompatible with and irrelevant to the local agricultural industry, and can only undermine the World Heritage value of the area. Any anticipated profits from motor sport enthusiasts would be dwarfed by the year-round loss of ecotourists once the green branding of the area is tainted. In addition to the danger to wildlife at risk from the rally, there are also many companion animals and domestic stock living in this area that are very sensitive to noise and can be terrified by screeching, careening and unpredictable motor-generated noises. Even if they were able to stay safely indoors, they will be bombarded by noise, which to animals is perceived as a threat. Such noise permeates and penetrates residential walls as if they were not there. This kind of noise should be isolated away from population centres—and not allowed in an area known for its nurturing silence.

The excessive noise pollution will be imposed on the human population too, of course. The standards set to protect people and animals will be overruled by this bill that we are considering passing, so that people will have no right to complain—and that is wrong. Those standards were established for a purpose, and to remove them casually in this way is a great wrong. Exposure to excess noise is known to raise the heart rate and blood pressure of many people and to contribute to anxiety; it should not be inflicted on populations as if it is of no importance. The wives, families, counsellors and companions of 4,000 war veterans living in the area have expressed their great concern over the anticipated helicopter noise—which they anticipate will cause psychological disturbance and deep anxiety as it triggers post-traumatic stress episodes in the vulnerable, particularly Vietnam War veterans.

Even the anticipation of one helicopter circling above them is unbearable, much less the dozens of helicopters that will be used over the three-day event. To put veterans through such stress is just unconscionable. Their absolute dread is really escalating into a serious mental health issue for them, their families and their communities. Previously I have mentioned that I was responsible for establishing a mental health facility in Taree to handle post-war traumatic syndrome. Hundreds of Vietnam veterans from the northern rivers came to the Wesley Mayo clinic at Taree for psychological services. In fact, the recently named psychological condition of "solistalgia" is now widespread in the North Coast area. Solistalgia is defined as "the deep distress induced by environmental change, which is exacerbated by the sense of powerlessness and loss of control over the changes that are occurring".

Then there is the spillage of oil, petrol and other wastes that will seep into the ground, into the atmosphere and onto roads, which is unconscionable in such a pristine area. The air pollution generated from motor racing is unhealthy for people and all other living things, including trees close to the track. The amount of

dust that is raised is dangerous for asthmatics and people with respiratory conditions, not to mention dirty and distressing for the people whose homes it will fill. Advising them to go inside and turn on the air conditioning is not good enough. People have outdoor work and busy lives to live and cannot easily take refuge indoors, and many do not have the option of air conditioning. Nothing will help animals cope with the particulate matter in the air that will sicken them. On the topic of pollution, it is reported that every member of the world rally racing team travels over 130,000 kilometres by air each year. Add that to all the carbon emitted by the activities associated with the rally and a thoughtful person cannot help but recognise that it is an unacceptable carbon footprint.

In fact, in this era of climate change, in response to the deadly global threat of increasing greenhouse gases, it would be far more sensible for the State Government to discourage all human activities that produce such a massive carbon footprint. Perhaps the rich race organisers think they do not have to worry about such matters, but climate change will eventually affect them too. There are also all the prudent economic arguments that many of my constituents have pointed out. Locals believe almost universally there will be far more irremediable damage than any possible benefit accruing from having full restaurants and accommodation for a few days every other year. The proposed benefits of showcasing the northern area to an estimated 51 million people worldwide, who are supposedly going to watch the racing on television, is outweighed by the actual damage done to the whole fabric of society, the already ill-maintained roads, the environment and the people. Some things just do not bounce back that easily, and having had an event of this magnitude forced upon them is not going to sit easy with residents. Many are simply not resilient enough to cope with the magnitude of the change being thrust upon them.

I will say very little more. It just does not make sense on any level. The history of the rally in other States has been lacklustre, leading to large financial losses by taxpayers. The Western Australia Government expressed that by not being willing to let it continue in that State. It is on record as saying they it was deceived by rally organisers. Why have Suzuki and Subaru withdrawn their sponsorship of the rally? Why did Victoria or Queensland not want it? Why did the Welsh Assembly Government recently terminate its five-year contract after just two years? I will tell you why: Because all the promised benefits that have been presented to members of the Government and the Opposition and were hyped to them were not forthcoming, after all—and if we in New South Wales are sold the same bill of goods, the same thing will happen on the North Coast.

People have asked me why are the taxpayers of New South Wales being asked to fund this rich people's sport? Why is the State Government promising this international commercial enterprise the free labour of hundreds of local volunteers, particularly, who are already overstretched by their efforts and services during two recent floods in the area? As well as the money paid to the Repco rally organisers, the State intends to provide free of charge a number of bushfire brigades, 150 extra police, the services of the State Emergency Service, hospitals and all their associated staff on stand-by, on and on ad infinitum. This event will run at a loss for the State, but not for the organisers. Even though the people who thought the idea had some merit now recognise the contempt in which their region's concerns are being held by the arrogant rally organisers, who act as if they have been given *carte blanche* to do whatever they like. The residents know full well it is not democratic, not respectful, not what they expect or deserve, and not right. One wrote to me and said:

Apart from being a very bad idea and unpopular with residents, this is a dangerous practice: taking control over events that the local councils should be regulating, in order to benefit outside elites.

Another wrote:

Have our governing bodies become so anesthetised to the fact that they are elected to represent the citizens, and not given the divine rights of kings?

There is one more group whose interests and concerns I have not yet mentioned, the Aboriginal women of the Githabul people, whose representative contacted my office when they heard that I was listening to all sides of the issue. The representative of the Githabul people explained that under the agreement reached in late 2007 the Githabul people were going to be allowed joint management of national parks and State forests with the New South Wales State Government. Regarding the Repco rally, there was consultation carried out with one sole male elder. But he, as a male, was not in a position to know anything about the areas that are sacred to the Githabul women and apparently the women are very distraught that they have had no voice in presenting their deeply honoured cultural concerns to the rally organisers and the New South Wales Government, and they call upon both to recognise that they too have a right to be heard. To them these issues are of life and death importance and they do not want the Repco rally to have access to particular areas on the race route as announced that are actually sacred territory.

Forcing through the bill does not demonstrate respect for the opinions, needs and lives of people and their families in these areas. This is not good manners, it is not social justice, and it is not democracy. In fact it is a blatant flouting of the democratic process and does not represent the value system that Australians have gone to war to defend and protect. It is an insult to war veterans and families in that area. I am disturbed to note that this is becoming an all too familiar pattern, with bills being used by the Government to disregard other tiers of government or authorities in order to force its own way without regard for the feelings or safety of the people on the receiving end. Our political system has been built up over many years with multiple layers of power and checks and balances, and we must not give them away.

I conclude, Mr President, by reading a passage from the Code of Conduct for Members, which you signed and sent to every member of this House. I am sure that it has been quite a while since many of us read or thought about it. It states:

Members of Parliament acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution of Parliament, and using their influence to advance the common good of the people of New South Wales.

Not all of my constituents are against motor racing per se, if it can be held in an area that will be undamaged by it and if nearby residents actively want it happening there. It is a hard ask, though. No residents that I have spoken to in the area, or anywhere near it, want motor races to be held near their children's schools, on their village streets or on rural roads. I do not approve of anything that can be construed as a misuse of power and, therefore, I will not support any bill that allows large-scale events unwanted by the people who would have to host them. I encourage any other members here today who still think they have either an environmental or a social conscience to join me in refusing to support what I believe is an ill-conceived bill. I thank you, Mr President, for extending me the privilege of being able to speak.

In Committee

The CHAIR (The Hon. Amanda Fazio): I propose to deal with the bill by parts. There being no objection, the Committee will proceed to consider part 1.

Mr IAN COHEN [8.44 p.m.]: On behalf of the Greens, I say in Committee that I strongly oppose the Motor Sports (World Rally Championships) Bill 2009, which is a burning indictment of the pervading culture of the New South Wales Labor Party. I am constantly amazed by the amount of special legislation that the New South Wales Labor Party regurgitates in this Chamber to facilitate all manner of incursion on basic rights. However, I was not at all surprised at the Government putting forward special legislation to enable this rally to go ahead. As I feared when I spoke in this Chamber in May, the rally deal was stitched up a long time ago. The rally organisers have been taking bookings and proceeding with great confidence without even lodging a development application.

The people of the North Coast have been waiting to see the rally be considered by their local council, which should be the determining authority. But it has been robbed of its capacity to participate in determining what happens in its area. The bill has the usual grubby and sleazy hallmarks of Labor's special legislation turning off key environment and land use planning legislation because there is one rule for the New South Wales masses and one for the international racing crowd. Taking away residents' common law rights and usurping the will of local communities is all encompassed within the bill—all hallmarks of this brave and noble Labor Government.

The bill overrides the National Parks and Wildlife Act, the Environmental Planning and Assessment Act, the Threatened Species Conservation Act, the Forestry Act, the Water Management Act, the Fisheries Management Act and the Local Government Act. The special legislation will foist a car rally on the Tweed and Kyogle shires of northern New South Wales this September and a further four more rallies to be held biannually until 2017. On top of turning off the State's key environmental legislation, the bill will also allow the Minister to accommodate any requirements of the rally organisers. The legislation is not restricted to the northern rivers region. It will allow the Minister to prescribe any area in New South Wales as part of the declared rally area by regulation. This means technically that the Minister can declare the whole State one big rally course and turn off every key piece of environmental legislation, and the decision to do so would be immune from any judicial review at all. Some might say it is total insanity. Has this Minister gone mad? Is he somewhat of a modern-day Nero? There is no personal advantage, or will the Minister gain some personal advantage by building up his credit and riding off to some corporate retirement? Worst of all, Minister Macdonald has inserted a double-glazed privative clause in proposed section 20—

The CHAIR (The Hon. Amanda Fazio): Order! The member should be speaking to part 1 of the bill, which incorporates clauses 1, 2 and 3, and should not be making reflections on other members.

Mr IAN COHEN: I am expressing myself in Committee due to circumstances somewhat outside leave—

The CHAIR (The Hon. Amanda Fazio): I am aware of that. Please proceed.

Mr IAN COHEN: If that means that I have to go through every section of my speech at every point of the Committee, I will do so. I would ask the indulgence of the Committee to allow me to at least express myself, which is a right that I have as an elected member of this House—

The CHAIR (The Hon. Amanda Fazio): Order! Nobody is disputing that the member has the right to speak to different parts of the bill, but in doing so he must not make reflections on other members.

Mr IAN COHEN: Even the improper exercise of functions by protected persons is exempt from any judicial or administrative challenge whatsoever. This is probably one of the most extreme privative clauses crafted by the hands of Minister Macdonald, who refuses to be accountable for his decisions. It is a total joke and this level of legislative extremism to secure commercial certainty should be thrown out.

The Hon. Ian Macdonald: Point of order: I do not mind the member making points about the bill, but he should not use the Committee stage to say outrageously stupid things about me. He should be brought to heel. There are other forms of the House available to him if he wishes to attack me, and the Committee stage is not one of them. It was not my fault that he missed the call.

The CHAIR (The Hon. Amanda Fazio): Order! I remind Mr Ian Cohen that he should not make reflections on other members unless by way of a substantive motion. It is in order for him to speak about his concerns about the bill, but he must not speak about the Minister who has carriage of the bill.

Mr IAN COHEN: Thank you, and I must apologise to the Minister. I did not realise he was such a sensitive character.

The Hon. Rick Colless: Precious.

Mr IAN COHEN: It is rather precious, and I acknowledge the interjection of the Hon. Rick Colless. The Minister is good at dishing it out but cannot take a little bit of criticism. I am surprised he finds this such a sensitive issue. I read on the Rally's website that the world controlling body for motor sport, the Fédération Internationale de l'Automobile [FIA], was understood to have been concerned with media reports about the event and sought an assurance from the Government that it would proceed. With this legislation it will do more than just proceed. The FIA and Rally Australia, a private company, can just sit back and let the Government do all the work. Inconvenient local planning laws? Consider it solved. This proposed legislation will sweep them under the carpet. Endangered wildlife getting underfoot or under a wheel? This legislation will override the National Parks and Wildlife Act and the Endangered Species Act, and hopefully the helicopters will scare the koalas away. Annoying local council and residents? Do not worry, just go over their heads.

I would like to commend the Hon. Gordon Moyes for his speech on this bill in which he raised a number of issues that I was not aware. He referred to the number of Vietnam War veterans living in that part of the world, and I commend him for raising that issue. It shows how in touch he is as a church representative, as well as a representative of this House, about the problems and issues in country areas. There is the clear example of the Vietnam War veterans, but many others with all sorts of problems retire to the country for a quiet life. They go there deliberately for that reason and, as the Hon. Gordon Moyes said, to get away from the rat race in the city. People go to these areas to escape the insanity that is highlighted by this type of event. No development applications, no council meetings, no problems! Funding from Events NSW? Sure, no problem again—just keep it commercial-in-confidence so no-one knows how much is being spent. This is said to be commercial-in-confidence but where are the competitors? There are none.

The Hon. Matthew Mason-Cox: Queanbeyan.

Mr IAN COHEN: I acknowledge the interjection by the honourable member. But where are the competitors who would demonstrate the commercial viability of this event? There are none. It is a sewn-up deal,

so why is it commercial-in-confidence? Why do we not have some degree of transparency from this Government? It is certainly quick to assess the profit to be derived and to make a statement about that. It just tosses up the figure of \$100 million to indicate the sort of money that will be made. Is there a proper assessment of the event? No. It is commercial-in-confidence even though there is no competition for the event. We are heading in the right direction if we are heading for a State built on cheap, snake-oil salesman-style entrepreneurialism. The Minister is looking like some sort of corporate Rambo. He has gone way beyond the principles that the Labor Party once stood for, so that not even the hard Left can reel him in.

The Hon. Ian Macdonald: Ms Lee Rhiannon has certainly stirred you right up.

Mr IAN COHEN: I acknowledge the interjection by the honourable Minister claiming that my reaction is somehow caused by my fellow Green Lee Rhiannon. I have to say that everything that has occurred recently has had no input into my feeling of revulsion at what this Government is doing and the way it is acting. Talks about the rally are reported to have been going on for two years yet Repco Rally Australia [RRA] could not manage to prepare a development application that could possibly justify this event. The FIA, headed by Max Mosley, applied a bit of pressure and the caped crusader, Minister Macdonald, stepped in to save the day. As I pointed out in the question to the Minister—

The Hon. Ian Macdonald: Point of order: The member should stop the gratuitous slights he is making in this contribution. He is abusing the forms of this Chamber. If I had the right to reply to his comments, as I would in a second reading debate, I would certainly make a few comments about the nonsense he is talking. After all, the first I learnt about all of this was on 17 May.

The CHAIR (The Hon. Amanda Fazio): Order! As I ruled earlier, the member should not make comments about the Minister who has carriage of the bill. He should confine his remarks to the bill.

Mr IAN COHEN: I withdraw the comment. The Minister is no caped crusader. As I pointed out in a question I asked Minister Macdonald last week, I find it curious that a New South Wales Government that has become obsessed about marketing and branding our iconic natural tourist attractions, such as the Green Cauldron, could then turn around and hold a rally car race through the same areas. It is totally illogical. No criteria have been put forward by the Government to indicate that this rally is a good idea. It is simply a case of the Minister trying to circumvent our environmental planning laws for a corporate patron's convenience. The event will not be a boost to the economy. A bit of research would have shown the Minister that Western Australia withdrew its support for the rally in that State because, as the Western Australian tourism Minister said, and I would suggest he would be pretty much in favour of a profit-making event:

\$6 million for one single event that returns \$1.60 for every dollar invested by the state, when the average return is about \$8 for every dollar invested by the state, is not a good return on investment.

The Minister for State Development, Ian Macdonald, says it will boost the economy by \$100 million. It is a dubious figure and I would like to know how it was arrived at and how much the taxpayers of New South Wales are expected to shell out to get this return. As I said earlier, it is commercial-in-confidence; despite the fact there is no competition the details are protected. The same amount is quoted as the return that we can expect from the V8 Supercars event. I wonder if this is just a shelf figure that is trotted out for such events. It seems to have the consistency of an Iranian election result.

Elsewhere throughout the world such rallies are increasingly on the nose. Rally Finland is reducing the organising budget for this year's event by as much as 40 per cent after the loss of 1,000 pre-booked VIP guests. The Welsh Assembly Government served notice of termination of its agreement with the FIA World Rally Championship organisers, and the British Motor Sport Association has had to jump in with £2.2 million to ensure the events go ahead. In referring to the 2006 Wales Rally, Mr Ieuan Wyn Jones, the Deputy First Minister and Minister for the Economy and Transport in the Welsh Assembly said:

... the event has only had a marginal impact on the development of the Welsh motorsport/advanced engineering sector, and in terms of repeat visitation generates a modest tourism spend of circa £1 million per annum. The report confirmed that the 2006 Rally generated £3.3 million of gross value added, which represents a return on investment of less than 2:1. In comparison, even Event Scotland, the national events agency in Scotland aim for a return on investment of 8:1 across their portfolio of supported events.

If New South Wales is to have five of these events over the next 10 years, how reliable is the supposed revenue likely to be? The so-called motor sports—and I do wonder about this being a sport at all—are increasingly unpopular and irrelevant in an increasingly energy constrained world. If this Government were really serious

about boosting the local economy of northern New South Wales, it would restore the Casino to Murwillumbah rail link. An event that occurs for a few days every two years is not going to sustain the local economy. The return of the rail link would help people to become more mobile and allow them to travel to work and between towns for commercial purposes. With good transport links, so many opportunities would arise and businesses would be facilitated. The whole community and the local economy would flourish. The funds this Government is committing to a brief and intermittent so-called sporting event would be better diverted to restoring that rail link. The people of the Tweed and Kyogle shires are really angry about this legislation. Mr Rick Wagner, a resident who lives along the proposed route writes:

Since this event was brought to the Public attention I have been in contact with RRA [Repco Rally Australia], Kyogle Council and Councillors on a regular basis to try and find out how this event will affect my life. I live on the route, in fact my property is on both sides of Sargent Rd which is on one of the special stages of the event.

All along RRA have said trust me and wait for the Development Application to be lodged with Council. Council has said I have to wait for the DA to be lodged before I can make any submission in regard to how it will adversely affect my life.

It now appears that any rights I may have had in this regard are being taken away by this legislation which will just about allow Repco Rally Australia to do anything they wish. The proposed legislation certainly appears to waive many other existing legislations that have been put in place to protect ordinary people and their civil rights. Noise, Dust, Intrusion in the use of my property, environmental, ecological, even my own access to my property are all things that will be overruled by this legislation.

RRA is going to make millions of dollars from this event but for them to do this I, and many other residents along the route, will be severely inconvenienced and impacted not only financially but in the quality of our right to enjoy the environment in which we live. Many are already sick with worry about the impact of this event. Communities have become divided over the event and this in itself is unhealthy.

Denise Ewin from Tweed shire wrote:

I am a retired teacher with over 30 years as a practising pastor and teacher and 15 years during that time as an assistant principal. I was also the accredited manager in New South Wales and Queensland of our family-owned business operating tours, which encompassed many areas of the Tweed Valley, the granite belt and the outback town of Lightning Ridge. All our tours went to the world heritage listed Border Ranges National Park in the Kyogle Shire.

Whilst I am not in favour of this type of rally in any environment I am particularly opposed to it being held in this unique area of physical beauty which should not be intruded upon by speeding cars, helicopters and all that goes with this type of event causing havoc to the environment and to the people who live there.

Most people come to this area because of the special beauty and serenity, which is not only in this very scenic area but which also has some of the most diverse wildlife in New South Wales. This is indeed a blow to the people of the shires involved and might I say a very big mistake by our Government. The Government would do well to remember who elected it and to care for all the people of the State regardless of political affiliations.

The people who are writing to me are not the hysterical ferals that the Minister would like to dismiss; they are ordinary people with a genuine grievance.

The Hon. Ian Macdonald: Point of order: The member is straying outside the legitimate issues to which he should be confining himself. He just made another gratuitous insult and he should withdraw it.

Mr IAN COHEN: To the point of order—

The Hon. Ian Macdonald: I have never accused anyone of being a feral in relation to this bill or in relation to any other area.

Mr IAN COHEN: To the point of order: It is reasonable to say that on a number of occasions the Minister has insulted people that I represent. I would have to go through the *Hansard* to verify it, but on a number of occasions the Minister has spoken disparagingly about them. It is reasonable to raise issues that have occurred in the past in this House.

The Hon. Ian Macdonald: I ask him to withdraw it.

The CHAIR (The Hon. Amanda Fazio): Order! The Minister has advised the Chamber that he has not referred to anyone in relation to this matter in the terms referred to by Mr Ian Cohen. The Minister has asked Mr Ian Cohen to withdraw that comment and I suggest that he does so.

Mr IAN COHEN: I withdraw the comment. These are ordinary people with genuine grievances. John and Janet Townsend of Murwillumbah—a community-minded couple in their late sixties—wrote to me and to

the Minister. They are disgusted about what they call the most breathtaking subversion of the democratic process that they have ever seen in Australia. They also said in a letter to the Minister, of which I received a copy:

You know perfectly well that this would not have been necessary if our Shire warmly welcomed the destructive event in the middle of one of the two most important areas in the east coast of Australia ...

The opposition to the event is NOT a rabble of 50 ratbags ...

We hope you have not been taken in by Garry Connolly of Repco Rally Australia telling you that the rally organisers have been collaborating on a carbon offsetting plan with Tweed LandCare Inc. ... or that esteemed consultant ecologist Dr Stephen Phillips has given the rally the go-ahead after completing his environmental assessment of the impact of the event.

Both these claims are made by Repco Rally Australia and seriously backfired on them. Angry Landcarers phoned them (we know, as we were two of them) and wrote letters to local newspapers refuting the implied association of Tweed LandCare Inc. ...

Doctor Philips for Kyogle Shire ... his brief has been limited to assessing "which particular threatened species may be at risk along a given stage, and why", and really all he has been able to conclude is that the rally will not kill enough rare or threatened species this year as to jeopardise the viability of the local species.

This Government has shown scant regard for indigenous cultural heritage and the rally shows a continuation of that pattern, with indigenous people shabbily treated in consideration of the rally. One person was selected to represent all Aboriginal interests. The draft Cultural Heritage Assessment [CHS], which should consider the possible impacts on significant Aboriginal sites, has been considered for only three of the rally's 15 competitive stages. The Cultural Heritage Assessment for the rally has not yet been finalised but decisions have already been made. This Government is prepared to trash Aboriginal cultural heritage and ignore Aboriginal people's concerns just to make a quick buck, if indeed there is a buck to be made.

I commend Reverend the Hon. Dr Gordon Moyes for elucidating that issue in his earlier speech. This Government proposes to override State planning laws to allow this rally to carve through an area designated under the National Landscapes scheme and named Australia's Green Cauldron—an internationally renowned biodiversity hotspot. This very spot was recognised by the New South Wales Government's task force on tourism and national parks. The task force made 20 recommendations that were all adopted by the Government and reinforced the importance of branding and marketing iconic sustainable nature tourism experiences in our national parks. I doubt whether anyone would come to the conclusion that this rally was an iconic sustainable nature tourism experience.

The Government's failure to heed the recommendation of its own task force and instead foist this utterly unsuitable event on the area shows an incredible lack of understanding of what north-east New South Wales is about. Tourists go to that part of New South Wales because of its natural beauty. They go to see the beauty of the rainforests, the beaches, the rivers and the wildlife; they do not go to see cars carving through these beautiful places. The Green Cauldron is so named by government agencies because people who live in that area have fought long and hard to protect it from logging, mining and now rally car racing. Those who live in the area have long known the incredible value of this place now recognised under the National Landscapes scheme.

This car rally is not only completely dissonant with the spirit of this landscape; it is also a blunt instrument carving through a masterpiece. Local people are genuinely concerned about the rally going through habitats of threatened or protected species. One hundred vulnerable species of wildlife and 23 endangered species in the Tweed area will be placed at greater risk as a result of this rally that will occur in September, coinciding with the breeding season of many animal species. The death of animals is a terrible thing, but the death of young people is a tragedy. I have seen horrific accidents involving young people on the roads where I live. I quote from the Roads and Traffic Authority website which states:

... the aim of the "Speeding—no-one thinks big of you" campaign is to make speeding socially unacceptable. In NSW speeding is a factor in about 40 per cent of road deaths each year. This means more than 200 people die each year in NSW because of speeding. In addition to those killed, more than 4,000 people are injured in speed-related crashes each year. The estimated cost to the community of speed-related crashes is about \$780 million a year.

That is more than seven times the expected revenue from the rally, but we cannot put a price on the suffering caused by motor vehicle accidents. There is a proven correlation between the interest in motor racing and risky driving behaviours of young male drivers. "Life in the Fast Lane: Environmental, Economic and Public Health Outcomes of Motorsport Spectacles in Australia" is a study co-authored by Paul Tranter of the Australian Defence Force Academy.

The study, which was published last month in the *Journal of Sport and Social Issues*, shows the negative social effects of motor racing as well as citing a number of studies that directly link motor racing to dangerous copycat driving behaviour in Adelaide and Melbourne after the Grand Prix. I cite another study by Paul Tranter and James Warn from the Australian Defence Force Academy entitled "Relationships between interest in motor racing and driver attitudes and behaviours amongst mature drivers." The study states:

As well as the obvious dangers to drivers and spectators from crashes during motor racing events, there is evidence that motor racing events are linked to an increase in road accidents off the racetrack ... Accident rates can also be higher in localities that have been associated with motor racing events. Road accidents in South Australia around the time of the Adelaide first Grand Prix increased significantly. This increase, which could not be explained by variables such as traffic volumes and weather conditions, was believed to be due to the glorification of speed and daring associated with the motor racing event. In another instance, casualty accident rates on public roads more than doubled after the roads around Melbourne's Albert Park more than doubled after the roads were used as a Formula One race circuit. A New Zealand study found that young males who were interested in legal motor sport events were more likely to engage in risky driving behaviours (as measured by a violations scale) as well as more likely to be involved in illegal street racing.

The Minister for State Development has chosen to ignore the experts and his Government's own anti-speeding message.

The Hon. Ian Macdonald: I haven't chosen to do anything.

Mr IAN COHEN: Well, you certainly have not taken any notice of it.

The Hon. Ian Macdonald: This is Government legislation.

Mr IAN COHEN: You still have not taken any notice of it. This is something I have raised in this House before.

The CHAIR (The Hon. Amanda Fazio): Order! Members should not interject, and members with the call should not respond to interjections.

Mr IAN COHEN: I have raised in this House a number of times issues about speed driving and impressionable young people who are vulnerable to that sort of behaviour. The fact is that we do not measure the resultant cost of hospital and medical bills. It seems as though there is an inability of government to say, "Look, we've got issues here" that spin-off from a particular project. I shall refer to that in more detail shortly. I received an email from a person named Wayne Smith who said simply:

Drivers are already practicing the rally course on Byril Creek road. There are many people living along this road who report that they are practicing late at night with their number plates covered or removed. This has been reported to the police on several occasions who ignore the reports.

The proposed rally already is having an impact. I guess young people will do what young people do: they are practising at night along this bush rally route, not taking into account any road kill along the way. I hope a serious accident does not occur on those very narrow and dangerous roads. I can stand being abused in this House for all manner of things, including being irrelevant, but I do question priorities in this House when compelling evidence against a proposal is ignored. I ask the Minister for Police to at least investigate the situation. I understand that police have a huge task patrolling the Murwillumbah area and they are understaffed. The rally route is a fair distance from the town and the chances of catching these young people may be remote, but they are covering up their registration plates and are revving along the road at night with no controls. This is happening months before the rally is even scheduled to start. One can only imagine what will happen after the event. I hope no serious accident results from this behaviour.

It is difficult for police to be patrolling that bush rally route area because they have many other activities and responsibilities. Residents beyond the route have complained to me about the current activities, yet somehow it is not the responsibility of this Government; somehow its decisions or actions do not count! This is a despicable situation. I hope the police Minister's office can at least go a small part of the way to remedying the problem. Perhaps the cost of providing a police presence to curtail this activity can be taken from the profits the rally organisers claim will be made. Perhaps they would like also to take into account some of the other impacts of this dangerous activity, particularly hospitalisation, motor accidents and also wildlife destruction. Many community people give selflessly of their time to protect our wildlife. Sometimes the priorities in this Parliament are quite farcical.

This bill takes away the power of the people most affected by this rally to have any say through the normal planning process. The New South Wales Government wants this event irrespective of environmental or

human concerns. If this event is such a good thing, as the Minister said recently in Parliament, why does the Minister need special legislation? The people of northern New South Wales should not have to cop deals this Government has done to appease an international motor racing organisation and underwrite a private company, Rally Australia. The State should not be creating special legislation for one single corporate beneficiary—it is undemocratic. The unique environment of the North Coast cannot be rented out to whoever wants to use it. The due planning process should be allowed to proceed. I was ridiculed by the Minister a few weeks ago when I asked a question on this very matter, and the Minister invited himself to my residence. It is okay to dish it out.

The Hon. Ian Macdonald: I wasn't dishing it out.

Mr IAN COHEN: The Minister assumed somehow that he was going to be welcome at my residence. There are a number of reasons why you are not welcome to my house, Minister. I do not accommodate an abject hypocrite and leader of the hard left doing the bidding of the extreme right. You are not welcome as a Minister who is engineering the most environmentally destructive action against forests in New South Wales at this point in time. Minister, you are a man who ridicules safety issues and is abusing his power.

The Hon. Ian Macdonald: When?

Mr IAN COHEN: Right now with this Repco Rally.

The Hon. Ian Macdonald: Point of order: the Committee is indulging this member. Through his incompetence he missed the second reading debate. We have allowed him to speak in the Committee stage, totally outside the rules of the House. He now is personalising this debate by having a go at me all the time. I do not mind, generally. If he did it in the second reading debate, it would not worry me. However, he should not be doing it in Committee. For all his animated carry-on, he fails to grasp the point that the first I heard of this race was in May when I was asked to propose it by the Premier. The Premier is responsible for Events NSW. I am just carrying this legislation forward as a member of the Government. I have had nothing to do it other than that.

Mr IAN COHEN: So you are retracting what you said about me in the House?

The Hon. Ian Macdonald: I just made a joke at the end of the speech.

The CHAIR (The Hon. Amanda Fazio): Order! Both members will sit down.

Ms Lee Rhiannon: To the point of order—

The CHAIR (The Hon. Amanda Fazio): Order! I will not take further argument on a point of order. When members contribute to debate they must confine their comments either to the bill or to a point of order. They should not engage in slanging matches with other members across the table. They must also direct their comments through the Chair. I ruled previously that Mr Ian Cohen should refrain from making imputations about other members in his speech. Equally, it is not appropriate for the Minister, when taking a point of order, to make imputations about Mr Ian Cohen. The member may proceed but will not make further imputations about the Minister or his carriage of the bill.

Mr IAN COHEN: Thank you, Madam Chair, for your balanced assessment of these points of order. I thank you also for allowing me in these rather unusual circumstances to at least place on record what I believe is a reasonable representation of the many people in northern New South Wales who abhor this proposal. I agree with the Minister wholeheartedly: I have been incompetent. Yes, I missed the opportunity to contribute to the second reading debate and I feel frustrated at the resulting circumstances; my incompetence created that. At times I have been incompetent—I agree with the Minister—in that I have failed to convince my fellow Greens party members across New South Wales to desist from giving preferences to this Labor Government. I will not be so incompetent at the next election.

Dr JOHN KAYE [9.18 p.m.]: I support the remarks of my colleague Ian Cohen and Reverend the Hon. Dr Gordon Moyes. I doubt whether I can match their eloquent passion on this matter, but I certainly match them unequivocally. The Greens to whom I have spoken around New South Wales and I oppose this legislation and this rally. I will begin by referring to the opposition from the local community. I notice that once again Reverend the Hon. Fred Nile suggested that opposition to the rally was stirred up and, once again, Reverend the Hon. Fred Nile is wrong. Just nine days ago I attended an environment fair in Murwillumbah and I have to say that opposition to the rally was palpable.

Everywhere I went, and not just at the environment fair, but especially when I walked down the street and spoke to people in the street at Murwillumbah, there was no question of overwhelming opposition to the race and overwhelming support for the work of the groups and members of Parliament who have opposed the rally as well as absolute and utter concern for the impact of the rally on the community. Northern Rivers people constitute a community that strongly values its natural environment, its peace and quiet, and personal safety—all of which will be undermined by the Repco rally and this legislation.

Reverend the Hon. Fred Nile is wrong in suggesting there is any need to stir up anger: the anger was stirred up by the Rees Government, by the proposal for the rally, and by this legislation. Moreover there is anger that the community has been ignored. One of the recurrent themes was a complaint about the complete absence of any meaningful community consultation. Many members of the community mentioned to me that a great degree of deception had been perpetrated on the community about the level of community consultation. The community is not only angry about being ignored but also angry about the consequences of the rally for their community.

One of the recurring themes was concern for the natural environment and for the values of the Green Cauldron. High-speed vehicles, and low-speed marsupials and other fauna are an inherently bad mix. Particular concern was expressed for koalas and the way in which koalas will suffer both from the noise and the risk of impact as well as from chemical pollution. The koala population in the area has declined. The koalas are vulnerable in that area and could be savagely damaged—all for a car race. The environmental concerns relate not only to noise and animal strikes but also to air and water pollution and road run-off. These types of assaults and insults to the environment have no place in areas with high degrees of natural values and natural beauty.

There is no question that if nothing else happens, the noise that will scare the animals away will have an impact per se. There is an overriding concern that the flora and fauna of the area around the race will be damaged to the extent that some may never recover. They will be damaged by one race, by another race two years later, and they will continue to be damaged as long as the race goes on, with cumulative effects on the ecosystem. The only way that the race can be justified is if people admit they have no concern for the natural environment and for the natural values of the Green Cauldron.

Another matter of huge concern is the almost complete absence of meaningful consultation with the local Aboriginal people. The Githabul people, for whom the Green Cauldron has deep and lasting social and religious significance, have not been appropriately consulted. For many of them, a car race through the Green Cauldron will be like a car race through a cathedral. We owe a great debt to the Aboriginal people of the State, and we are exacerbating that by hosting a car race without even bothering to appropriately consult with the traditional owners of the land.

Both Mr Khan and Reverend Moyes spoke about the encouragement of copycat high-risk driving behaviour. Rally driving, however highly skilled it is, clearly encourages emulation, particularly by young and adolescent males. What we are doing with this car rally is sending an appalling message to young men and young women whom we are trying to discourage from risky driving behaviours. The Government has invested heavily in the prevention of hoon driving, but by officially sanctioning a car race and ramming through legislation that will put on display what can only be described as risky car driving behaviour sends an appallingly mixed message.

The poor quality of the socioeconomic and cost-benefit analyses of this race are outstanding. Not only are the methodology and data dodgy, but so is the way the results have been interpreted to justify supposedly a \$100 million benefit from the car rally. The figure of \$100 million is highly questionable, if not entirely fictitious, but even if there were \$100 million in supposedly economic benefits, the proposal ignores the social and environmental impacts, and the impacts upon the longer-term economy of the region. Western Australia had the right idea by kicking out its Repco rally because the Western Australian Government recognised that when all matters are taken into consideration, the dollars simply do not stack up.

To the extent that any money is to be made from this rally, it will be purchased at the expense of the local amenity of residents, the future of green tourism and other natural values that are derived from the green branding of the area and from the integrity of the environment. In reality, any proper analysis of this car race would result in the conclusion that it is simply not worth doing. When the damage inflicted on the environment, the community, and the individuals within the area are all taken into account, the proposal simply cannot be justified by a fistful of dollars, especially when the magnitude of the profit is questionable. Reverend Moyes and Ian Cohen have referred to the appalling process that has led to the introduction of this legislation; the way the

legislation will undermine important protections for people, animals and the environment; the way it takes away a right of appeal; the way it takes away the ability of a community to stand up for the environment and the way in which it rides roughshod over the important protections that exist in other legislation.

From my point of view and for many Greens, the worst aspect of this legislation and the car rally is the absolute and complete lack of vision for the region. It is a lack of vision that could come only from a total misunderstanding of the environmental values of the region and the values of the population of the region. Surely anybody who has spent any time in the Tweed and in Kyogle would automatically start thinking about ecotourism, cycle tourism, and tourism that includes activities based on respect for the environment.

The Hon. Duncan Gay: Point of order: I have listened to the contribution being made to debate by the member. I know the amendment that is before the Committee. I have a sneaking suspicion that the member is making a second reading speech.

Dr John Kaye: You were not here. We decided we were going to do this.

The CHAIR (The Hon. Amanda Fazio): Order! Dr John Kaye will not interrupt the Deputy Leader of the Opposition when he is taking a point of order.

The Hon. Duncan Gay: I have just arrived in the Chamber and I am saying what I am seeing—a member making a second reading speech during the Committee stage. There is an amendment before the Committee and, from what I could hear, the member's remarks were not even close. I request that he be directed to confine his remarks to the amendment that is before the Committee.

The CHAIR (The Hon. Amanda Fazio): Order! An amendment has not been moved. The Committee is dealing with part 1 of the bill. In a very roundabout way, members are speaking against the adoption of part 1 of the bill. Dr Kaye may proceed.

Dr JOHN KAYE: I oppose part 1 of the bill, which is the long title of the legislation. The Greens oppose the legislation not only in detail but also in its substance. Our opposition to the bill includes part 1 of the bill. I appreciate the ruling of the Chair. I conclude my speech by pointing out that the Repco rally is not a sensible use of the landscape or a sensible imposition on the people of the area, and it is not a sensible imposition on the environment. I urge all members to vote against this part of the bill.

Ms LEE RHIANNON [9.28 p.m.]: I congratulate my colleague Ian Cohen on his speech in the Chamber, and his work with the community and the No Rally Group Inc., which has set out very clearly why this legislation should not be passed. The Repco rally should not be held in northern New South Wales. That would be a huge mistake and would result in a huge setback not only for the region but also for the standing of New South Wales. It will just make us look even more of a laughingstock and show that this Government is more dysfunctional than people realise. There are many reasons the event should not go ahead, and the environmental concerns have been well set out.

More than a decade ago I did a great deal of work with the Rainforest Information Centre based at Lismore. Obviously I had an opportunity to enjoy the delights of that area. The Green Cauldron, as many speakers have referred to it, is wondrous. I imagine that when people stand on the lip of the crater, which is millions of years old, they are spellbound by the sheer beauty of what they see when they take in the full panorama. And the Government is pushing this madness onto the local environment and the local community. This is not the area in which to hold this rally. Again, the Greens are not saying we are against all car races, but holding street car races particularly through natural areas is a deeply flawed policy that reflects on the Minister. One must wonder how many long lunches he had to participate in—

The Hon. Ian Macdonald: Point of order: I ask Ms Lee Rhiannon to withdraw that comment. Dr John Kaye made his second reading contribution in Committee with a great deal of dignity. Ms Lee Rhiannon is straying into slights, insults and imputations. Obviously she missed the point that my involvement with this event began in May. I do not have carriage of Events NSW. I ask the member to withdraw those imputations.

The CHAIR (The Hon. Amanda Fazio): Order! I ask Ms Lee Rhiannon to withdraw the comments to which the Minister objected. I advise the member that at this stage she should be speaking only to the reasons she is opposed to part 1 of the bill. She should not be making imputations against other members.

Ms LEE RHIANNON: As requested by the Minister, I withdraw those comments. There are many reasons to oppose part 1 of the bill. Madam Chair, I appreciate that you have highlighted the need to set out those reasons. One issue that should be of concern to any responsible government is public safety. Many scientific studies have demonstrated that there is a clear association between interest in motor racing and driver attitudes. Surely the Government should recognise and respond to that, and recognise that this event should be cancelled. Paul Tranter and James Warn established this disturbing link in an article entitled "Relationships between interest in motor racing and driver attitudes and behaviour amongst mature drivers: An Australian case study", which appeared in the journal *Accident Analysis and Prevention* 40 (2008). They stated:

Results indicate that the level of interest in motor racing is significantly related to attitudes towards speeding, controlling for age, education level and sensation seeking propensity.

I recommend that the Minister and members make themselves aware of that detailed paper. When street races are held, the impact on public safety is considerable. My colleague Ian Cohen also spoke about this in his contribution and I want to add some comments because it is one of the disturbing aspects of the legislation. On top of extreme environmental damage and damage to local communities, there is the wider issue of public safety. When people attend these events and then leave to travel home or wherever they are going, often there are terrible accidents. J. R. Warn, P. J. Tranter and S. Kingham wrote a paper entitled "Fast and Furious 3: illegal street racing, sensation seeking and risky driving behaviours in New Zealand", which was presented at a forum held in Adelaide.

The authors of the paper looked at how motorsport influences risky driving behaviour through the influence on attitude to speeding. It should trouble members that it has been clearly established that after such events have been watched and enjoyed, particularly by young men, when people get in their cars and travel on public roads the level of speeding becomes dangerous. We cannot deny that involvement in motorsport has an impact on driving behaviour. These are some of the conclusions set out by Warn, Tranter and Kingham. They detail how involvement in motorsport produces a negative effect for road safety. The effect of motor racing on attitudes to speeding can be wide ranging. Motor racing enthusiasts are more likely to believe that speed limits are too restrictive or that driving over the speed limit is acceptable if they are skilful drivers.

Others who have written in this area include P. Ulleberg and T. Rundmo, who produced a paper in 2003 for *Safety Science*. They reported that risky driving behaviour is influenced by attitudes to speeding. Also, research in America has found that racing car drivers are more likely to have been fined for speeding and involved in accidents than other drivers. The findings of the research undertaken by Warn, Tranter and Kingham demonstrate that it is important to counteract the pro-speeding messages such as the glorification of speed and risky driving behaviour emanating from motorsport. This has to be undertaken in order to shape attitudes about driving behaviour on public roads and to reduce risky driving.

We hear many messages and have had some good campaigns about reducing risky driving behaviour. However, those messages and campaigns are undermined by events like this. Good work to make our roads safer is periodically undertaken, with expensive campaigns run by the Roads and Traffic Authority. But these sorts of events are a setback. One problem with motor racing as a sport is that spectators who wish to emulate the behaviour of motor racing drivers can emulate this behaviour only on public roads. That is the essence of the problem. The risky behaviour ends up occurring on public roads, putting the public at risk. The burden of risk is then redistributed to other road users who may happen to be in the vicinity of any illegal racing activity.

The broader response that is put forward by these authors is the need to deglorify the car, and they argue that one way to do this is to ensure that motorsport events are never allowed to be staged in significant public spaces as this signifies that such events are an accepted part of the culture of a city or a society. That point has been taken up by P. J. Tranter and T. J. Keeffe in a paper published in 2004 in the *Urban Policy and Research* journal. Members can see that the extensive work on this issue is thorough and evidence based. It is time the Government took notice of the research and brought some balance to how it is managing this sport. Again, I acknowledge that many people enjoy the sport, but it does not need to take place around northern New South Wales in the Tweed and Kyogle shires.

Another aspect that is relevant to this debate is how the socioeconomic impact assessment report was drawn up. It is extremely difficult to analyse the report critically because it is much poorer than the environmental report. The socioeconomic impact assessment report is entirely unreferenced. It is unbelievable that something so central to establishing the case for this Repco Rally, the socioeconomic impact assessment

report, is not referenced. Without citations of any source material in the report, all claims and projections are unsubstantiated and unverifiable. In scientific circles at least such a report would be rejected out of hand. The terms of reference lead one to conclude very quickly that the report is inadequate.

I thank Dr Jules Lewin for providing material, which I acknowledge I have not gone through in detail, on the socioeconomic impacts. Term of reference No. 2 refers to analysing the feasibility alternatives to carrying out the development, which did not occur. No. 3 refers to identifying likely impacts, in relation to which the underlying research was flawed and the likely impacts were not explored. Term of reference No. 4a refers to identifying issues and affected groups. The key issues identified were unreferenced, which demonstrates the inadequacy of the report. No. 4b refers to looking at historical trends, and social and economic issues. It is extraordinary that the global economic crisis was not mentioned once. Surely that trend should have come into that term of reference. Again, there is no mention of peak oil—the price of oil is increasing—or that we are facing severe oil vulnerability for which our societies need to plan. That demonstrates the poor way in which the project has been managed at every turn. Dr Lewin said, "Last week I attended the latest public consultation gathering". As other members have said, people have become very angry not only about this outrageous event that is being imposed on them but also about the meaningless consultation. Dr Lewin attended the so-called third public consultation—the first since the reports were released—and states:

Besides the fact that there was no-one qualified to discuss the SEIA or answer some fairly basic questions, notice of the meetings was only released on the Sunday of a long weekend, with the first meeting scheduled at 9am Wednesday.

That is just one small example of how poorly the preparations for this project have been managed. It draws one to the conclusion that the proponents knew they had this project in the bag. They went through the motions of ticking the boxes, producing a report that did not need to be referenced, and conducting consultation that did not need to be advertised because they were confident that the legislation would be passed and the project would be up and running because the Government is onside. This bill should be defeated. We understand that the Government has the numbers—the Government, the Liberal Party and The Nationals, and some conservative crossbenchers are backing the legislation. It is shameful that we have arrived at this point. Any part of New South Wales that is open to the public should not have this project thrust upon it, but it should never have even been proposed for the far north of New South Wales, which is so exquisite and unique.

Question—That part 1 be agreed to—put and resolved in the affirmative.

Part 1 [Clauses 1 to 3] agreed to.

Parts 2 and 3 [Clauses 4 to 18] agreed to.

The CHAIR (The Hon. Amanda Fazio): Order! There are two amendments to clause 25 that are in conflict. Greens amendment No. 1, on sheet C2009-058, was lodged first so it will take precedence over The Nationals amendment No. 1, on sheet C2009-064.

Mr IAN COHEN [9.44 p.m.]: I have had a productive discussion with the Hon. Trevor Khan and he has agreed to modify The Nationals amendment. Having reconsidered the matter, I intend not to move the Greens amendment as circulated on sheet C2009-058.

The Hon. TREVOR KHAN [9.45 p.m.]: I move:

No. 1 Page 12, clause 25, lines 10-17. Omit all words on those lines. Insert instead:

25 Review of Act

- (1) The Minister is to conduct a review of the impact in the Northern Rivers region of the rally event to determine whether future rally events should be conducted in that region. The review is to include, but not limited to, the impact of the rally event on:
 - (a) the tourism industry, and
 - (b) the environment, and
 - (c) Aboriginal cultural heritage, and
 - (d) public safety, and
 - (e) the local community.

- (2) The review is to be undertaken as soon as practicable after the end of the declared rally period in 2009.
- (3) The Minister is to ensure that the review includes consultation with the local community of the Northern Rivers region, Kyogle Council and Tweed Shire Council.
- (4) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months from the end of the declared rally period in 2009.

Clause 25 of the bill provides for a review of the objects and terms of the Act some five years after the commencement of the Act. The amendment seeks a more precise review, as set out in new subclause (1), to deal with the impact upon the five specified areas, although not exclusive to other issues. Equally importantly, the review is to take place within 12 months and as soon as possible. It also provides that the review must include consultation with the local community of the Northern Rivers region, Kyogle Council and Tweed Shire Council.

The CHAIR (The Hon. Amanda Fazio): Order! Members will not engage in conversations in the Chamber.

The Hon. TREVOR KHAN: I thank Mr Ian Cohen for his input into the matter. As he verbalised me in a sense, I note that he acknowledges the appropriateness of subclause (3) in particular, in that it ensures that appropriate consultation occurs with the local community. When dealing with part 1, members expressed various concerns about different matters, which I will not canvass. But the proof will be in the pudding. The running of the event in early September 2009 will be an opportunity to see how the rally goes. The oversight of it will obviously reinforce people's views as to the appropriateness or inappropriateness of the event. The review is required to be tabled within 12 months from the end of the declared rally period, which will no doubt offer a further opportunity for discussion on the matter.

The CHAIR (The Hon. Amanda Fazio): Order! I ask members to set their mobile phones to silent alert, otherwise I will be compelled to call to order members whose mobiles are heard to ring in the Chamber.

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [9.48 p.m.]: The Government supports amendment No. 1 moved by The Nationals. I note that the Government made a commitment to hold an informal review next year. The Government is happy to enshrine this amendment in the legislation and conduct the appropriate consultation.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [9.49 p.m.]: I pay tribute to the two members of Parliament in the area, Geoff Provest and Thomas George.

[Interruption]

I know my colleague did, but the key to the amendment—which the Minister has gracefully accepted—comes from those two men acting on behalf of their communities. We certainly appreciate the pressure that they put on us to bring the amendment forward. At this stage I believe it is proper to recognise the role that these two great local members have been playing in supporting their communities, and we thank the Minister for accepting the amendment when we approached him on their behalf.

Mr IAN COHEN [9.50 p.m.]: As I said earlier, The Nationals amendment No. 1 is very much in the same spirit as the amendment that my office had prepared. It replaces the existing provision for review of the Act, which was a standard five-year legislative review. I am pleased that all parties are supporting the amendment. It certainly does not resolve the many problems that I and other members have raised with the project or concept. Nevertheless, I am sure that conducting a proper review within a period before any further rallies are held will unearth some worthwhile information. We can examine whether the economic benefits put forward by the Minister stand up, and whether those benefits compensate for the environmental damage. The report will be required to consider impacts on the tourism industry, the environment, Aboriginal cultural heritage, public safety and the local community. I think it is a worthwhile amendment, and the Greens support it.

Reverend the Hon. FRED NILE [9.51 p.m.]: The Christian Democratic Party supports The Nationals amendment No. 1. It is reasonable to review the Act to take into account the impact of the rally on tourism, the environment, Aboriginal cultural heritage, public safety and the local community. Will the Minister confirm that this event will be held between 3 and 6 September, and not every day of the year? I got the impression from most speakers that the rally will tear New South Wales apart.

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [9.52 p.m.]: The rally will be held on 3 to 6 September this year, and the next event is in 2011.

Question—That Opposition amendment No. 1 be agreed to—put and resolved in the affirmative.

Opposition amendment No. 1 agreed to.

Part 4 [Clauses 19 to 25] as amended agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. Ian Macdonald agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [9.52 p.m.]: I move:

That this bill be now read a third time.

Question—put.

The House divided.

Ayes, 27

Mr Ajaka
Mr Catanzariti
Mr Clarke
Mr Colless
Ms Fazio
Ms Ficarra
Miss Gardiner
Mr Gay
Ms Griffin
Mr Hatzistergos

Mr Kelly
Mr Khan
Mr Lynn
Mr Macdonald
Mr Mason-Cox
Reverend Nile
Ms Parker
Mrs Pavey
Ms Robertson
Ms Sharpe

Mr Tsang
Mr Veitch
Ms Voltz
Mr West
Ms Westwood

Tellers,
Mr Donnelly
Mr Harwin

Noes, 5

Ms Hale
Dr Kaye
Ms Rhiannon
Tellers,
Mr Cohen
Reverend Dr Moyes

Question resolved in the affirmative.

Motion agreed to.

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

**ROAD TRANSPORT LEGISLATION AMENDMENT (TRAFFIC OFFENCE DETECTION) BILL
2009**

GOVERNMENT INFORMATION (PUBLIC ACCESS) BILL 2009

GOVERNMENT INFORMATION (INFORMATION COMMISSIONER) BILL 2009

**GOVERNMENT INFORMATION (PUBLIC ACCESS) (CONSEQUENTIAL AMENDMENTS AND
REPEAL) BILL 2009**

Bills received from the Legislative Assembly.

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

Motion by the Hon. Tony Kelly agreed to:

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

Bills read a first time and ordered to be printed.

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

NSW TRUSTEE AND GUARDIAN BILL 2009

Second Reading

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Industrial Relations)
[10.02 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The NSW Trustee and Guardian Bill 2009 facilitates a merger between the Office of the Protective Commissioner and the Public Trustee, enabling service improvements and operational efficiencies that will benefit the people of New South Wales. It is proposed that this legislation commence on 1 July 2009. A merger implementation team, comprising the Director General of the Attorney General's Department, Mr Laurie Glanfield, the Protective Commissioner, Ms Imelda Dodds, and the Public Trustee, Mr Peter Whitehead, has been working this year on the merger, and has held a number of meetings with stakeholder groups in the disability sector. The bill does not involve substantive amendment to the roles and responsibilities currently exercised by the Protective Commissioner or the Public Trustee. Rather it integrates the two, repeals the existing legislation and replaces it with one Act, focusing on the roles of the merged entities—personal trustee and financial management services.

I turn first to the roles of the existing organisations. The Protective Commissioner is an independent public official appointed under the Protected Estates Act 1983 to protect and administer the financial affairs of people who are unable to make their own financial decisions, called protected persons, and missing persons, who are identified as protected missing persons. The Protective Commissioner also provides direction to private managers who have been appointed to administer the financial affairs of other protected persons. The Protective Commissioner has approximately 12,000 clients, directly managing just over 9,000 clients, overseeing approximately 2,500 privately managed clients, and acting as banker for 700 other clients on behalf of the Department of Ageing, Disability and Home Care. The Protective Commissioner does not choose clients but is appointed by a court or tribunal financial management order, and has a staff of approximately 250.

Clients of the Office of the Protective Commissioner require a higher level of service in respect of financial decision making than most members of the general population because of their disability or mental illness. The Public Trustee is appointed by the Governor for a period of up to five years under the Public Trustee Act 1913. The Public Trustee's role is to act as an independent and impartial trustee, executor, attorney and agent for the people of New South Wales, no matter what value business they bring. The Public Trustee has five core businesses: will-making, estate administration, executor services, trust management, and power of attorney management. The Public Trustee also attends to the management of seized or confiscated assets under the Criminal Assets Recovery Act 1990 and the Confiscation of Proceeds of Crime Act 1989.

The Public Trustee has a staff of approximately 300. It manages approximately 7,100 ongoing trusts, 5,800 deceased estates and 660 powers of attorney and holds 400,000 wills for current clients who have appointed the Public Trustee as their executor. The value of individual trusts and deceased estates administered by the Public Trustee varies greatly. The Public Trustee has a statutory obligation not to decline an estate on the grounds of its small value, and is funded for community service obligations to cover small deceased estates, trusts and making wills for clients disclosing assets less than \$50,000. Both the Office of the

Protective Commissioner and the Public Trustee provide important legal, personal trustee, and financial and asset management services to the people of New South Wales. The merger provides the opportunity to improve operational efficiency, while enabling the quality of services to clients not only to be maintained, but also to continue to improve.

This bill will create a strong new organisation that will build on the existing strengths of both offices, harmonising its common functions and delivering improved front-line services. In particular, over time the existing branch structure of the Public Trustee will enable clients of the Protective Commissioner to access services beyond metropolitan Sydney in places such as Gosford, Newcastle, Armidale, Broken Hill, Lismore, Port Macquarie, Wollongong and Bathurst. In all other Australian jurisdictions the Public Trustee can be appointed to manage the estate of a person who is incapable of managing his or her estate. The reason for the dichotomy between the two in New South Wales is historical and flows from its original relationship with the Supreme Court. Prior to the enactment of the Protected Estates Act, the Protective Division of the Supreme Court exercised the functions of the Protective Commissioner.

An erudite paper written by a former New South Wales Supreme Court Judge, Philip Powell, AM, QC, published under the title "The Origins and Development of the Protective Jurisdiction of the Supreme Court of New South Wales" traces, among other things, the history of the Lunacy Act 1878, New South Wales, and how it provided the machinery to constitute a Lunacy jurisdiction in the Supreme Court and allow for the appointment of a Master in Lunacy. The paper traces the revision of the 1878 Act in 1898, which defined the meaning of lunacy law in New South Wales for some eight decades. The paper also looks at the supposedly "brave new world" ushered in by the Mental Health Act 1958, New South Wales—legislation which in the end proved to be a case of the emperor's new clothes. It also covers the profound changes engendered by the Hon. Laurie Brereton in 1983 through a number of bills, including the Protected Estates bill, which the then health Minister described as:

... one of the most significant social reforms to be considered by this Parliament signifying a major advance in the way our society regards and deals with victims of mental illness.

Former Justice Powell played a significant role in the reform process undertaken by the then Government that changed not only the laws of mental health in New South Wales but also contributed to a new perception of those suffering from a mental illness, which unfortunately had an awful social stigma attached to it. I turn now to the provisions of the bill. The bill provides that the NSW Trustee and Guardian will be a statutory corporation, with its functions exercised by a chief executive officer, and will be listed in schedule 2, Statutory Bodies, of the Public Finance and Audit Act 1983 and so be subject to the audit and payment of tax equivalent provisions of that Act.

The Chief Executive Officer of the NSW Trustee and Guardian, who will be appointed by the Governor, will hold office for the period specified in the appointment up to a maximum of five years and will be eligible for reappointment. The chief executive officer will be subject to part 3.1, but not chapter 2, of the Public Sector Employment and Management Act 2002, and will only be able to be removed from office by the Governor for misbehaviour, incapacity or incompetence, notwithstanding section 77 of the Public Sector Employment and Management Act. The Minister will be able to appoint an acting chief executive officer in cases of absence or illness of the chief executive officer.

The NSW Trustee and Guardian will not itself employ staff. Rather, staff will be employed under the Public Sector Employment and Management Act, enabling the NSW Trustee and Guardian to exercise its functions. While the bill does not refer to any deputy or deputies, it includes a power of delegation for the chief executive officer. The bill provides for the continuation of the existing Public Trustee and Protective Commissioner's common funds, as opposed to setting up a single common fund immediately, as this gives the NSW Trustee and Guardian the greatest flexibility in transitioning to a merged organisation. Setting up a single common fund now would create possible losses resulting from being forced to realise investments where there is no other person able or suitable to take on this role. The Public Guardian is appointed where there is a need for a specific lifestyle or medical decisions to be made. The Office of the Public Guardian is currently guardian for approximately 1,900 people. Section 77 (2) of the Guardianship Act provides for the Protective Commissioner to be the Public Guardian.

Both the Public Trustee and the Protective Commissioner have other statutory roles. For example, the Dormant Funds Act 1942 provides that the person holding the office of Public Trustee shall be the Commissioner for Dormant Funds. The ANZAC Memorial (Building) Act 1923 provides that the Public Trustee is one of the trustees under that Act. The bill provides that the NSW Trustee and Guardian will hold these statutory roles, other than the Public Guardian, which I will now discuss. The Public Guardian is a statutory position established by the Guardianship Act 1987. The Guardianship Tribunal or Supreme Court can appoint the Public Guardian to make decisions on behalf of a person with impaired decision-making abilities where there is no other person able or suitable to take on this role. The Public Guardian is appointed where there is a need for a specific lifestyle or medical decisions to be made. The Office of the Public Guardian is currently guardian for approximately 1,900 people. Section 77 (2) of the Guardianship Act provides for the Protective Commissioner to be the Public Guardian.

The Office of the Public Guardian and the Office of the Protective Commissioner are separate, but the holder of the position of Protective Commissioner is also the holder of the position of Public Guardian. The bill provides that the position of Public Guardian will continue, but it does not provide that the Public Guardian will be the NSW Trustee and Guardian. The Public Guardian will report to the chief executive officer of the New South Wales Trustee and Guardian, with the Office of the Public Guardian remaining functionally separate to, but co-located with, the NSW Trustee and Guardian. Similarly to what is proposed for the NSW Trustee and Guardian, there will be no reference to a Deputy Public Guardian, but rather there will continue to be a power of delegation. An acting Public Guardian will be able to be appointed by the Attorney General, as required. This engenders a clear delineation between the roles of guardian and financial manager, ensuring no one statutory officer has the power to make decisions in all areas of a person's life and is consistent with other Australian jurisdictions.

Earlier this year the New South Wales Government announced that it would be implementing the fee recommendations of the Independent Pricing and Regulatory Tribunal report entitled "Review of the Fees of the Office of the Protective Commissioner". Some of the recommended fee relief for protected persons was implemented on 1 April 2009, and the remainder will commence with the commencement of this legislation and the realisation of the merger. The Independent Pricing and Regulatory Tribunal also recommended that the Government provide additional funding for the Office of the Protective Commissioner. In response, the Government has previously announced that until 30 June 2011 the additional funds identified by the Independent Pricing and Regulatory Tribunal will be met from the merger between the Office of the Protective Commissioner and the Public Trustee.

The merged body will have sufficient funds because, one, it will retain the dividend and tax-equivalent payments the Public Trustee would have otherwise made under the Public Finance and Audit Act; and, two, it is proposed that it will have access to surplus funds held in the interest suspense account of the Public Trustee. At present, section 36C of the Public Trustee Act allows surplus funds to be used for the working of the Act after allowing for the payment of interest to clients and the placement of adequate funds in the Estate Guarantee and Reserve Account under section 36B of the Public Trustee Act. The bill provides that surplus funds similarly be used for the working of the new Act, placing adequate funds in necessary reserve accounts. The Independent Pricing and Regulatory Tribunal recommended a limited mid-term review in 2010 to reassess fees for privately managed clients. It is proposed that this mid-term review also report on sources of funding for the New South Wales Trustee and Guardian and examine the fee structure of the merged organisation.

While the bill essentially provides for re-enacting the existing Public Trustee and Protected Estates Acts, a number of amendments are also being introduced to improve the regime for managing the estates of people who do not have legal capacity to manage their own financial affairs and require a financial manager to make substitute decisions for them. I will now outline these amendments. New South Wales has retained two different legislative regimes for the making of financial management orders. The Supreme Court and the Mental Health Review Tribunal make orders under the Protected Estates Act whereas the Guardianship Tribunal makes its orders under the Guardianship Act. The Protected Estates Act has evolved in line with mental health laws, including the Mental Health Act 2007, and seeks to protect a person's estate at a critical point in the onset or treatment of mental illness, or other disability, while in hospital.

The Guardianship Act deals with substitute decision-making orders more generally, including for a person with an intellectual disability, a person of advanced age, a person with an acquired brain injury, or a mentally ill person who is not in hospital. The powers in the Protected Estates Act and the Guardianship Act are not identical in every regard. Consistency is desirable to bring the same level of flexibility to the making of orders in each jurisdiction, to prevent forum shopping and to ensure that the least restrictive approach is encouraged in each court and tribunal. Ideally, the making of an order, or not, should not depend on the forum in which the application is brought. The following four amendments are designed to bring greater consistency between the two regimes.

The first amendment is contained in clause 39 of the bill. It will replicate the set of general principles contained in section 4 of the Guardianship Act insofar as they apply to financial management. Currently the Protected Estates Act, unlike the Guardianship Act, does not contain a set of general principles to guide the making of orders or the performance of functions under the Act. This is anomalous because people with disabilities who require others to make decisions for them about health and lifestyle matters, including medical and dental treatment, may also need a substitute decision-maker to manage at least some of their financial affairs.

Clause 39 of the bill will create a duty on everyone exercising functions under the new Act to: give paramount consideration to the welfare and best interests of protected persons or patients, restrict their freedom of decision and action as little as possible, encourage them to live, as far as possible, a normal life in the community, seek and take into account their views as far as possible, recognise the importance of preserving their family relationships and cultural and linguistic environments, encourage, as far as possible, self-reliance in their financial affairs, and protect them against neglect, abuse and exploitation. The benefits of this approach will include greater consistency in decision-making across these related areas of law, giving legislative recognition to the models of "best practice" which already exist in the provision of services to people with disabilities, including within the Office of the Protective Commissioner, and giving greater protection to the human rights of people with disabilities to live with dignity and as much autonomy as possible.

The second amendment is to reverse the presumption of incapacity that currently operates in sections 16 to 19 of the Protected Estates Act. Currently various provisions of the Protected Estates Act presume incapacity. For example, section 16 requires that where a magistrate directs the detention of a person in a mental health facility as an involuntary patient under the Mental Health Act the estate of the person must be subject to management, unless the magistrate is satisfied that the patient is capable of managing their affairs. However, it cannot be assumed that a person who is detained in a mental health facility as an involuntary patient has automatically lost capacity to manage some or all of their financial affairs. For example, a mentally ill person may lose capacity to make decisions about large sums of money invested in a range of trust funds, but be able to continue to use money from a savings account to pay for groceries or to pay bills.

Clauses 44 to 46 of the bill incorporate amendments to what are currently sections 16 to 19 of the Protected Estates Act to reverse the current presumption of incapacity. This means that the Mental Health Review Tribunal, when considering a person's capability of managing their own affairs, is to make a financial management order only if it is satisfied that the person is incapable of managing the whole or part of their financial affairs. The major benefit of this approach will be to reduce the number of unnecessary orders when it is clear that an involuntary patient can still manage their finances, or is likely to be capable with immediate treatment. Clause 46 of the bill provides an appropriate avenue for a subsequent application to the Mental Health Review Tribunal for an order, should evidence emerge that the patient might be unable to continue to manage some or all of their financial matters.

The third amendment is to amend section 25E of the Guardianship Act to remove the requirement for the Guardianship Tribunal to consult with the Protective Commissioner before excluding part of an estate from a financial management order. This requirement was included to provide assistance to the Guardianship Tribunal when it was first established. However, the tribunal now has 20 years of expertise in determining the appropriate scope of financial management orders; moreover, this amendment removes an unnecessary delay in a process intended to be as least restrictive as possible.

The fourth amendment is to limit the length of an interim order made by a magistrate or the Mental Health Review Tribunal to no longer than six months, similar to section 25H of the Guardianship Act; and to allow an order that is an interim order to be reviewed by the Mental Health Review Tribunal within a specific time, similar to section 25N of the Guardianship Act. Currently, section 20 of the Protected Estates Act provides for interim orders pending further consideration of a person's capacity to manage their affairs. However, there is no statutory limit on the length of interim orders. In practice, the Mental Health Review Tribunal may make an extended interim order even if it is unlikely the person will be in hospital when the interim order expires. In addition there is no mechanism to review an order that is in place to determine whether it is still needed.

The bill provides, in clauses 47 and 48, that the period of an interim order be limited to six months and that an order may be reviewed within a specified time, in the same way that the Guardianship Tribunal can order and conduct reviews. These proposals support the "least restrictive alternative" model by providing mechanisms to ensure that an order is only in place for the length of time that the protected person is incapable of managing their affairs or some other person becomes available to do so on their behalf.

A number of other amendments have been incorporated into the bill. I turn now to these. Historically, the Protective Commissioner was an officer of the Supreme Court who performed judicial as well as administrative functions relating to financial management orders. In 2002, however, the Protected Estates Act was amended to separate the functions of judicial decision-making from financial management. The aim of the changes was to ensure the Protective Commissioner acts exclusively as the financial manager or as the supervisor of private financial managers. There are a number of proposed changes outlined in the paragraphs which follow which are consequential on the separation of judicial power from the business of financial management and oversight. The Supreme Court has been consulted and agrees with these proposals.

Section 9 of the Protected Estates Act gives the Protective Commissioner the power to issue subpoenas and require a person to attend to give evidence. Section 10 of the Protected Estates Act provides that, where a person is required to attend before the Protective Commissioner, he or she may be cross-examined or re-examined orally. As these powers are judicial in nature, the bill provides that sections 9 and 10 of the Protected Estates Act be replaced with a provision that allows the Protective Commissioner to require a person, by notice in writing, to supply relevant information and documents within 14 days. Sections 6 and 11 of the Protected Estates Act relate to inquiries that the Supreme Court may direct the Protective Commissioner to conduct, and advertising for the purposes of such an inquiry. Section 13 (3) (b) of the Protected Estates Act allows the court to direct that the Protective Commissioner examine and report on the person whose capability to manage their affairs is in question.

As the Protective Commissioner is no longer an officer of the court, the bill does not replicate these sections. Currently, under section 38 of the Protected Estates Act the Protective Commissioner is required to determine whether an order should continue in certain circumstances, including where a person is no longer under guardianship or no longer an involuntary patient in a New South Wales hospital. The bill provides that while the New South Wales Trustee and Guardian will continue to terminate orders in non-contentious matters, the New South Wales Trustee and Guardian will be given the capacity to refer the issue of termination to the Supreme Court, the Guardianship Tribunal or the Mental Health Review Tribunal—whichever made the original order—where there is a dispute about the possible termination. This would only arise in situations where there is uncertain or contested evidence about a person's capacity to manage all or part of their finances.

The bill also provides a power for the New South Wales Trustee and Guardian or a private manager to buy gifts of a small monetary value for family members for personal or cultural reasons. This proposal accords with the role of financial manager as substitute decision-maker, "standing in the shoes" of the protected person. The powers will be analogous to those available to an attorney under schedule 3 of the Powers of Attorney Act 2003, which include a prescribed form of authority for the giving of gifts. The gift must be to a relative or close friend of the protected person; be of a seasonable nature or because of a special event, for example, a birth or a marriage; or a donation of the nature that the protected person made when he or she had the capacity or might reasonably have been expected to make; and the gift's value must not be more than what is reasonable having regard to all the circumstances and the size of the protected person's estate. Legislation authorising financial managers to make suitable gifts already exists in Queensland, Victoria, Tasmania and Western Australia.

The bill also allows a manager of an estate to serve notice on a holder of a protected person's will to deliver a copy within 14 days, unless the holder applies to the Supreme Court for a contrary direction. The primary role of a financial manager is to maintain an estate in the best interests of a protected person. To perform this role the past attitudes and decision-making preferences of the person when they had legal capacity are relevant. In this context, a will may assist a financial manager in deciding whether or not to sell a particular piece of property or dispose of other assets. In practice, the Protective Commissioner and private managers already refer to available wills to assist them in their substitute decision-making.

The amendments outlined above capture some of the concerns that various stakeholders have raised about the management of estates of people incapable of managing their affairs. It is acknowledged that these amendments have focussed almost exclusively on amalgamating the two offices and that further reform may be required. In order to address any further concerns and ensure that they are canvassed through a comprehensive consultation process—particularly with the disability sector—it is proposed that the Legislative Council Standing Committee on Social Issues inquire into these additional matters as part of a general reference and report on whether the New South Wales legislation requires amendment to make better provision for the management of estates of people incapable of managing their affairs, and the guardianship of people who have disabilities, and report back by 1 February 2010. This will also provide a means by which any further concerns regarding the proposed merger can be adequately addressed. I commend the bill to the House.

The Hon. DAVID CLARKE [10.03 p.m.]: The object of the NSW Trustee and Guardian Bill 2009 is to constitute the NSW Trustee and Guardian as a statutory corporation and to confer on it the functions currently exercised by the Public Trustee and the Protective Commissioner and, in furtherance of that object, to repeal, re-enact and update the provisions of the Public Trustee Act 1913 and the Protected Estates Act 1983. The Opposition opposes the bill for what it sees as very good and substantial reasons, to which I will come in due course.

Specifically, the bill will confer on the proposed NSW Trustee and Guardian all the trustee and estate management functions previously held by the Public Trustee and all the financial management functions previously held by the Protective Commissioner. The bill will confer powers on the new Trustee and Guardian to carry out professional services in wills, probate and administration and to appoint agents, registrars and deputy registrars of Local Courts as agents to assist in the discharge of its functions. It enables the Supreme Court to grant probate to the Trustee and Guardian and entitles the Trustee and Guardian to a grant of

administration of any intestate estate where no previous administration has been granted, or where previous administration has been revoked or is incomplete. It also enables the Supreme Court to transfer administration to the Trustee and Guardian.

The Government maintains that the merger of the offices of the Protective Commissioner and the Public Trustee will result in service improvements and operational efficiencies. It maintains that the bill does not involve any substantive amendment to the roles and responsibilities exercised by each office but rather integrates the two offices, focusing on the roles of the merged entities—personal trustee and financial management services.

As I have indicated, the Opposition opposes this bill. Firstly, the functions and services provided by the proposed merged bodies are fundamentally different in their scope and nature. Services provided by the Public Trustee extend to the broader community insofar as they concern the drafting of wills, creating and managing trusts, providing advocacy services, and power of attorney management. The Public Trustee is a substantial entity. It employs some 300 staff and currently manages 7,100 trusts, 5,800 deceased estates and 660 powers of attorney, and has been appointed as executor in some 400,000 wills, which it currently holds at the request of clients.

The Office of the Protective Commissioner, on the other hand, has a very different purpose to that of the Public Trustee. It provides services to people unable to manage their own financial affairs—protected persons—as well as providing assistance to private managers who administer the financial affairs of protected persons. In introducing this bill in the other place, Parliamentary Secretary Barry Collier advised that the Protective Commissioner has some 12,000 clients, oversees 2,500 privately managed clients and acts as banker for 700 other clients on behalf of the Department of Ageing, Disability and Home Care. Unlike the Public Trustee, which most clients have appointed to provide services, the Protective Commissioner is appointed by a court or tribunal.

The Opposition believes that the Public Trustee and the Protective Commissioner have different purposes, different powers, different expertise and different client bases. The Opposition believes that the effectiveness and efficiency of both offices will be compromised if they are merged, and it is not alone in this view. For example, the Law Society has raised serious concerns about the merger through its Elder Law and Succession Committee, and has made specific reference to the fundamental difference in the functions of the bodies being merged. The President of the Law Society, Mr Joe Catanzariti, has said:

There is a tension between the client bases of the organisations and the Committee is concerned that there may be community resistance to the merger. Any impact on the status of the Public Trustee that has the potential to limit acceptance of its services in the community would be extremely regrettable. In particular, the Committee is concerned that the merger may deter people from making wills with the Public Trustee.

In response to the Government's assertion that other jurisdictions have a single entity to deal with the functions of the Public Trustee and the Protective Commissioner, the New South Wales Law Society president has pointed out that New South Wales differs from these other jurisdictions in its far greater population and economy. The shadow Attorney General, Greg Smith, also has made the point that the client base of both offices is larger than those in other jurisdictions.

The demographics of New South Wales show that we have an ageing population and one can therefore assume that there will be a substantial increase in demand for the services offered by the Public Trustee as a result. Its effectiveness does not need to be jeopardised at a time of significant growth through a merger with a body that is quite distinct and different in its purpose. Currently the Public Trustee has approximately \$64 million in funds whereas, on the other hand, the Protective Commissioner requires \$10.6 million a year to operate.

The Opposition is concerned that this proposed merger is motivated, at least in part, by a desire of the Treasury to get its hands on the Public Trustee's surplus funds. We are told that a merger of the two offices will result in a saving of \$100,000 per year. It hardly seems worth the effort to go through this process for the saving of such a relatively paltry sum. In fact, the President of the Law Society has said that, "It seems [to the committee of the Law Society investigating the merger] that a cost saving of \$100,000 a year does not merit the potential adverse implications of the merger."

The truth is that there are bigger financial issues involved here. Is the real motive desire of the Treasurer to get access to the \$64 million held in surplus by the Public Trustee, particularly as the Office of the

Protective Commissioner is presently in deficit due to the Treasury's reduction in its funding? Is this yet another example of the Government robbing Peter to pay Paul so as to get itself out of the financial hole it has dug for itself? A report of the Independent Pricing and Regulatory Tribunal [IPART] dated September 2008 recommended the funding of both bodies but did not recommend their merger. Not only did the tribunal recommend that funding for the Protective Commissioner be substantially increased, it also recommended:

Cross-subsidisation of some of the Office of the Protective Commissioner's clients by other clients should be avoided wherever possible, allowing for the application of competitive fees for financial investments. This finding results from considering how best to reflect the criterion of fairness in the fee structure.

Yet the merger of both offices will lead to one office being subsidised by the other. The merger will create a burden on the Office of the Public Trustee. Experience in other jurisdictions indicates that a super body suffers in service delivery, and costs inevitably spiral. The new body's client base will need to fund the merger and its continual operation and, accordingly, low-income clients will be the first to suffer. There is also a concern that the independence of the new Trustee and Guardian may be compromised, and that the merged body will not be an independent body. It appears that funding could be obtained by the director general from funds that are the property of the beneficiaries. Being subject to the director general, the new body would not be able to properly discharge its duties as a trustee. In referring to this matter in the other place the shadow Attorney General, Greg Smith, said:

The NSW Trustee and Guardian is a trustee. It cannot properly fulfil its fiduciary obligations to beneficiaries if it is subject to the direction, particularly the detailed direction, of government. If that happened and became known, the court might start to doubt the suitability of the NSW Trustee and Guardian to be appointed as a trustee. This would be highly undesirable because the Public Trustee fulfils a very good role in dealing with the award of damages to minors and other people, and handles moneys and invests for them until they can be handed out.

The bill is opposed because the merged organisation will not have the organisational capacity to provide services at the high standard required by the community. It will not have the funds necessary to effectively discharge duties and obligations to low-income clients, and specifically the disabled. It will in all probability result in the loss of jobs with a consequent loss in service provision. The bill's timing illustrates that the Government is more concerned with dipping into the surplus funds of the Public Trustee than with streamlining the system. The bill should have been referred to a full parliamentary inquiry as requested by People with Disability Australia, a reputable and responsible community organisation. The bill is opposed by the Opposition.

Mr IAN COHEN [10.12 p.m.]: On behalf of the Greens I contribute to the debate on the NSW Trustee and Guardian Bill 2009. No-one in this House can deny that clients of the Office of the Protective Commissioner have been short-changed. People with disabilities, both physical and intellectual, and people with reduced capacity rely heavily on the services of the Office of the Protective Commissioner. The current reality is that the office is not delivering the level of service and management required to enhance and empower its clients. It is not providing for the dignity and autonomy of its clients, due to funding deficiencies in Government support. This must change.

One month before the mini-budget, the Independent Pricing and Regulatory Tribunal [IPART] reviewed fees charged to clients by the Office of the Protective Commissioner. The Independent Pricing and Regulatory Tribunal recommended that annual management fees for directly managed clients be lowered from \$50,000 to \$15,000 and that annual income fees charged on privately managed clients of the Office of the Protective Commissioner be capped at \$2,000 per annum. The aim of these recommendations was to reduce the cross-subsidisation by high-value asset clients of other Office of the Protective Commissioner clients to the tune of \$4.5 million. In addition to these recommendations, the tribunal acknowledged that the New South Wales Government has underfunded the Office of the Protective Commissioner for five years and that the office requires \$10.6 million in recurrent funding to shore up its financial base and fund fee restructuring. This has the implication that the current level of Government funding of the Office of the Protective Commissioner, which in the 2007-08 budget was \$2.8 million, will need an additional \$7.8 million to be consistent with the Independent Pricing and Regulatory Tribunal recommendation.

The million-dollar question becomes not whether we should financially support the Office of the Protective Commissioner to meet expected service levels to clients with protected estates, but how the Government should fund the Office of the Protective Commissioner. Prior to the release of the September 2008 Independent Pricing and Regulatory Tribunal report in February 2009 the Government had already indicated its intention to merge the Office of the Public Trustee with the Office of the Protective Commissioner. Treasury forecasted a \$100,000 per annum saving to government as a result of the merger. I do not think anyone is under any illusion about the efficiency savings not covering the required funding increase for the Office of the

Protective Commissioner. In the end, the efficiency savings will most likely be nominal. Representatives of the Office of the Protective Commissioner and the Public Trustee have stated that the \$100,000 efficiency saving per annum is not accurate and that no further estimation is available. This concerns me. However, the impetus for the merger does not appear to be efficiency savings. The direct economic efficiency savings would be more a secondary benefit.

In 1998 the Government attempted to corporatise the New South Wales Public Trustee. The Greens—it was one Green at the time—opposed the legislation because we saw it as a stepping stone to privatisation and believed that the money freed up in corporatisation would not have been applied for any real social benefit. In 2002-03 the Government fulfilled its corporatisation aspirations for the Public Trustee by removing the Public Trustee's department status. The effect of corporatisation was that the New South Wales Public Trustee provided a dividend to the New South Wales Government, which was paid into consolidated revenue under the Public Finance and Audit Act 1983. The bill before us creates a new merged statutory corporation by amalgamating the two offices.

Basically, I think we have two options. The New South Wales Public Trustee can continue to pay into consolidated revenue its dividend to the New South Wales Government, which last financial year was \$3.54 million, and New South Wales Treasury would make a decision as to whether it would provide the necessary recurrent funds consistent with the recommendations of the Independent Pricing and Regulatory Tribunal to support clients of the Office of the Protective Commissioner. Independent Pricing and Regulatory Tribunal recommendations are persuasive, but there is no guarantee that Treasury would appropriately fund the Office of the Protective Commissioner. The other option is that the dividend that is paid to consolidated revenue from the New South Wales Public Trustee is directly reinvested into a merged New South Wales Public Trustee and Office of the Protective Commissioner agency. It essentially escapes the claws of Treasury. On my understanding, this is the position that the bill takes.

More specifically, the bill seeks to fund the Office of the Protective Commissioner through three revenue sources. One quarter of the funding will come from the existing Government community service obligation funding, which at current levels is approximately \$2.7 million. Thirty-five per cent will come from dividends that the Public Trustee would have otherwise paid into consolidated revenue, which, and as I mentioned, were approximately \$3.54 million last financial year and are projected for this financial year to be approximately \$2.88 million. The remaining component will be provided from the interest suspense account of the Public Trustee, which is a fund.

The Greens are concerned that leaving New South Wales Treasury with the discretion to decide whether to fund the Independent Pricing and Regulatory Tribunal recommendations may mean that the Office of the Protective Commissioner continues to be underfunded or maintains inequitable management fee structures. This is the worst-case scenario. The Greens want the Independent Pricing and Regulatory Tribunal recommendations adopted. We want to see a process initiated whereby the capacity to deliver a higher degree of individualisation in protected estate management is implemented. We certainly hope this process will not be a step backwards for clients of the Office of the Protective Commissioner. While it could be suggested that the Independent Pricing and Regulatory Tribunal did not recommend that the Government fund the tribunal's recommendations from dividends of the Public Trustee and the interest suspense account, the Independent Pricing and Regulatory Tribunal was unequivocal in its insistence that the Office of the Protective Commissioner be funded to deliver the necessary services to its clients.

It has been suggested that the model of funding the Office of the Protective Commission put forward in this bill is not sustainable. Sustainability and adequate financing will be dependent on recurrent government community service obligation funding and Public Trustee dividends, and these levels will vary depending upon demand. The Auditor-General recently reviewed the \$68.4 million interest suspense account. This account represents accumulated funds, a result over decades owing to mismatches in earnings and distribution of the common fund's income. The mismatch occurred because of a variety of methodologies applied over the years for crediting interest that were not supported by the sophisticated technology that is currently available. In a perfect world more consultation and planning on the merger would have occurred prior to the passage of the bill through this House.

It is regrettable that we are in a position where we cannot fully evaluate the merits of the merger separate from the issue of funding IPART recommendations. Instead, we are left to listen to those with experience of the existing system who acutely understand the implications of the merger. I have listened to a wide range of views relating to the merits of the merger. I have spoken to a number of groups in the disability

sector, individuals who work with the New South Wales Public Trustee and the Protective Commissioner, and a contact who has spent decades involved in the Guardianship Tribunal and protected estate litigation. I have also taken note of the controversy over the comments of Mr Greg Smith, the Opposition spokesperson on legal affairs.

I must admit that I was disappointed by the inappropriate generalisation of OPC clients by the Opposition spokesperson. I hope it is not a sentiment that rings true for the New South Wales Public Trustee, who should be embracing this opportunity to help improve the lives of some of the most disadvantaged groups. I have been informed that the merger is pointless as there are no real synergies or points of administrative overlap to justify merging the OPC and the Public Trustee. I understand the concerns of employees from the Public Trustee who suggest that, in a purely economic sense, there is limited scope for cost savings. There are distinct differences between the management of deceased estates and the management of protected estates, translating a number of different administrative support mechanisms with specific roles.

As members could imagine, the division between the primary management of trustee and protected services will be retained in the new structure. This simply reflects specific differences between approaches to estate management. However, there will be scope to share some client support services, strategic services and finance fund management services. Time will tell how the merged structure is resolved and the extent of any cost savings. On the other side of the fence, a number of disability sector organisations and the OPC are saying that opening up the 18 New South Wales Public Trustee offices to OPC clients in outer suburban and regional areas will significantly benefit service delivery to protected estate management.

As a member from a regional area who sees how people with disabilities and mental illnesses in regional and rural areas are often faced with institutional disadvantage, I strongly support the extension of OPC services to these communities. I have been told of problems with OPC clients who, incidentally, have had dealings with the Public Trustee in regional areas, and the resulting management has been less than satisfactory. The rollout of OPC access to the Public Trustee will require considerable operational changes to these regional offices, and these offices will need to develop the necessary skills to cater for both Public Trustee and OPC clients. In addition to this reform, we have a functional separation of the Public Guardian from the OPC.

Importantly, the bill provides that the NSW Trustee and Guardian will not be the Public Guardian. On balance, the Greens have to weigh up the opposing submissions on the merits of the merger. We have to take note of the fiduciary duties of the Public Trustee and the needs of OPC clients. With the information available, it appears that there are considerable benefits for OPC clients with minimal problems for the Public Trustee. As such, the Greens cannot stand against reforms that extend the service of the OPC to regional areas. The other aspects of this bill relate to the amendments to protected estate management. There are four important amendments that I am informed represent a consensus from the sector.

The first amendment in clause 39 creates concurrence with the principles of section 4 of the Guardianship Act relating to financial management concerning the making of orders or the performance of functions under the Act. People with disabilities require decisions to be made for them about their financial affairs in the same way as they require decisions about health and lifestyle matters. This clause is designed to create a duty on those exercising functions under this Act to do so in a manner that is least restrictive on the inherent rights and freedoms of the protected person.

Sections 16 to 19 of the Protected Estates Act currently presume that the estate of a person detained in a mental health facility as an involuntary patient under the Mental Health Act must be subject to management unless the magistrate is satisfied that the patient is capable of managing his or her affairs. However, this presumption assumes that an involuntary patient has automatically lost the capacity to manage all of his or her financial affairs. A mentally ill person would not be capable of making decisions about large sums that may, for example, be invested, but he or she may be able to continue to use money from a savings account to pay for bills or to purchase groceries.

Under the amendment the Mental Health Review Tribunal, when considering a person's capability of managing his or her affairs, should make a financial management order only when it is satisfied that the person is incapable of managing the whole or part of his or her financial affairs. Under clause 46, should the patient prove to be unable to continue to manage some or all of his or her financial matters, a subsequent application to the Mental Health Review Tribunal for an order can be made. The third important reform will amend section 25E of the Guardianship Act so that the Guardianship Tribunal does not have to consult with the Protective Commissioner before excluding a part of an estate from a financial management order.

After speaking with a solicitor with extensive experience of the Guardianship Tribunal it is clear that this appropriate amendment is consistent with the principles of least restrictive alternative. The fourth amendment, in line with least restrictive protected estate management contained in clauses 47 and 48, limits the duration of interim orders. While these amendments are a small step forward the bill does not cover the comprehensive reform required to protected estate management, and stronger consensus on these reforms is necessary. I note that the Government indicated the Standing Committee on Social Issues would inquire into the broader issues of protected estate management to find a reform platform for amendments to the Protected Estates Act. The aim of such a committee must be to find a reform pathway that investigates how to deliver human rights in compliance with international instruments and better services that integrate lifestyle and financial decision-making.

I want to outline some of the areas where reform needs consideration. Proposed section 38 contains definitions relating to the exercise of management functions for people incapable of managing their own affairs. The definition of "estate" in proposed section 38 should be drafted to enable such persons to exercise their rights to litigate and lodge complaints independent of the trustee. Proposed section 46 (2) provides a possibly restrictive interpretation of what is meant by "standing". The sufficient interest test in proposed section 46 (2) might restrict "standing" to a person with a financial interest in the estate, whereas the term "genuine concern" is slightly broader and consistent with other community welfare legislation.

A similar criticism of legal standing restrictions can be made of proposed section 62 (3) (c) and proposed section 70 (3) (b). People with Disability Australia has highlighted a number of provisions, specifically proposed sections 44, 45, 46 and 53, which do not specify a maximum duration for management orders or voluntary arrangements made through the Mental Health Review Tribunal. Taking account of the principle that state intervention in the lives of its most vulnerable should not be based upon the least level of intervention, there should be adequate mandatory reviews of the management orders. I hope that the Standing Committee on Social Issues will start to address those issues and other reforms so that we can modernise and update our approach to protected estate management.

I hope that the committee can draw upon a broad spectrum of experience in its public hearings. The Greens still have considerable concerns about these reforms. I hope that the Attorney General can address the concerns we have raised over the past fortnight. It has not been easy in coming to a decision on this bill. In the end the Greens want to see the most disadvantaged and vulnerable people in New South Wales provided with necessary services. The Greens do not oppose this bill.

Reverend the Hon. Dr GORDON MOYES [10.28 p.m.]: I speak in the debate on the NSW Trustee and Guardian Bill 2009, the objects of which are to constitute the NSW Trustee and Guardian as a statutory corporation and confer on it the functions currently exercised by the Public Trustee and the Protective Commissioner, and to repeal, re-enact and update, with some modifications, the provisions of the Public Trustee Act 1913 and the Protected Estates Act 1983. According to the Minister's agreement in principle speech, the NSW Trustee and Guardian Bill facilitates a merger between the Office of the Protective Commissioner and the Public Trustee, enabling service improvements and operational efficiencies that will benefit the people of New South Wales.

The proposed legislation will commence on 1 July 2009. A merger implementation team, comprising the Director General of the Attorney General's Department, the Protective Commissioner and the Public Trustee, has been working this year on the merger. It has held a number of meetings with stakeholder groups in the disability sector. It has been argued that the bill does not involve substantive amendments to the roles and responsibilities currently exercised by the Protective Commissioner or the Public Trustee; rather, it integrates the two, repeals the existing legislation and replaces it with one Act that focuses on the role of the merged entities, that is, personal trustee and financial management services.

The bill amends provisions relating to the management of estates of people incapable of managing their affairs. In particular, the bill sets out for the first time the duties of persons exercising functions with respect to protected persons and patients and requires them to observe a number of functions and principles. I will not take the time of the House by referring to them, as they are mentioned in the bill. The bill also reverses some of the presumptions of incapacity currently contained in sections 16 to 19 of the Protected Estates Act 1983. Whereas currently a magistrate or the Mental Health Review Tribunal must make a person's estate subject to management unless satisfied that the patient is capable of managing their affairs, this will be reversed so that such an order will be given only if the decision-maker is satisfied that the person is incapable of managing the whole or part of their financial affairs. This is a significant improvement.

It is acknowledged that the amendments proposed in the bill have focused almost exclusively on amalgamating the two offices and that further reform may be required. The Legislative Council Standing Committee on Social Issues will inquire into additional matters as part of a general reference and report on whether the New South Wales legislation requires amendment to make better provision for the management of estates of people incapable of managing their affairs and the guardianship of people who have disabilities. The standing committee will report back by 1 February 2010. This also will provide a means by which any further concerns regarding the proposed merger can be adequately addressed.

Before I examine the bill in further detail I will give a brief overview of the existing organisations. This is a very complex merger. I commend the Minister and those who have worked diligently with him on it. Very few people would fully understand the overall role of the existing organisations. The Protective Commissioner is an independent public official appointed under the Protected Estates Act 1983 to protect and administer the financial affairs of people who are unable to make their own financial decisions, called protected persons, and missing persons who are identified as protected missing persons. The Office of the Protective Commissioner has approximately 12,000 clients in New South Wales.

The Office of the Protective Commissioner provides support to over 9,000 people under direct management. Over 3,000 of this group are clients who live in aged care facilities or accommodation operated or funded by the Department of Ageing Disability and Home Care. The Protective Commissioner does not choose clients but is appointed by a court or tribunal financial management order. The Office of the Protective Commissioner has a staff of approximately 250. Clients of the Office of the Protective Commissioner require a high level of service in respect of financial decision-making due to their disability or mental illness. People with a mental illness make up approximately 44 per cent of the client group of the Office of the Protective Commissioner.

The Public Trustee is appointed by the Governor for a period of up to five years under the Public Trustee Act 1913. The Public Trustee's role is to act as an independent and impartial trustee, executor, attorney and agent for the people of New South Wales. Its five core businesses include will making, estate administration, executor services, trust management, and power of attorney management. The Public Trustee also attends to the management of seized or confiscated assets under the Criminal Assets Recovery Act 1990 and the Confiscation of Proceeds of Crime Act 1989. It manages approximately 7,100 ongoing trusts, 5,800 deceased estates and 660 powers of attorney and holds 400,000 wills for current clients who have appointed the Public Trustee as their executor.

The services provided by the Office of the Protective Commissioner and the Public Trustee in New South Wales are provided by a single entity in other Australian jurisdictions. This merger is feasible because both the Office of the Protective Commissioner and the Public Trustee provide similar services, particularly in the areas of legal and financial management. The legislation creates the opportunity to forge a strong new organisation that builds on the existing strengths of both offices while harmonising common functions. The primary objective of the merger is to provide a better deal for people with impaired decision-making capacity, particularly in front-line service delivery.

At present the Office of the Protective Commissioner has a highly centralised and Sydney-based operation. On the other hand, the Public Trustee has an extensive branch network. This network will become available to protected clients with service centres at places such as Gosford, Newcastle, Armidale, Broken Hill, Lismore, Port Macquarie, Wollongong and Bathurst. Improved access to services will become increasingly important for retiring sea changers and tree changers as the number of people affected by disabilities such as dementia grows. The Government will implement the key recommendations of the Independent Pricing and Regulatory Tribunal report on the review of the fees of the Office of the Protective Commissioner. I will not go through all the recommendations in detail. I am sure that other members will cover them. Recommendation 7 states:

That a total subsidy of \$8.4 million be provided for the OPC in 2008/09, based on a full year subsidy level of \$10.6 million.

The Government proposes that the additional funds required to meet the changes to the fee structure pending the merger of the Office of the Protective Commissioner and the Public Trustee will be met from the retained earnings of the Office of the Protective Commissioner. I have referred to this recommendation as I believe a previous speaker inaccurately commented on it. Recommendation 9 states:

That a rolling four-year funding agreement between Treasury, the Attorney General's Department and the OPC be implemented in which \$10.6 million be the annual base for the period 2008/09 to 2011/12, from 1 January 2009. The \$10.6 million should be adjusted each year for:

- changes in the CPI for Sydney
- changes in client numbers and
- an efficiency factor of 1 per cent.

The Government proposes that until 30 June 2011 the additional funds identified by the Independent Pricing and Regulatory Tribunal will be met from the merger. The Government supports recommendations 10, 11, 12 and 13 in relation to fees to be charged. The merged body will be able to provide fee relief for disadvantaged clients because it will retain the dividend and tax equivalent payments the Public Trustee would have made otherwise. It will have access to the surplus funds in the interest suspense account of the Public Trustee and it will continue to receive funding from the Government. The fee regime of the New South Wales Trustee and Guardian will be reviewed as early as 2010 by the Independent Pricing and Regulatory Tribunal to ensure that it is both fair and equitable.

According to the New South Wales Government the merger is needed to improve the delivery of services, reduce bureaucracy, eliminate red tape, increase operational efficiency, create savings and bring New South Wales into line with other jurisdictions. I refer to a few aspects of the bill, firstly, the name of the new organisation. It is important that a new name that is being chosen to mark the beginning of a new statutory corporation harmonises the Public Trustee and the Office of the Protective Commissioner. The Government's main concern is not to send a message that the merger is, in effect, a takeover of the Office of the Protective Commissioner by the Public Trustee.

The new name was agreed upon following discussions between the Director General of the Attorney General's Department, the Public Trustee and the Protective Commissioner. The Public Guardian advises that this will not create any confusion with the Office of the Public Guardian, which will become independent under the legislation. That is something the disability sector has long desired. I have contacted them concerning their particular desires on this point. The period of transition will allow clients of both organisations time to adjust, and rebranding will be a gradual process.

It is important to understand the Public Trustee Interest Suspense Account. One of the most important things to remember about the merger is that it facilitates the implementation of the fee recommendations of the Independent Pricing and Regulatory Tribunal's report entitled "Review of the Fees of the Office of the Protective Commissioner". These recommendations followed from a reference to examine the fees charged by the Office of the Protective Commissioner and to recommend a clear, fair and transparent fee structure. The Government is implementing those recommendations relating to fees. The Independent Pricing and Regulatory Tribunal recommended that the Government provide additional funding for the Office of the Protective Commissioner. The additional funds identified by the Independent Pricing and Regulatory Tribunal are being met from the merger.

The merged body will have sufficient funds for three reasons. First, the current community service obligation payments for the Office of the Protective Commissioner and the Public Trustee will continue to be provided to the New South Wales Trustee and Guardian. Second, the New South Wales Trustee and Guardian will retain the dividend and tax equivalent payments the Public Trustee would have otherwise made to the Government under the Public Finance and Audit Act. Third, the New South Wales Trustee and Guardian will have access to surplus funds held in the interest suspense account of the Public Trustee. Other members have commented, wrongly I believe, about this account. I would appreciate the Minister responding to my following comment that all the money currently in the interest suspense account will stay with the New South Wales Trustee and Guardian—

The Hon. John Hatzistergos: Yes.

Reverend the Hon. Dr GORDON MOYES: —either as reserves, as part of the common funds, or for paying current and future costs incurred by the New South Wales Trustee and Guardian in the exercise of functions under the new Act. This is spelt out clearly in clause 15 of schedule 1 to the bill. I make the further point that no money is to be appropriated by the Government.

The Hon. John Hatzistergos: That is correct.

Reverend the Hon. Dr GORDON MOYES: The Independent Pricing and Regulatory Tribunal will be requested to conduct a mid-term review of the new fee and funding arrangements for the New South Wales Trustee and Guardian in 2010. The Government believes that such surplus funds, as well as the profit and tax equivalents that the Public Trustee would otherwise be paying to the Government, would be well spent on supporting the fee recommendations of the Independent Pricing and Regulatory Tribunal, and on supporting the overall functions of what is currently the Office of the Protective Commissioner. I should like now to briefly refer to occupational health and safety issues. I have been approached by a number of staff members concerned

about the change in some of the client base. The creation of a decentralised Office of the Protective Commissioner will be gradually taking advantage of opportunities arising from the new location in Bathurst and the expiration of existing leases for Public Trustee premises. All clients will continue existing service arrangements until they are advised of new arrangements.

Issues of security and occupational health and safety are being managed by senior staff from both organisations in conjunction with the Merger Implementation Committee. Analysis is being provided on the nature and frequency of incidents where staff safety has been threatened; all work areas will be professionally assessed. Having worked for many years with people who are mentally sick or mentally disabled, or with prisoners and the like, I understand how sometimes staff can be attacked and placed in danger. The new proposal will provide a real basis for designing appropriate client service areas. Discussions will need to be held with interstate public trustees, particularly in Queensland where it has been found that decentralised services provide opportunities for better client service with clients and staff having face-to-face meetings with greater access to carers, advocates and community workers. This will need to be dealt with gradually over a period of time. I am aware that many staff are concerned about the possible physical danger with taking on new forms of clients.

Past experience has shown that clients of both organisations have occasionally presented in a threatening manner, but the staff are well trained in dealing with these clients and follow standard procedures. Public Trustee staff will be given additional disability awareness training to complement their existing knowledge and experience in assisting people with disabilities in estate planning, disability trust and power of attorney management. I should like to highlight some significant concerns raised both by People with Disability, as mentioned earlier by another member, and the Mental Health Coordinating Council. First, People with Disability has indicated the need for fundamental legislative reform. I shall not speak at length about this because this matter can be taken up after the bill has been passed and during the period of merger. However, in general the amendments aim to bring the Protected Estates Act 1983 in line with the Guardianship Act 1987. People with Disability and the Mental Health Coordinating Council remain concerned that the Government is not using the merger as an opportunity to fundamentally reform the Act so that it conforms to the Convention on the Rights of Persons with Disabilities Article 12, Equal Recognition Before the Law. However, I believe the opportunity exists for further legislation or regulation to cover these issues.

In addition, there is no recognition that the Guardianship Act 1987 also requires urgent and comprehensive review in light of the Government's obligations under Article 12 of the convention. While the Guardianship Act 1987 may provide marginally better protections and safeguards for people with disability, it has not been reviewed against the Convention on the Rights of Persons with Disabilities, a more recent internationally agreed standard on the human rights of people with disability. The bill provides for only piecemeal reform while those two organisations call for major reform. This fact was acknowledged in Mr Barry Collier's speech when he acknowledged "... that these amendments have focussed almost exclusively on amalgamating the two offices and that further reform may be required".

The second concern relates to the proposed funding for service delivery to Office of the Protective Commissioner clients. People with Disability and the Mental Health Coordinating Council remain concerned that the Government has failed to respond to the Independent Pricing and Regulatory Tribunal recommending a major injection of funds of \$10.6 million from Treasury. This level of funding is required to pay for the current shortfall in the Office of the Protective Commissioner operating funds, and the future decrease in those funds that will result from the fee reductions. The Independent Pricing and Regulatory Tribunal report states that demand for the Office of the Protective Commissioner's services is expected to grow into the foreseeable future. Currently, Office of the Protective Commissioner clients on low incomes receive inadequate financial management services. Few, if any, have individual financial plans and budgets specifically tailored to their lifestyle needs and aspirations. Few clients have regular direct personal contact with Office of the Protective Commissioner staff. In these circumstances it is impossible for the Office of the Protective Commissioner to really know if the person's assets are being used for their benefit.

In addition to these concerns, the funding of the Office of the Protective Commissioner through existing commercial income streams of the Public Trustee is a measure to correct the progressive withdrawal of funds from Treasury. In 2003 Treasury provided \$9 million to fund the service delivery. This funding was supposed to provide the basis for significant improvements to client services, and it was envisaged at the time that such public funding would continue. However, this funding has been withdrawn progressively since 2004-05. In the current financial year it has been reduced to \$2.825 million. I have one final matter to raise. Currently the Public Guardian reports directly to the director general. Not only does this add a new layer of

bureaucracy for the Public Guardian, but also it creates the possibility for the Public Guardian to be under some influence and direction by the chief executive officer, which would compromise their independence. Professor Prue Vines from the Private Law Research and Policy Group at the University of New South Wales raised her concerns regarding the independence and fiduciary obligations of the proposed new entity. She highlighted in my contact with her the character of the entity as a trustee and the potential damage to the increasingly important role of the Public Trustee in providing free wills for those who cannot afford a solicitor. Professor Vines stated:

In relation to the making of wills, I would point out that the Public Trustee has two very important roles, one of which is often overlooked. The first is the role of making wills for free for those who cannot afford a solicitor to do this. This role is extremely important, because intestacy is often not appropriate in outcome for a family and this is increasingly so in our multicultural environment and for Indigenous people.

Professor Vines also highlighted that because there is no law school in Australia that requires students to study succession law, the role of the Public Trustee has become vitally important. She stated:

Contrary to some people's assumptions, people with less money do not necessarily require less complex wills, as their family arrangements may create huge complexity. The orderly passing of property across generations prevents many disputes and is important for the steady functioning of society and the economy. This is the reason that the legal counsel and the other lawyers in the Public Trustee office are extraordinarily important.

In conclusion, comprehensive reforms are necessary to ensure efficiency in this area. I have been given a strong assurance personally from the Attorney General and from some of his staff regarding some of the concerns that I raised with them, which have been highlighted by other key stakeholders in our meetings with them. I understand several other stakeholders, such as the Council of Social Service New South Wales and the Law Society of New South Wales, who raised objections earlier on, do not object to this bill now, although I stand to be corrected on that because I do not have it in writing. I ask the Attorney General to widen the terms of reference for the Standing Committee on Social Issues in order to have a proper investigation of the important and critical concerns that will affect relevant stakeholders. In substance and in principle I support the NSW Trustee and Guardian Bill 2009 and I commend it to the House.

Reverend the Hon. FRED NILE [10.51 p.m.]: The Christian Democratic Party supports the NSW Trustee and Guardian Bill 2009. The bill constitutes the NSW Trustee and Guardian as a statutory corporation, conferring on it functions currently exercised by the Public Trustee and the Protective Commissioner. I am not sure whether it could be called a conflict of interest but I am a client of the NSW Trustee. It has been a tradition in our family to have the NSW Public Trustee act as executor to take away the strain and stress from the children. My children have requested this also and we are happy to do it. It is not a free service; a percentage of the value of the estate has to be paid to the NSW Public Trustee. But I have had a good working relationship with the organisation on the occasions I have had to arrange financial matters and I have been impressed with the efficiency and operation of its Wollongong branch.

The bill does not involve substantive amendment to the roles and responsibilities currently exercised by the Protective Commissioner or the Public Trustee. Rather, it integrates the two; repeals the existing legislation and replaces it with one Act; and focuses on the roles of the merged entities—personal trustee and financial management services. As I mentioned, the Public Trustee is a very active organisation in New South Wales with branches in many centres. It has a staff of approximately 300 and it manages approximately 7,100 ongoing trusts, 5,850 estates and 660 powers of attorney, and holds 400,000 wills for current clients who have appointed the Public Trustee as their executor.

The value of individual trusts and deceased estates administered by the Public Trustee varies greatly. The Public Trustee has a statutory obligation not to decline an estate on the grounds of its small value, and is funded for community service obligations to cover small deceased estates, trusts and the making of wills for clients who disclose assets of less than \$50,000. It has a very fine history in this State. From my investigation of the records of Public Trustees and their origins it appears that the very first Public Trustee operated in New Zealand. The service was proposed by E. C. J. Stephens in 1870 due to the difficulty of finding reliable private trustees in the colony, and it was adopted by the then Prime Minister Julius Vogel, who established the office of Public Trustee (New Zealand) and installed Jonas Woodward as the world's first Public Trustee on 1 January 1873.

As my mother's family came from New Zealand I have handled some of the financial arrangements for deceased relatives in New Zealand and I have had involvement with the New Zealand Public Trustee. I have found it to be a very efficient organisation. After its inception, the office of the Public Trustee was adopted in

several other countries of the Commonwealth, including the United Kingdom, Hong Kong, Singapore, most Canadian provinces and all Australian States. The office also operated in some states of the United States, although I understand it has declined to just under 20 per cent of the United States. There is a Public Trustee in each State and Territory of Australia and a similar national position exists under English rule.

The other body involved in the legislation is the Protective Commissioner, who operates as an independent public official appointed under the Protective State Act 1983 to protect and administer the financial affairs of people who are unable to make their own financial decisions, called protected persons, and missing persons, who are identified as protected missing persons. The Protective Commissioner also provides direction to private managers who have been appointed to administer the financial affairs of other protected persons. The Protective Commissioner, like the Public Trustee, also has a large number of clients—more than 12,000—directly managing just over 9,000 clients, overseeing approximately 2,500 privately managed clients and acting as banker for 700 other clients on behalf of the Department of Ageing, Disability and Home Care. The Protective Commissioner does not choose clients but is appointed by a court or tribunal financial management order. It has a staff of approximately 250.

I mention the total number of clients involved with these organisations because one of the letters I have received opposing the merger made the argument that this merger should have been discussed with all the clients, that the clients should have been consulted and the clients should have had feedback. I think that indicates what a massive job it would have been. It would be like the NRMA having a consultation with its membership, which is in the range of two million. I do not think that proposition was very practical, but obviously the people who are involved in those two organisations are clients and their wishes must be respected as far as is possible in the operation of the merger.

In this legislation the Government has endeavoured to adopt principles that are very important. They are found in section 39 of the bill and these are protected in the legislation to give paramount consideration to the welfare and interests of protected persons or clients, to restrict their freedom of decision and freedom of action as little as possible; to encourage them to live as far as possible a normal life in the community; to take into account their views as far as possible; to recognise the importance of preserving their family relationships and their cultural and linguistic environments; to encourage as far as possible self-reliance in their financial affairs; and to protect them from neglect, abuse and exploitation.

The bill will make changes to the Office of the Public Guardian. However, the Office of the Public Guardian will continue to operate as it does today and there will be an administrative link to the NSW Trustee and Guardian. However, importantly the relationship between the Protective Commissioner and the Public Guardian as it stands today will cease upon proclamation. In other words, the Public Guardian will be an independent statutory officer. This is a very important and significant change because it means that finally New South Wales will join all other Australian jurisdictions in which the roles of the Statutory Financial Manager and Statutory Guardian are completely separate. Therefore, no one statutory officer can have the ultimate decision-making power in all areas of a person's life.

Obviously, in bringing about a merger, there will always be debate about what should be the name of the newly merged organisation. The legislation gives effect to the Government's position. The new name of the organisation will be the NSW Trustee and Guardian. There is an intention not to send a message that the merger is, in effect, a takeover of the Office of the Protective Commissioner by the Public Trustee, but I do not perceive that to be a problem. I am more interested in the concerns expressed to me that the NSW Public Trustee will be downgraded by the new name. For that reason, I foreshadow that I will move an amendment at the Committee stage to include the word "Public" in the name of the new organisation. The amendment I propose will omit "NSW Trustee and Guardian" wherever occurring and insert instead "NSW Public Trustee and Guardian". I do not believe the amendment undermines the Guardian's role, but rather retains the organisation's historic link, dating back 100 years or more, to its role as a public institution.

To my mind the word "public" has always implied that the organisation is for the public, for the community, for everyone—rich or poor—and that is why the word "public" is important, such as when it applies to our public school system. I believe it is an important aspect of the merger, and I would like to see the word "public" retained, if the House will agree. At this stage I am not certain whether the House will agree, but hopefully that will eventuate. The other issue with the merger is that some staff members of the NSW Public Trustee particularly felt threatened by the outcome of the merger. As mergers often do, bringing together two organisations reduces the need for some staff. I know the Government has indicated that it does not plan to effect a dramatic change in staff of the organisation, but the Public Service Association has expressed concern.

I understand that recently a dispute relating to the merger between the Public Trustee and the Office of the Protective Commissioner was listed for hearing in the Industrial Relations Commission. However, following further discussions between the Public Service Association and the Attorney General's Department, the issues concerning that merger have been resolved through consultation. The Public Service Association has been assured that any officer who is displaced as an outcome of consolidation of either role or position will receive priority assessment for placement in the new entity. The Attorney General has given an assurance that he remains committed to discussing workplace change in accordance with relevant consultative arrangements and to providing relevant information relating to proposals, structure and positions through the joint consultative committee, which includes union representatives, once he is in a position to do so.

However, in spite of those assurances and in response to concerns that have been expressed to me, I have drafted an amendment that is similar to amendments I have moved over the years I have been a member of the House in relation to a number of similar matters when the future of staff was a matter of concern. The amendment I foreshadow is amendment No. 2, which reads:

No forced redundancies for permanent staff

1. This clause applies to persons who were members of the Government Service and were employed (otherwise than on a temporary or casual basis) as members of staff of the Public Trustee's Office or the Office of the Protective Commissioner immediately before the dissolution of the offices of Public Trustee and Protective Commissioner.
2. A person to whom this clause applies must not be removed from the Government Service (other than on disciplinary or incapacity grounds) within the period of 5 years commencing on the date of dissolution of those offices.
3. This clause does not apply to the former Public Trustee or the former Protective Commissioner as referred to in clause 12.

In the light of the fact that the Government has indicated it is not planning to force redundancies, my foreshadowed amendment sets out a fair arrangement. If the amendment is passed, it will certainly relieve some of the tension in both organisations, particularly where I have noted increased concern—the Public Trustee. As the shadow Attorney General, Greg Smith, indicated, some people are totally opposed to the merger. But I feel that the merger is a necessary move forward. For that reason, I am prepared to vote in favour of the legislation. However, I urge the Government and other members to give serious consideration to the amendments I have foreshadowed.

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Industrial Relations) [11.06 p.m.], in reply: I thank members for their contribution to the debate. Essentially, the legislation does two things: first, it merges two existing organisations; and, secondly, it enhances the rights of, and service delivery to, people with significant disabilities. The merger of the Office of the Protective Commissioner and the Public Trustee will bring two agencies that perform a range of similar functions under one masthead instead of two. These offices both provide legal, investment and financial management services. Their clients include many people who are disadvantaged in some way—financially, physically or mentally. Some 80 per cent of the trusts and 30 per cent of the deceased estates administered by the Public Trustee are of low value—that is, they are worth less than \$50,000.

Similarly, the majority of the Protective Commissioner's clients have low incomes and very few assets. The private profession generally is not very interested in managing the affairs of impecunious clients and unprofitable estates, so it is absolutely essential that the public sector meet this community need. However, there is no reason for the services currently provided by the Public Trustee and the Protective Commissioner to be provided separately. Indeed, in other Australian jurisdictions, these services are provided under a single entity: in Victoria it is State Trustee, in Queensland and Western Australia it is the Public Trustee. Careful thought was given to the choice of the name for the new entity for New South Wales, and NSW Trustee and Guardian was chosen for a number of reasons.

One was the need to abandon the paternalistic connotations of "Protective Commissioner". Another was to enhance the profile and independence of the Public Guardian, and an equally important reason was to convey the message that the new entity is not simply the old Public Trustee office with a broader mandate. The new entity will have a new focus. While it will continue to deliver the full range of services currently provided by the two organisations that it will replace, a key priority for the NSW Trustee and Guardian will be to enhance the provision of disability support services. How will it do this? First of all, by taking advantage of the extensive branch network the Public Trustee has in place across New South Wales.

The Office of the Protective Commissioner has a highly centralised and Sydney-based operation. The head office is in Parramatta and it provides a predominantly telephone-based service. There is also a single shop-front facility in Clarence Street in the central business district that caters for approximately 300 clients,

many of whom are homeless or itinerant. On the other hand, the Public Trustee has a very extensive branch network that reaches across New South Wales. The Public Trustee operates from 18 locations, with an additional office soon to be opened in Bathurst. The merger provides a great opportunity to move away from the Sydney-centric service delivery model that is currently used by the Protective Commissioner.

I am rather astonished that The Nationals are not supporting the extension of the services of the Protective Commissioner into rural New South Wales. Instead, it is insisting that rural clients of the Protective Commissioner be serviced in the city. The Nationals often tell us about the importance of ensuring that we provide regional service delivery. This bill provides that, but The Nationals will be lining up the Liberal Party in opposing it. Clearly, a much broader office network will become available to protected clients and their advocates, who will be able to access services at places such as Gosford, Newcastle, Armidale, Broken Hill, Lismore, Port Macquarie and Wollongong. Of course, the decentralisation of the Office of the Protective Commissioner client services will not be achieved overnight. Important transitional work must be done first. The Public Trustee and Protective Commissioner staff will be given additional training so that they can assist the full range of trustee and guardian clients. The physical environment of offices will also be reviewed to ensure the best and most appropriate arrangements are made for both clients and staff.

The NSW Trustee and Guardian Bill 2009 contains some very significant amendments that promote the rights of people with disabilities to live with dignity and as much autonomy as possible. I will remind members of some of these amendments, because they are so important. The first is the inclusion of a set of principles in the legislation that impose a positive duty on everyone exercising functions under the new Act to give paramount consideration to the welfare and best interests of protected persons or patients; to restrict their freedom of decision and action as little as possible; to encourage them to live, as far as possible, a normal life in the community; to seek and take into account their views as far as possible; to recognise the importance of preserving their family relationships and cultural and linguistic environments; to encourage, as far as possible, self-reliance in their financial affairs; and to protect them against neglect, abuse and exploitation. These principles, which people will be legally required to observe, will promote the rights of people with disabilities to live with dignity and with as much autonomy as possible.

Other important amendments that enhance the rights of disabled people include the reversal of the presumption of financial incapacity for people who are admitted to psychiatric facilities—incapacity will need to be proved, not merely presumed—and the imposition of a statutory six-month limit on interim orders made by a magistrate or the Mental Health Review Tribunal where no such limit currently exists. Concern has been expressed in some quarters that the reforms to the protected estates provisions do not go far enough and that there is room for further improvement.

The Government agrees that there is more work to be done and that is precisely why it has decided to make a broad-ranging reference to the Legislative Council Standing Committee on Social Issues. The standing committee will be asked to consider whether the legislation needs amending to make better provision for managing the estates of people incapable of managing their affairs and for the guardianship of people who have disabilities. This reference to the standing committee will enable a thorough consultation to take place before it reports to Parliament with its recommendations in February 2010. The reference will provide an opportunity for stakeholders to be heard and for all views to be considered. In the meantime, there is no need to delay until next year the provisions that will immediately enhance the rights of people with disabilities. I have heard no-one argue against these specific reforms and I urge members to support them.

The main objections to the NSW Trustee and Guardian Bill have centred on funding issues, the perceived dangerousness of protected clients and the status of the Public Guardian. I propose to deal with these issues in some detail. First, I will deal with the funding arrangements for the NSW Trustee and Guardian. I make it very clear that the Government will continue to make the community service obligation payments it has been making to both the Office of the Protective Commissioner and the Public Trustee. This amounts to approximately \$5.1 million per year. In addition, the NSW Trustee and Guardian will retain the dividend and tax equivalent payments that the Public Trustee would otherwise have been making to the Government under the Public Finance and Audit Act. This amounts to approximately \$3 million to \$4 million per year. The NSW Trustee and Guardian will also be able access the surplus funds held in the interest suspense account of the Public Trustee to pay the costs it incurs in exercising its functions under the new Act. This is no different from what the Public Trustee is able to do under the Public Trustee Act 1913.

In his contribution the Hon. David Clarke asserted that this is a grab by Treasury. Treasury is actually giving up the dividends and tax equivalents to the merged entity and that will be used, among other things, to

provide fee relief to clients of the Protective Commissioner. This is not a cost-saving measure; it will cost the Government money that otherwise would have been paid to Treasury from the income derived by the Public Trustee. The group that stands to gain from access to these surplus funds is the most needy—that is, people living in poverty and with significant disabilities. This is consistent with the fundamental role of both the Public Trustee and the Office of the Protective Commissioner, which is to look after the interests of people who are not adequately catered for in the private market—namely, people with little income, few but precious assets, and people with a disability. All of the money currently in the interest suspense account will stay with the NSW Trustee and Guardian—it will not go to Treasury—as reserves, as part of the common funds, or for paying current and future costs incurred by the NSW Trustee and Guardian in the exercise of functions under the new Act. This is clearly spelt out in clause 15 of schedule 1 to the bill. No money is to be appropriated by the Government.

The new funding arrangements will facilitate the implementation of the fee in the recommendations of the Independent Pricing and Regulatory Tribunal's report "Review of Fees of the Office of the Protective Commissioner". These fee reforms are substantial and provide benefits to the tune of \$4.5 million a year for clients of the Protective Commissioner—benefits that those opposing this bill would prefer to ignore. The Government provided some fee relief in April. It said at the time that following the passage of this legislation it would be in a position to provide further fee relief, and it will do that. Members who vote against the legislation will be effectively denying that fee relief to clients of the Protective Commissioner. I find that astonishing.

As I said, this fee change will be implemented as soon as the legislation is enacted. The Government strongly believes that the surplus funds, as well as the profit and tax equivalents that the Public Trustee would otherwise be paying to the Government, would be well spent on supporting the fee recommendations of the Independent Pricing and Regulatory Tribunal, and on supporting the overall functions of what is currently the Office of the Protective Commissioner. The Government is committed to ensuring that the funding arrangements of the NSW Trustee and Guardian are both prudent and appropriate. This is why I will be asking the Independent Pricing and Regulatory Tribunal to conduct an independent and thorough review of both the fee and the funding arrangements for the merged entity as early as 2010.

The second main issue that seems to be attracting opposition to the NSW Trustee and Guardian Bill is the perceived dangerousness of some of its clients. I do not want to labour this point, but I must refer to some comments made in the other place. A member of the Opposition said:

Some of the OPC's clients are so dangerous that they could not be let loose in the Public Trustee's office. It is not necessarily their fault but they are dangerous to other people so security guards would have to be present whenever they came in.

That statement is utterly repugnant. It is entirely inappropriate for the Opposition to have lined up behind those comments, which attack the Protective Commissioner's clients. I acknowledge that the Opposition spokesperson apologised on ABC news earlier today for making those comments, but I regret to say that in the same breath he reinforced them. The Protective Commissioner supports more than 9,000 people under his direct management and more than one-third of them live in aged-care facilities or accommodation operated and funded by the Department of Ageing, Disability and Home Care. These people have very little personal contact with the Office of the Protective Commissioner because they are physically infirm or they have an inability to communicate. They rely on the voice of family, advocates and service providers to express their needs. To suggest that we will be calling on security guards to deal with old, frail and incapacitated people is ridiculous. In a letter to me the Protective Commissioner stated:

People with a mental illness do make up approximately 44% of our client group. Like other disability groups they often experience discrimination, first through lack of understanding about the nature of disability let alone any negative stereotypes that may suggest they may pose a danger to others. Service providers and support groups for people with a mental illness are clear that people receiving treatment for a mental illness are no more violent or dangerous than anyone else and may be at greater risk of being hurt by others.

I could go on about that but in light of the time I will not. It is important to place those comments on the record because a number of people have approached me about them. It is important that all of us reflect on that unfortunate occurrence. Rather than responding by promoting fear and ignorance, and stigmatising and stereotyping people with disabilities, it is important that we be more empathetic to their situation. Indeed, more sensitive comments would have been appropriate in the context of a debate on this important issue.

I am advised by the Protective Commissioner that only 300 clients need the assistance of specialist services at Clarence Street, and only a small percentage of this group experience communication or difficulties that may lead to disruptive behaviour. As the Protective Commissioner observed, a small number of clients of the Office of the Protective Commissioner and the Public Trustee, and indeed any public sector agency,

occasionally become distressed and behave in a threatening manner. The key to working with any client is good, respectful communication and a non-threatening environment, not shunning them or shutting them out, as might otherwise be suggested in the comments to which I referred.

I turn now to the impact of the merger on the Office of the Public Guardian. Under existing law, the Protective Commissioner is also the Public Guardian. This means that the office holder responsible for financial management decisions, the Protective Commissioner, is also making decisions about health and lifestyle, which is the role of the Public Guardian. The Government does not believe that it is desirable for one statutory officer to be in a position to make decisions in respect of all facets of a person's life. That is why it has decided to formally separate the roles of the statutory financial manager and the statutory guardian. Under the legislation, there will be a separate Public Guardian, who will be administratively responsible to the chief executive officer of the NSW Trustee and Guardian but completely independent in terms of making decisions on behalf of clients.

This is a significant and important change. The new legislation will make the Public Guardian more independent, not less. The NSW Trustee and Guardian Bill 2009 is an important step forward for people living with significant disability in our community. That is why the bill has received the support of the Chair of the Disability Council, Mr Andrew Buchanan, the New South Wales Bar Association and the Law Society of New South Wales. On that issue, I note that the correspondence from the Law Society was referred to in another place. Since then, two further letters have been exchanged between me and the President of the Law Society, Mr Catanzariti. I seek leave to have the two letters incorporated in *Hansard*.

Leave granted.

23 June 2009

The Hon John Hatzistergos MLC
Attorney General for NSW
Level 33
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Attorney General

New South Wales Trustee And Guardian Bill 2009

I refer to your letter responding to the submission of the Elder Law Committee (the Committee) of the NSW Law Society regarding the merger of the Office of the Protective Commissioner (OPC) and the NSW Public Trustee.

It is reassuring to the Law Society that the main impetus for the merger of the OPC and the Public Trustee is not the nominal savings identified in the 2008 mini budget. The Law Society notes the objective of the merger is to provide a better deal for people with impaired decision making capacity. The Society agrees that being able to access an extensive branch network would certainly benefit protected clients.

The NSW Trustee and Guardian Bill is the vehicle by which the new statutory corporation is created and its functions are defined. The Bill focuses on amalgamating the two offices.

I note that when introducing the Bill, Mr Barry Collier MP indicated that the Legislative Council Standing Committee on Social Issues will be asked to engage in a comprehensive consultation process to address outstanding concerns about the management of estates of people incapable of managing their own affairs and any further concerns regarding the proposed merger. The Society will be pleased to have the opportunity to participate in the proposed review.

Issues of continuing concern to the Committee are that:

- There are sufficient measures in place to protect the funds that are currently the responsibility of the Protective Commissioner and the Public Trustee, and their respective assets.
- By utilising the extensive branch network of the Public Trustee for the work of the OPC, members of the community who use the Public Trustee's services will not be disadvantaged in any way.
- Services to clients of the OPC are enhanced, and representation and advocacy services will support clients to live with dignity and as much autonomy as possible.
- Services to wills and estates, powers of attorney and trust clients of the Public Trustee will be fully maintained.

In the meantime, the Law Society recognises the Government's commitment to merging the two offices. While the Elder Law & Succession Committee does have ongoing reservations about the merger, the Law Society will of course work to support the new entity should the NSW Trustee and Guardian Bill be passed.

Yours sincerely

Joseph Catanzariti
President

Mr Joe Catanzariti
President
Law Society of New South Wales
170 Phillip Street
SYDNEY NSW 2000
DX 362 SYDNEY

Dear Mr Catanzariti

Thank you for your letter dated 23 June 2009 concerning the *NSW Trustee and Guardian Bill 2009*. I note that while the Law Society agrees with the benefits the Bill will bring to protected clients, and is pleased to have the opportunity to participate in the proposed Legislative Council Standing Committee on Social Issues review, the Elder Law Committee of the Law Society still holds a number of concerns.

I wish to assure the Elder Law Committee that the use of the branch network of the Public Trustee to provide enhanced services to people who are currently clients of the Office of the Protective Commissioner (OPC) is in no way intended to disadvantage members of the community who use the Public Trustee's services, nor is it intended to diminish the services to wills and estates, powers of attorney and trust clients of the Public Trustee.

The Elder Law Committee is also concerned that services to clients of the OPC are enhanced, and representation and advocacy services will support them to live with dignity and as much autonomy as possible. The bill contains an amendment that is focussed on precisely these sorts of issues. Clause 39 of the Bill requires everyone exercising functions with respect to such clients to observe the following principles:

- (a) the welfare and interests of such persons should be given paramount consideration,
- (b) the freedom of decision and freedom of action of such persons should be restricted as little as possible,
- (c) such persons should be encouraged, as far as possible, to live a normal life in the community,
- (d) the views of such persons in relation to the exercise of those functions should be taken into consideration,
- (e) the importance of preserving the family relationships and the cultural and linguistic environments of such persons should be recognised,
- (f) such persons should be encouraged, as far as possible, to be self-reliant in matters relating to their personal, domestic and financial affairs,
- (g) such persons should be protected from neglect, abuse and exploitation.

Finally, the Elder Law Committee wishes to ensure that there are sufficient measures in place to protect the funds that are currently the responsibility of the Protective Commissioner and the Public Trustee, and their respective assets. The ultimate surety in relation to such funds comes from the Government's guarantee in clause 120 of the Bill that the Consolidated Fund is appropriated to discharge a liability of the NSW Trustee and Guardian.

Yours faithfully

John Hatzistergos

The Hon. JOHN HATZISTERGOS: This step forward is just the beginning. I look forward to receiving the recommendations of the Standing Committee on Social Issues when it reports next February. I look forward to considering those recommendations seriously in the context of further reform which, as a number of stakeholders have indicated, is desirable in these matters. I commend the bill to the House.

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

The House divided.

Ayes, 24

Mr Catanzariti	Mr Macdonald	Mr Tsang
Mr Cohen	Reverend Dr Moyes	Ms Voltz
Mr Della Bosca	Reverend Nile	Mr West
Ms Fazio	Mr Obeid	Ms Westwood
Ms Griffin	Ms Rhiannon	
Ms Hale	Mr Robertson	
Mr Hatzistergos	Ms Robertson	<i>Tellers,</i>
Dr Kaye	Mr Roozendaal	Mr Donnelly
Mr Kelly	Ms Sharpe	Mr Veitch

Noes, 15

Mr Ajaka	Mr Gay	Mr Pearce
Mr Clarke	Mr Khan	
Ms Cusack	Mr Lynn	
Ms Ficarra	Mr Mason-Cox	<i>Tellers,</i>
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Amanda Fazio): Order! There is one set of amendments to the bill, which appear on sheet C2009-060B, in the name of the Christian Democratic Party. As Christian Democratic Party amendment No. 1 impacts on all chapters, clauses and schedules to the bill, I propose that it be dealt with at this stage.

Reverend the Hon. FRED NILE [11.32 p.m.]: I move Christian Democratic Party amendment No. 1:

No. 1 Page 2, clause 1, line 4, page 2, clause 3 (1), line 32 and lines 32 and 33, page 4, clause 5, lines 4, 6 and 7, page 64, schedule 2.1, lines 6 and 9, page 64, schedule 2.2, line 13, page 64, schedule 2.4, lines 21 and 22, page 65, schedule 2.6, line 5, page 65, schedule 2.7, lines 13, 14 and 20, page 66, schedule 2.8, lines 10, 13, 17, 20 and 27, page 67, schedule 2.8, lines 1, 3 and 4 and lines 8 and 9, page 67, schedule 2.9, lines 14, 18 and 21, page 67, schedule 2.10, line 26, page 68, schedule 2.12, line 7, page 68, schedule 2.13, lines 16, 22, 23, 24 and 27, page 69, schedule 2.13, line 1 and lines 5 and 6, page 69, schedule 2.14, lines 10 and 13, page 69, schedule 2.15, lines 17, 20, 23, 26 and 29, page 70, schedule 2.16, line 6, page 70, schedule 2.17, lines 12, 16, 18, 21, 22, 23 and lines 25 and 26, page 71, schedule 2.19, line 8 and lines 8 and 9, page 71, schedule 2.21, lines 17 and 20, page 71, schedule 2.22, line 25, page 72, schedule 2.23, line 5 and lines 5 and 6, page 72, schedule 2.27, lines 29 and 30, page 73, schedule 2.27, lines 6 and 17, page 74, schedule 2.27, line 3, page 74, schedule 2.28, line 7, page 74, schedule 2.30, line 18, page 75, schedule 2.33, line 5, page 75, schedule 2.34, line 10, page 75, schedule 2.35, line 15 and lines 15 and 16 and line 20, page 75, schedule 2.36, line 24, page 75, schedule 2.37, line 28, page 76, schedule 2.38, line 4, page 76, schedule 2.39, line 8, page 77, schedule 2.46, lines 19 and 20 and lines 24 and 28, page 78, schedule 2.46, line 5 and lines 10 and 11, page 79, schedule 2.46, line 16 and lines 19 and 20 and lines 21 and 22 and lines 32 and 35, page 80, schedule 2.47, lines 7, 8 and 13, page 80, schedule 2.48, lines 26 and 29, page 81, schedule 2.49, line 4, page 81, schedule 2.50, line 11, page 81, schedule 2.51, line 15 and lines 19 and 20 and line 23, page 81, schedule 2.52, line 27, page 82, schedule 2.52, line 3, page 82, schedule 2.54, line 12, page 82, schedule 2.57, lines 24 and 27, page 83, schedule 2.57, lines 4, 7 and 8, page 83, schedule 2.59, lines 25 and 26, page 86, schedule 2.61, line 21, page 86, schedule 2.62, line 25, page 87, schedule 2.64, lines 4 and 5 and lines 12 and 13 and line 16.

Omit "NSW Trustee and Guardian" wherever occurring. Insert instead "NSW Public Trustee and Guardian".

This is a simple but large amendment that seeks to amend every clause and chapter of, and schedule to, the bill by omitting "NSW Trustee and Guardian" wherever it occurs and inserting instead "NSW Public Trustee and Guardian". I believe this amendment in no way undermines the merger or its intention and has many pluses. There are many trustees, such as trustees of parks and organisations, but there is only one Public Trustee. By dropping the word "public" the historical connection passed down through the years will be lost. The Public Trustee has more than 600,000 clients, who understand the meaning of that title. I believe those clients would not object to seeing the twin organisations of Public Trustee of New South Wales and Office of the Public Guardian standing together as a merged organisation. The word "public" has the important meaning of being open to everyone. For instance, the word "public" is emphasised in our public education system. It also has a strong meaning in this context, and should be retained. At some future date change may be required, but I believe it is premature to remove the word "public" from the title at this stage.

Mr IAN COHEN [11.34 p.m.]: The Greens do not support Christian Democratic Party amendment No. 1. The Greens are concerned that the name change of the amalgamated offices would indicate a hierarchical dominance in entity structure in favour of the Public Trustee. This may send a message that the Public Trustee is more important than the Office of the Protective Commissioner, and result in the alienation of its clients. The new structure is set up to meet the needs of clients of both the Public Trustee and the Office of the Protective Commissioner, and as such the name change proposed by Reverend the Hon. Fred Nile is not appropriate.

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Industrial Relations) [11.35 p.m.]: The Government does not support Christian Democratic Party amendment No. 1 but does recognise the long association that Reverend the Hon. Fred Nile has had with the Public Trustee and the satisfying service he has received from that organisation. The Government also understands the interest and passion of Reverend the Hon. Fred Nile in maintaining the title of the Public Trustee. Concerns have been raised by a variety of different stakeholders that the merger not be a takeover of the Office of the Protective Commissioner or the Office of the Public Guardian by the Public Trustee. It is hoped that the change in name will properly reflect the new organisation and its new direction, and that this will help allay some of the concerns of existing clients of the Office of the Protective Commissioner and the Office of the Public Guardian.

The new name covers the trust relationship and the fiduciary obligations of both the Public Trustee and the Protective Commissioner. Merely continuing the use of the name "Public Trustee" will, in a sense, exclude the clients of the Office of the Protective Commissioner and the need to enhance the provision of disability support services. When the Protective Commissioner was part of the Supreme Court he had the title Master in Lunacy. We are now moving away from the paternalistic connotations of the title "Protective Commissioner" to a more neutral title. The characteristics referred to by Reverend the Hon. Fred Nile as being encapsulated in the term "public" are appropriately addressed by the use of the title NSW Trustee and Guardian. The new name enhances the profile and the independence of the Public Guardian.

The Hon. DAVID CLARKE [11.37 p.m.]: The Opposition does not support Christian Democratic Party amendment No. 1.

Question—That Christian Democratic Party amendment No. 1 be agreed to—put and resolved in the negative.

Christian Democratic Party amendment No. 1 negatived.

The CHAIR (The Hon. Amanda Fazio): Order! With the leave of the Committee, I propose to put the bill by chapters. There being no objection, I will proceed accordingly.

Chapters 1 to 6 [Clauses 1 to 28] agreed to.

Reverend the Hon. FRED NILE [11.40 p.m.]: I move Christian Democratic Party amendment No. 2:

No. 2 Page 60, schedule 1. Insert after line 35:

13 No forced redundancies for permanent staff

- (1) This clause applies to persons who were members of the Government Service and were employed (otherwise than on a temporary or casual basis) as members of staff of the Public Trustee's Office or the Office of the Protective Commissioner immediately before the dissolution of the offices of Public Trustee and Protective Commissioner.
- (2) A person to whom this clause applies must not be removed from the Government Service (other than on disciplinary or incapacity grounds) within the period of 5 years commencing on the date of dissolution of those offices.
- (3) This clause does not apply to the former Public Trustee or the former Protective Commissioner as referred to in clause 12.

In spite of the Government's assurances, a lot of concern has been expressed by employees. When an organisation with 300 or more staff and another organisation with 250 staff are merged, attempts may be made to reduce staff numbers. Therefore, some people will be subjected to forced redundancies, which may be acceptable to only some. This amendment simply deals with no forced redundancies for permanent staff, although voluntary redundancies may occur with agreement. I hope that the operation of the new organisation will create more clients and possibly a need to maintain or increase staff levels in the future. I hope that all sides of the Chamber support Christian Democratic Party amendment No. 2.

Mr IAN COHEN [11.42 p.m.]: The Greens support Christian Democratic Party amendment No. 2. The amendment complements existing protections in the relevant public service employment legislation and will ensure long-term employees are not forced into redundancies. The Greens are quite comfortable supporting this amendment.

The Hon. JOHN HATZISTERGOS (Attorney General, and Minister for Industrial Relations) [11.42 p.m.]: The Government's position is that there will be no forced redundancies, something that has been reiterated on a number of occasions through discussions with various stakeholders. Those sorts of issues are properly matters that have been raised with the Public Service Association. As Reverend the Hon. Fred Nile is aware, some concerns led to the matter being taken to the Industrial Relations Commission. Following discussions between the association and the Attorney General's Department, issues concerning the merger are being resolved through consultation. The Government does not oppose this amendment, which is a reflection of the Government's position generally across the public sector.

The Hon. DAVID CLARKE [11.43 p.m.]: The Opposition supports Christian Democratic Party amendment No. 2.

Question—That Christian Democratic Party amendment No. 2 be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 2 agreed to.

Schedule 1 as amended agreed to.

Reverend the Hon. FRED NILE [11.44 p.m.]: I advise the Committee that I will not move Christian Democratic Party amendments Nos 3 and 4 as circulated on sheet C2009-060B.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. John Hatzistergos agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. John Hatzistergos agreed to:

That this bill be now read a third time.

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

CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT BILL 2009

Second Reading

The Hon. JOHN ROBERTSON (Minister for Corrective Services, Minister for Public Sector Reform, and Special Minister of State) [11.45 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Crimes (Administration of Sentences) Amendment Bill 2009, which amends the Crimes (Administration of Sentences) Act 1999, which I will hereafter refer to as the Act. This bill confirms current arrangements within the New South Wales correctional system for, firstly, the care, control and management of inmates in connection with the designation of inmates for the management of security and other risks; and, secondly, the separation of inmates from other inmates in a correctional centre. The amendments in the bill make it clear that nothing in the Act requires the placement or conditions of custody of inmates to be the same for all inmates. Further, it makes it clear that a decision to separate an inmate from other inmates does not constitute segregated custody of that inmate. This bill gives the Department of Corrective Services greater certainty in regards to how it can operate, it confirms the current capacity of the commissioner to manage the correctional system and it confirms that the commissioner is justified in using different conditions of custody to ensure inmates in that system are appropriately managed.

Given the variety of reasons that inmates commit crimes and the varying nature of the crimes they commit, each inmate must be treated differently to ensure the good order, management and security of our correctional system. There are necessary distinctions between classification and designation of inmates and management regimes, compared with segregated custody directions and separation of inmates for management purposes. A recent case in the Supreme Court has necessitated the need to introduce this bill to reinforce those distinctions and the existing right of the Commissioner of Corrective Services to manage inmates in the appropriate way. This bill is necessary to confirm the intent of existing legislation and to make it abundantly clear that the conditions for custody for all inmates are not, and do not need to be, identical or equivalent.

I turn now to the provisions of the bill. Schedule 1 [1] confirms current arrangements in that the conditions of custody of inmates may vary for different inmates, including with respect to association of inmates in the same correctional centre. The amendment confirms that inmates or groups of inmates may be held separately from other inmates in a correctional centre for the purposes of the care, control or management of a specific inmate or group of inmates. Any such separation may arise from a requirement of the Act or its regulation, the classification or designation of the inmates, any program undertaken by the inmates or any intensive monitoring required of the inmates.

The amendment also confirms that inmates may be held separately from other inmates without the making of a segregated custody direction. There are two important concepts that need to be distinguished in modern correctional management. They are "segregated custody" and "separation" of inmates. Segregated custody is the process whereby the commissioner may direct that an inmate be held in segregated custody if of the opinion that association of the inmate with other inmates constitutes, or is likely to constitute, a threat to the personal safety of any other person, the security of a correctional centre, or the good order and discipline within a correctional centre.

Such a direction is often made as a result of an explicit, exhibited behaviour by an inmate—for example, an assault on a fellow inmate or member of staff. Segregated custody is not a punishment. It is used where there are no other means of managing the inmate. The Act provides for an independent system of review of segregated custody directions at specified time frames. As part of the daily management of inmates subjected to a segregated custody direction, there may be restrictions imposed on an inmate regarding, for example, association with other inmates, the number of hours confined to the cell, access to telephones and the ability to work in industries. In the New South Wales correctional system, such management restrictions are not limited to inmates subject to a segregated custody direction.

Other inmates who are not subject to such a direction may also be subject to constraints or restrictions regarding association with other inmates, the number of hours confined to a cell, access to telephones and the ability to work in industries. For example, an inmate undertaking a specific program, such as the Custody Based Intensive Treatment Program for Sex Offenders, will be located in a closed wing or unit in a correctional centre, and will be able to associate only with inmates undertaking that specific program. A similar situation prevails for inmates subject to a compulsory drug treatment order. These inmates are only located in the Compulsory Drug Treatment Correctional Centre at Parklea. While on stage one of that program, they are prohibited from having any visitors and can only associate with a tightly controlled group of other inmates with similar orders.

The Department of Corrective Services also has to deal with inmates who form inmate factions within the system. These inmate factions have the potential to become what the commissioner describes as security threat groups. Once organised, the individual activities of such groups and the fall-out from the rivalries that can arise between them, can pose a real threat to the safety of staff, other inmates and the security of correctional centres. Therefore, for some years now the department has operated the Security Threat Group Intervention Program, which seeks to address the offending behaviour of inmates in these groups. It is a well-grounded principle in New South Wales penal law that inmates may be separated and managed according to their needs—whether, for example, the separation is for the purpose of addressing the inmate's criminogenic needs by way of programs and services, owing to an inmate's intellectual or physical disability, a medical condition or simply on the basis of gender.

Some basic examples of this fundamental tenet may be found in the Crimes (Administration of Sentences) Regulation 2008—for instance, clause 30, which provides for the separation of classes of inmates; clause 31, which provides for the separation of inmates on the basis of their sex; clause 32, which provides for the separation of inmates found or suspected to be in an infectious or verminous condition from other inmates; and chapter 2, part 2.2, which relates to the case management and classification of inmates. The Department of Corrective Services is the lead agency for State Plan priority R2—that is, reducing re-offending. It has responsibility for reducing the levels of re-offending by 10 per cent over a 10-year period.

The department's mission is to "Manage offenders in a safe, secure and humane manner and reduce risks of re-offending" and its vision is to "Contribute to a safer community through quality correctional services". The department uses a variety of strategies to achieve its mission and vision, and to work towards achieving the State Plan target. One such strategy is the development and implementation of case plans addressing the criminogenic needs of offenders. A range of behavioural programs and services addressing offending behaviour are encouraged for those inmates where an assessment indicates that they should be undertaken. Programs may target, for example, attitudes, behaviours and cognitions which are supportive of crime or indicative of psychopathy and other anti-social behaviours and attitudes; drug and alcohol abuse; development of victim empathy by sex offenders; and/or anger and violence management.

The types of programs an inmate may be placed in, or encouraged to participate in, and the extent of that participation will be determined, in part, by the inmate's level of risk of re-offending. Participation in some programs will inevitably entail separation from mainstream living conditions and attendant restrictions and limitations on daily routines in correctional centres and specified placements. The need for this bill arises from the fact that the conditions of custody for all inmates cannot be the same, nor do they need to be, and the possibility that there may be some misunderstanding of the distinction between the separation of inmates and the segregated custody of inmates.

The separation of inmates and different conditions of custody is a fundamental tenet of modern penology and offender and correctional centre management. The ambit of the Act and its regulation are indicative of this. Hence, the bill amends the Act to confirm the current arrangement—namely, that the conditions of custody of inmates need not be the same for all inmates. The bill makes it clear that the conditions of custody of inmates may vary, including with respect to association with other inmates, whether on the basis of classification or designation of the inmate, or otherwise. The amendment ensures that anything previously done or omitted that would have been validly done or omitted had the amendment been in force at that time is taken to have been validly done or omitted.

Schedule 1 [2] confirms that the regulation may make further provision for the designation of inmates for the management of security or other risks. There is already a general regulation-making power contained in section 271 of the Crimes (Administration of Sentences) Act with respect to any matter. However, for the sake of being prudent and in order to be consistent with section 79, which provides for some specific regulation-making powers with respect to full-time imprisonment, subsection (c1) is being inserted into the Crimes (Administration of Sentences) Act. Schedule 1 [3] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act. I commend the bill to the House.

The Hon. DAVID CLARKE [11.45 a.m.]: The object of the Crimes (Administration of Sentences) Amendment Bill 2009 is to confirm current arrangements for the care, control and management of inmates in connection with the designation of inmates for the management of security and other risks, and the separation of inmates from other inmates in a conventional centre. The Opposition does not oppose this bill. Specifically, the bill amends the Crimes (Administration of Sentences) Act 1999 to confirm that inmates or groups of inmates may be held separately from other inmates in a correctional centre for the care, control or management of the inmates or groups of inmates. The amendment also confirms that inmates may be held separately from other inmates without the making of a segregated custody direction. It further confirms that nothing in the Act requires the conditions of custody of inmates to be the same for all inmates in the same correctional centre or of the same classification or designation, including conditions with respect to association with other inmates.

The amendments are retrospective and ensure that anything previously done or omitted that would have been validly done or omitted had the amendment been in force at that time is taken to have been validly done or omitted. In effect, the bill confirms that inmates can be segregated at the discretion of the commissioner. The bill arises as a result of a recent adverse Supreme Court finding in the case of *Sleiman and Hamzy v The Commissioner for Corrective Services*. The background to that adverse finding stems from the activities in prison of convicted criminals Bassam Hamzy and Emad Sleiman. In answer to a question asked of him in another place last Thursday, Premier Nathan Rees advised that both men had continued to breach the law once they were jailed. The Premier advised that they had illegally concealed a mobile phone in their cells and used it to organise drug deals on the outside. The Premier informed Parliament that, as well as recruiting fellow inmates for Islamic jihad, Hamzy made some 19,000 calls from jail, coordinating a drug operation worth a quarter of a million dollars a week. He said:

Few prisoners have been more disruptive to the good order of the New South Wales correctional system than Sleiman and Hamzy.

He added:

The House would not be surprised to learn that these men have been separated within the correctional system to prevent their illicit activities and to stop other prisoners being dragged into their web of crime and deceit. No reasonable person would doubt that the Department of Corrective Services is justified in using different conditions of custody to ensure these men are appropriately contained and that the jails they are in, in turn, are properly run.

But Hamzy is no reasonable person. This drug-dealing murderer and his sidekick Sleiman have had the gall to attempt to sue the New South Wales Corrective Services commissioner over their placements in jail. Both prisoners are seeking damages from the State of New South Wales and under the law as it currently stands they may succeed.

The Premier went on to indicate that a loophole may well have been found in the law. He said:

This case turns on what most people would regard as a technicality—the distinction between two different concepts of inmate management, namely segregated custody and separation. Segregated custody is a legal process allowing inmates to be formally ordered into segregation if they pose a risk to the safety of other persons or to the security and good order of the correctional centre. Separation, by contrast, is part of the normal day-to-day management of prisons, which may require constraints or restrictions regarding association with other inmates, the number of hours confined to their cell, access to telephones, the ability to work in prison jobs and so on.

Hamzy and Sleiman argued that they were separated from the mainstream prison population without a formal segregated custody order being made. Therefore, they claim that it is unlawful and they can sue for deprivation of liberty. Their case was given the green light to proceed in a judgement by the Supreme Court in April, which means that their lawsuit could come before the court soon.

The Premier then went on to say:

We will legislate to confirm the reasonable practices of the Department of Corrective Services and close the loophole.

Most decent and reasonable people would agree with the comments of the Premier. Most decent and reasonable people would agree that convicted criminals engaged in the illegal prison activities of the two prisoners referred to by the Premier should not gain as a result of a possible loophole in the law. This is most certainly the view of the Opposition, and that is why we will not be opposing the bill. The bill makes clear that a decision to separate an inmate from other inmates does not constitute segregated custody. It clarifies a pre-existing power in the commissioner. The bill will avoid future lawsuits and class-action suits based on the findings in the case of *Sleiman and Hamzy v The Commissioner for Corrective Services*. The bill will help to close down the ongoing campaign of Sleiman and Hamzy to make a mockery of our justice system and it will preclude other convicted criminals held in our correctional facilities from doing the same. The Opposition does not oppose the Crimes (Administration of Sentences) Amendment Bill 2009.

Ms SYLVIA HALE [11.51 p.m.]: The Greens oppose the Crimes (Administration of Sentences) Amendment Bill 2009. In particular, we object to the manner in which the bill has been pushed through both Houses in a single day via the suspension of standing and sessional orders. Usually the Government would give notice of the bill today, introduce it tomorrow and then let it lie on the table for five days before debating and voting on it. Instead, the bill is being rushed through on a single day to suit the tabloid law and order spin cycle of the Premier and the Opposition. It is particularly objectionable that the bill has been accompanied by a farrago of lies and misrepresentations by the Government. Especially outrageous were the remarks of the Premier on 18 June in answer to a Dorothy Dixier from a backbencher about the Government's intention to introduce the bill.

The Premier's remarks provoked a letter in response from the solicitor representing Emad Sleiman, a prisoner who has currently before the courts a claim against the Commissioner of the New South Wales Department of Corrective Services. Because the Premier's remarks received widespread publicity and because they have now been repeated and taken at face value by the Opposition, I believe it is appropriate to read into *Hansard* the response by the solicitors representing Emad Sleiman. They were, to put it mildly, absolutely dismayed and outraged by the Premier's remarks. The letter states:

We act on behalf of Mr Emad Sleiman with respect to his claim in the Supreme Court of New South Wales against the Commissioner of the New South Wales Department of Corrective Services and the State of New South Wales, matter No 30032 of 2009.

The letter then refers to the comments made by the Premier and proceeds to dissect those comments as follows:

Premier Nathan Rees: "... *The crimes and misdeeds of these men did not stop at the prison gate. Learning from their fate, they continued to breach the law once jailed.*"

On our instructions, Mr Sleiman has not been convicted of any crimes since his imprisonment to date.

Premier Nathan Rees: "...*They concealed an illegal mobile phone in their cells and used it to organise drug deals on the outside.*"

Mr Hamzy is currently facing charges in relation to this allegation. There is no "they".

We are instructed our client has never been questioned or has faced charges in relation to allegations involving drug dealings on the outside or any type of drug dealing during the whole time that he has been imprisoned.

Mr Sleiman has only ever learnt of this allegation for the first time through your own comments made on Thursday, 18 June, 2009.

Premier Nathan Rees: "... *Prison authorities believe that they are recruiting fellow inmates for Islamic jihad.*"

Mr Sleiman learnt about this allegation through the media and we are instructed that our client has never been questioned nor has faced any charges for or in relation to this allegation during his whole time that he has been imprisoned.

Further, Mr Sleiman was placed in Supermax in 2001 which was 7 years prior to Bassam Hamzy's current drug related charges and the Islamic Jihad allegation.

Premier Nathan Rees: "... *The House would not be surprised to learn that these men have been separated within the correctional system to prevent their illicit activities and to stop other prisoners being dragged into their web of crime and deceit.*"

There is no such "web of crime and deceit".

We are instructed that on the opening day of Supermax in or around June, 2001, the then Premier Bob Carr named Mr Sleiman and 4 or 5 other inmates as inmates that would be placed in Supermax. Approximately 5 months later Mr Sleiman was moved there. To say that Mr Sleiman was "separated within the correctional centre to prevent [his] illicit activities" ... has no standing given the time that he was placed there and the time that these allegations were and are now being made.

As you are aware, inmates can be kept separated by moving them to other correctional centres, **and more importantly**, the current legislation permits inmates to be kept isolated/separated/segregated lawfully pursuant to section 10 of the *Crimes (Administration of Sentences) Act 1999* (New South Wales). This power was and still is available to the Commissioner. However, by placing Mr Sleiman and other inmates in Supermax, the inmates are denied the opportunity to appeal to an external panel or have reviewed the decision to be kept there that is ordinarily available under the Act. As such, the Commissioner has been able to do as he pleases without being open to any outside scrutiny. In our contention, there is no reason why the Commissioner cannot achieve his apparent purpose of keeping inmates separated from each other under the current legislation. Mr Sleiman's case is based on the fact that the Commissioner has avoided using the current legislation to deny them and other Supermax inmates any opportunity to be heard and to be potentially left there indefinitely in what he contends to be cruel, inhumane and torturous conditions.

We should also add that Mr Sleiman is no longer in Supermax—he was released from there in August 2008, 3 days prior to his Supreme Court matter being heard. As such, if there was concern of Mr Sleiman dragging other inmates " ... into their web of crime and deceit ..." as you stated in Parliament, he would not be in the main prison population today.

Premier Nathan Rees: "... No reasonable person would doubt that the Department of Corrective Services is justified in using different conditions of custody to ensure these men are appropriately contained and that the jails they are in, in turn, are properly run".

The legislation currently enables the Commissioner full power and authority to run the jails properly and keep inmates appropriately contained.

Premier Nathan Rees: "... This case turns on what most people would regard as a technicality—the distinction between two different concepts of inmate management, namely segregated custody and separation. Segregated custody is a legal process allowing inmates to be formally ordered into segregation if they pose a risk. ... Separation is part of the normal day-to-day management of prisons, which may require constraints or restrictions ... and so on. ...".

It is not the case that the Supreme Court proceedings involve any such distinction. The legality of his "segregated custody" is the primary issue and, whether the State deliberately used the SuperMax prison as a "device" to avoid its lawful obligations. It has nothing to do with "separation" per se ...

That is the letter from the solicitors representing Emad Sleiman and it asks the Premier for an apology, an admission of the complete distortion in his statement, but of course that has not been forthcoming. I now turn to the bill. Once again, the Government is legislating to sideline the courts. The Government has no respect for the separation of powers. Surely it is unnecessary to remind members that the Parliament's role is to make the laws, the Government's role is to administer the law, and the role of the courts is to ensure that, when administrative decisions are made, they are done so legally, fairly, consistently, rationally, and impartially. It is this issue that is central to the bill that we are considering tonight.

On 24 April 2009, eight weeks ago, Justice Adams handed down his decision in *Sleiman v Commissioner of Corrective Services* [2009] NSWSC 304. In his decision Justice Adams held that the plaintiff, Emad Sleiman, had a right to sue, and observed that Sleiman's detention in the High Risk Management Unit or Supermax at the Goulburn correctional facility might well be a "device for avoiding the requirements of the Act and depriving the prisoner of the rights given him by Parliament" and, if so, damages would be payable. The payment of damages, of course, would be dependent on Sleiman being able to demonstrate that the Commissioner for Corrective Services had deliberately avoided acting in accordance with the requirements of the Act, that is, the commissioner had failed to act lawfully. What the bill does is to absolve the commissioner and the Government from what might be fairly characterised as deliberate and intentional illegality, and thereby shield them from the consequences of that illegality. It does this in proposed section 78 A (5), which provides:

Anything done or omitted that could have been validly done or omitted if this section (and section 79 (c1) had been in force when it was done or omitted is taken to be, and always to have been, validly done or omitted.

After all, what Sleiman is seeking is not a change in the existing law but simply a declaration that the commissioner has failed to abide by the law. The availability or otherwise of damages, to my mind, is a secondary issue. The principal issue is whether one of the State's most powerful public servants, whose task it is to oversee the punishment of people who have failed to obey the law, had himself knowingly and deliberately connived to evade and disobey the law. This is an issue that should be determined by the courts. It goes to the heart of the very reasons we have courts—to ensure that the law is applied legally, fairly, and consistently. Suffice it to say, if the commissioner's actions had been in clear conformity with the law we would not be debating this bill tonight.

Before the Government starts its usual dishonest tabloid attack of accusing the Greens of being soft on murderers, we acknowledge that the bill is indeed aimed at thwarting legal action undertaken by two convicted murderers, Emad Sleiman and Bassam Hamzy. They were caught, convicted, and are serving their sentences. But the crimes that landed them in jail are not the issue here tonight. The issue is what happens to people after they have been imprisoned. Are they to be stripped of all rights or are they to have recourse to the law when those few rights are violated? The former Chief Justice of the High Court of Australia, Murray Gleeson, said at a Sydney University law graduation ceremony in May 1999:

Concern for human rights is most valuable when it reminds us of the need to protect the rights and interests of minority groups, the underprivileged, the unpopular, people whose legitimate concerns are at risk of being swept aside by a majority. An Australian barrister, and Prime Minister, Sir Robert Menzies, once wrote that a lawyer is never seen to better advantage than when representing a client against whom every man's hand is turned.

Ten years before that he had written in an article titled "The Rule of Law and the Independence of the Judiciary":

Those for whose rights we need to be zealous are the unpopular, those against whom campaigns of public vilification may be waged, those whose activities, even though lawful, are sought to be made the object of public disapproval.

Clearly Sleiman, Hamzy and all inmates of the Supermax could be included among those minority groups who Chief Justice Gleeson suggests are in special need of protection. The Crimes (Administration of Sentences) Act provides the rules to ensure that those protections are in place for the inmates of our prisons. The Act provides the commissioner and, by delegation, the governors of the State's correctional centres with very wide powers, including the power to place a prisoner in segregated custody. The Act requires that any such action be accompanied by a written segregated custody direction. Section 13 of the Act specifies that:

A segregated or protective custody direction must be in writing and must include the grounds on which it is given.

But what is happening in Goulburn and at the Supermax? The jail has a segregation unit housing those under segregated custody directions. It also has the High Risk Management Unit [HRMU] or the Supermax. The High Risk Management Unit operates as a de facto segregation unit because inmates in the segregation unit and in the High Risk Management Unit are treated in essentially the same manner. Although segregation is not defined in the Act, the Act does contain section 12, entitled "Effect of segregated or protective custody direction", which provides:

- (1) An inmate subject to a segregated or protective custody direction is to be detained:
 - (a) in isolation from all other inmates, or
 - (b) in association only with such other inmates as the Commissioner (or the general manager of the correctional centre in the exercise of the Commissioner's functions under section 10 or 11) may determine.

Basically it authorises isolation, solitary isolation, or very restricted access to other inmates. An inmate, therefore, may be held in solitary confinement or in conditions tantamount to solitary confinement where only very restricted contact with other approved inmates is permitted.

The commissioner or other authorised person determines whether segregated custody is required and issues a written directive to this effect outlining his reasons for that decision. After 14 days of continuous segregation the decision may be subject to review by the Serious Offenders Review Council. Clearly, this procedure, requiring reasons and a written direction, recognises that solitary confinement, or segregated custody, is an extreme measure to be used and reviewed to ensure that it is not abused by overzealous prison authorities. It is an absolutely crucial check to the otherwise untrammelled power of the commissioner or his delegates.

At this point I think it is well worth reading some excerpts from an article that appeared in *The New Yorker* on 30 March 2009 entitled "Annals of Human Rights—Hellhole: The United States holds tens of thousands of inmates in long-term solitary confinement. Is this torture?" It is a very lengthy article, but I would like to quote a few relevant excerpts. One thing the article does is discuss the case of the former United States Republican presidential candidate Senator John McCain, and it states:

"It's an awful thing, solitary", John McCain wrote of his five and a half years as a prisoner of war in Vietnam—more than two years of it spent in isolation in a fifteen-by-fifteen-foot cell, unable to communicate with other POWs except by tap code, secreted notes, or by speaking into an enamel cup pressed against the wall. "It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment."

And this comes from a man who was beaten regularly, denied adequate medical treatment for two broken arms, a broken leg, and chronic dysentery; and tortured to the point of having an arm broken again. A U.S. military study of almost a hundred and fifty naval aviators returned from imprisonment in Vietnam, many of whom were treated even worse than McCain, reported that they found social isolation to be as torturous and agonizing as any physical abuse they suffered.

And what happened to them *was* physical. EEG studies going back to the nineteen-sixties have shown diffuse slowing of brain waves in prisoners after a week or more of solitary confinement. In 1992, fifty-seven prisoners of war, released after an average of six months in detention camps in the former Yugoslavia, were examined using EEG-like tests. The recordings revealed brain abnormalities months afterwards; the most severe were found in prisoners who had endured either head trauma sufficient to render them unconscious or, yes, solitary confinement. Without sustained social interaction, the human brain may become as impaired as one that has incurred a traumatic injury.

McCain notes that in the United States of America as in Australia—or at least in New South Wales—the criteria for isolation of prisoners varied by State, but typically include not only violent infractions but also violation of prison rules or association with gang members. He said:

The imposition of long-term isolation—which can be for months or years—is ultimately at the discretion of prison administrators.

The article, in reference to the negative effects on broader society of solitary isolation, states:

Craig Haney, a psychology professor at the University of California at Santa Cruz, received rare permission to study a hundred randomly selected inmates at California's Pelican Bay supermax, and noted a number of phenomena. First, after months or years

of complete isolation, many prisoners "begin to lose the ability to initiate behaviour of any kind—to organize their own lives around activity and purpose", he writes. "Chronic apathy, lethargy, depression and despair often result ... In extreme cases, prisoners may literally stop behaving," becoming essentially catatonic.

Second, almost ninety per cent of these prisoners had difficulties with "irrational anger," compared with just three per cent of the general population. Hainey attributed this to the extreme restriction, the totality of control, and the extended absence of any opportunity for happiness or joy. Many prisoners in solitary become consumed with revenge fantasies ...

But, after years of isolation, many prisoners change in another way that Haney observed. They begin to see themselves primarily as combatants in the world, people whose identity is rooted in thwarting prison control.

As Haney observed in a review of research findings, prisoners in solitary confinement must be able to withstand the experience in order to be allowed to return to the highly social world of mainline prison or free society. Perversely, then, the prisoners who can't handle profound isolation are the ones who are forced to remain in it. "And those who have adapted," Haney writes, "are prime candidates for release to a social world to which they maybe incapable of ever fully adjusting."

But what of prisoners in the High Risk Management Unit [HRMU]. Because they are not in the SuperMax as a result of a written segregation directive, they have no right of appeal to the Serious Offenders Review Council no matter how long they have been in solitary isolation or its equivalent. Because they are not officially in segregation they have no right to appeal against that segregation. Indeed, they are in the quintessential catch-22 situation. What is it like to be in the SuperMax? I have an affidavit from Emad Sleiman sworn on 1 May 2008, the accuracy of which has not been challenged by anyone. I will read onto the record a few of the points made in that affidavit. It states:

Upon my arrival to Unit 7, [within the SuperMax] the following occurred to me:

- Absolutely all of my belongings were taken from me including underwear, socks and my watch;

He was just left naked. The affidavit continues:

- There was nothing more than a cell, blanket and mattress;
- I was forbidden from buying anything for approximately 2 weeks;
- I had boxed visits;
- No human contact with other inmates—the only contact was with officers;
- 1 personal phone call a week;
- no buy-ups;
- no halal food—I was on bread, fruit and vegetables.

He then talks about No. 7 unit. The affidavit continues:

The first is known as 7 Unit. 7 Unit is used for segregating inmates and also used for more extreme isolation of inmates. It is used as a reception area for new arrivals into HRMU for the purpose of separating them from not only the mainstream population, but also from all other inmates within the HRMU. Upon arrival, the prison officials refer to it as the "Assessment Period". Inmates are totally stripped of everything to the most trivial items including socks and underwear.

...

After 7 Unit, I was then moved to 9 Unit which I have observed to be the same procedure used for all other HRMU inmates. While in 9 Unit, inmate may or may not be on a "segregated custody" direction under the *Crimes (Administration of Sentencing) Act 1999* (NSW). In any case, the experience is fairly the same except that you can use the yard and can put in an association form which I will describe later in this statement.

...

All cells and day rooms are only accessible to fresh air when the rear cell door is open allowing access to the back exercise yard and letting in fresh air. When the door is closed, no air comes in. The door opens from 9 am until about 2 pm. We get 5 hours fresh air maximum a day but during lock in, which is 1 to 2 days a week, there is no fresh air whatsoever.

He is talking about unit 7 again. It continues:

I did not know that an inmate, Malcolm Baker, had been there for a year until he was let out to sweep floors.

...

In relation to HRMU inmates, the SORC does not override a decision made by the Commissioner and thus ultimately, the inmate has no rights of review of HRMU before the SORC. Further the HRMU is viewed as a program and, from the defendant's Department's perspective does not officially fall under the *Crimes (Administration and Sentencing) Act* as Segregation. It is referred to as a program. Thus, the inmates are treated exactly the same as the Segregated inmates under a different label and without any overlooking authority to review the decisions made by officers.

And further:

In summary, in comparison to the main, HRMU inmates are extremely oppressed and are divested of personal property and belongings, have limited room to move, no access to other inmates (unless one is approved), cannot use the phone at will, have extreme restrictions they do not have in the main. Segregated inmates have more freedom because they are not divested of all their belongings and are not treated to the same extreme as HRMU inmates.

From my personal experience I have noticed that HRMU attempts to dispossess and oppress and use complete sensory deprivation tactic for the purpose of forcing inmates to act like puppets to get rewards, being their own personal property that they would ordinarily be entitled to elsewhere.

Further, I can say that I consider the whole of HRMU is an unofficial Segregation unit. I would call the actual Segregation unit a dream compared to the HRMU.

With regard to lock-ins Sleiman states:

Lock-ins mean you are confined to your cell and nothing else.

There are about 4 and 4½ lock-ins per month. One lock-in is equivalent to 41-42 hours of cell confinement. One lock-in means you are confined usually from 2.30 pm until 8.45am the next morning plus an additional 24 hrs.

Often a lock-in is extended for two days continuously. There have been 3 days on some occasions. At one point in 2007, there were five lock-ins in a week.

During lock-ins, inmates do not have any natural air flow whatsoever during that whole period of time as there are no windows or grilles. Often the power stops on the air conditioner which means no artificial air is flowing.

...

An ongoing issue since my arrival in the HRMU is that officers always read all our mail including strictly confidential legal mail. They always listen to our conversations too. I know this because often I speak or receive correspondence from my lawyers. An example is that after I received a letter from my lawyers regarding the preparation of these proceedings in 2007, the next day, the officers said to me: "*tell your lawyers to stop wasting their time as we will be relying on Section 26 of the Act*" which was a matter that was raised in relation to legal issues my lawyers would have raised with me. I have also been informed that mail is unsealed that is outgoing. The officers do not re-seal the mail and I learn from the recipient that the mail was opened upon receipt.

In summary, he says:

Generally, other issues I am subjected to in the HRMU include:

- Denial of education other than the lifestyle programs that I have completed and received certification for. There are no further programs or education offered to me.
- Denied computer access;
- Denied exercise equipment access;
- Regulated art work only once a certain level is achieved;
- Breach of confidentiality of medical records as the doctor discusses an inmate's medical file with officers;
- Constant psychological games that are used to inflict mental torture on inmates;
- There are no HRMU official rules and regulations that officers follow—it is just made up from day to day generally;
- Inmates are refused items that they are ordinarily entitled legally to;
- Inmates are denied access to government departments to lodge formal complaints with the exception of the Ombudsman who I believe act in the interests of the Gaol officers;
- The psychiatrist does not act in the interest of inmates—he acts in the interest of the officers.

That is only part—

The Hon. John Robertson: One day you are defending the prison officers; the next day getting stuck in.

Ms SYLVIA HALE: What I am trying to do, Minister, is act in a fairly principled way. When I see a wrong is being committed I try to speak out against it. I think it is what most people normally would consider to be a desirable attitude to adopt. That means that when I believe the officers are being treated unjustly I say so. I think privatisation of the prisons would be a clear case in point. But where I see the prisoners also being subjected to a really inhumane procedure then I think it is appropriate to speak out. The common factor in this is

not just the Minister but also the Commissioner for Corrective Services, because what the inquiry into privatisation of prisons has clearly shown is that the commissioner is incapable of managing the system. I believe these cases show the commissioner is also incapable of acting legally within the limits of the law.

The Hon. John Robertson: That is what it is about, the commissioner, because you don't like him.

Ms SYLVIA HALE: This is not about the commissioner; this is about the bill that is proposed here tonight and why the Greens believe it is absolutely unacceptable. I believe anyone with a skerrick of legal training would share those reservations. Even though they are segregated, HRMU inmates may not see another inmate for days and are often locked in their cells for 48 hours at a stretch, during which time they may not even see a prison officer. In essence, they are treated as if they are in segregated custody. Even the Government's own legal counsel, when arguing the matter in court, did not contest the fact that Sleiman was held in segregation without a written direction having been issued. As Justice Adams noted in his decision, Sleiman is not contesting the lawfulness of his confinement but the lawfulness of the nature of his confinement.

The essence of Mr Sleiman's case is that his six-year placement in a prison within a prison, known as "SuperMax" at Goulburn Correctional Centre, constituted segregated custody within the meaning of sections 10 and 12 of the Crimes (Administration of Sentences) Act 1999. In this respect his case raises issues similar to those ventilated in *Hamzy v Commissioner of Corrective Services* [2007]. In that case Justice Bell, now a member of the High Court of Australia, discussed at [9] to [13] the relevant provisions of the Crimes (Administration of Sentences) Act 1999, which she refers to as "the Act". Justice Bell said this:

Division 2 of Part 2 of the Act makes provision for the segregated custody of prisoners pursuant to a segregated custody direction. This is a regime that is distinct from the provisions in the regulations to the Act for the punishment of inmates for disciplinary infractions.

Section 10(1) provides that the Commissioner may direct that an inmate be held in segregated custody if he is of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to (a) the personal safety of any other person, (b) the security of a correctional centre or, (c) good order and discipline within a correctional centre. The general manager of a correctional centre may exercise the Commissioner's functions under s 10(1) in relation to the correctional centre and must notify the Commissioner of that fact and of the grounds on which the segregated custody direction was given.

Section 12 (1) provides that an inmate, subject to a segregated custody direction, is to be detained in isolation from all other inmates or in association only with such other inmates as the Commissioner (or General Manager of the correctional centre in the exercise of the Commissioner's functions under sections 10 or 11) may determine.

A regime for the review of segregated custody directions is provided by s 16 of the Act. The General Manager of a correctional centre where an inmate is held in segregated custody must submit a report about the segregated custody direction to the Commissioner within 14 days after the date [on which the direction] is given. Within 7 days after receipt of the report the Commissioner is required to review the segregated custody direction and either [make] or confirm it. In the event that the Commissioner confirms the order he may amend its terms.

If the direction is confirmed the General Manager of the correctional centre in which the inmate is held subject to the direction must submit a further report about the direction to the Commissioner within three months and within each subsequent period of three months after this period. Within 7 days after each occasion on which the Commissioner receives any further report he must review the segregated custody direction.

In addition to the above regime, section 16 of the Act provides for a formal written report with reasons to be made to the Minister if the prisoner is to be detained in segregated detention for more than six months at a time. Significantly, an inmate who is subject to segregated custody for more than 14 days has the right under section 19 to independent merits review by the Serious Offenders Review Council, which is constituted by section 195 of the Act.

In the Act as it stands there are clear checks and balances. If you are going to take the extreme step of placing someone in solitary confinement with all the potential damage to that person that that entails, then the law as it stands says there are certain procedures that must be observed. I think that is a fit and proper process. Of course, this bill is attempting to dispense with that process and those appropriate steps. It attempts to dispense with the protections that are put there specifically to prevent solitary confinement being used as an additional and inappropriate punishment for prisoners.

Sleiman was placed in the High Risk Management Unit of Goulburn Correction Centre in December 2001. At that time he was classified as category A2. The inmate category refers to the risk level, and the regulations spell out the sorts of security arrangements in terms of physical barriers that are applicable to each category. In March 2001 he was categorised as A1. Although there were some disciplinary problems, he was not charged with any offences. While in the High Risk Management Unit, Sleiman was allowed to associate only with other prisoners as approved by the commissioner and, for some periods, with no other inmates at all. This circumstance indicates that Sleiman was in fact in segregated custody as the regime to which he was subjected

conformed to the requirements of section 12, "Effect of segregated or protective custody direction". Indeed, High Risk Management Unit inmates, when applying for approval for limited association with other inmates, filled out the same inmate association application form as do inmates who were subject to an official segregation direction. Justice Adams summarised the central issue in Sleiman's case as follows:

Sleiman alleges that detention in the HRMU amounts to being segregated and, in the absence of a segregation direction under s10 of the Act, his being so detained is unlawful.

An indication of the arbitrary nature of Sleiman's classification and placement in the High Risk Management Unit is that, within three days of his legal action coming on for final hearing in the Supreme Court, he was removed from the High Risk Management Unit and returned to the main section of the maximum security prison. Justice Adams made these observations in his decision in Sleiman's case in April 2009:

... it is necessary, in the interests of society, to imprison, sometimes for long periods and sometimes in segregation, some persons who break the law. But the courts must insist that even that restriction of liberty—as justifiable as it may be—cannot occur unless and cannot go one inch further than the law strictly permits ...

So far as prisons are concerned, the Parliament has instituted a structure of laws to govern the responsibilities of those to whom is delegated the custodianship of prisoners of the State. They are given great power and considerable freedom of action. But it is not untrammelled ...

Having regard to the exceptional character of segregated custody so far as the well being of the prisoner is concerned and the unique regime instituted by the Parliament as a safeguard, it is obvious that compliance with its requirements is no mere matter of legal technicality but of fundamental importance. To place a prisoner in segregation without such compliance and set at nought the safeguards of the Act is a serious departure from the law.

Clearly, the Government is unhappy with the decision of the court and is now attempting to prevent the case reaching its logical conclusion by legislating with retrospective effect. This, in itself, is bad enough, but there are other problems with the bill we have before us. The bill appears to conflate the concepts of "separation" with those of "segregation". No-one is arguing that certain inmates may not be separated from other inmates—for example, where they attempt to collude to intimidate another inmate or to engage in criminal activity jointly within a correctional facility. But segregation is different.

Until today, before the introduction of the proposed changes in the Crimes (Administration of Sentences) Amendment Bill 2009, no other power in the Act would have expressly permitted the segregation of prisoners within the meaning of, and with the effect of, sections 10 and 12 of the Act. In the absence of such a power, holding prisoners under those conditions—that is, in total isolation or with the limited associations—was plainly not permissible. The 2009 bill attempts to alter this situation by introducing a new concept into the Act—namely that of "separation"—in proposed section 78A. The new concept is not defined in the Act, and the new provision does not make it clear exactly what it is intended to achieve. Dictionary definitions do not assist in ascertaining the correct meaning of the word. It is impossible to understand how the new section 78A will sit with and be read with or construed with sections 10 and 12, which deal with segregated custody. For example, the *Macquarie Dictionary* online defines the word "separate" as follows:

- verb (t) **1.** to keep apart or divide, as by an intervening barrier, space, etc.
- 2.** to put apart; part: to separate persons fighting.
- 3.** to disconnect; disunite: to separate Church and State.
- 4.** to remove from personal association, as a married person.
- 5.** to part or divide (an assemblage, mass, compound, etc.) into individuals, components, or elements.
- 6.** Also, **separate out.** to take by such parting or dividing: separate metal from ore.
- verb (i) **7.** to draw or come apart; become disconnected or disengaged.
- 8.** to become parted from a mass or compound, as crystals.
- 9.** (of a married couple) to stop living together but without becoming divorced.
- adjective **10.** separated, disconnected, or disjoined.
- 11.** unconnected or distinct: two separate questions.
- 12.** being or standing apart; cut off from access: separate houses.
- 13.** existing or maintained independent! y: separate organisations.
- 14.** individual or particular: each separate item.
- noun **15.** (plural) articles of women's clothing that can be worn in combination with a variety of others, as matching or contrasting blouses, skirts, jumpers, etc.
- phrase **16. separate from,** to part company with; withdraw from personal association with.

All of these concepts are conflicting in the Act, which refers to separation, solitary confinement and limited associations. Parliament should not be enacting new provisions that do not make their intent and operation plain and that are unable to be read meaningfully with the remainder of the Act. I received late today the following comment from the Bar Association:

The New South Wales Bar Association opposes amendments aimed to legislatively determine the outcome of current Supreme Court proceedings involving the lawfulness of detention of certain prisoners in the High Risk Management Unit of the Goulburn Correctional Facility. The fact that the Government is seeking to enact retrospective legislation whilst the litigation in question is still pending is of deep concern.

Regardless of the parties involved and the crimes they have been convicted of, the Association considers that this retrospective approach to overturn litigation currently on foot is unacceptable, particularly as the Association understands that the Government intends to pass the bill through both Houses of Parliament this week.

The separation of powers between the Executive, the Legislature and the Judiciary becomes blurred when the State in its Executive capacity is a litigant to proceedings and in the face of an adverse outcome seeks to achieve success in that litigation not by an independent determination by the judicial arm of the Government but instead by enacting retrospective legislation to achieve the same effect. The Government through its legislative role gets to "move the goal posts" whilst the litigation is still pending. It thereby utilises a power unavailable to the other party in the proceedings to gain an advantage for itself.

The retrospective application of legislation to current proceedings is a major step and should be subjected to detailed consideration by the Parliament. Given that the relevant proceedings are next listed for hearing in September, the Association is strongly of the view that the legislation be subject to proper consultation, consideration and scrutiny before any decision is made that it be passed.

I can hear pained sighs from people who are becoming fatigued because it is now 12.40 a.m., but those sighs are nothing like the sighs that are coming from people who have been in solitary confinement on and off for seven years or more.

[*Interruption*]

I find that interjection absolutely objectionable. If we had concerns about Abu Ghraib and the treatment of prisoners by the United States of America, we should hang our head in shame and be equally concerned about the way in which we treat our prisoners. What is the alternative? Sometimes it is argued that we have to take extraordinarily oppressive actions because that is the only way to put an end to violence and to criminal offending. I would like to read again from the article in the *New Yorker* dated 30 March 2009 in which the author asks whether there is an alternative to solitary confinement, or what amounts to solitary confinement, and the use of supermax prisons that have spread across the globe in the past 20 or 30 years. The article states:

Is there an alternative? Consider what other countries do. Britain, for example, has had its share of serial killers, homicidal rapists, and prisoners who have taken hostages and repeatedly assaulted staff. The British also fought a seemingly unending war in Northern Ireland, which brought them hundreds of Irish Republican Army prisoners committed to violent resistance. The authorities resort to a harshly punitive approach to control, including, in the mid-seventies, extensive use of solitary confinement. But the violence in prisons remained unchanged, the costs were phenomenal (in the United States, they reach more than fifty thousand dollars a year per inmate), and the public outcry became intolerable. British authorities therefore looked for another approach.

Beginning in the nineteen eighties, they gradually adopted a strategy that focused on preventing prison violence rather than on delivering an ever more brutal series of punishments for it. The approach starts with the simple observation that prisoners who are unmanageable in one setting often behave perfectly reasonably in another. This suggested that violence might, to a critical extent, be a function of the conditions of incarceration. The British noticed that the problem prisoners were usually people for whom avoiding humiliation and saving face were fundamental and instinctive. When conditions maximised humiliation and confrontation, every interaction escalated into a trial of strength. Violence became a predictable consequence.

So the British decided to give their most dangerous prisoners more control, rather than less. They reduced isolation and offered them opportunities for work, education and special programming to increase social ties and skills. The prisoners were housed in small, stable units of fewer than ten people in individual cells, to avoid conditions of social chaos and unpredictability. In these reformed "Close Supervision Centres," prisoners could receive mental health treatment and earn rights for more exercise, more phone calls, "contact visits," and even access to cooking facilities. They were allowed to air grievances. And the Government set up an independent body of inspectors to track the results and enable adjustments based on the data.

The results have been impressive. The use of long-term isolation in England is now negligible. In all of England there are now fewer prisoners in "extreme custody" than there are in the state of Maine. And the other countries of Europe have, with a similar focus on small units and violence prevention, achieved a similar outcome.

I realise that no doubt it is desirable from the Government's perspective to show that it is getting tough on prisoners by denying them the bare modicum of rights that they possess. The Government and the Opposition clearly find that as being in their interests. However, I suggest it is not in the interests of a civilised and humane society. When dealing with prisoners and, in particular, when giving to the Commissioner of Corrective Services, as this bill proposes, virtually untrammelled power to order someone into solitary confinement or its equivalent—possibly for years on end with no right of review in the Act—it is possible for that action to be totally outside the scope of any source of appeal. I believe that to be fundamentally wrong and I find it thoroughly objectionable. For that reason the Greens oppose this bill.

Ms LEE RHIANNON [12.45 a.m.]: The Government has sunk to a new low in rushing this retrospective Crimes (Administration of Sentences) Amendment Bill 2009 through the House. It will impact on a case, the outcome of which is still pending. That outcome will give even more power to Commissioner Ron Woodham to isolate prisoners with virtually no standards in place. Clearly, it will further undermine the tenets

of our justice system and it will be another black day for this Parliament. Members of Parliament have witnessed many occasions when the basic tenets of our justice system have been unravelled—it is happening again tonight—when it is harder to be thorough in debate, and when we have had limited time to consider a bill. This has happened in only one day.

That is where we stand and that is what we have seen from the Government, and that is not surprising. Once again Opposition members are being faithful to that same agenda. Tonight Opposition members have given complete backing to this serious legislation, which demolishes the attempt by Mr Greg Smith, the shadow Attorney General, to carve out some new territory in handling justice issues. All members would remember the fine words we heard from Coalition members in January about rehabilitation and not engaging in the law and order auction. When it comes to managing justice issues, Opposition members are again working hard to sink to the same low level as Government members. We are back to the law and order stereotypes—they are present for us all to see.

My colleague Ms Sylvia Hale detailed with great thoroughness the barbarity of this legislation. Tonight I wish to refer to the issue of retrospectivity. The Greens do not rule out retrospective legislation on all occasions, but when legislation is designed to intervene in a litigation process the alarm bells should ring. The alarm bells should be ringing loudly right now. Members should be aware that this bill allows the Executive to dictate to the judiciary. Let us be clear: when the State in its executive capacity seeks to achieve success in litigation by enacting retrospective legislation there are serious implications for delivering justice. The New South Wales Bar Association summed up this disturbing development. My colleague Ms Sylvia Hale referred to some of its material, and I would like to add to it. It commented:

It is incumbent upon the legislature to be extremely cautious in enacting any retrospective legislation because it affects the extant rights of individuals, particularly individuals who have already commenced litigation pursuant to a legislative regime given to them by this legislature.

The Bar Association made a clear suggestion about what should happen with this legislation:

The retrospective application of legislation to current proceedings is a major step and should be subjected to detailed consideration by the Parliament. Given that the relevant proceedings are next listed for hearing in September, the Association is strongly of the view that the legislation be subject to proper consultation, consideration and scrutiny before any decision is made that it be passed.

That sets it out very clearly. We have time before September for the Parliament to consider the bill in detail. Because of the long break, because of the way the Government conducts business, because the Government does not want scrutiny or for some other reason, the bill is being rushed through. There is no explanation for it being rushed through. It is unseemly and shines an alarming light on how the Government operates. The unanswered question in this debate is: Why does the Commissioner of Corrective Services, Ron Woodham, have so much power? Why has the Government rushed this legislation? The commissioner wants this legislation. It makes his job easier and gives him even more power, whilst removing basic appeal rights.

This legislation is a dream come true for Commissioner Woodham. It allows the commissioner to isolate prisoners without being required to follow the rules of segregated custody. I believe the Minister interjected along the lines, "He's the commissioner. That is how he operates." We live in Australia in the twenty-first century. We have established standards. The Government should not erode standards. Tragically, already this new Minister is eroding standards. We must protect the public but we must not erode our justice system to do so. It has become common in recent times in the name of fighting criminals, bikies and terrorists for the Government, with the support of the faithful Opposition, to strip away basic rights.

The Hon. Charlie Lynn: What do you think he should do? Have a love-in with them?

Ms LEE RHIANNON: I acknowledge the insulting interjection of the member. Crude law and order politics are used to advance a cause time and again. These measures will not make the public any safer. They undermine the justice system and give power to a commissioner who already runs the corrective services system in a way that puts the Government under a grey cloud. We question whether the commissioner is doing his job properly. It is alarming when the law is changed to make action legal that was previously illegal. The member's interjection shows that there is not a sliver of difference between the Opposition and the Government.

The commissioner ends up with great power. What does this all-powerful commissioner do? He chooses to avoid the current legislation so that he can deny Supermax inmates any opportunity to be heard and they are left indefinitely in inhumane conditions. The Minister has to set out a more detailed explanation as to

how the Government has arrived at this point, how the Government can justify the legislation and why the bill is being rushed through. He cannot say it is because Parliament rises in a few days time. That is not good enough when we are dealing with such a serious matter. The Minister also should respond to the issues raised by the New South Wales Bar Association. As we know, the Government has the numbers. When it introduces its law and order legislation it is already a done deal before this point in the debate. Although the hour is late, these issues must be thoroughly discussed. I hope that the Minister deals with these issues in his speech in reply with the thoroughness that this serious but backward legislation warrants.

Reverend the Hon. FRED NILE [12.53 p.m.]: The Christian Democratic Party supports the Crimes (Administration of Sentences) Amendment Bill 2009, which confirms current arrangements within the New South Wales correctional system for the care, control and management of inmates in connection with the designation of inmates for the management of security and other risks, and for the separation of inmates from other inmates in a correctional centre. In recent times we have seen a new development of very violent criminals—not only murderers, who are involved in the present case—who belong to Islamic groups. With their fanatical ideology they are very dangerous within the prison system. On the one hand, they intimidate other prisoners and, on the other, recruit other prisoners and form gangs within the prison. There is a battle to see who runs the prisons—these violent criminals or the authorities who are appointed by the Government on behalf of the people to administer the prisons of New South Wales, in this case, Commissioner Woodham.

I support the legislation, which is linked to a recent case in the Supreme Court in which two murderers have challenged the conditions of their custody in prison and sought compensation. Today I met with the prisoners' solicitor and barrister, who are being funded by the Government through legal aid to conduct the case. It is ridiculous that they have received legal aid funding. If they did not receive legal aid, the case would not have proceeded. This legislation is important for our prison system in this day and age. There are two important concepts that need to be distinguished in modern correctional management—segregated custody and the separation of inmates. Segregated custody is the process whereby the commissioner may direct that an inmate be held in segregated custody if he is of the opinion that association of the inmate with other inmates constitutes or is likely to constitute a threat to the personal safety of any other person, or the security of a correctional centre, or the good order and discipline within a correctional centre. Segregated custody is not a punishment. It is used where there are no other means of managing the inmate. This legislation makes these policies clear and should be supported by the House.

The Hon. JOHN ROBERTSON (Minister for Corrective Services, Minister for Public Sector Reform, and Special Minister of State) [12.57 p.m.], in reply: I thank all honourable members for their contributions to the debate. Although I note the late hour, I will address points raised by members during the debate. Ms Sylvia Hale is obviously confused about the nature of segregated custody directions as opposed to the separation of inmates. This bill makes no amendments to the segregated custody provisions of the Crimes (Administration of Sentences) Act 1999. The Act's provisions relating to segregated custody directions, including those for the independent system of review of directions at specified time frames, will remain. I also remind Ms Sylvia Hale that segregated custody does not constitute solitary confinement. In fact, the Crimes (Administration of Sentences) Act and its regulations specifically prohibit solitary confinement as a punishment. Segregated custody is a management mechanism used by the commissioner, with an independent system of review at specified time frames.

Ms Sylvia Hale's comments confuse the notion of solitary confinement, which, as I said, does not exist in New South Wales. Segregated custody and separation are an excellent demonstration of the need to clarify the intentions of the Crimes (Administration of Sentences) Act. That is why the Government has introduced this legislation. The bill confirms that inmates may be held separately from other inmates in a correctional centre for the purposes of the care, control or management of a specific inmate or group of inmates. The concept of separation is already encapsulated in the Act. For example, male inmates are held separately from female inmates, maximum security inmates are held separately from minimum security inmates, remandees are held separately from convicted inmates, and inmates who are subject to a compulsory drug treatment correctional order are held separately from all other inmates. Honourable members should not think that managing an inmate or group of inmates separately from other inmates or groups of inmates means they will be held in isolated custody. It just means that the conditions of custody of inmates who may be held separately from other inmates, whether on the basis of classification or designation of the inmate, or otherwise, may vary, including with respect to association with other inmates.

Ms Lee Rhiannon and Ms Sylvia Hale gave quite a bit of commentary on Commissioner Woodham. Ms Lee Rhiannon raised particularly the powers of the commissioner. Under section 232 of Act the

commissioner already has very general powers: the care, direction, control and management of all correctional complexes, centres, periodic detention centres and residential facilities as well as the care, control and management of all offenders held in custody. This bill is not giving him any more power than he has already. Reference has been made to increases in violence, and further attacks have been made on Commissioner Woodham in this regard. Let me be clear about the role Commissioner Woodham has played in his time as commissioner. Inmate-on-inmate assaults have declined dramatically in the period of time that Commissioner Ron Woodham has operated as head of our corrections system. Assaults by inmates on prison officers have reduced significantly since Ron Woodham has been in charge of our corrections system.

This notion that somehow violence is increasing in our corrections system is just wrong. It is wrong for anybody to come in here and make out that somehow violence is on the increase in our prisons when clearly that is not the case. Ron Woodham has done a fantastic job in driving down assaults in those areas and also in implementing programs dealing with the rehabilitation of inmates to avoid recidivism. This man and this department are responsible under the Government's State Plan for a 10 per cent reduction in recidivism in New South Wales. The range of techniques or innovative programs he has put in place for indigenous inmates is a credit to Ron Woodham. It is completely wrong and inappropriate for people who have some pathological disdain for the commissioner to seek to discredit him and the role he has played and continues to play effectively within the New South Wales corrections system.

The amendments in the bill are necessary following a recent application by two inmates, which has been referred to by a number of members tonight. The matter before Justice Adams on 24 April gave inmates leave to proceed under the Felons (Civil Proceedings) Act 1981 because he was persuaded by the alleged facts that an arguable case in law exists for the awarding of damages for unlawful imprisonment in respect of the conditions of custody of the two inmates. The Commissioner of Corrective Services was expecting that leave would not be granted for the case to proceed in the Supreme Court. Given that the matter will proceed, the Government considers that this bill now is necessary to confirm the intent of the existing legislation and to make it abundantly clear that the conditions for custody for all inmates are not and do not need to be identical or equivalent.

The bill reinforces the existing rights of the Commissioner of Corrective Services to manage inmates appropriately. If the inmates' substantive case under the Felons (Civil Proceedings) Act 1981 is successful, damages may be awarded. If damages are awarded, this will potentially open up the floodgates to every other inmate who has ever been held in any circumstances where his or her ability to freely associate has been curtailed—for example, under a specific correctional management program—from making a claim in New South Wales. The risk of damages is quite large. We have made these amendments retrospective to put beyond doubt what the current Crimes (Administration of Sentences) Act 1999 and its regulations clearly indicate: the separation of inmates always has been a necessary part of modern penal law in New South Wales. The retrospective nature of the bill is necessary in that it confirms the intent of the existing legislation and makes it abundantly clear that the conditions of custody for all inmates are not and do not need to be identical or equivalent. I commend the bill to the House.

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

The House divided.

Ayes, 28

Mr Ajaka
Mr Catanzariti
Mr Clarke
Mr Colless
Ms Cusack
Ms Fazio
Ms Ficarra
Miss Gardiner
Mr Gay
Ms Griffin

Mr Khan
Mr Lynn
Mr Mason-Cox
Reverend Dr Moyes
Reverend Nile
Ms Parker
Mrs Pavey
Mr Pearce
Mr Robertson
Ms Robertson

Ms Sharpe
Mr Tsang
Mr Veitch
Ms Voltz
Mr West
Ms Westwood

Tellers,
Mr Donnelly
Mr Harwin

Noes, 4

Ms Hale
Ms Rhiannon
Tellers,
Mr Cohen
Dr Kaye

Question 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. John Robertson agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. PENNY SHARPE (Parliamentary Secretary) [1.12 a.m.]: I move:

That this House do now adjourn.

PATERNAL INFLUENCE

The Hon. GREG DONNELLY [1.12 a.m.]: The *Concise Oxford Dictionary* defines "myth" to be a fictitious person, thing or idea. The same dictionary defines "fictitious" as counterfeit, not genuine, assumed, imaginary or unreal. One of the biggest and perhaps cruellest myths over the past few decades, perpetrated by some members of the academy, certain political and social leaders, and commentators, as well as a media and entertainment industry that, in the main, refuses to look critically at the issue, is that fatherhood is finished. In its extreme form it is argued that fatherhood is a social construct and that it is optional. It is asserted that children do not need fathers; they need only love, care and security. Provide a child with these and they will thrive with or without a father.

Certainly, some men are not good fathers—indeed, there are instances where women and children have to be protected from such men. Yes, children need love, care and security—there is no argument about that. However, what has been challenged and is undergoing a challenge is the fundamental question about the role of fatherhood in society today. Put another way: Do fathers matter? I believe that the unambiguous answer to this question is yes. Fathers do matter; they matter a great deal, and the truth of this reality cannot be obscured by ideology, sophistry or, in some cases, self-interest that I would argue puts adult interests before those of children. I must say it is pleasing to see that in Australia work is being done across the country by academics, non-government organisations and individuals to challenge the damaging myth about the irrelevancy of fatherhood. Tonight I will briefly mention three examples.

Dr Bruce Robinson co-leads the Fathering Project team at the University of Western Australia. He has lectured on fathering for almost 20 years and has written more than 150 published papers. Last year Dr Robinson's book entitled *Daughters and their Dads* was published. It was the culmination of a literature review covering more than 2,000 articles and more than 40 books that examined the issue. It also incorporated material drawn from some 400 interviews. The interviewees, including both daughters and fathers, came from 15 different countries and worked in a range of occupations. Dr Robinson's book makes an important contribution to the ongoing debate. The 13 chapters are comprehensive and cover a range of topics. The book also contains a detailed reference to many useful websites. I could mention a number of insightful quotes from the book, but I will refer to just one:

There is an incredible power in the father-daughter relationship, a power which strongly influences a woman's future for good or bad. Girls long for affection and affirmation from their fathers. The influence that fathers have on their daughters is profound and lasts for the whole of their lives and it creates a hole in their lives if it is absent.

Many published studies have confirmed the powerful effect that fathers have on daughters with few dissenting voices.

I recommend the book to those interested in the subject of fatherhood. It is worth noting that there are a number of excellent books, such as Steve Biddulph's *Raising Boys*, that deal with the importance of fathers in the lives of their sons. *Raising Boys* was first published in 1997 and is now in its third edition. In his book Biddulph notes:

The research supporting the importance of dads is overwhelmingly clear. Boys with absent fathers, or with problem fathers, are statistically more likely to be violent, get hurt, get into trouble, do poorly in school, and be members of teenage gangs in adolescence. They are less likely to progress to university or have a good career. They marry less successfully, and are less effective fathers themselves.

I also pay tribute to the Family Action Centre located within the faculty of health at the University of Newcastle. The father's program has operated for more than a decade and has facilitated a number of important services and initiatives. I particularly acknowledge the excellent work of Mr Richard Fletcher, who is conducting and overseeing a wealth of research in the area of fathering and families. The ongoing research continues to re-affirm the fundamental role that fathers play in contributing to the wellbeing of their children. I encourage interested members to visit the Family Action Centre website to see firsthand the great work being done.

Finally, I acknowledge and congratulate the Fatherhood Foundation on its ongoing work. The organisation continues to advocate in the public square the importance of fatherhood, as well as conduct research. Warwick and Alison Marsh have been campaigning for some time on the importance of fatherhood for children specifically and society in general. Indeed, they were campaigning well before it was fashionable to do so. Together they have done a great deal to bring to Australia important overseas research and analysis on fatherhood. Fresh eyes are now looking at the importance of fatherhood. What is being found is that some of the assumptions and perspectives about fatherhood that have been in vogue for the past 30 to 40 years are fundamentally flawed. I have no doubt that the critiquing will continue and public interest in understanding the importance of fatherhood will continue to grow.

RADIOTHERAPY SERVICES

The Hon. TREVOR KHAN [1.17 a.m.]: Today in question time I asked the Minister for Health if he would confirm that radiotherapy services were to be an integral component of the redeveloped Tamworth Hospital. The Minister failed to answer the question. Indeed, his answer could best be summarised as "Maybe. Perhaps. Possibly." His failure to give a definitive answer should be seen in the context of the report released by the Auditor-General today entitled "Tackling Cancer with Radiotherapy". The report joined the plethora of reports, reviews and specialist briefings that the State Labor Government has received over many years telling it that there is a great need for radiotherapy services to be extended into regional New South Wales. However, despite all this previous expert advice, the Deputy Auditor-General, Tony Whitfield, said:

I'm concerned that there's no 10 year strategic plan for radiotherapy services across the state.

Over that period, the Cancer Institute NSW predicts the incidence of the disease will rise by 30%, meaning by 2016, there will be an estimated 45,000 cases diagnosed each year.

Sadly, the State Labor Government is continuing to fail to plan for the delivery of radiotherapy services in New South Wales. It is worth quoting from pages 55 and 56 of the report, where the Auditor-General says:

We have not found a means of systematically reviewing the services provided at individual centres. We have not seen clarity and agreement on what the patient outcome objectives and measures should be. Broadly these are likely to be to cure cancer (and mortality figures could tell us how successful we have been), to get rid of pain (where patient surveys and admission information would help), and to minimise the toxicity of the treatment.

NSW Health proposals for new radiotherapy services usually cite improvement in morbidity and mortality, and radiotherapy treatment rates as primary objectives.

We found that radiotherapy utilisation rates vary substantially throughout Australia. Based on the best available evidence at the time (Radiotherapy in Cancer Care: Estimating the Optimal Utilisation From a Review of Evidence Based Clinical Guidelines, Collaboration for Cancer Outcomes Research Evaluation (CCORE) Report, October 2003), the proportion of cancer patients that could benefit from radiotherapy has been estimated as 52.3% of new cancer patients, and 25% of those requiring repeat treatments. This is a 'weighted average' of the results obtained from an analysis by each of the many cancer tumours. A treatment rate of at least 50% has been a NSW target since 1995. Current radiotherapy treatment rates for NSW residents who received radiotherapy in NSW and interstate, in either public or private sector, are considerably lower than this target, as shown below.

Despite an objective utilisation rate of 50 per cent, almost all areas fall short of this figure. The second worst is the New England region, where only 22.36 per cent of cancer patients receive radiotherapy services. Put another way, fewer than half of patients who may gain benefit from radiotherapy treatment get the benefit of it—I emphasise that it is fewer than half. That is not a criticism of our hardworking doctors, nurses and allied health professionals. It is a direct criticism of this State Labor Government and its failure to deliver adequate health services to the people of New South Wales. It is purely and simply an appalling indictment of this Government. In essence, what kind of community are we if we fail to provide adequate health services to our residents?

I concur with the Audit Office's findings that the medical and allied health staff who provide radiotherapy services are hardworking and dedicated professionals who are constantly striving for excellence when caring for those dealing with cancer. I look forward to the day when this State has a record of delivering

quality radiotherapy services to all those in our community who need it, regardless of where they live. I look forward to the day when radiotherapy services are available to the people of the north-west, and I look forward to the day when radiotherapy services exist in Tamworth.

EARTH LIBERATION FRONT

Reverend the Hon. FRED NILE [1.22 a.m.]: The Earth Liberation Front was founded as a sister organisation to the Animal Liberation Front and has now gone global. It has carried out an estimated 17 guerrilla attacks across the world. In 2001 the United States Federal Bureau of Investigation classified it as the main domestic terror group in the United States of America whereas the Animal Liberation Front, from which it emanated, wanted only to liberate rabbits and rats from humanity's evil grip. The Earth Liberation Front thinks the planet should be freed from our human reign of terror, and perhaps emptied of humans altogether.

The organisation's philosophy was revealed only last week when Earth Liberation Front representatives secretly visited the home of Graeme York, who is the boss of the Hazelwood power station in Victoria, and hand delivered to him a menacing letter. It threatened to harm York's property if he did not stop polluting the planet by producing electricity. Previously groups have sought to interfere with power stations and so on, but I do not think there has been an example of a group going to the home of a person involved in an industry and threatening them in a similar manner. We may say that this group is off the planet and we should ignore them, but there are signs that the philosophy of humans really being the problem is coming through from other individuals. John Gray, one of Britain's most respected intellectuals and until recently the Professor of European Thought at the London School of Economics, says that humanity is a "plague on the planet". He echoes the views of James Lovelock, the granddaddy of modern environmentalism, who thinks that humans have become a disease. He stated:

Humans on the Earth behave in some ways like a pathogenic organism, or like the cells of a tumour or neoplasm. The human species is now so numerous as to constitute a serious planetary malady.

Adopting this warped point of view, it makes perfect sense to liberate Earth from humanity in the same way as a surgeon liberates a person's body from a cancerous growth. The American novelist Kurt Vonnegut, hero to disaffected youth, said shortly before his death in 2007:

I think Earth's immune system is trying to get rid of us. And it's high time it did.

In the 1980s Earth First, then a rather trendy environmentalist outfit that later spawned the Earth Liberation Front, said that the possible benefits of AIDS to the environment are staggering—just as the plague contributed to the demise of feudalism, AIDS has the potential to end industrialism. A strange development in popular culture are the popular Matrix films. In one of the films, a sinister agent who is sent to infiltrate humanity says that human beings are a disease, a cancer of this planet—"You are a plague and we are the cure." The Earth Liberation Front fancies itself as the cure. Even today, less hysterical and officially endorsed environmentalist campaigns treat the human presence on Earth as something shameful and dirty. Terms such as "human footprint" and "human impact", which are used everywhere from classrooms to newspaper reports, suggest that humans have an ultimately corrosive relationship with the poor beleaguered Earth. It is important to take these groups seriously as they campaign, particularly because they can influence young people. We need to be good stewards of the Earth and to have a positive attitude to life and the contributions that humans make. We should not have a culture of death or negativity. We must have a positive view of the role of humans on planet Earth as good stewards.

BANKSTOWN STATE EMERGENCY SERVICE

The Hon. HELEN WESTWOOD [1.27 a.m.]: I inform the House of the official opening of the Bankstown State Emergency Service headquarters last Saturday 20 June by the Minister for Emergency Services, the Hon. Steve Whan. I attended along with the mayor and councillors of Bankstown City Council, the State members for Bankstown, Fairfield and East Hills, the Federal member for Banks, State Emergency Service volunteers and their families and, despite the rain, hundreds of local residents. This magnificent facility was the culmination of many years of struggle, going as far back as the site selection process in 2003. Until this facility was built, the Bankstown State Emergency Service unit was spread across three separate locations, which created obvious inefficiencies both for training and operations.

As a strong and growing unit with 51 members and many probationary members, the existing facility was inadequate to meet increasing need. It was also in poor condition and the existing site did not permit

expansion or renovation. It was clear that the facility had to be relocated, so the site selection process began. And what a process it was. We engaged in a real battle to have the headquarters situated where it is today. Heated public meetings and robust discussion often left us feeling bloody and bruised by the onslaught of extreme nimbyism. We even had a visit from the inner-city Greens, who had no idea about the history or the merits of the proposal but who still tried to turn it into a Greens political campaign. However, those of us who were committed to the proposal proceeded because we knew that the State Emergency Service, its volunteers and the community needed the facility and this site was the most appropriate location for it.

The project's fruition is the result of the hard work and dedication of local State Emergency Service controllers Graham Tomkinson and David Niven, State Emergency Service volunteers, and council officers Joan Warton, Ttajana Domazet, Rowan Morrison, Matt Stewart and Ray Saleam, and the dogged determination and political commitment of a few local Bankstown councillors, particularly former Councillor Richard McLaughlin and me. I remember vividly a time when there were only a lone few public voices advocating for this much-needed facility. Some of the councillors were willing to cave in to the nimbys, who were very small in number but incredibly loud and persistent. However, we could always rely on the support of our army in distinctive orange overalls. They were very persuasive when they filled the public gallery at council meetings, as required.

Once the site was determined, our next battles were the funding and design. I pay particular tribute to Dick McLaughlin, Graham Tomkinson and David Niven, who worked tirelessly with Joan Warton and Rowan Morrison to ensure that the facility's design met the needs of the unit now and well into the future. The construction of the new headquarters on land dedicated by council represents a significant boost in training and operating conditions for the local State Emergency Service. This new facility built by Bankstown City Council for the Bankstown State Emergency Service is a \$2.9 million project and a great example of how governments and the community can work together.

The New South Wales Government provided \$100,000 for the building, and the Bankstown State Emergency Service contributed \$50,000 through its fundraising efforts. The facility will also be used as the control centre for the Local Emergency Management Committee for planning. During large-scale emergencies it will provide the Bankstown local government area with a purpose-built disaster relief headquarters. It is one of the largest SES headquarters in Sydney and, according to the Minister, the most impressive he has seen. It's size and fit-out reflect Bankstown's population and flood-prone status.

Bankstown SES has been providing support throughout the community for 31 years. Members of the community are fortunate to know that when natural disaster strikes there is a committed team of volunteers able to be there to help them. These volunteers are mums, dads, young people, grandparents, retired people and people who have often taken time out from their jobs. Bankstown SES volunteers provide more than emergency relief; they are active community members supporting events such as the annual Bankstown Relay for Life, the Children's Festival and Australia Day celebrations at Garrison Point each year. The leadership team of the Bankstown SES has many years of knowledge and experience behind it.

Together, local controller David Niven and deputy local controller Graham Tomkinson ensure the readiness of the Bankstown SES volunteers to respond swiftly and professionally when called upon. Between them, David and Graham have amassed more than 60 years service to our community through their involvement with the SES. The men and women of the SES are a tremendous team of volunteers who demonstrate an incredible commitment, and it is this willingness to lend a helping hand to our community that we appreciate so much. Their actions provide a glowing example of what it means to be a volunteer. The Bankstown SES now has a facility that befits the valuable and important role the SES plays in the community.

The new facility features a 120-seat multi-use training room and mess-training room, planning and emergency rooms, a 19-station operations room where relief operations are coordinated during a major disaster, a 13-vehicle garage for trucks and boats, with room for trailers, and a mezzanine storage area. In total, 200 people were employed in the building of this facility, with about 100 people from the Bankstown area. This project also generated work for the suppliers of steel, concrete, roofing, timber, et cetera. I was pleased to be part of the launch.

HUNTER REGION FUNDING

The Hon. ROBYN PARKER [1.31 a.m.]: To say the New South Wales budget was thin on the ground with infrastructure projects is an understatement. After 14 years of Labor's economic mismanagement, the

people of this State were given a budget that is based on deception and failure, fanciful figures and no plan for the future. As a Hunter-based representative I note that projects such as the Swansea Bridge and the Glendale interchange again missed out on funding. The chief of the Hunter Business Chamber, Peter Shinnick, told the Newcastle *Herald*:

A new Hunter courts facility has been recognised by the NSW Attorney General as a priority and needs to be funded. The Glendale interchange has been identified by the Hunter Business Chamber as having the highest regional priority after the F3 link road. It is time for the NSW Government to recognise that and make a financial commitment.

The budget also failed to contain any funding for the Newcastle central business district plans as outlined in the Hunter Development Corporation report. There was no funding for roads in the wine region of the Hunter, although Hunter wine and its associated tourism generates almost \$1.3 billion towards the local economy, employs hundreds of people and attracted more than six million visitors last year. Only this week we are celebrating the wonderful Hunter wine and produce, yet there was no acknowledgement of or action on the terrible roads in the area. What is also disappointing is that what Labor members say in their electorates in the Hunter does not appear to equate to much in terms of funding in their areas. For example, the member for Maitland made this commitment on Lochinvar police station by telling the *Maitland Mercury* earlier this month:

This is about keeping a foothold for police in an area that's going to grow in five to ten years time. If we do nothing, it will be sold. I want the Minister to consider very seriously what the people are saying.

But there was no funding for Lochinvar police station in the budget. Indeed, earlier this month the Minister for Police admitted that one of the options for Lochinvar police station was to subdivide it. Then just last week the Minister failed to clearly tell residents in Thornton, Woodberry and Beresfield what the future of Beresfield police station would be once the Port Stephens local area command comes online in Raymond Terrace. Meanwhile back in June and December last year the member for Maitland promised that a ramp for Martins Creek railway station would be built. The member again told the *Maitland Mercury*:

We'll spend whatever it costs to have the station fixed. It has been made quite clear that it is imperative the work is done.

The Hon. Greg Donnelly: Point of order: The Hon. Robyn Parker knows full well that what is essentially a fundamental attack on a member from the other House is out of order. I allowed her to say it once, and let it pass through to the keeper, but she has returned to the issue. I ask you to invite the Hon. Robyn Parker to continue her presentation without a fundamental attack on a member from the other House.

The PRESIDENT: Order! In continuing her contribution, the Hon. Robyn Parker should bear in mind Standing Order 91 (3), which states that all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.

The Hon. ROBYN PARKER: There was no funding for this project in last week's budget. The member for Maitland knows that even the construction of the F3 link road, or the Hunter Expressway as it is now called, will not remove all the congestion problems from Maitland and along the New England Highway. For example, the roundabout at Maitland Hospital and Maitland Railway Station are two well-known areas for traffic congestion. The member was quoted in his local paper as saying:

I certainly agree there's going to be more and more traffic going through these roundabouts.

When one considers that it will take three terms of government to build the Third Hunter River Crossing, I can understand why Labor members in the Hunter Valley want to distance themselves from their Government—they are embarrassed by the Government's neglect of the region. The Hunter deserves better. When critical infrastructure projects have the backing of the Hunter business community, industry and residents and yet fail to attract funding year after year, it is clear that Labor takes this region for granted. There needs to be change. I look forward to that change in March 2011, when the people of the Hunter will have the opportunity to put Liberal members into those seats.

JESUS CARES REFUGE

Reverend the Hon. Dr GORDON MOYES [1.36 a.m.]: I wish to tell the House about a fine, local Christian ministry that I have known about and supported for many years called the Jesus Cares Refuge. Several supporters of the Wesley Mission founded this refuge in 1987, during my time as superintendent. Jesus Cares reaches out to the homeless, the poor, those recently released from prison, the drug and alcohol addicted, sex workers and other marginalised people living on the dangerous streets of inner Sydney, particularly in the Kings

Cross and Darlinghurst areas. It helps people through the provision of food from a travelling van, with the distribution of blankets and other outreach services from its main ministry centre in West Ryde. The ultimate purpose of Jesus Cares—after meeting the bodily needs of desperate people with warm blankets, nourishing food and shelter—is through friendship evangelism and the sharing of the good news of Jesus Christ: the provision that will feed and shelter the spirit for life.

Jesus Cares is not affiliated with any particular church denomination, organisation or any government agency. It is a volunteer inter-denominational Christian charitable organisation that relies on its volunteers to provide the food, shelter and clothing, as well as the workforce, for the running of the ministry seven days per week. The many Jesus Cares volunteers and supporters come from a wide range of church backgrounds across the whole body of Christ: Catholic, Evangelical, Liberal and Pentecostal, because all kinds of people have recognised the excellent work that it does in their communities.

The assistance of other agencies is sought when there is a dire need that Jesus Cares cannot meet by itself. For instance, when they come across people who need emergency accommodation, drug rehabilitation, professional counselling or urgent medical care. Jesus Cares volunteers reach out to anyone in need not only offering food and clothing; they also offer kindness and acceptance without any judgement or condemnation. A gentle word and a listening ear can mean more than words can say on the harsh streets of Sydney. Many of the people that the Jesus Cares volunteers deal with on a daily basis are our Australian society's rejects. They are broken people, often with a history of abuse, without inner resources, who are very lost and very lonely. Through one-on-one ministry, the volunteers are able to build up trusting relationships with those they meet and serve faithfully.

The Jesus Cares van ministry has a team of volunteers that goes to Blacktown, Seven Hills and Parramatta every Thursday and Friday night, and never knows what it will find on the streets there. Sometimes it is quiet but other times very busy with people congregating and getting into trouble. Another van ministry team goes to Kings Cross, and some members may see them at the bottom of the Domain and other rough inner city areas where they come across drug users and binge drinkers carousing on the streets until sun up. The ministry team has been surprised to find recently that many people over the age of 40 on the streets are using drugs and binge drinking as well.

Jesus Cares also runs a Sunday fellowship meeting at a playground in Woolloomooloo where anybody can be part of the fellowship that hears the Gospel, participate in praise and worship, and receive prayer and healing at what they call the "The Church With No Walls". With a recent six-fold increase in homeless families looking for help from aid agencies, the Jesus Cares teams are now seeing entire families suddenly on the street and afraid of what life has in store for them. Jesus Cares exists to serve all Christian churches and to work alongside other charities and organisations assisting the homeless in the heart of Sydney. They have been operating for more than 17 years with continuous ministry to the homeless, street dwellers, the drug and alcohol addicted and sex workers. During this time they have seen dramatic changes in people's lives. They have many stories of lives that have been turned around, of addictions overcome, of families restored, and of successful rehabilitation, accommodation and full-time employment found. Former street dwellers are now married with young families living full and productive lives.

During the past 17 years I have been close to a number of the key volunteers in this work that is totally lay led, and totally without support of denominational or other government agency funding. They simply know there is a need and they get on and do the work. Some of the success stories of the people with whom they have dealt regularly relate their own experiences in order to help other young people avoid the same traps. The Jesus Cares headquarters is in Meadowbank, and is also used for training the volunteers and providing accommodation for Christian workers. I am proud to be a long-time supporter of this wonderful faith-based local organisation, which has been helping people for nearly 20 years. I commend the work of Jesus Cares.

TRIBUTE TO PHYLLIS BUTTERFIELD, OAM

The Hon. KAYEE GRIFFIN [1.41 a.m.]: I take this opportunity to mention Mrs Phyllis Butterfield, OAM, who passed away last month aged 96 years. Phyllis was a well-known volunteer in the Ashfield area who gave her time freely to help others. Phyllis worked tirelessly for the Lantern Club and Meals on Wheels and volunteered for many Ashfield council events and organisations. She also regularly visited the aged in hospital and at their homes when they could not leave their homes. Phyllis's community service was recognised by a number of awards over her life—Senior Citizen of New South Wales in 1986 and Ashfield Municipal Council

Citizen of the Year in 1987. I understand that her most prized award was her Medal of the Order of Australia awarded in the Queens Birthday Honours List in 1988. I place on record appreciation for Phyllis's proud history of volunteer work, and acknowledge her outstanding contribution to her community and those in need.

[Time for debate expired.]

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

Motion agreed to.

The House adjourned at 1.42 a.m. on Wednesday 24 June 2009 until 11.00 a.m. on the same day.
