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LEGISLATIVE COUNCIL

Tuesday 10 November 2015

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

The President read the Prayers.

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

ASSENT TO BILLS

Assent to the following bills was reported:

Electricity Supply Amendment (Energy Savings Scheme) Bill 2015
Energy Legislation Amendment (Retail Electricity and Gas Pricing) Bill 2015
Local Government Amendment (Councillor Misconduct and Poor Performance) Bill 2015
Health Legislation Amendment Bill 2015
Mining and Petroleum Legislation Amendment (Grant of Coal and Petroleum Prospecting Titles) Bill 2015
Mining and Petroleum Legislation Amendment (Harmonisation) Bill 2015
Mining and Petroleum Legislation Amendment (Land Access Arbitration) Bill 2015
Protection of the Environment Operations Amendment (Enforcement of Gas and Other Petroleum Legislation) Bill 2015
Work Health and Safety (Mines and Petroleum) Legislation Amendment (Harmonisation) Bill 2015

CENTENARY OF FIRST WORLD WAR

The PRESIDENT: On 10 November 1915 His Majesty's Secretary of State for War set foot in person on the Gallipoli Peninsula. Lord Kitchener of Khartoum—the hero of the battle of Omdurman and the man who had personally signed the death warrants of Lieutenants Harry Morant and Peter Hancock—had come to see with his own eyes what a disaster the Gallipoli campaign had become. Evacuation was already on his mind—that same day the Royal Australian Navy's bridging train commenced the evacuation of stores and equipment.

On 13 November 1915 he visited Anzac Cove, and the diaries of the Diggers are full of awe in the presence of this larger-than-life hero—he whose face had proclaimed to the men of Empire that "Your country needs you". It did not take the Field Marshall long to agree with the assessment of just about every officer—that the Gallipoli venture had been doomed from day one and that a planned and orderly evacuation was the only realistic course of action.

By the end of the month the only successfully planned and executed part of the campaign began. The evacuation, done in good order, proved that the brave and heroic soldiers of Anzac, who were so often boisterous, robust and ill-disciplined, could be exactly the reverse when required. Kitchener lingered but a few days on the peninsula, returning to face ever-growing problems on the Western Front. Barely seven months later, the great man himself went down with most of the crew of HMS *Hampshire* when it hit a German mine en route to Russia. Lest we forget.

INFORMATION AND PRIVACY COMMISSION

Report

The President tabled, pursuant to the Government Information (Information Commissioner) Act 2009, the Privacy and Personal Information Protection Act 1998 and the Annual Reports (Departments) Act 1985, the annual report of the Information and Privacy Commission, including the report of the Information Commissioner and the report of the Privacy Commissioner, for the year ended 30 June 2015, received out of session and authorised to be made public on 30 October 2015.

Ordered to be printed on motion by the Hon. Duncan Gay.

ADVOCATE FOR CHILDREN AND YOUNG PEOPLE

Report

The President tabled, pursuant to the Advocate for Children and Young People Act 2014, a report of the Advocate for Children and Young People for the period 9 January 2015 to 30 June 2015, received out of session and authorised to be made public on 30 October 2015**.**

Ordered to be printed on motion by the Hon. Duncan Gay.

DOMESTIC VIOLENCE DEATH REVIEW TEAM

Report

The President tabled, pursuant to the Coroner's Act 2009, a report of the Domestic Violence Death Review Team for the period July 2013 to June 2015, received out of session and authorised to be made public on 30 October 2015.

Ordered to be printed on motion by the Hon. Duncan Gay.

INSPECTOR OF THE POLICE INTEGRITY COMMISSION

Report

The President tabled, pursuant to the Police Integrity Commission Act 1996, the annual report of the Inspector of the Police Integrity Commission for the year ended 30 June 2015, received out of session and authorised to be made public on 30 October 2015.

Ordered to be printed on motion by the Hon. Duncan Gay.

INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, the annual report of the Inspector of the Independent Commission Against Corruption for the year ended 30 June 2015, received out of session and authorised to be made public on 30 October 2015.

Ordered to be printed on motion by the Hon. Duncan Gay.

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

REPTON PUBLIC SCHOOL ONE HUNDREDTH ANNIVERSARY

Motion by the Hon. NATASHA MACLAREN-JONES agreed to:

(1) That this House acknowledges that this year Repton Public School celebrates its 100th anniversary.

(2) That this House notes that Repton Public School:

(a) was established in 1915 on River Street, Repton, to provide educational opportunities for the children in the small town of Repton on the banks of the Bellinger River on the mid North Coast of New South Wales;

(b) is committed to ensuring the positive development of each of its students in all aspects of their life, and strives to create an environment where each child is encouraged to achieve their best by delivering quality teaching and learning opportunities for every student;

(c) serves a diverse community in its local area, and provides a range of academic, sporting, and creative programs, to help its students grow and develop; and

(d) will celebrate its centenary year in 2015 with a number of community-wide activities, including a dinner and bush dance, and a centenary fair featuring music, performances, food stalls, school memorabilia, and official guests.

(3) That this House acknowledges and thanks Repton Public School, and all schools both government and non-government across New South Wales for the vital role they play in developing the next generation of Australians

KATOOMBA MEN'S SHED TENTH ANNIVERSARY

Motion by the Hon. NATASHA MACLAREN-JONES agreed to:

(1) That this House acknowledges that this year marks the tenth anniversary of the Katoomba Men's Shed.

(2) That this House notes that:

(a) the Katoomba Men's Shed was established in 2005 and is a not for profit community organisation affiliated with Australian Men's Shed Association;

(b) since its establishment, the dedicated volunteers of the Katoomba Men's Shed community have donated their time and skills to restore the old Light Horse stables at Katoomba Showground;

(c) the Katoomba Men's Shed is actively engaged with the local community in the Katoomba and wider Blue Mountains region, with steady membership growth and a vibrant atmosphere;

(d) recent activities of the Katoomba Men's Shed have included the Computer Club, which meets once a week and assists local men to share their knowledge and learn from others, as well as participation in charity and community events, such as the DonateLife Week;

(e) Men's Sheds aim to promote the health and wellbeing of men, and provide an opportunity for men to share time together, swap stories and experiences, and to

work together on community projects;

(f) the Men's Shed movement began in Australia in the 1990s, when there were concerns about men's health but little encouragement in Australian culture for men to meet and talk over their issues; and

(g) every day, the hundreds of Men's Sheds across New South Wales provide a place for men to learn, share, work, laugh, and be supported by their peers and be part of a community.

(3) That this House thanks and congratulates the Katoomba Men's Shed for their great work supporting each other and their local community, particularly the Management Committee members:

(a) President, David Bowskill;

(b) Vice President, David White;

(c) Treasurer, Gary Olsen;

(d) Secretary, Bruce Ward; and

(e) committee members, Mr Kevin Wallace, Mr Robbert Van Leeuwen, Mr Ted Burke and Mr David Christie.

VISITORS

The PRESIDENT: I welcome to the public gallery Mr Campbell Wolfenden from Guyra. He is visiting Sydney to attend an international foster care conference and is a guest of Mr Scot MacDonald.

TABLING OF PAPERS NOT ORDERED TO BE PRINTED

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

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Greg Pearce tabled a report entitled "Legislation Review Digest No. 10/56", dated 10 November 2015.

Ordered to be printed on motion by the Hon. Greg Pearce.

SELECT COMMITTEE ON THE LEGISLATIVE COUNCIL COMMITTEE SYSTEM

Discussion Paper

The Hon. Scott Farlow tabled, as Chair, a discussion paper of the Select Committee on the Legislative Council Committee System entitled "Legislative Council committee system", dated November 2015, and authorised to be published by the committee on 4 November 2015.

The PRESIDENT: I encourage members to look at the discussion paper. It is important for all members. It is about the future of our committee system.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Acting Auditor-General entitled "Activity Based Funding Data Quality: NSW Health", dated November 2015, received out of session and authorised to be printed on 4 November 2015.

EXECUTIVE MANAGER, DEPARTMENT OF PARLIAMENTARY SERVICES

The PRESIDENT: I inform the House that Mr Robert Stefanic, Executive Manager, Department of Parliamentary Services, has resigned his position, effective from 2 December 2015. Following a recent recruitment process, Mr Stefanic has been appointed to the position of Secretary, Department of Parliamentary Services, at the Commonwealth Parliament, commencing on 14 December 2015. I am sure all members of the House place on record their congratulations to Mr Stefanic on this significant appointment.

REMEMBRANCE DAY

The PRESIDENT: I inform members that tomorrow the House will sit at 2.00 p.m. to allow members to attend Remembrance Day services. I remind those members attending the service at the Cenotaph that it commences at 10.25 a.m.

SPECIAL ADJOURNMENT

Motion by the Hon. Duncan Gay agreed to:

That this House at its rising today do adjourn until Wednesday 11 November 2015 at 2.00 p.m.

PETITIONS

TAFE Funding

Petition calling on the Government to renegotiate the National Partnership Agreement on Skills Reform, to guarantee TAFE secure access to at least 85 per cent of all funds allocated to each course code, to guarantee full public funding for diploma and advanced diploma courses, an end to the VET FEE-HELP income-contingent loan scheme and a withdrawal of funding from private providers for any course that TAFE can provide, received from **Dr John Kaye**.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 to 5 postponed on motion by the Hon. Duncan Gay.

GAME AND FERAL ANIMAL CONTROL ACT 2002: DISALLOWANCE OF SECTIONS [2], [3] AND [4] OF SCHEDULE 1 OF THE GAME AND FERAL ANIMAL CONTROL AMENDMENT (NATIVE GAME BIRDS) REGULATION 2015

The PRESIDENT: Pursuant to standing orders the question is: That Business of the House Notice of Motion No. 1 proceed as business of the House.

Question resolved in the affirmative.

Motion by Mr David Shoebridge agreed to:

That the matter proceed as business of the House.

Mr DAVID SHOEBRIDGE [3.05 p.m.]: I move:

That, under section 41 of the Interpretation Act 1987, this House disallows sections [2], [3] and [4] of schedule 1 of the Game and Feral Animal Control Amendment (Native Game Birds) Regulation 2015, published on the NSW Legislation website on 18 September 2015.

I know it is nearing the end of the year and I know that the House has a lot of business to deal with, but The Greens believe this is an important matter to be dealt with as a matter of principle. The Greens are on record as saying for many years that there should be no duck hunting in New South Wales. In 1995 the then Labor Premier Bob Carr announced an end to duck hunting in New South Wales. Following that announcement I think many people in this State thought that the matter was resolved and that finally our native water fowl—beautiful native ducks such as the pink-eared duck—were saved and protected from the indiscriminate killing that we see happening day in and day out across the border in Victoria during duck hunting season. Sadly, that is not the case.

Following that broad announcement of the end of duck hunting, the then Labor Government—no doubt after discussions with minority conservative parties in this House—commenced the process that has gone under the Orwellian name of the "Game Bird Mitigation Program". Under the Game Bird Mitigation Program hundreds of thousands of our native ducks are being killed during the hunting season on private land in New South Wales, primarily over rice farms in the south-western part of this State. The numbers of native ducks being killed under that program are quite extraordinary.

Ms Lindy Stacker—one of the longstanding advocates for the protection of animals and the ending of cruelty to animals in this State—obtained evidence that in New South Wales between 1 July 2008 and 30 June 2013 more than 1,500 licences were issued to private landholders in this State to shoot native ducks and that those licences generally covered the growing season for rice, which is from October to February. Now is the growing season for rice and it is also the breeding season for ducks. In that five-year period, under those 1,538 licences, 199,920 native ducks were killed. The species that were shot and identified as killed in that period included: 53,164 black ducks; 1,789 hardhead ducks; 491 plumed whistling ducks—a truly beautiful duck, which I encourage members to look at as an example of just how beautiful our native birds are; 13 chestnut teals; 2,983 mountain ducks; 74,887 wood ducks; 66,528 grey teals; and 65 beautiful little pink-eared ducks.

We know that since then the regulation of this Orwellian duck-killing program has moved from the so-called Game Bird Mitigation Program of the NSW National Parks and Wildlife Service into the Department of Primary Industries. We have sought further information about the number of ducks that have been shot and killed under that department but we are yet to see those figures. Almost certainly, the numbers will have increased as the regulator has moved from the NSW National Parks and Wildlife Service and the Office of Environment and Heritage to the Department of Primary Industries. The figure of 200,000 ducks killed in that five-year period is a significant underreporting of the number of ducks that we know have been shot and killed. It does not include the 25 per cent of ducks that are shot and injured by a pellet and not identified or recovered by the hunter that then proceed to suffer a slow and painful death over days or weeks from the initially non-lethal injury they have received.

According to United States ballistics expert and shotgun user Tom Roster, the wounding rate for daytime duck hunting is at least 25 per cent. When one moves from daytime to night time hunting—and members will not be surprised to hear that there is less light at night—it is much more difficult to get a clean shot and to identify clearly the native duck that these hunters want to shoot and kill. The wounding rate will inevitably increase substantially above 25 per cent. We will see more of our native birds wounded

and dying a cruel, totally unnecessary death, simply to satisfy a hunter's wish to kill some of our native birds.

We know that duck hunting also affects other species, including rare and endangered waterbirds. In the early 1990s, before it was banned on public land in New South Wales, those concerned about animal protection and the industrial cull of our native waterbirds were still able to go out onto public land where duck hunting was happening. In just two wetlands where duck hunting was being undertaken—notionally by hunters who were meant to have the credentials to identify targeted from non-targeted and protected species—more than 200 birds from 24 non-targeted species were shot and killed.

Identification methods cannot and never have guaranteed protection for endangered species and many are killed as a result of duck hunting. The number of targeted native ducks wounded as well as the number of protected native ducks that are killed, wounded and left to suffer, certainly will rise if hunting is allowed at night when there will be far less light to assist in identifying what hunters are shooting. This industrial-scale killing of ducks is said to be for the protection of rice crops. Figures that have been cited by the CSIRO and the Department of Primary Industries show that less than 5 per cent of the rice crop is at risk from ducks.

Many of the ducks, including the pink-eared ducks that are on the target list, never graze on rice. They are plankton eaters and would never have eaten from a rice crop, but they are on the list and are being targeted. Rather than simply signing off year after year on this industrial-scale killing of native birds, the Government should instead be focusing on research into viable, non-lethal control methods. We know that research is being undertaken on this and it is often multiple methods used together that can be most effective.

The Hon. Greg Donnelly: Point of order: My point of order relates to the behaviour of the Government Whip, who is constantly and persistently interjecting. It is audible on his side of the House and it is audible on our side of the House. Mr Assistant-President, I ask you to draw him to order.

The Hon. Dr Peter Phelps: To the point of order: I am only encouraged by members opposite who are chortling at my interjections.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Government Whip should not treat the standing orders in a frivolous manner. Mr David Shoebridge has the call.

Mr DAVID SHOEBRIDGE: Measures such as the direct sowing of rice crops and various visual and acoustic decoys, used in combination, can already greatly reduce any need to rely on lethal control measures for ducks. Sections [2], [3] and [4] of this regulation provide for night-time hunting. They remove the requirement for written permission for allowing hunting on land licensed for game bird control and they remove the requirement for a hunter to provide permission to an inspector or a police officer, effectively removing the capacity of the Government to regulate hunting, even on licensed private land. This regulation further deregulates hunting by removing the power of the Government to ensure compliance with the law and allows for a form of hunting that is both more dangerous to people, because it is happening at night, and more threatening and dangerous to the animals—targeted and non-targeted—that will be sharing the night with these night-time hunters.

A petition calling for members of Parliament to vote in support of this motion has already received more than 1,100 signatures, as well as support from animal welfare groups, including Voiceless, the NSW Wildlife Information, Rescue and Education Service [WIRES], Animal Liberation NSW, the Veterinary Institute for Animal Ethics, Animals Australia, the RSPCA NSW, the Humane Society and the Coalition Against Duck Shooting. All these organisations have campaigned for a long time for a complete cessation to duck hunting in this State. If this regulation is allowed to stand New South Wales will be the only jurisdiction in the country that allows the night-time shooting and killing of our native ducks and

waterfowls. I conclude by reading part of an email from Richard Gould, a resident of New South Wales who is deeply concerned about what is happening:

> I spent many years working in New South Wales and Victoria rescuing injured ducks, swans, endangered freckled duck, grebes, pelicans, cockatoos and even a hunter's dog shot because it would not retrieve. I met many shooters overshooting and shooting random animals which was often followed up by hoots of laughter as their life melted away.
>
> I especially want you to hear how in Lake Cowal, one Easter long weekend where we came across two shooters with dead birds floating all around them. No National Parks staff working during Easter to report the overshoot (10 birds per shooter) so we made out we were calling the police by two-way radio (actually it was a standard radio with a pull-out aerial). But it worked and they left with a decoy punt full of dead birds, verbally abusing us for spoiling their fun.
>
> The shooters did not collect everything and they left 70 floating birds dead or dying.
>
> As we collected them I came to a flapping pink-eared duck that I found propped up in some reeds. Thinking we could save it I checked it over and discovered red streaks on its face where its eyes had popped out and were now resting on its beak. A pellet had caused the soft tissue around the eyes to explode out but did not kill the bird. I euthanised it immediately.
>
> I ask you to look up the pink-eared duck. It is a small bird that would fit in the palm of your hand and it is a water filter feeder. You could not find a better creature that represents the beauty of ducks.
>
> I know ducks are "just native birds" but deserve our total respect as they do much good with environment and insect control and they are not the human food-gobbling machines and marauding demons they are made out to be.

This is an opportunity for the House to do the right thing by our native animals and by our native ducks, to prevent yet more of them being injured and dying an unnecessary and cruel death. It is about protecting the endangered species that we know will inevitably be shot and killed if we allow night-time duck hunting to proceed. It is about ensuring that the south-western part of this State does not become a mecca for the shooters and the duck hunters who are already lining up in Victoria to come across the border to shoot at night because they cannot do so in that State. It is a chance to draw a line in the sand and to say that our native animals and birds should never be hunting fodder. I commend the motion to the House.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [3.20 p.m.]: The Government does not support the disallowance motion. The Australian rice industry employs and supports thousands of people and contributes significantly to the economic wellbeing of regional towns throughout New South Wales and Victoria. The industry generates about $800 million in revenue per annum, including $500 million from value-added exports. If not properly managed, native game birds have the ability to devastate a single rice crop in one night. Across a district, this can cause millions of dollars of forgone farm and export income.

In 2014 the New South Wales Department of Primary Industries became responsible for the management of native game birds and successfully implemented the NSW Native Game Bird Management Program. The program was previously managed by the Office of Environment and Heritage. The NSW Native Game Bird Management Program allows landholders to sustainably manage native game birds on agricultural lands in New South Wales with the assistance of licensed and reputable hunters. I understand that the Department of Primary Industries game licensing unit has completed a one-year review of the program to ensure that the new legislative provisions balance regulatory controls with landholder and hunter participation in the program and to allow stakeholders to provide feedback about the new program and its implementation.

Feedback from both landholders and hunters who participated in the first year of the program was gathered through workshops and through an online feedback form. I note that feedback provided by both hunters and landholders was unanimous about aspects of the program they saw as requiring urgent attention and to ensure their continued participation. The current requirement in the Game and Feral Animal Control Regulation relating to hunters requiring written permission from landholders was labelled as unworkable by both stakeholder groups. Many landholders, particularly rice farmers in the Riverina, do not reside on their farms and as a result asking hunters to meet with them to obtain written permission has proven difficult for both parties. I also note that the intent in the regulation is for written permission to be required for hunting on public land in New South Wales and that imposing this requirement for hunting on private land is an oversight. Removing the written permission requirement for native game bird hunters will restore this intent in the legislation.

The current hunting licence provision preventing hunting at night was also described as unworkable by both landholders and hunters. The majority of duck impacts on crops like rice occur at night. Removing the restriction on hunting when it is needed to protect rice crops is both reasonable and sensible. Of course this change does not mean it is open season on ducks. All the restrictions on hunting for the program remain, especially the requirement that all hunters must positively identify target species before pulling the trigger. The amended night-shooting provision is specific only to licensed hunters shooting ducks over a planted crop and also requires them to do so under an artificial light to ensure they take game species and not protected species.

The changes proposed in the regulation are not rocket science; they are simply reasonable measures to help hunters assist landholders to protect our $800 million rice industry from the impact of ducks. A large part of Mr David Shoebridge's argument was based on comparisons with other States and included language such as "primarily over rice farms", which is exactly what we are talking about—the protection of the rice industry. The practices and provisions in New South Wales cannot be compared with the practices and provisions in Victoria. This well-managed program is definitely needed. We believe that the balance is right under the current regime.

The Hon. MICK VEITCH [3.24 p.m.]: I lead for the Opposition in debate on the disallowance motion moved by Mr David Shoebridge. The Opposition is aware that the Minister for Primary Industries, the Hon. Niall Blair, implemented a regulation that allows the hunting of native game birds at night to mitigate the damage that is caused to certain crops. The disallowance motion moved by Mr David Shoebridge relates to sections [2], [3] and [4] of the Game and Feral Animal Control Amendment (Native Game Birds) Regulation 2015. Broadly, sections [2], [3] and [4] of the regulation will allow the hunting of prescribed native game birds at night under the authority of a native game bird management licence where the birds are able to be properly identified and are in the immediate vicinity of, or are likely to adversely impact upon, a planted crop and remove the requirement that permission given by a landholder must be in writing; and permission must still be granted but now does not require paperwork, which in some way will reduce red tape for farmers.

The Government advised members that this amending regulation came about after a one-year review and evaluation undertaken by the Department of Primary Industries of existing arrangements for native game bird management. During this consultation, rice growers in particular referred to the damage inflicted by wild ducks on their crops at night and said that the use of options such as scare guns, sounds and lights in relocating ducks during the night had proven largely ineffective. While hunters currently are allowed to shoot native game birds during the day, we know that the damage to crops occurs mainly at night. Stakeholders informed the review that the previous regulation was largely unworkable and that it was not a solution to this problem.

The amending regulation places conditions on the night-time hunting of native game birds. These are that hunting is carried out under the authority conferred by a native game bird management licence; a person uses lighting of sufficient brightness to enable that person to see clearly and identify the species

of native game birds that are being hunted; and that native game birds are in the immediate vicinity of, or are reasonably likely to adversely impact on, a planted crop. That last requirement is significant as Labor recognises the importance of mitigating crop damage in New South Wales, in particular, rice crops. Over the years Labor's position on duck hunting has been consistent. Mr David Shoebridge said that in 1995 the Carr Government banned the recreational duck hunting season but retained the ability for appropriately licensed recreational shooters to shoot ducks for the purpose of mitigating damage to crops. This position was reconfirmed in 2012 when the Hon. Luke Foley, the Leader of the Opposition in the Legislative Council and shadow Minister for Environment, said in this place:

> We recognise the need for farmers, particularly rice farmers, to have access to mitigation licences to safeguard against crop damage. Labor supported that in government and supports it in opposition.

This is a sensible approach to preventing potential crop losses and damage in some parts of New South Wales, particularly in the Riverina. We seek to retain these provisions in order to safeguard agricultural production in this State. I have had consultations regarding this regulation and Mr David Shoebridge's disallowance motion and the feedback I received compares favourably to the review conducted by the Department of Primary Industries. In relation to removing the need for written permission, I am advised that written permission was required for hunting on public land, however requiring it for private land is considered an oversight. I note also that the overwhelming view of stakeholders was that this condition was unworkable, as many rice farmers are absentee farmers, which renders the physical writing of permission difficult to achieve.

In summary, this regulation provides an extension of the current arrangement to night-time activity to mitigate the significant damage that is caused to crops, especially rice, by some native game birds at night. It is important to note that this is not a return to an open duck hunting season and that it is aimed solely at crop protection under specific conditions. In the past Labor voted against a number of hunting amendments that were moved by the Coalition Government—amendments that sought to give game authorities sole control over the management of native game birds that would have removed the previous two-part oversight process of the Office of Environment and Heritage relating to the testing required for game hunters to secure a licence. The proposed amendments to this regulation focus solely on agricultural crop damage and on mitigation. In light of that fact, Labor will be opposing the disallowance motion.

Dr MEHREEN FARUQI [3.28 p.m.]: I support the motion moved by my colleague Mr David Shoebridge to disallow sections [2], [3] and [4] of schedule 1 to the Game and Feral Animal Control Amendment (Native Game Birds) Regulation 2015. My principal concern relates to the animal welfare implications of allowing the night-time shooting of birds. Duck shooting was rightly banned in New South Wales in 1995 due to animal cruelty issues, but that window unfortunately was opened up later. The Game and Feral Animal Control Further Amendment Act 2012 was opposed by The Greens on the basis that it allowed a cruel recreational sporting activity to kill and injure native animals. The Native Game Bird Management Program is extremely rubbery, and deliberately so.

The phrase "sustainable agricultural management purposes" is not defined in the Game Act and there are no government policy documents defining its parameters. It is also currently unclear how annual quotas are calculated, with only a mention that it is done "through the application of the best available scientific knowledge" but no clarity as to what that means. In the five years to August 2014 some 200,000 native ducks were reportedly killed by hunters in New South Wales. Stakeholders have repeatedly identified that some species, notably the pink-eared duck, do not eat grains; they eat plankton and insects and therefore should be excluded from the list of birds for which a native management licence can be issued. Nothing has been done about this, casting significant doubt over the program being operated in the name of pest eradication.

As if the Native Game Bird Management Program were not bad enough, night-time shooting will

further exacerbate the problems. The first issue is that the use of lights at night will not be sufficient to identify the birds with adequate precision. The identification of birds is a difficult enough task in daylight hours. It will increase the number of birds that are not listed as game birds that will be shot or injured, such as the endangered freckled duck and blue-billed duck. Secondly, shooting at night will affect the accuracy of shooting and increase the risk that birds will suffer a painful death. Some estimates suggest that up to one in four shot birds escape wounded only to die a slow death later. Thirdly, evidence is lacking that night-time shooting—or even daytime shooting, for that matter—is an effective method of controlling birds or that it will improve crop preservation. It does not justify the risks involved.

Ultimately, we must stop duck hunting. Many animal welfare groups have long campaigned for its end. I find it hard to believe there are no non-lethal alternatives for preventing loss of crops that are effective and more humane. If this Government cared about farmers it would invest money in researching effective non-lethal solutions and would not allow more and more hunting and killing of ducks. I commend the disallowance motion to the House.

The Hon. MARK PEARSON [3.31 p.m.]: The Animal Justice Party supports the motion moved by Mr David Shoebridge to disallow the Game and Feral Animal Control Amendment (Native Game Birds) Regulation 2015. I understand that the regulation relates to the shooting of birds that are supposed to be stationary. I used to work as a duck rescuer in the field before the legislation to ban recreational duck shooting became law. We clearly opposed the killing of those birds for recreational purposes. Significantly, I and other rescuers noticed that when a shot was fired at a flock only one or two birds would drop to the ground. If they were lucky they were killed instantly. As we continued to watch the remaining flock fly across the lake two, three or four more birds would slowly drop away. They were the birds that died long, lingering deaths from shot pellets in their bodies.

One study that led both Houses to ban recreational duck shooting was conducted by Robert L. Cochrane and entitled "Crippling effects of lead, steal and copper shot on experimental mallards". The study strikes at the issue at hand in this debate. A study undertaken by the gun industry looked at the shooting of ducks that were tethered to the ground and not flying. To an extent, the study replicates the amendment that seeks to allow hunters to shoot animals that are standing still or moving slowly on the ground while they are eating.

The study conducted by Winchester-Western involved the controlled shooting of ducks that were tethered and not in flight, and then measured the spray pattern and injuries inflicted by the shots. The study proved that a duck's fate is determined by the number of pellets and what vital organs they strike. Whilst ducks that are struck in the abdomen and those with broken leg bones do not die immediately, they may have little chance of survival. Those ducks are part of the unretrieved kill or crippled cohort. As I said, that study was done on animals that were on the ground and moving slowly. In debate some years ago Labor member the Hon. Jan Burnswoods said:

> One major issue that has been under discussion is cruelty. In 1988 the Animal Welfare Advisory Council, which was set up by the Labor Government, reported that duck shooting should be terminated because the level of pain and suffering of the ducks was unreasonably high. The advisory council recommended that the season be brought to an end ... particularly as it is estimated that as many as 20 per cent of birds that are shot die a lingering death.

There is the rub. This is not about controlling numbers of birds that might be putting pressure on the success of rice paddocks. If there is to be an effective system to deter birds from eating crops the Government must invest money and resources into researching ways to drive ducks from fields. In so doing the Government must bear in mind the requirements of the Prevention of Cruelty to Animals Act that stop us having an impact on animals that causes unreasonable, unjustifiable and unnecessary suffering. As a humane society we must turn our minds to finding alternative methods of deterrence if there is competition between agriculture and animals. In the future we will look back in shame at opening another chapter of shooting, maiming, crippling and causing the long, lingering deaths of many animals.

We will be judged by our actions. I commend the disallowance motion to the House.

The Hon. ROBERT BROWN [3.37 p.m.]: It is probably no surprise to hear that the Shooters and Fishers Party will oppose the disallowance motion.

Mr David Shoebridge: That doesn't come as a surprise.

The Hon. ROBERT BROWN: No. I do not need to speak too much to the arguments that Government and Opposition members have made against the disallowance motion. The fact of the matter is that most of the reform asked for in the regulation was driven not so much by hunters but by rice farmers. To claim it is anything other than an attempt to make the mitigation program more efficient is plainly false. In relation to the comments by the Hon. Mark Pearson, I put on record that the 1988 Animal Welfare Advisory Council [AWAC] report that reputedly brought about the Government's 1995 decision to ban so-called recreational duck hunting was a flawed document. Its assertion that duck hunting is cruel was totally destroyed.

In fact, in speaking either to legislation or to an amendment to the Game and Feral Animal Control Act I tabled a letter from Dr Sue Briggs, who was at the time—and probably still is—the foremost waterbird specialist with the National Parks and Wildlife Service. She stated clearly that there is no evidence that duck hunting is cruel. The other assertion by Dr Mehreen Faruqi that the night-time hunting of ducks under lights will be inherently more cruel or ineffective is just that—an assertion. I doubt whether Dr Mehreen Faruqi has ever been duck hunting, let alone hunting at night. Those sorts of assertions made by people who have no technical knowledge of the subject they are speaking about should be disregarded. The Shooters and Fishers Party opposes the disallowance motion.

The Hon. PAUL GREEN [3.40 p.m.]: The Christian Democratic Party will also oppose the regulation change. Based on what the Minister for Primary Industries said and what the Shooters and Fishers Party member just explained, the Christian Democratic Party will support the Government in this matter.

Dr JOHN KAYE [3.40 p.m.]: I speak briefly in support of the disallowance motion and put on record my support for the contributions of Mr David Shoebridge, Dr Mehreen Faruqi and the Hon. Mark Pearson in support of the disallowance motion. Unfortunately, hunting results in injury to a large number of animals; they are not killed instantly and struggle on. I have heard people talk about this, but I have also seen it. I have seen ducks injured by hunting. I have seen the horrendous injuries they have suffered and watched them struggle on for hours and sometimes for days, eventually dying a cruel death. That ought to be the end of the issue, but the question appears to be twofold: first, is there greater risk of ducks sustaining non-instantaneously fatal injuries at night; and, secondly, is shooting necessary to protect rice crops?

Turning to the first issue, the Hon. Robert Brown and the Minister for Primary Industries claimed that lights will make hunting safer. I have been on rural properties under lights at night—not shooting but looking for animals—and there is no substitute for the sun in terms of being able to see what you are looking for and the surrounding area. The sun is critical; it is an infusion of light all around—not simply a narrow beam of light from a spotlight—that expands the field of vision. Even if you can get closer to a target, the inverse square law works against you at night. If you shoot at night you are more likely to injure an animal, not to kill it instantly. The second issue is protecting rice crops. I heard the foolhardy interjection from one member who said that those of us who support this disallowance motion want to deny rice to starving people overseas. If there is any evidence that that is the case, I invite members to produce it. But there is no such evidence.

Indeed, Mr David Shoebridge raised the issue of pink-eared ducks, which eat plankton, not rice. If part of the regulation is not disallowed those native game birds will be shot at night. They will become targets and suffer although they do not threaten rice crops. It is time for the agriculture sector in Australia

to learn to live with native animals rather than being at war with them. Many farmers have done that: They have learned how to farm in a biological manner that does not require the wholesale slaughter of animals to protect their crops. There are promising lines of research associated with rice crops and native birds that ought to be pursued, including the way that crops are planted, and visual and acoustic decoys. Critical to this approach is the idea that, in the end, if we invest the money and the effort we can create a rice crop that is not susceptible to interference from native birds.

I will also address the issue of the so-called "bykill"—that is, the hunting and shooting of birds and animals that are not involved in the destruction of the rice crop. There is substantial evidence that birds other than the target ducks are being shot. That danger will increase at night. With illumination provided only by a narrow beam of light, there is no question that more non-target animals will be shot unintentionally. I conclude by making this observation: The sun delivers about 10 kilowatts of power per square metre; it is an intense source of light, which it delivers across the entire field of vision during the day. It is an intense source of lumens that is unlike any artificial light source driven by a battery, a generator or a car engine, which can never match the sun in terms of breadth of field and intensity. The provisions in the regulation that this motion seeks to disallow will exacerbate the existing problems of duck hunting, and for that reason the motion should be supported.

Mr JEREMY BUCKINGHAM [3.45 p.m.]: I support the disallowance motion moved by my colleague Mr David Shoebridge. I note the comments of the Hon. Robert Brown, who said that The Greens have no technical experience in these matters. That was shown to be patently untrue in the contributions of Dr Mehreen Faruqi, Mr David Shoebridge and Dr John Kaye. They outlined clearly the evidence and their experiences with duck hunting. Dr John Kaye pointed out that it is a chaotic and uncontrolled activity that invariably leads to significant bykill—that is, the shooting of non-target species. As someone who grew up in the country, I know the difficulty of—

The Hon. Dr Peter Phelps: Which country? Tasmania?

Mr JEREMY BUCKINGHAM: That is right—the island nation of Tasmania. I know the difficulty of hunting at night and the danger associated with that activity. As a young man, I hunted rabbits and so on.

The Hon. Dr Peter Phelps: Have you been hunting at night?

The Hon. Rick Colless: Did you do it at night?

Mr JEREMY BUCKINGHAM: I have hunted rabbits and the like at night. That is exactly right. It is very dangerous and the idea—

The Hon. Dr Peter Phelps: Did you have a light?

Mr JEREMY BUCKINGHAM: That is just it—I did have a light; we had a spotlight. We had a little 12-volt battery light and a 0.22 shotgun. We had those things. But if the light is behind the animal you cannot identify it because it is just a silhouette. You cannot tell what species it is. When hunting at night with lights the birds are just silhouettes. You cannot pretend that you will be able to identify a freckled dark, a blue-billed duck or a target species—you will simply ping away madly, shooting at whatever is there. As the Hon. Mark Pearson said, filling animals with lead shot makes them completely useless as a food source. The idea that the New South Wales rice crop and the food security of New South Wales is at risk from native birds and needs this intervention is patently untrue. As Dr John Kaye pointed out, there are alternative methods such as scaring birds and so on.

Sending a couple of yahoos to ping away at birds at night is absolutely chaotic. I can tell the House what it will lead to: It will lead to hunters shooting each other. That is what such stupid behaviour will lead to. Hunters will be staggering around in their waders, shooting at whatever moves. It is an incredibly dangerous, stupid proposal. That is why The Greens oppose this regulation and why I support

the disallowance motion. Where did this idea come from? It came from the Shooters and Fishers Party members sitting opposite.

The Hon. Niall Blair: It came from the farmers.

Mr JEREMY BUCKINGHAM: No, it did not. It came from the Hon. Anthony Roberts. When members of the Shooters and Fishers Party sold out regional New South Wales and voted for the coal seam gas bill, this was the result. This was what they got for their 30 pieces of silver, when the Hon. Anthony Roberts was on his knees in their office.

The Hon. Robert Borsak: You're a wanker!

The Hon. Shaoquett Moselmane: Point of order: Mr Assistant-President, I ask that you request that members on the Government frontbench cease interjecting so that Mr Jeremy Buckingham may have his say.

Mr JEREMY BUCKINGHAM: Point of order—

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! There is no point of order. The member may continue his speech.

Mr JEREMY BUCKINGHAM: Point of order: The Hon. Robert Borsak just yelled out "You're a wanker!" to me.

The Hon. Robert Borsak: No, I did not say that.

Mr JEREMY BUCKINGHAM: He clearly did, and I ask him to withdraw. It is unparliamentary.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Hon. Robert Borsak said he did not say it.

Mr JEREMY BUCKINGHAM: He clearly said it. I ask that you direct him to withdraw it.

The Hon. Robert Brown: To the point of order: The Hon. Robert Borsak did not say, "You're a wanker." Mr Jeremy Buckingham said that he said, "You're a wanker." He did not say that at all.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! There is no point of order. Mr Jeremy Buckingham may continue.

Mr JEREMY BUCKINGHAM: This is the level of the contribution from the Shooters and Fishers Party. They are a disgraceful, belligerent bunch. Clearly, this is the 30 pieces of silver they received for selling out the people of New South Wales—

The Hon. Niall Blair: Point of order: We are debating a motion to disallow a regulation in relation to ducks. It has nothing to do with coal seam gas. I ask that the member be brought back to the substance of the debate.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The member will speak to the disallowance motion before the House.

Mr JEREMY BUCKINGHAM: I certainly will. Where did this regulation come from? It dropped out of the sky. All of a sudden it is on the agenda at the same time that the Shooters and Fishers Party is doing its usual horsetrading on legislation. I note that the Hon. Robert Brown is nodding. He acknowledges that they sold out regional New South Wales so that a few Yosemite Sams could go to the

Riverina and ping away. Invariably they will kill threatened species. They will do nothing to improve food security and the productivity of the rice growers of New South Wales.

The Hon. Robert Brown: Point of order: I clearly heard Mr Jeremy Buckingham claim that I took 30 pieces of silver. I do not know how much that is worth these days. Is the member accusing me of taking a bribe? If he is, I ask him to apologise and withdraw.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Hon. Robert Brown has asked Mr Jeremy Buckingham to withdraw the allegation.

Mr JEREMY BUCKINGHAM: I clearly did not make that allegation.

The Hon. Niall Blair: This is a joke. This debate is so far from where Mr David Shoebridge started it. Someone has to bring it back to order.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! Mr Jeremy Buckingham will resume his address on the disallowance motion.

Mr JEREMY BUCKINGHAM: The Shooters and Fishers Party are notorious for horsetrading on legislation. In the community the two things are not seen in isolation. Out of nowhere, with no real policy objective, the Government has brought forward a proposal to allow night-time hunting. Where is the science? Where are the farmers? None of them have contacted me. I talk to NSW Farmers on a weekly basis, unlike members opposite. This issue might be number 300 on its list of priorities.

The Hon. Niall Blair: The rice growers will love this; keep going.

Mr JEREMY BUCKINGHAM: They will. The vast majority want nothing to do with this. This is all about the Shooters and Fishers Party and their pro-guns, anti-nature and anti-wildlife agenda. As sure as night follows day, the victims of this will be wildlife, the threatened species and the ecosystems that are only just recovering from a range of environmental threats. Hunters will also be victims. In coming years we will see hunters being shot, because hunting at night with floodlights is super dangerous. I note that members opposite are groaning and rolling their eyes. If any members opposite had been out in a wetland full of reeds, lignum, pigs and trees at night with a shotgun, under a floodlight—

The Hon. Niall Blair: We are talking about rice farms.

Mr JEREMY BUCKINGHAM: They are only allowed on rice farms. It will be on the head of members opposite. [*Time expired.*]

Mr DAVID SHOEBRIDGE [3.55 p.m.], in reply: I thank the Hon. Niall Blair, the Hon. Mick Veitch, Dr Mehreen Faruqi, Mr Mark Pearson, the Hon. Robert Brown, the Hon. Paul Green, Dr John Kaye and Mr Jeremy Buckingham for their contributions. The motion is about trying to protect our native ducks from being injured at a rate that we know they will be injured at. If we allow night-time duck hunting, we know that more than 25 per cent of ducks that are shot will have a slow and unnecessarily cruel death. The Government has proposed to allow, by regulation, night-time duck hunting. Let us be clear: No other jurisdiction in the country allows night-time duck hunting. Other jurisdictions recognise the inherent cruelty in it. Despite the denials of the Minister and of Labor members, the obvious fact is that when one is out with a gun shooting at night one cannot see as well as during the day. My colleague Dr John Kaye made very clear the capacity of the sun to light what someone is seeing. It allows a person to see the entire field of vision. Compare that with the narrow beam of a spotlight.

It is inevitable that more endangered species will be shot and killed if we allow night-time duck hunting. More beautiful native ducks—wood ducks, pink-eared ducks and teals—will be injured. They will be shot and winged and will die a lingering death if we allow night-time duck hunting. We did not hear any

argument from the Opposition about cruelty. There was no response to the issues of cruelty that were raised. When Labor was in government it did not allow night-time duck hunting, but now it is in opposition it seems to think it is okay. Labor members talk about animal welfare and express concerns about puppy farms, but when it comes to protecting our native animals they roll over and side with the Government and the Shooters and Fishers Party on this important issue.

I commend the Hon. Mark Pearson for his words and for going to wetlands to see firsthand the cruelty of duck hunting. That cruelty will only increase if hunting is allowed at night. There has been a full debate about this matter. Members have argued the issues. It is clear that the Government has the majority, with the support of the Shooters and Fishers Party, Labor and the Christian Democratic Party, to allow night-time duck hunting. It is a bad day for those who are concerned about animal welfare in this State. It is a bad day for our native animals. They will almost certainly suffer as a result of this decision. Nevertheless, I commend the disallowance motion to the House. One day we will end duck hunting in this State.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 6

Ms Barham
Mr Buckingham
Dr Faruqi
Dr Kaye

Tellers,
Mr Pearson
Mr Shoebridge

Noes, 33

Mr Ajaka
Mr Amato
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Mr Colless
Ms Cotsis
Ms Cusack
Mr Donnelly
Mr Farlow
Mr Franklin
Mr Gay
Mr Green
Mrs Houssos
Mr Khan
Mr MacDonald
Mrs Maclaren-Jones
Mr Mallard
Mr Mason-Cox
Mrs Mitchell
Mr Mookhey
Reverend Nile
Mr Pearce
Mr Primrose
Mr Searle
Mr Secord
Ms Sharpe
Mrs Taylor
Mr Veitch
Ms Voltz

Tellers,
Mr Moselmane
Dr Phelps

Question resolved in the negative.

Motion negatived.

Pursuant to sessional orders business interrupted for questions.

QUESTIONS WITHOUT NOTICE

NAEGLERIA FOWLERI BACTERIA

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Primary Industries, and Minister for Land and Water. Given that there have been at least 25 reported deaths in Australia, including three children, from the waterborne bacteria Naegleria fowleri—highlighted last night on ABC television's *Australian Story*—what measures is the New South Wales Government taking to alert the community, particularly remote, rural and regional areas, about ways to prevent being infected by this deadly bacteria through their drinking water?

The Hon. NIALL BLAIR: I thank the Leader of the Opposition for his question. The issues that he speaks about were the subject of a report on the ABC's *Australian Story* program last night. That certainly brings home the important role of Australia's stringent drinking water treatment standards. The program featured the tragic deaths of young children exposed to the Naegleria fowleri, a parasite found in above 25 degree Celsius fresh, untreated water bodies around the world. Recent cases of Naegleria fowleri in Australia were in private water supplies that were untreated, generally in the warmer geographic regions to our north. Treated town water supplies with effective disinfection, such as chlorine, are not at risk from this organism. I understand that NSW Health authorities advise that in temperate regions, such as the majority of eastern New South Wales, the parasite is largely non-existent. In relation to the question, this matter would be more appropriately directed to the Minister for Health for any further information.

FIXING COUNTRY ROADS PROGRAM

The Hon. BRONNIE TAYLOR: My question is directed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on round two funding for the New South Wales Government's Fixing Country Roads program?

The Hon. DUNCAN GAY: I thank the honourable member for her question.

The Hon. Ben Franklin: An excellent question.

The Hon. DUNCAN GAY: An excellent question. When we won office in March 2011 people warned me never to invest in local and regional roads owned by councils. People said if you do it once it will become a bottomless pit—they will be after you to do it all the time. Why were those warnings so persistent? It was because 16 years of Labor neglect and mismanagement had reduced many council roads to goat tracks—pavements were pockmarked with potholes, bridges were crumbling and acting as freight pinch points, and industry despaired about the lack of vision. This Government, quite properly, has decided to take the road less travelled.

The Hon. Greg Donnelly: Oh, that's poetic.

The Hon. DUNCAN GAY: It is poetic—it is poetic justice. We believe council roads and bridges are critical conduits for the movement of farm freight from paddock to port, and for helping to better connect our communities—notably in country New South Wales.

The Hon. Trevor Khan: We care.

The Hon. DUNCAN GAY: Because we care. Last week I had the pleasure of announcing $50 million for the second round of our innovative Fixing Country Roads program, a program designed to better link local road freight to rail heads, intermodal hubs, saleyards, silos, fuel depots, supermarkets and abattoirs. This investment builds on the tremendous success of round one of the program, which was

funded at that time through Restart NSW. By partnering with our Federal colleagues through Commonwealth funding initiatives such as the Bridges Renewal and Heavy Vehicle Safety and Productivity programs, our round one funding of $43 million was leveraged to help deliver more than $100 million in project funding for regional New South Wales. From putting in $43 million, with councils, private enterprises and the Federal Government we get more than $100 million. How good is that?

Off the back of this, there are now 77 council-managed projects being delivered across 60 regional council areas in New South Wales. The $50 million round two instalment is part of a $500 million commitment to Fixing Country Roads from Rebuilding NSW, with funding to be progressively made available as the New South Wales Government's leasing of poles and wires is transacted. Significantly, Fixing Country Roads funding is additional to or on top of continued record levels of grant funding for country and city councils for their roads, bridges and freight-related infrastructure. Since 2011, councils in New South Wales have received $1.87 billion in grants, which represents a 47 per cent increase compared with Labor's last five years in office. [*Time expired.*]

KOGARAH AMBULANCE STATION SITE

The Hon. WALT SECORD: My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism in his ministerial capacity and representing the Minister for Health. Will the Minister detail to the House discussions he has had with NSW Health in relation to a Government Information (Public Access) [GIPA] Act 2009 application regarding a property on Rocky Point Road, Kogarah, and a site for an ambulance station?

The Hon. JOHN AJAKA: That part of the question relating to the Minister for Health I will refer to her and come back with an answer. In relation to the part of the question that specifically relates to me, I am not aware of any discussion.

The Hon. WALT SECORD: I ask a supplementary question. Will the Minister elucidate his answer in regard to ruling out whether he, his office or an agent acting on his behalf has had contact with the NSW Health GIPA Act officer?

The Hon. Dr Peter Phelps: Point of order: That is an entirely different question because it substantially increases the remit of people involved when the original question related directly only to the Minister himself.

The Hon. Walt Secord: To the point of order: My question was very specific; it related to the GIPA Act.

The PRESIDENT: Order! Supplementary questions must seek an elucidation of an aspect of an answer given. The supplementary question was outside the scope of seeking an elucidation and was substantially a new question, which the member is free to ask later in question time. The supplementary question is out of order.

NUGAN HAND BANK COLLAPSE

Reverend the Hon. FRED NILE: I wish to ask the Minister for Roads, Maritime and Freight, representing the Attorney General, a question without notice. Is it a fact that the Nugan Hand Bank collapsed in New South Wales with the loss of over $50 million following the alleged murder of Frank Nugan? Is it a fact that, according to the Channel 9 *60 Minutes* program on Sunday night, Michael Hand—previously believed to be dead—has now been found alive in the United States of America, conducting a weapons store? What action will the Government take to extradite Michael Hand back to New South Wales to face justice over fraud charges and help restore the missing $50 million to the bank's depositors?

The Hon. JOHN AJAKA: I am happy to take this question; I represent the Attorney General in this place. I thank the honourable member for his question. I will refer it to the Attorney General and I will come back with an answer.

SOCIAL COHESION

The Hon. SHAYNE MALLARD: My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister tell the House what he plans to do to protect young people and safeguard social cohesion against extremist hate, violence and division?

The Hon. JOHN AJAKA: I thank the honourable member for his question. The Baird Government is committed to protecting young people from violent extremist influences and countering the "us and them" extremist mindset which seeks to undermine social cohesion and community harmony in this State. I am pleased to announce that applications have opened for a new two-year, $4 million community partnership program aimed at protecting our young people and safeguarding social cohesion against extremist hate, violence and division of any kind. The Multicultural NSW Community Partnership Action Grants [COMPACT] is a community grants program which supports an alliance of community partners who are committed to addressing and resolving community issues and tensions.

COMPACT stands for community, in partnership, taking action. This new program is a pact between the New South Wales Government and the people of New South Wales and is one part of this Government's $47 million package of measures to counter violent extremism. This includes a significant investment in our schools and a range of measures to enhance the capacity of frontline staff to address issues relating to violent extremism. The COMPACT program will be led by my agency, Multicultural NSW, and has been co-designed in consultation with communities and experts. It builds on an extensive series of community consultations that I have been leading since July this year which has helped to identify priority areas for youth engagement.

COMPACT also builds on expert analysis of international best practice by senior researchers at Macquarie University. This program was born out of community engagement, shaped by their views and suggestions, and programs funded under COMPACT will be community driven. We have taken this approach because our consultation and our research tell us that we need a whole-of-society, resilience-based approach to addressing these issues. We need a collaborative response to this issue which involves communities, government, the non-government sector, education, sporting groups, religious leaders and academics—everyone working together to protect our peaceful and harmonious way of life.

We all have a role to play in this. Importantly, this new program supports local solutions-based projects. It will bring young Australians together to promote positive behaviours and engage critically, creatively and constructively on local and global issues impacting on social cohesion and community harmony. The program is founded on an approach that recognises that, whatever may be taking place in the complex world we live in, solutions start at home. It starts with families talking to each other and having the resources and support they need to address issues and tensions. It starts with local communities working together, supporting each other, and building on the strengths of our culturally diverse success story.

Categories have been developed to help guide submissions, which include: category 1, sports and physical diversion to create support networks, mentoring opportunities and positive role models for young people; category 2, creative communications and active counter narratives to produce credible, community-generated, positive messages and active social alternatives to extremist hate and violence; category 3, education and community awareness to enhance critical thinking at a community level to identify, monitor and reduce community conflict or tension; category 4, family and intergenerational engagement to build resilience at the family level; and category 5, volunteering and humanitarian activity to engage young people who are passionate about local and global issues and to channel that passion

into constructive volunteering, civic, charity and humanitarian projects.

Program information and grants applications can be accessed through the Multicultural NSW website. I strongly encourage community partners to apply and sign up to the Multicultural NSW COMPACT. I am certain that all members will be working together to ensure that these programs deliver the outcomes we need.

IMPOUNDED DOGS AND CATS

The Hon. MARK PEARSON: My question is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Local Government. In 2013-14 more than 20,000 impounded dogs and cats were killed by local councils and the RSPCA. Given that section 64(5) of the Companion Animals Act states that councils have a duty to consider alternatives to killing, by what accountability mechanism does the Minister satisfy himself that councils are responsibly exercising that duty? And given that the Office of Local Government figures show that approved rescue groups under section 16(d) rehomed close to 8,000 animals rescued from death row last year, will the Minister explain why these organisations receive no funding from government?

The Hon. DUNCAN GAY: I thank the honourable member for his question. It is a question of great detail which I will refer to my colleague the Minister for Local Government. I do remember, however, recently he asked me why we had not done something about the NSW Wildlife Information, Rescue and Education Service [WIRES] signs and when I checked, they were not our signs, they were WIRES' signs. We need to check on this and I will take the question in good faith and pass it on to the Minister for a detailed answer.

KOGARAH AMBULANCE STATION SITE

The Hon. WALT SECORD: My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Has he, his office or an agent acting on his behalf held any discussions with the NSW Health Government Information Public Access [GIPA] officer over the handling and/or processing of a GIPA involving Rocky Point Road, Kogarah and a site for an ambulance station?

The Hon. JOHN AJAKA: I thank the honourable member for his question. As I indicated earlier, I am not aware of the GIPA but I am advised that the GIPA that the member is referring to is being compiled by the Ministry of Health and is due on 30 November 2015.

MULTI-PERIL INSURANCE

The Hon. LOU AMATO: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister update the House on the Australian first multi-peril insurance summit, hosted by the New South Wales Government in Sydney last week?

The Hon. NIALL BLAIR: I thank the member for his question. The State's primary producers are exposed to a wide range of weather-related risks. Drought in particular is a major factor in the extreme variability of our cropping industries. Crop failure is not only devastating for our farmers but our State's economy also takes a major hit, with consumers paying higher prices for their food. Multi-peril insurance is one option to reduce that risk.

The New South Wales Government has been investigating ways to support the development of a commercial multi-peril insurance market to provide the farming sector with another tool to manage risks, including drought. Last week, together with the Hon. Richard Colless, I hosted an Australian-first multi-peril insurance summit here in Sydney. The summit was attended by farmers and representatives from the Commonwealth Government, farming organisations, the financial sector, and insurance and

reinsurance companies from Australia and overseas. It provided the opportunity to learn more about how multi-peril insurance markets had been developed in other countries and how that experience can be applied in Australia.

The scope of multi-peril insurance products is narrow and this type of insurance has had limited adoption in New South Wales. I am excited about the development of this new market so that we can unlock yet another tool to help our farmers to better manage risks such as drought and to protect themselves against the heavy losses often associated with drought. The summit sought ideas and input from the insurance and banking industries and the primary industry sector, to identify options that could be investigated to increase the availability and uptake of commercial multi-peril insurance for the agricultural sector. Those at the summit were also fortunate to hear a first-hand account from producer Fiona Aveyard from Westpoint Farm at Tullamore, who has been an early adopter of multi-peril insurance.

Fiona provided the summit with an open account of how they use multi-peril insurance to build a baseline into their business finances and of how they were able to invest in their crop with confidence as they used multi-peril insurance as a tool to better manage droughts. Fiona forecast that the broader adoption of this insurance could see farm businesses incurring lower year-in year-out financial losses, leading to more viable businesses contributing to the economy, which would change the face of New South Wales' regional communities for the better. The summit also discussed what the barriers to wider adoption have been, the perceived high up-front costs of the policies, the collection of detailed weather and farm performance data for assessment, and a general lack of understanding of multi-peril products as an option for farm business risk management planning.

Under the New South Wales Government's $300 million New South Wales Drought Strategy, farmers can access funding through the $45 million Farm Business Skills Professional Development Program, which I launched last week, for preparation and planning that is required to apply to some multi-peril insurance products. The summit was a key commitment as part of the memorandum of understanding between this Government and the NSW Farmers Association and builds on a commitment in the NSW Drought Strategy to support the development of a commercial multi-peril insurance market.

We are working with the agricultural industry toward a more self-sufficient, better prepared and self-reliant industry with less reliance on emergency support measures that are usually temporary solutions. The move of Australia's drought policy towards greater self-reliance on the part of farmers means new tools such as multi-peril insurance are needed to manage risk. We are now thoroughly considering the options and outcomes from the summit. I look forward to updating the House further on this important issue into the future.

LOCAL LAND PILOT

Ms JAN BARHAM: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Noting that Aboriginal communities and land councils were excluded from the Local Land Pilot process and that local government officers involved in the pilot have been required to sign confidentiality agreements that prevent them from discussing the pilot with their local Aboriginal communities and committees, and noting that the response to the Crown Lands Legislation White Paper summary released in October 2015 identified a range of significant concerns of Aboriginal land councils and local government about the implications for land claims and interests in public land, what consultation and discussion will the Government undertake with Aboriginal communities and land councils prior to introducing any Crown land? Will the Minister release an exposure draft of proposed legislation?

The Hon. NIALL BLAIR: The local council pilot was nothing more than a proof of concept—that is why it was done at the council officer level. We wanted to make sure that when we put our data on the table and the council put its data on the table we could identify areas that we could work together on. I state that that was nothing but a proof of concept, and no land has exchanged hands as part of that process. That has given us the ability and a platform on which to work with those stakeholders as to what

the future may look like in this area. Two weeks ago when the Government released its response to the Crown Lands Legislation White Paper I met with the New South Wales Aboriginal Land Council as a key stakeholder. During that meeting and at every other stage I committed that the Government will work with Aboriginal land councils as a key stakeholder right throughout this process.

We wanted to highlight and make abundantly clear that this will not take the place of or exclude Aboriginal land agreements [ALA] but will be complementary to them. We believe it will not impact on Aboriginal land claims. I am excited about the opportunity to enter into a new phase of consultation with Aboriginal land councils through the ALA process. My office has gone to great lengths to have those conversations particularly with the New South Wales Aboriginal Land Council. We wanted to put their minds at ease. We said that we think this can run concurrently with and alongside, but not interfere with, those other processes. We will have further detailed consultation with all stakeholders as we move to bring forward legislation in 2016 in relation to the Crown lands review.

In summary, I assure Ms Jan Barham that we are absolutely in tune with the concerns and issues that have been brought forward by the New South Wales Aboriginal Land Council. My office is open for further consultation. We have had a number of productive meetings in this area and we will continue to do so. I look forward to meeting the new board members, following their recent election. I will reiterate my commitment to work with Aboriginal land councils in this space to that new board in the very near future. Like the other affected stakeholders in this area, we will continue to have ongoing dialogue and consultation, working towards a better outcome in the way we manage Crown land in the future.

Ms JAN BARHAM: I ask a supplementary question. I request that the Minister elucidate his answer in relation to the commitment to an exposure draft.

The Hon. NIALL BLAIR: We will continue to work with those stakeholders.

Ms Jan Barham: Yes or no.

The Hon. NIALL BLAIR: We are a long way from introducing legislation—

Ms Jan Barham: So it is a no, then?

The Hon. NIALL BLAIR: I object to the member suggesting that that is a no. I think I have shown the utmost respect in answering this question. I will not tolerate Ms Jan Barham yelling across the Chamber that that is a no.

Ms Jan Barham: Yes would be easy; that's what they want.

The Hon. NIALL BLAIR: That is an absolute commitment to work with all the stakeholders. We have a long way to go in this area and we will continue to do what we are doing—open dialogue with all stakeholders to talk through the issues. In 2016 we will introduce a bill into this Parliament which will be as a result of that consultation. I understand the scepticism from the member. I will be judged on my track record on engaging with these stakeholder groups. I have had a number of meetings in this area and I will stand by my record. I will not try to score political points in this area but I will live up to my commitment to consult with stakeholder groups and come back with a way forward in this area, one that puts Crown lands in a better position for the future, something that will meet all the expectations of those stakeholder groups. We have a long way to go in this area. We have said that there will be ongoing dialogue and conversation. I will keep members of the House informed as we move through this process.

WILLIAMTOWN LAND CONTAMINATION

The Hon. PENNY SHARPE: My question is directed to the Minister for Ageing, representing the Minister for Health. Given the Victorian Government is providing perfluorooctant sulfonate [PFOS] and

perfluorooctanoic acid [PFOA] blood tests to residents affected by an incident similar to the Williamtown RAAF groundwater contamination situation, why is NSW Health refusing to provide the same tests to Williamtown affected residents?

The Hon. Greg Pearce: What's the test for?

The Hon. PENNY SHARPE: Concentration of levels of PFOS and PFOA in their bloodstream.

The Hon. JOHN AJAKA: I will refer this specific question to the Minister for Health and provide the member with an answer.

EMU CROSSING BRIDGE

The Hon. RICK COLLESS: My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on his trip to the Northern Tablelands on Monday and the opening of the Emu Crossing Bridge?

The Hon. DUNCAN GAY: Nothing would give me more pleasure than to talk about the Emu Crossing Bridge. Yesterday I had the great pleasure of opening the new Emu Crossing Bridge on Thunderbolts Way at mighty Bundarra. The Bundarra committee has fought long and hard for this bridge—nearly 70 years—to replace the temporary bridge that was put in at Emu Crossing in 1919. This temporary bridge lasted from 1919 to 2015.

The Hon. Mick Veitch: Duncan opened it.

The Hon. DUNCAN GAY: I could have. It is the same age as my homestead and that is how I remember it. Yesterday, with great pride and with that fabulous member for Northern Tablelands, Adam Marshall, and the Hon. Rick Colless, a former Bundarra resident—

The Hon. Walt Secord: Until they drove him out of town.

The Hon. DUNCAN GAY: No, it is not a place where you were. It was fabulous to have all students and teachers of Bundarra Public School together with the community at the official opening of this crossing. It is great to see the community come together for such a momentous occasion. A parade of historical cars drove over the 150 metre long bridge to mark the official opening. The joy and celebration amongst the community showed how important building this bridge has been. The new bridge is bigger, wider, better and more reliable. The Government committed $3.5 million towards the $4.2 million project, which was jointly funded with the great Uralla Shire Council.

A total of 16 girders and more than 1,000 cubic metres of concrete were used to build the modern structure. It will provide significant benefits to farmers, freight operators, local residents and businesses because it is located on a major arterial freight route in the north-west of the State. It will provide more reliable travel and a link for motorists and freight travelling between the towns of Bundarra, Bingara, Warialda and Inverell to regional town centres such as Armidale, Tamworth and beyond. The bridge was built almost 12 metres higher than the old crossing to provide safe clearance in one-in-50-year flood events. Before the project was completed, every time the old bridge was closed by a flood—which was quite often—motorists had to travel via a 95 kilometre detour, significantly increasing their travel times. As well as a new bridge, about 1.6 kilometres of new road and straighter approaches were built to improve road safety.

The new bridge is a fantastic outcome for the community. We must not forget that the absence of a bridge meant that children could not get to school and residents could not catch planes or attend medical appointments. There were also problems with the provision of emergency services and other things that city people take for granted. It is a testament to the good outcomes that can be achieved when

State and local governments and the community partner together. I congratulate Uralla Shire Council on the competent way in which it delivered the project as well as bridge contractor Civilbuild. I am pleased that the new bridge will retain the unique and famous name and that the old 1919— [*Time expired*.]

NSW PRIVACY COMMISSIONER FUNDING

The Hon. ROBERT BORSAK: My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Premier. Is the Premier aware of the desperate need for a significant increase in resources by the NSW Privacy Commissioner as identified in Commissioner Coombs's 2015 report to Parliament? Given the Government's obligation to ensure protection of all private information transferred between Government agencies and the new data analytics centre, what level of additional recurrent funding will the Government be providing to the NSW Privacy Commissioner?

The Hon. DUNCAN GAY: I am not aware of the comments by the Privacy Commissioner, but I am sure the honourable member is accurate in what he has indicated. That is unlike some questions I am asked that tend to contain quotes that are not so accurate when we forensically examine them. This is an important issue. I will take the question on notice and refer it to the Premier as the member has requested me to do.

LOCAL LAND SERVICES

The Hon. MICK VEITCH: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given it has been more than six months since the former Local Land Services chair resigned and Local Land Services is working on reforms to travelling stock reserves and establishing its own State Strategic Plan, why has the Minister failed to appoint a new chair of chairs to lead this important service provider for farmers, landholders and rural communities?

The Hon. NIALL BLAIR: The member is right in some parts of his question: Local Land Services is working through some important reforms to continue to deliver a high-quality service to the people of regional New South Wales.

The Hon. Mick Veitch: Leadership? Chair of chairs?

The Hon. NIALL BLAIR: I will get to that part of the question in a moment. I am just setting up a nice platform that will lead to the crescendo.

The Hon. Greg Donnelly: You're waiting for the file note.

The Hon. NIALL BLAIR: I am not waiting for anything. I don't need a file note on this one, because I believe in Local Land Services. The establishment of Local Land Services was a vitally important reform that this Government delivered. I congratulate my predecessor Katrina Hodgkinson on bringing together the organisations that make up Local Land Services. It is positioned to deliver a fantastic service to the people of regional New South Wales. As I have said many times over, I absolutely believe in the model of Local Land Services.

One of the most pleasing things I do as I travel across New South Wales is look at some of the amazing work of Local Land Services staff. I have previously outlined some of that great work, particularly what they did for the Dungog community in the Hunter Valley during the east coast low. For example, Local Land Services staff went above and beyond and took it upon themselves to feed stranded stock that some farmers did not even realise were missing. Last week I was with Local Land Services staff in Bungendore to look at some projects they are involved with there.

I take this opportunity to thank the temporary chair, Alexandra Anthony, who is doing a marvellous job in filling the position while we continue the process that is underway. We are working as

hard as we can to get the right person to fill the position because we know that Local Land Services has some important work on the horizon. The work includes implementing the strategic plans and, together with Landcare, overseeing the rollout of $15 million of funding that we initiated during the election campaign. Local Land Services will also play a vital role in the formulation of the biodiversity legislation that we will bring to Parliament next year.

We want to make sure that we get the process right and that the organisation has every opportunity to continue to succeed and deliver high-quality services. We are working through the process as quickly as we can in order to find the right person. As I said, I thank Alex Anthony for her work in filling the position until we conclude our recruitment process. I also acknowledge Richard Bull, who is acting in Alex's chair position for the Murray region. Between Alex and Rick things are almost seamless. Because of their great work it is like things have not stopped. We are working through this as quickly as we can. Like the Hon. Mick Veitch, we also want to have it concluded.

LOCAL GOVERNMENT DISABILITY INCLUSION PLANNING

The Hon. DAVID CLARKE: My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister outline what the New South Wales Government is doing to support local government in disability inclusion planning?

The Hon. JOHN AJAKA: Yesterday I had the pleasure of opening the Disability Inclusion and Liveable Communities Forum, which provided a great opportunity for the New South Wales Government and local government to come together to better understand where disability inclusion is headed and to share the great work that is underway across the State. Since the last forum, the New South Wales Government passed the NSW Disability Inclusion Act and I launched the NSW Disability Inclusion Plan in February, which was tabled in Parliament in August. As members know, the Act places responsibility on both State and local government to support the inclusion of people with disability in our communities.

Local government is already doing great work in the disability sector, with the majority of councils already having community plans in place that include strategies to address the needs of people with disability. The requirements of the Act build upon this and encourage the development of formal disability inclusion action plans across all levels of government. It is a requirement that local governments complete disability inclusion action plans by 1 July 2017. The Act also requires local government to consult with people with disability in the preparation of their plans. The Act outlines why and how we will continue this essential work throughout New South Wales. The principles acknowledge the human rights of all people with disability and identify some of the vulnerable groups in society that warrant particular attention.

The New South Wales Government is focusing on outcomes that make communities more accessible and inclusive for people with disability. My department, the Department of Family and Community Services, the Office of Local Government and Local Government NSW have been working with council and disability representatives to revise disability inclusion planning guidelines to better support councils with this important activity. These guidelines are a great resource to inform the planning process, and all councils received a copy yesterday to assist in the development of action plans.

By bringing together councils yesterday, I encouraged them to take full advantage of the opportunities to share ideas and collaborate with their regional neighbours, always remembering how we can best serve the community. I also acknowledged that, during this period of local government reform, it is still absolutely critical to continue with the important work of making communities more inclusive. In the future, the effectiveness of inclusion planning will depend on the building of local networks of collaborative planning and linking across all aspects of the community. To encourage the building of cross-sector linkages, the New South Wales Government, in partnership with Sport NSW, the NSW Business Chamber and ClubsNSW, has created three dedicated policy positions to support the promotion of inclusion and the building of inclusive local communities across the State.

At the forum yesterday, I again took the opportunity to promote the Liveable Communities Grants Program. The grants program delivers on the Baird Government's election commitment of providing $4 million over the next four years to support worthwhile projects that will build more liveable communities for seniors and people with disability and their carers. Local people know their areas best and have brilliant ideas on what their community requires for its population. I firmly believe that local government can help bring these ideas to fruition with the right support. It was a very productive and useful forum, and local government representatives will return to their local communities to continue their good work in building vibrant, inclusive, liveable communities in partnership with the New South Wales Government. I look forward to receiving the information gathered at the forum in due course.

[*Business interrupted.*]

DISTINGUISHED VISITORS

The PRESIDENT: I acknowledge the presence in the gallery of our former colleague the Hon. John Ryan, former Deputy Leader of the Liberal Party in the Legislative Council, who has been with us for question time today.

QUESTIONS WITHOUT NOTICE

[*Business resumed.*]

BUILDING PROFESSIONALS ACT REVIEW

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Ageing, representing the Minister for Innovation and Better Regulation. I refer to a draft report into an independent review of the Building Professionals Act, which was recently released by Michael Lambert. Is the Minister aware that one of the recommendations calls for a new Minister for building regulation to be given responsibility and authority to drive the reforms? Does the New South Wales Government accept this recommendation? If so, what direct funding and resources will be made available to drive those necessary reforms?

The Hon. JOHN AJAKA: I thank the Hon. Robert Brown for his question. I will refer it to the Minister for Innovation and Better Regulation, the Hon. Victor Dominello, and come back with an answer. He may have to refer it to the Premier, but we will see.

BLAND SHIRE COUNCIL AND NSW AMBULANCE SERVICE

The Hon. PETER PRIMROSE: My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Local Government. What is the response of the Government to the decision by the Bland Shire Council to increase the rent it charges the NSW Ambulance Service from $100 per year to $5,000 as part of its attempt to become fit for the future?

Ms Jan Barham: That is what they are forcing them to do.

The Hon. DUNCAN GAY: I thank the Hon. Peter Primrose for his question. I take umbrage at the interjection from The Greens member that that is what we are forcing them to do. That is just unbelievable from The Greens member. The Greens have never contributed anything to this State in practical terms. I thank the Hon. Peter Primrose for his question, as I said earlier. It is one for the Minister for Local Government and I will refer it to him.

FARM BUSINESS SKILLS PROFESSIONAL DEVELOPMENT PROGRAM

Mr SCOT MacDONALD: My question is addressed to the Minister for Primary Industries, and

Minister for Lands and Water. Will the Minister update the House on how the New South Wales Government is supporting our farmers to access business training programs to better manage risks, including drought?

The Hon. NIALL BLAIR: I thank Mr Scot MacDonald for his question. Last week it was my great pleasure to launch the New South Wales Government's $45 million Farm Business Skills Professional Development Program. Service providers and primary producers can now apply to participate in vocational training and farm business planning, with a maximum of $5,000 per farmer and $9,000 per farm business claimable over the next five years. The $45 million program is a key component of the New South Wales Government's $300 million five-year NSW Drought Strategy.

We cannot stop droughts; they are an inevitable part of farming in Australia. But, for the first time, we are investing serious dollars into helping farmers better prepare for the next inevitable drought, rather than stepping in with handouts after it is too late. We are encouraging farmers to capitalise when seasonal and market conditions are good to better prepare their businesses to manage risks, like drought. We know that planning for the long term is one of the most effective ways that our farmers can prepare for drought and other downturns. That is why we are working hand in hand with our farmers to help them manage risks, like drought, and to drive continued growth in our $12 billion primary industries sector.

This $45 million program provides farmers with funding to support upskilling and the development of farm business plans. This training is focused on providing professional development, learning through networks and expanding ideas. I am determined to see farmers right across New South Wales better placed to plan ahead for the future challenges of working in primary industries, including future drought conditions. Three priority areas have been identified for providers. These include: risk management, financial and business management, and farm business planning and drought preparedness. Importantly, this funding can also be used for the preparation and planning that is required to apply to service providers for multi-peril insurance.

Service providers are encouraged to apply to the NSW Rural Assistance Authority [RAA] for approval of courses that will be placed on their website in coming weeks. Separate to the pre-approved courses, primary producers are able to apply to the Rural Assistance Authority for approval for other vocational training or farm business planning service providers that meet their needs and are within the guidelines for the program. Farmers are able to register immediately with the RAA and will be advised of the programs once they have been registered. I encourage any farm business owner looking to expand their skills to apply for this program and encourage them to get in contact with the RAA.

The program guidelines have been developed through extensive consultation with NSW Farmers, Local Land Services, the Rural Assistance Authority and the Department of Primary Industries. We know that the Commonwealth Government has committed to providing up to $29.9 million over four years for farm insurance advice and risk assessment grants to help farmers access multi-peril crop insurance under their Agriculture Competitiveness White Paper.

My department and the Commonwealth Department of Agriculture are now in discussions about how best to ensure simple access to this funding when it becomes available in New South Wales, and to also ensure there is no duplication of service delivery with our Farm Business Skills Professional Development Program. This Government is making sure there is funding and programs available to help our farmers and the sector to better manage drought, and to support the communities which are the backbone of regional New South Wales. This is something which I make no apologies for and which we are happy to continue.

LIVERPOOL PLAINS YOUTH AND COALMINE SITES

Mr JEREMY BUCKINGHAM: My question without notice is directed to Minister for Primary

Industries, and Minister for Lands and Water. Will the Minister commit to a visit of the Shenhua Watermark and BHP Caroona mine sites on the Liverpool Plains and to meet with the Liverpool Plains Youth to listen to their concerns about the impact of these mines on the future of their farms?

The Hon. Rick Colless: Have you met with Shenhua, Jeremy?

Mr JEREMY BUCKINGHAM: Yes, I have, mate.

The Hon. Dr Peter Phelps: Trespassing doesn't constitute—

Mr JEREMY BUCKINGHAM: The Liverpool Plains—

The PRESIDENT: Order! If Mr Jeremy Buckingham wants an answer to his question he would be well advised to remain seated and to not respond to interjections from the Hon. Dr Peter Phelps. The Minister has the call.

The Hon. NIALL BLAIR: I will respond to any requests for invitations on this issue in the same way as I respond to all other requests for invitations that come through my office.

Mr Jeremy Buckingham: Gormless. Gutless.

The PRESIDENT: Order! I call Mr Jeremy Buckingham to order for the first time.

The Hon. NIALL BLAIR: Point of order: The member was using unparliamentary language when he rendered me "gutless". I ask him to withdraw.

Mr Jeremy Buckingham: To the point of order: I merely said, "Gormless. Gutless." I did not say that the Minister was gormless and gutless. He might have thought I said that.

The PRESIDENT: Order! I call the Hon. Ben Franklin to order for the first time.

The Hon. NIALL BLAIR: To the point of order: Question time has been going for nearly an hour. There has been robust discussion across the Chamber but it has all been in the spirit of question time. The mood drastically changed when Mr Jeremy Buckingham entered the Chamber.

Mr Jeremy Buckingham: We are all mates, are we?

The Hon. NIALL BLAIR: Mr Jeremy Buckingham is a serial offender.

The PRESIDENT: Order! I call Mr Jeremy Buckingham to order for the second time.

The Hon. NIALL BLAIR: Mr President, I ask that Mr Jeremy Buckingham be brought back to order.

The PRESIDENT: Order! If Mr Jeremy Buckingham interjects again he will leave the Chamber.

The Hon. DUNCAN GAY: With great regret—

The PRESIDENT: Order! I remind the Leader of the Government that there was a division at the beginning of question time, until about 4.09 p.m.

The Hon. DUNCAN GAY: Debate on committee reports is scheduled for 5.00 p.m. That The Greens took up so much time is beyond the control of the Government.

The Hon. Shaoquett Moselmane: Move an extension of time.

The Hon. DUNCAN GAY: I will not.

The Hon. Adam Searle: It is convention that question time goes for one hour.

The Hon. DUNCAN GAY: If members opposite want to support The Greens in wasting time—

The PRESIDENT: Order! I remind the Leader of the Government that there is still a point of order before the House that I have not ruled upon. There is precedence for the word "gutless" being regarded as an imputation. There is no precedence for it being regarded as offensive. Therefore, on this occasion I do not require Mr Jeremy Buckingham to withdraw it.

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

The Hon. Adam Searle: Point of order: Last sitting week the commencement of question time was delayed and an extension of time was moved and granted by the House at the end of question time. One hour is allotted for question time. It was unfortunate that question time did not start at 4.00 p.m., due to a division occurring at that time. It would be outrageous for the Government to curtail the length of question time simply because it takes exception to a question from one crossbench member. The House as a whole should not be punished in this way.

The PRESIDENT: Order! The standing orders do not stipulate the duration of question time. The Leader of the Government is entitled to draw question time to a close if he wishes.

The Hon. Duncan Gay: Talk it over with The Greens.

The Hon. Shaoquett Moselmane: Do you want to review your position, Duncan?

The Hon. Duncan Gay: Get nicked.

The Hon. Walt Secord: Point of order: Everyone in this Chamber heard the Leader of the Government tell the Opposition Whip to "get nicked". That is unparliamentary.

The PRESIDENT: Order! That is not what I heard.

Questions without notice concluded.

Pursuant to sessional orders debate on committee reports proceeded with.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Report: Progress of the Ombudsman's Investigation "Operation Prospect"

Debate resumed from 25 August 2015.

The Hon. ROBERT BORSAK [5.04 p.m.]: I am pleased to speak in debate on this important report entitled "Progress of the Ombudsman's investigation 'Operation Prospect'". It was only recently that my committee colleagues and I held the first parliamentary inquiry into the Ombudsman's investigation into a bugging scandal that has engulfed the highest echelons of the NSW Police Force and caused untold anguish for many past and serving police officers, as well as other individuals. Like that inquiry, this inquiry also generated considerable public interest and media attention. I thank the committee secretariat for the incredible work they again undertook on what is, for many, a very difficult and sensitive

issue. When people's wellbeing and reputations are in question, we need to be mindful of that and ensure that we try to find the right balance. I thank all my colleagues for their inquisitive and prudent approach throughout the inquiry. The committee was specifically tasked to look at the following:

(1) the delay in finalising the report on the "Operation Prospect" inquiry into police bugging,

(2) the cost of "Operation Prospect",

(3) the consequences of the conclusion of the term of office of the current Ombudsman on 30 June 2015 on both the inquiry and report, and its ongoing impact on NSW Police Force,

(4) the circumstances in which the potential and/or proposed prosecution of a Deputy Police Commissioner arising from the "Operation Prospect" was divulged to the media,

(5) the role of the Attorney-General's Office in considering any referrals from the Ombudsman relating to the inquiry …

I would like to stand in this Chamber and say that this committee has all the answers, but regrettably it does not. There continue to be ongoing concerns that the investigation is taking too long and that the delays are having a detrimental impact on those involved. Having looked at this issue, there is still a lack of clarity about when the investigation will be finalised. We know, however, the cost of the investigation thus far. Operation Prospect has been operating for almost three years now, and the cost to the New South Wales Government and the taxpayer is more than $6 million. Mr Barbour's term as Ombudsman ended on 30 June this year, before Operation Prospect could be finalised. Given that Mr Barbour had carriage of Operation Prospect for close to three years, the committee sought to understand the impact his departure might have on finalising the investigation.

Given the volume of material that has been examined and the number of people who have been interviewed by the Ombudsman's office, the task has proved daunting, to say the least. I doubt whether the Government knew what an enormous job it was giving the Ombudsman's office carriage of Operation Prospect. In comparison, the Wood royal commission took less time to complete its investigations. While the committee would have preferred Mr Barbour to finish what he started, it is confident in Professor McMillan's skills and experience. Nevertheless, the volume of material, the contested and charged nature of the issues and the fact he did not take the evidence himself are some of the difficulties he will face.

The committee's primary concern is to finalise the inquiry, for the good of everyone involved. For that reason it is important that the New South Wales Government, as a matter of urgency, implements the recommendations of the Select Committee on the Conduct and Progress of the Ombudsman's Inquiry "Operation Prospect". The committee also asks that, following the departure of Mr Barbour, the Government provides the Acting Ombudsman with the resources necessary to ensure the timely finalisation of Operation Prospect. To ensure that there is proper continuity, the committee has requested that the Acting Ombudsman provide a written report to it by 1 November 2015 outlining the progress of Operation Prospect, including an anticipated time frame for the completion of the investigation. I am pleased to inform the House that Acting Ombudsman, Professor John McMillan, has provided to the committee a written report to this effect. It is his view:

> … that the Operation Prospect investigation will meet the three objectives stated at the beginning of this report: a thorough examination is being undertaken of important and unresolved issues concerning policing and public administration in NSW; reasonable steps are being taken to ensure that individuals and agencies involved in the investigation are treated fairly and have a full opportunity to express their views before any conclusions are reached; and the investigation is proceeding as efficiently as possible …

He goes on to say:

> The investigation cannot be finalised until the procedural fairness phase that is currently underway is concluded properly. That is likely to extend into December 2015. I anticipate that Operation Prospect can then be finalised in the first half of 2016. The New South Wales Ombudsman's office is strongly committed to that goal.

On behalf of the committee I thank the Acting Ombudsman for his report and for the information that he has provided. The issues that we dealt with in both inquiries have continued for far too long. It is in the public's interest and in the interest of the NSW Police Force that they be resolved fairly and expeditiously. The committee believes that the delays and other difficulties experienced in completing Operation Prospect significantly damaged the inquiry and undermined confidence in the integrity of any final report that it delivers. For this reason the New South Wales Government must develop a strategy to resolve the issues raised in Operation Prospect if the Ombudsman's inquiry into the police bugging matter fails.

During the inquiry the committee also considered the leaking of confidential information—on 17 April 2015 the *Sydney Morning Herald* published an article that revealed Deputy Commissioner Kaldas had been referred to the Director of Public Prosecutions allegedly for giving false evidence during his examination before the Ombudsman's Operation Prospect inquiry. The unauthorised disclosure of confidential material in a highly sensitive inquiry is always a serious matter. I apologise to Deputy Commissioner Kaldas for the distress and impact this has had on his personal life and career. Trying to get to the bottom of this leak was like playing musical chairs or, rather, it was more akin to the antics of someone like Sir Humphrey in *Yes Minister* or *Yes, Prime Minister*. Did the leak come from the Ombudsman's office? Did the leak come from the Director of Public Prosecutions? Did he in fact leak the information? Did the leak come from within the Attorney General's office? Did the leak come from within the NSW Police Force? Or did the leak originate from the previous select committee? Unfortunately, how this information came to be divulged to a journalist still remains unknown, despite our attempts to uncover the source.

While the inquiry may be over, the issues remain up in the air and many questions remain unanswered. As I said in debate relating to the previous inquiry on this matter, the content and the issues raised have been some of the most explosive that this Parliament has dealt with in recent times. To a large extent I believe both inquiries have helped shine a spotlight on areas that would otherwise have remained in the dark. For the sake of everyone affected by the police bugging matter it is imperative that it be resolved fairly and expeditiously for all the individuals involved, for the morale and health of the NSW Police Force and for the functioning of the organisation at all levels. As it occurred more than a decade ago I hope that the Acting Ombudsman brings a sense of closure to the many individuals affected by this matter. I thank all those who gave evidence during the two public hearings and all those who provided the committee with written submissions. I thank all my colleagues, the committee secretariat for their tremendous and diligent work and the Hansard staff and everyone else that helped with the inquiry. I urge all members who have not read the report to do so and I commend it to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.13 p.m.]: I make a brief contribution to debate on the second report of General Purpose Standing Committee No. 4 entitled "Progress of the Ombudsman's investigation 'Operation Prospect'". This second inquiry and report—this time by a general purpose standing committee—arose because of what members perceived to be a lack of action arising from the first report by a select committee. It was clear to everyone who participated in the first inquiry that the Ombudsman would deliver his final report before the conclusion of his term of office at the end of June of this year. It became apparent that that timetable would not be met. There were grave concerns about that and about the inactivity relating to a number of recommendations and suggested actions made by the first inquiry.

As a member of that committee and as a member of this House I welcome the report of the Acting Ombudsman. When Mr Barbour's term expired the Government did not advertise his position nor did it seek to make a permanent and substantive appointment. Instead it appointed Professor McMillan as

Acting Ombudsman for two years. As I am a member of the parliamentary oversight committee of a number of bodies, including the Office of the Ombudsman, it is fair to say there was some disquiet about the Government's failure to make a permanent and substantive appointment. None of that disquiet relates to Professor McMillan—someone who has had a great deal of experience and about whose appointment there could be no criticism. We welcome his report on this matter and the information that it conveys.

We think it is an important step towards ending this long-running saga. However, I stand by the findings of the inquiry which made what I believe to be a fairly uncontroversial point. The long history of this inquiry and the procedural difficulties associated with it in bringing this matter to a satisfactory conclusion are insuperable, given the tensions and conflicting interests between senior persons in the NSW Police Force and others who were called on to assist the Ombudsman with his inquiry into substantive matters relating to Operation Prospect. What is apparent from this report and the earlier report of the select committee is that the powers conferred by this Parliament on the Office of the Ombudsman to conduct this inquiry should not have been conferred as the Office of the Ombudsman does not appear to be a satisfactory recipient.

Mr David Shoebridge: Some might call that an understatement.

The Hon. ADAM SEARLE: I acknowledge Mr David Shoebridge's interjection; it is not a satisfactory recipient. The functions conferred on the Office of the Ombudsman do not sit well or easily with its other roles and functions. Given that it has taken the Office of the Ombudsman a long time to come to terms with these issues—much longer than the original matters that were being inquired into—it is apparent in my view as well as in the view of other committee members that the Parliament should remove those powers from the Office of the Ombudsman. Although I do not expect it to make any public comment about this, such a move would be welcomed by those working in the Office of the Ombudsman as the powers that have been conferred on it are not compatible with its other functions.

I hope that the recommendations made by both committees are properly and closely examined by the Government and acted on appropriately. I note that one of the recommendations—to examine the police complaints process—was not pursued in the way that both committees recommended but rather through a report to be delivered by Mr Andrew Tink, a former member of the Legislative Assembly, a former shadow Minister for Police and a former shadow Attorney General. I look forward to what Mr Tink has to say about these matters.

Mr David Shoebridge: But not released publicly.

The Hon. ADAM SEARLE: I acknowledge Mr David Shoebridge's interjection. My understanding is that the report has been concluded and provided to government but that it has not been released publicly. Given the fraught nature of these issues and their unhappy past, it would be good if the Government, even before it formulates its response to the Tink report, releases that report so there is an air of transparency and openness in this area, which would be refreshing, and so that public discussion can commence on the merits of what Mr Tink has had to say. That does not restrict the Government's right to develop its response in the way in which it sees fit. However, not releasing the report gives rise to an apprehension of a lack of transparency, which we do not need in the area of police oversight generally or in connection with the issues that gave rise to these two committee inquiries.

I do not believe there is any reason for the delay. I call on the Government to indicate the reasons for the delay in releasing the Tink report. It may be a misguided notion of the Government not wanting to have the report out in the public domain, giving rise to all sorts of conjecture and discussion about what might happen in this space, and wanting to wait until it has digested all the issues and thought them through. I can understand why a government would take an approach like that in relation to most matters to do with public affairs but I believe that the issue of police oversight and the matters that gave rise to these two inquiries are sufficiently fraught and difficult, have involved public controversy and heated discussion, and it is necessary for this report to be made public as soon as possible so that we can

discuss publicly and without any undue delay the next appropriate step for reform in this area.

DEPUTY-PRESIDENT (The Hon. Paul Green): I acknowledge in the gallery members of the public who are attending A Little Night Sitting conducted by the Parliamentary Education Office. Welcome to the Parliament. We hope you enjoy your evening.

Mr DAVID SHOEBRIDGE [5.22 p.m.]: On behalf of The Greens I speak in debate on and commend the report of General Purpose Standing Committee No. 4 entitled "Progress of the Ombudsman's investigation 'Operation Prospect'". First, I commend the excellent assistance we had from secretariat staff in producing this report. I commend in particular the work of the Chair in keeping us all together. The report received unanimous support—I do not believe a dissenting report was issued. The committee worked collaboratively to produce a report that has already produced results. We have seen a degree of transparency from the Ombudsman and now the Acting Ombudsman in the report that was provided in response to recommendation 3.

I thank the secretariat because as with the previous report into Operation Prospect, between the layers of secrecy laws, public interest in disclosure and non-disclosure, concerns that people had to protect their careers, concerns that some whistleblowers had to put everything possible on the record, and concerns that we had to ensure that what went on the record was considered and measured with as much openness as possible without doing unintentional damage to individuals, it was a minefield. But we managed to navigate that minefield in a way that gave us the greatest amount of transparency and openness but that also ensured we were not doing ill-considered damage to individuals, in particular, those still pursuing careers in the NSW Police Force.

The core finding was pretty obvious—that the delay and other difficulties in completing Operation Prospect significantly damaged the inquiry and undermined confidence in the integrity of any final report it delivered. The Ombudsman's Operation Prospect has been a complete basket case and at all times The Greens thought the Office of the Ombudsman was not the right vehicle to undertake this investigation. We opposed the expansion of the Ombudsman's powers to conduct this investigation. We were particularly concerned about the secrecy provisions and, as it has played out, I believe a comfortable majority of members in this House have deep concerns about the Ombudsman's office being granted those kinds of royal commission powers coupled with secrecy to deal with this police bugging scandal, which now falls under the rubric of Operation Prospect. The office should never have had this investigation. It is a tragedy that so many public resources, so much time and so much effort have been devoted to an inherently flawed investigation by the Ombudsman.

None of that criticism is directed at the Acting Ombudsman, who has inherited a world of pain in taking over this half-completed investigation that clearly had run off the rails because it sought to investigate the whistleblowers every bit as much as much as it sought to investigate concerns about illegal police wiretapping. Many people who observed this slowly played out drama over the past 15 years tend to forget what is at the core of the concerns this Parliament had when it initially looked into the police bugging scandal—concerns that I tried to ventilate at budget estimates and which were not ventilated because a majority of members thought it was not appropriate. The investigation, which was then given to the Ombudsman's office, involved special new powers and secrecy provisions but it was caught up in a web of problems from which it has still not escaped.

Why were we so concerned? Why were members of the NSW Police Force concerned about what went on with Operation Mascot and Operation Florida and the secret police wiretapping procedures? What was the initial concern? Fifteen years later we are still asking for the problem to be resolved. I will read a small portion from the Acting Ombudsman's progress report, which I commend him for providing in answer to the committee's recommendation 3.

Between 1999 and 2001 the police internal affairs unit was working with officers from the Police Integrity Commission and the NSW Crime Commission putting secret warrant applications to the

Supreme Court and getting warrant after warrant issued by the court in secret proceedings. At different times more than 100 people were listed on the warrants as being the subject of secret and covert surveillance by police in this State. More than 110 names on one warrant were the subject of secret and covert surveillance—all supported by one affidavit that was next to incoherent. As the committee heard in evidence, that affidavit did not even make a case out against 66 people on one of those warrants. On page 12 of his report the Acting Ombudsman spoke about the scope of Operation Mascot and others. He spoke of the task of Operation Prospect to review what went wrong 15 years ago and he said:

> *Investigation of use of false and misleading information in warrant applications and supporting affidavits*: in response to summonses issued under s18 of the [Ombudsman] Act, 210 affidavits comprising 6,134 pages in support of applications for 708 listening device and telephone intercept warrants have been produced, as well as 11 Mascot tape logs comprising 1,197 entries from recordings; each paragraph of each warrant had to be examined and traced back to source documents, that included 488 pages of debrief with the informant "Sea" and over 138,831 documents comprising source minutes, information reports, contact advice reports, emails, surveillance reports, listening device and telephone intercept transcripts and audio recordings; the audio recordings extend to thousands of hours and the transcripts to tens of thousands of pages.

That is like something the Stasi in East Germany would have undertaken: hundreds and hundreds of covert surveillance warrants; hundreds and hundreds of individuals who have been the subject of potentially illegal covert surveillance warrants; thousands and thousands of pages of transcript of people's private communications and private conversations being pored over; and thousands of hours of telephone intercepts being listened to—private conversations, being listened to in secret by police authorities, with nobody checking or looking. Supreme Court judges rubberstamped those warrants, it would appear, without even reading the affidavits let alone testing them to see whether the names on the affidavits corresponded to the names on the warrants that they were rubberstamping.

What has been the institutional response to this extraordinary level of surveillance—this lawless, covert snooping—that we have discovered? The only real institutional response we have seen is a commitment from the Chief Justice of the Supreme Court to ensure that when Supreme Court judges issue such warrants in the future—and I can tell you there are as many coming before the Supreme Court now as there were at this time—the judges will issue a one- or two-line statement of reasons that they will put in a sealed envelope and stick on the file, which nobody will be able to read. The core problem identified in the earlier report on Operation Prospect—and which has been reiterated in this report on Operation Prospect—is that there is a culture of covert surveillance that is extensive and that nobody is checking to ensure it has integrity. Our civil liberties are being assailed by this unthinking, covert surveillance that extends to thousands and thousands of hours of intercepts and thousands and thousands of pages of transcript.

I commend the work of the chair, the committee, and the secretariat. The report is good and I appreciate the response from the Acting Ombudsman, but we must do something substantive to resolve the fundamental problem of the extent of unlawful covert surveillance that happens in this State, because nobody is watching.

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

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Report: Registered Nurses in New South Wales Nursing Homes

Debate resumed from 29 October 2015.

The Hon. COURTNEY HOUSSOS [5.32 p.m.]: I make a contribution to this debate as a member

of General Purpose Standing Committee No. 3. I begin by acknowledging the tireless campaigning of the NSW Nurses and Midwives' Association, under the leadership of Mr Brett Holmes, to ensure that aged-care patients and residents in New South Wales have access to the highest levels of care, because these are some of the most vulnerable members of our society. I also acknowledge a number of my Labor colleagues in the other place—in particular the member for Blue Mountains, Trish Doyle, and the member for Port Stephens, Kate Washington—who were great supporters of the NSW Nurses and Midwives' RN24/7 campaign. It was the incredible community support for this campaign that brought the issue to the attention of General Purpose Standing Committee No. 3. That support was reflected in the large number of submissions that we received—almost 300—which in itself shows the level of concern and interest within the community.

As we received the submissions, I was struck by the large number of individuals who wished to share stories about their family members in aged-care facilities. Some of them were really positive stories about how registered nurses had played a crucial role in caring for their family members; some were incredibly alarming stories about the need to regulate in order to allow particular patients access to registered nurses. I acknowledge some of the witnesses and the submissions that we received, in particular, Mr Brendan Moore from Alzheimer's Australia and Ms Imelda Gilmore, whose personal story as a partner of someone who is currently receiving care in an aged-care facility was most informative and compelling for the committee. I also acknowledge Ms Charmaine Crowe from the Combined Pensioners and Superannuants Association; the impressive representatives from the Australian and New Zealand Society for Geriatric Medicine; Professor Peter Gonski and Dr Lyndal Newton, who gave the committee valuable insight into their work in aged care; and Dr Yeo and Dr Kok from the Royal Australian College of General Practitioners, whose informed and practical advice was very useful to the committee.

The committee also received evidence and submissions from Ms Linda Kelly and her colleagues at Leichhardt council. They showed a real understanding not only of the challenges facing our ageing population but also the way that they can be addressed at a local government level. I also acknowledge Ms Deborah Urquart, who runs an indigenous aged-care facility in Kempsey, and the many different providers who took the time to make detailed submissions to the inquiry. The inquiry emphasised the need to access high-quality, affordable aged care. With an aging population, this will be a real challenge for New South Wales. The key recommendation of the committee was recommendation No. 7:

> That the New South Wales Government: retain the requirement in section 104(1)(a) of the Public Health Act 2010 for registered nurses to be on duty in nursing homes at all times.

It also provided an updated definition for what the specific term "nursing home" would mean in this context. The inquiry also highlighted the need for an enforcement mechanism for this requirement because there is a lack of clarity found by the inquiry about how this will be enforced as it stands. We received evidence that two particular complaints have been received. The issue of aged-care regulation has been slowly transferred from the New South Wales Government to the Federal Government, where the majority of funding and regulation now occurs. Some submissions argued that we should leave it in the hands of the Federal Government.

However, the committee was swayed by a number of other submissions and evidence that argued that the current Federal accreditation process could be improved. We made a number of recommendations regarding this process. I will speak particularly to the issue of unannounced visits. This was highlighted by the Combined Pensioners and Superannuants Association, which told us that not all accreditation standards are evaluated on unannounced visits. Indeed, a recent appeal to the Administrative Appeals Tribunal revealed that of the 44 different standards that were assessed, only two were assessed on that particular visit. Moreover—and more alarming to me—we heard separate evidence that not one of the unannounced visits that the Federal agency conducted occurred outside business hours. As members will be aware, aged-care facilities are 24-hour operations so the idea that unannounced visits to assess their accreditation should occur only between 9.00 a.m. and 5.00 p.m. is truly concerning.

The question of accreditation occurring only every three years was also raised. It was pointed out to me that that is longer than the average stay of many in aged-care facilities today. We made a number of recommendations around the Federal accreditation process that we believe should be pursued by the Government. Importantly, the committee also affirmed that residents are entitled to the same level of care, irrespective of whether they live in metropolitan Sydney or regional or rural New South Wales. And while the committee received evidence about the benefits of ageing in place, there is no doubt that whether one lives in Sydney or in remote New South Wales, one should have access to the best quality of care.

The committee made recommendations regarding the need to be open and transparent about staffing levels. A family can decide that they would prefer to allow their parent or family member to age in place close to family, but that might mean they do not necessarily have access to a registered nurse 24/7—the nurse might be on call or they might not be in the location. But it is important the family who is making the decision has access to that information when their family member enters the aged-care facility.

Of course we welcome innovative models of care but emphasise the importance of having registered nurses at the centre of this care. The committee received very compelling evidence from a number of witnesses who talked about the importance of registered nurses, particularly in rural and regional areas where perhaps access to gerontologists or general practitioners is slightly more difficult and registered nurses are called upon to play an important role in the provision of health care. Throughout the inquiry I was struck by the similarities in the challenges faced by families who have relatives in aged care and those who have children in child care. In both situations people outside the immediate service provision must advocate for those who receive the service. I very much support the recommendations around the provision of ratios because ratios in nursing homes or in childcare facilities give family members who are outside the facility the security that their family members are receiving the best possible care.

While this inquiry concentrated on the importance of registered nurses, I acknowledge the importance of the range of allied healthcare workers who provide care within aged-care facilities. I also acknowledge the Health Services Union, which represents a number of those workers. I place on record my sincere thanks to the committee secretariat for their tireless work, and commend the report to the House. I eagerly await the Government's response to it.

The Hon. NATASHA MACLAREN-JONES [5.42 p.m.]: As a member of General Purpose Standing Committee No. 3, I thank all staff for their contributions and assistance during the inquiry, all the witnesses who appeared before the committee and those who provided submissions. Quite a number of submissions were presented during the inquiry. I will speak to recommendations Nos 4 and 15, which are the subjects of a dissenting statement by Government members. Recommendation No. 4 "urges the Commonwealth Government to establish minimum staffing ratios in aged-care facilities." In addition to not supporting this recommendation, Government members are concerned that the committee "expressed disappointment" that the Commonwealth Government does not prescribe minimum staffing ratios in aged-care facilities.

A key matter that came through particularly in the evidence presented was that aged-care regulation is the responsibility of the Commonwealth and existing legislation requires nursing homes to have sufficient numbers of qualified staff, including when a registered nurse is required. This is based on the individual needs of residents in the home. The committee received evidence and submissions from the New South Wales Ministry of Health and the Australian Aged Care Quality Agency that reinforced that the power conferred by the Commonwealth legislation, under the Department of Health and Ageing, was to monitor, inspect and manage the complaints process for nursing homes. Since 1 January 2005, when the New South Wales Nursing Home Act 1988 was repealed, New South Wales has progressively removed itself from the regulation of aged-care facilities.

The report specifies that the Commonwealth Aged Care Act 1997 provides the funding and regulatory regime for subsidising residential aged-care facilities in Australia. Furthermore, fees, payments and the administration process are the responsibility of the Commonwealth, which is regulated by the Quality of Care Principles 2014—and I will touch on that later. The first chapters of the report go into the detail of section 104 of the New South Wales Public Health Act 2010. When responsibility for aged care was transferred to the Commonwealth in the 1990s New South Wales was the only State to maintain a section that refers to low and high care, which is why we are in the current position. One witness pointed out that the reference, terminology and definitions used in the Act are obsolete.

The Commonwealth Government is responsible for aged care, but following the introduction of managing aged-care facilities established a comprehensive national framework that incorporates not only regulation and funding but also, and most importantly, accreditation and compliance. Under the Aged Care Act 1997 the Commonwealth Government is responsible for residential aged care in Australia. Accreditation of residential aged-care facilities under the Act is the responsibility of the Australian Aged Care Quality Agency. Prior to January 2014, when its name changed, the agency had operated for more than 16 years as the Aged Care Standards and Accreditation Agency. That agency was responsible for managing the accreditation of residential aged care in Australia.

The Australian Aged Care Quality Agency, which made a submission to and appeared before the committee, must conduct quality reviews of home-care services, which is the accreditation; register the assessors; provide information, training and education to approved providers to ensure high standards of care; and advise the Federal department about aged-care services that do not meet the accreditation standards, which comes back to compliance. It is important to note that Australia has quite a thorough and robust accreditation process—although I do not claim that it is perfect. This was introduced in the late 1990s to ensure there was a standard of care across the whole of Australia that gave people confidence that residents were receiving the care they required. The committee heard evidence that the national approach was maintained by ensuring assessors were selected against the same criteria, received the same standard of training, and followed the same guidelines and processes to make assessments across the whole of Australia.

To be registered as a qualified assessor, a person must be a registered nurse with at least two years' relevant experience or at least four years' full-time experience in a professional or management position; have successfully completed an approved course of training conducted by the agency; have completed the orientation program; have undergone a criminal check; undertake at least 15 hours of professional development each year; undertake at least two audits per year; and obviously comply with the assessors code of conduct. The committee was advised that as of June 2015 there were 361 assessors, of whom 197 were registered nurses. The accreditation standards are legislated under the Federal Aged Care Act 1997 and include 44 expected outcomes across four areas: management systems, staffing and organisational development; health and personal care; care recipient's lifestyle; and physical environment and safe systems.

The Commonwealth legislation requires aged-care facilities to have sufficient numbers of appropriately skilled and qualified staff, including a registered nurse when required. Based on that, it is not feasible to have staffing ratios for nurses because there will be times when a resident may require more than one registered nurse—or whatever the ratio might be—and other instances when a registered nurse is not required and the financial and administrative burdens fall upon homes.

Rather than being about individual care, the focus is on trying to enforce a one-size-fits-all approach. Expected outcome 1.6 in the accreditation standards, which relates to human resource management, requires that "there are appropriately skilled and qualified staff sufficient to ensure that services are delivered in accordance with the Standards and the residential care service's philosophy and objectives". Furthermore, expected outcomes 1.3, 2.3, 3.3 and 4.3, relating to education and staff development, require that "management and staff have appropriate knowledge and skill to perform their roles effectively".

I note that the 2011 report of the Productivity Commission entitled "Caring for Older Australians" stated that staffing ratios would not be a positive reform because of the diversity of care needed across aged-care facilities. In every aged-care facility across New South Wales nursing and health service management make an assessment of staffing requirements by using professional judgements based on a range of factors including patient safety, patient needs, previous experience and safe systems of work. It is the responsibility of individual aged-care facilities to determine the number of staff and the skill set they require to ensure that individual clients receive the high-quality care they need. Each individual facility should retain the flexibility to adjust its staffing profile to best suit the needs of its residents.

Finally, recommendation 15 urged the Commonwealth Government to take active measures to eliminate the wage disparity between registered nurses in aged-care facilities and registered nurses in the public healthcare system. I place on record that although the regulation of aged care is the responsibility of the Commonwealth Government, it is not responsible for setting the wages of public and private sector staff.

The Hon. WALT SECORD (Deputy Leader of the Opposition) [5.51 p.m.]: As shadow Minister for Health and Deputy Leader of the Opposition in this House I make a contribution to the take-note debate on the report of General Purpose Standing Committee No. 3 on registered nurses in New South Wales aged-care homes. First, I express my full support for the key recommendation that the regulation requiring registered nurses to be employed in New South Wales aged-care facilities should be retained. Australians have one of the longest life expectancies in the world, and now rank alongside the Icelanders, the Japanese and the Spanish for longevity. That is something to be celebrated. It is due to medical advances and our healthy lifestyles.

The number of Australians aged 65 and over is expected to increase rapidly, from around 2.5 million in 2002 to 6.2 million in 2042. That is up from around 13 per cent of the population to around 25 per cent—almost double. For Australians aged 85 and over the growth will be even more rapid, from around 300,000 in 2002 to 1.1 million in 2042. A third of those people will live in New South Wales and many of them will live on the Central Coast, mid-North Coast and far North Coast regions. The challenges of an ageing population are many but that is not an excuse to vacate the field. We must ensure that when people turn to aged care they are cared for properly.

On 13 June 2014 Minister for Health Jillian Skinner wrote to the New South Wales aged-care sector, putting forward the registered nursing requirement as an interim measure. It is set to expire next month. Currently New South Wales is the only Australian jurisdiction with that requirement but it is mind boggling that, with this protection for our aged citizens in place, the New South Wales Liberal-Nationals are considering removing it. I recognise the challenges for remote and rural aged-care facilities sourcing registered nurses. I also recognise that that is an issue in all areas of regional employment. But it is not a reason to remove this protection across the State.

A registered nurse is highly trained, has completed a three-year Bachelor of Nursing degree and has a minimum of 800 hours of clinical placement. They must also apply to the Nursing and Midwifery Board of Australia and undertake at least 20 hours of professional development each year. Registered nurses administer schedule 8 drugs; oversee medications, including managing side effects; undertake nursing procedures such as wound care and insertion of urinary catheters; provide palliative care; and support and supervise enrolled nurses and assistants in nursing. In short, they can carry out procedures in an aged-care facility that would otherwise have to take place in a hospital setting or an emergency department. Anyone who understands aged care will understand that, for those reasons, registered nurses save lives and reduce suffering and pain for the elderly. That is to be supported.

Secondly, I welcomed the evidence that showed having registered nurses in aged care eased pressure on the State's emergency departments and reduced unnecessary hospital admissions by the elderly. Those in the health sector already know that, but it was important to have evidence backing it up.

Unfortunately, at any given time at least 550 elderly patients are in New South Wales hospital beds when they would be better suited to care in an aged-care facility. Many elderly patients are also taken to emergency departments because the aged-care facility does not have a registered nurse available to carry out certain procedures. That results in considerable cost-shifting to the New South Wales health system and exacerbates the problem known as "bed block". While aged care is a Commonwealth responsibility, a poorly run and managed aged-care facility is a concern for all levels of government. In New South Wales there are 874 Commonwealth-accredited aged-care facilities run by some 300 aged-care providers that provide care for 66,000 residents. Of those facilities, 594 are currently operating under the requirement, which was examined by the committee.

The committee, chaired by our colleague Ms Jan Barham, was set up on 25 June and reported on 29 October. We held three public hearings, on 5, 10 and 14 August. The witnesses were diverse and included the New South Wales Ministry of Health, the Commonwealth Government Australian Aged Care Quality Agency and peak organisations in nursing, aged care and for senior Australians. It was a short and sharp committee that delivered a report with the key finding that New South Wales nursing homes should be forced to have registered nurses on duty to care for patients 24 hours a day. That is expressed in section 104 (1) (a) of the New South Wales Public Health Act 2010. Currently, under that Act failure to comply with the registered nurse requirement carries a maximum penalty of 100 penalty units or an $11,000 fine. For the reasons I have outlined, that protection needs to stay.

Members are aware that I have a longstanding interest in and knowledge of the aged-care sector, having served as chief of staff to a Federal aged care Minister from 2007 to 2009. During that time I became convinced of the need to provide comprehensive protections for the aged, who are amongst the most vulnerable in our society. At that time then Minister for Ageing the Hon. Justine Elliot, the member for Richmond, introduced comprehensive quality checks and ramped up the number of unannounced visits. Through the Federal Department of Health she issued sanctions against a number of aged-care providers that fell short of what was required by failing to provide proper nutrition and hydration to residents.

It was a tough time as many of the commercial for-profit aged-care providers fought the changes and vowed to unravel them. Unscrupulous commercial for-profit aged-care operators wanted to return to the race to the bottom. Disturbingly, we even found between 2007 and 2009 that aged-care providers outside New South Wales had set up head offices in South Pacific nations such as Vanuatu so that they could hide their profits and claim they were marginal and in need of more Federal subsidies. They were the ones resisting pay rises for nurses and other staff. The facilities were run by particularly odious characters. I am pleased that those people have since left leadership roles in the industry but, unfortunately, they still linger on the margins.

That said, during that time I developed an admiration for the faith-based aged-care providers who put their residents ahead of profits, unlike their commercial counterparts. I stand proudly by the achievements of Justine Elliot and express my disappointment that the Abbott Government wound back many of them and that the Turnbull Government has not reversed those changes. That is why it is important that New South Wales does its part by ensuring that State-based protections remain. The requirement to have registered nurses in aged care is long standing. However, it appeared late last year that Minister for Health Jillian Skinner was taking steps to move away from that requirement—just as the Federal Government was removing protections for people in aged care nationally.

Fortunately, our parliamentary committee has recommended not only that the requirement should be continued for all homes that look after people with higher care needs but also that the New South Wales Government should lobby the Commonwealth, which has responsibility for monitoring aged-care facilities, to improve the system of monitoring and unannounced visits for aged-care facilities. The inquiry heard that over the past three years nearly 100 nursing homes in New South Wales have failed to meet accreditation standards that protect vulnerable residents' health and safety. These are sound and sensible recommendations, and I hope the Baird Government accepts them. Minister for Health Jillian

Skinner owes it to older Australians to protect them by resisting commercial, for-profit aged-care providers that want to reduce oversight and protections such as the requirement to provide registered nurses.

The Minister needs to support this regulatory step because, sadly, the evidence of the committee lined up two disparate groups: those groups who wanted to protect nursing home residents and those who wanted to protect the rivers of profit flowing into the pockets of commercial aged-care providers. That can be seen by the resistance of some operators to the regulations we are talking about today. I note that commercial providers of nursing homes have argued that the regulations do not give enough flexibility to aged-care providers and that if they continue will lead to a nurse shortage or make registered nurses unaffordable. To paraphrase Mandy Rice-Davies, "But they would say that, wouldn't they?"

The New South Wales Nurses and Midwives Association General Secretary Brett Holmes has noted that the community is extremely distressed at the prospect of losing registered nurses and the Government should accept the findings of the inquiry. He backs this opinion up with community evidence. The nurses' association has submitted more than 24,000 signatures on a petition to New South Wales Parliament that advocated retaining the positions. Labor's position is clear and consistent.

Members would also be aware that on 18 February 2015, prior to the 2015 State election, my colleague the Deputy Leader of the Opposition, the Hon. Linda Burney, who was then shadow Minister for Ageing, and I, as the shadow Minister for Health at the time, released a policy on registered nurses in aged care. We believe that having senior nurses in aged-care facilities is good for the wellbeing of residents and provides peace of mind to family members with loved ones in nursing homes. We make no apologies for improving the health and wellbeing of aged-care residents.

In conclusion, I urge the Baird Government to retain the regulation for the sake of the most vulnerable frail and aged residents of this State. I also cite the evidence of Ms Charmaine Crowe of the Combined Pensioners and Superannuants Association; Mr Brett Holmes of the New South Wales Nurses and Midwives Association; Professor Peter Gonski of the Australia and New Zealand Society for Geriatric Medicine, New South Wales Division; and Dr Guan Yeo of the Royal Australian College of General Practitioners. Dr Yeo was succinct when he said retaining the regulation was a "no brainer". I commend the committee's report and recommendations to the House. I thank the House for its consideration.

The Hon. SARAH MITCHELL (Parliamentary Secretary) [6.00 p.m.]: I make a contribution to the debate on the report entitled "Registered nurses in New South Wales nursing homes". I am a member of General Purpose Standing Committee No. 3. At the outset, I note that I and a couple of the other members of the committee had some concerns about the misinformation that was circulating during this inquiry—in particular, the myth that the Government was planning to remove nurses from aged care in its entirety. It was disappointing that some members of the committee attempted to frame this inquiry as an "all or nothing" scenario when it came to registered nurses in aged care—which is not the case. Unfortunately many of the submissions also seemed to make that argument as well. It set the parameters for the inquiry off on the wrong foot, in my view, because that was not something on the table.

As the Hon. Natasha Maclaren-Jones said in her contribution, there is an issue around staffing in aged-care facilities due to a change in the Commonwealth legislation that removed the classifications of high and low care. This effectively makes our State legislation pertaining to aged care redundant, in a sense. In relation to this issue no decision has been made by the New South Wales Government regarding the legislative requirement for registered nurses in nursing homes following changes to Commonwealth aged-care laws.

Prior to this committee being initiated in this place, a steering committee was formed by the NSW Ministry of Health to review the New South Wales legislation following, as I mentioned, the significant changes to Commonwealth arrangements and definitions affecting nursing homes. That committee was due to report during the period that our committee was conducting its inquiry. The Minister made the very wise decision to consider the recommendations of the Legislative Council committee first so that the NSW

Ministry of Health committee, before it gives its final report to the Minister for Health, will be able to consider what the Legislative Council committee has put forward. As I said, a way forward is being worked on with relevant stakeholders. Of course registered nurses will be necessary for aged care in the future, but it is about working out the legislative requirements, as I said earlier.

I turn to some of the issues discussed as part of this inquiry. Obviously the care of residents in aged-care facilities is paramount. As a regional member I also took very seriously the concerns raised by several smaller regional and rural facilities. They voiced grave concerns that if they were required to provide a registered nurse 24 hours a day it would become difficult for them, and they may in fact have to close. These are good services that we are talking about here. They currently operate well without having a registered nurse on site 24 hours a day. They have different arrangements—they might have a registered nurse working part time or on call. These places offer really good aged care for regional and rural residents. It would be a real shame to put them in jeopardy as it has been proven that elderly people can be seriously affected by being uprooted from a home or community that they know and love. It was through that prism that I considered the inquiry and the report.

In the main I, like most other Government members of the committee, support the majority of the recommendations. I would like to speak about just a couple of them. Recommendation 5 was an interesting idea that was raised throughout the course of the inquiry. It has to do with the Government developing a working with older people and/or vulnerable adults check, which would be modelled on the Working With Children Check. It was not something that had really crossed my mind before but I think most of the other committee members would agree that it is an interesting idea and it could be another tool used to protect some of the most vulnerable citizens in our community—the elderly.

Recommendations 7 and 8 essentially cover the nub of the issue we were dealing with in the committee inquiry. In recommendation 7 we recommend that the Government retain the current section of the Act that requires nurses to be on duty in nursing homes at all times. We also suggested an amendment to the definition of a "nursing home" to address the level of acuity of residents in each facility that will require full-time nursing care so that the healthcare needs of the residents are taken into account. In recommendation 8 we allow nursing homes to apply for an exemption on a case-by-case basis as long as they can demonstrate that they still provide a high level of care for residents. It is my belief that recommendation 8 will cover the smaller rural and regional facilities that I mentioned earlier. Given the sometimes conflicting views of committee members in this debate, and on this issue in particular, I think that where the committee landed was a pretty good compromise.

Recommendations 13 and 14 looked at programs and incentives to encourage more nurses to consider working in rural and regional areas, which is always very important. Recommendation 16 asked for the consideration of telehealth models in aged care. We are seeing some real advancements made in telehealth right across regional communities, and there is certainly a place for that in aged care. I think those recommendations are the highlights. Obviously there was a dissenting report from the Government members. I think the reasons for that have been covered well by the Hon. Natasha Maclaren-Jones in her contribution. I note my opposition to recommendation 4. I do not support staffing ratios for aged care as I do not believe ratios allow for the flexibility that may be needed in these facilities—depending on the needs of residents and taking into account the diversity of care that is necessary in aged care. I also oppose recommendation 15, which suggests the Government should play a role in wage disparity between registered nurses in aged care and public health care. I do not think wage equalisation is a matter for the Government.

I thank the other committee members; the committee staff, who as always did an excellent job; and Hansard, who also did an excellent job. Finally, I congratulate Ms Jan Barham for her work as the chair of this committee. This was the first inquiry that she has chaired. She did a really good job. As I said, these were tough issues with very strong opposing views expressed by different members of the committee. Ms Jan Barham handled it well and fulfilled her role as Chair with grace and dignity. I think we have ended up with not a bad compromise, as I said. I thank the House for the opportunity to contribute to

this debate.

The Hon. BRONNIE TAYLOR [6.07 p.m.]: I speak on the report of the Legislative Council General Purpose Standing Committee No. 3 entitled "Registered nurses in New South Wales nursing homes". I echo the comments of my Coalition colleagues in regard to this committee. It was an interesting committee—and sometimes, as the Hon. Sarah Mitchell said, that was lost in the proceedings of the committee as we really tried to get to the outcomes that we all felt were necessary. I would like to point to just a few examples. The Hon. Courtney Houssos spoke about one of the people who gave evidence at the committee—a lady who suffers from the terrible and debilitating illness of Alzheimer's. Her story was very moving.

I think it is important to note that the standout facility for Alzheimer's, which is on the Central Coast and which people travel to see because it is such an outstanding facility, does not have registered nurses on site 24 hours a day. So I think it is really important to acknowledge that there are facilities running well without having registered nurses on site 24 hours a day. The key people are the residents. They are the people who need to be taken into account. As a registered nurse of 20 years standing I have never supported ratios. It needs to be based on the acuity—the acuity of the people who we are looking after.

If a facility requires a greater number of enrolled nurses or more speech therapy or diversional therapy, it should be staffed to meet those needs. It is important to remember that the patient or client is at the centre of that care. I feel very strongly about that, and I speak from experience. I worked for years as a clinical nurse specialist in palliative care. We were able to look after people who chose to die in facilities that did not have a registered nurse on duty for 24 hours a day, seven days a week. We could offer a specialised service to those people.

I wholeheartedly support the committee's recommendation 16, that the Government consider rolling out the telehealth model of care. The committee heard fantastic evidence from the Hunter New England Health Service about the telehealth service that it provides in facilities that do not have around-the-clock registered nursing care. Those facilities are able to manage well, using telehealth. That is a fantastic recommendation to come from the committee's inquiry.

Another important issue is education. Evidence tells us that if people can gain an education in the regions, through regional universities and places like the Cooma Universities Centre, they will stay in those regions to practice. I commend the committee's recommendation on that issue. It is important to acknowledge that there are really good people working in aged care. There are great people doing a very good job. We must acknowledge the excellent work they do. There will always be situations that are not ideal. It is not a perfect world. That is why we have an accreditation system, to ensure that the highest possible standards are maintained.

It was never the intention of the Coalition members of the committee to remove registered nurses from aged care facilities. Two of the three Coalition members on the committee are former registered nurses, and the Hon. Sarah Mitchell is the Parliamentary Secretary for Regional and Rural Health and Western NSW. It is clear that the committee had at heart the best interests of residents in aged care facilities. It was a privilege to work with the Hon. Natasha Maclaren-Jones and the Hon. Sarah Mitchell. We three Coalition women on the committee did a great job. I thank the chair, Ms Jan Barham, who did a tremendous job in sometimes difficult circumstances. I congratulate her on that.

The Hon. PAUL GREEN [6.12 p.m.]: I speak in debate on Report No. 32 of the General Purpose Standing Committee No. 3, entitled "Registered nurses in New South Wales nursing homes". From the outset, as a former registered nurse, I found this inquiry important, helpful and necessary. As a substitute member on the committee for Reverend the Hon. Fred Nile, my contribution came from one particular view—that is, if your beloved family member was on the receiving end of nursing care in a nursing home, what would you want the committee to recommend? The inquiry resulted in 17 recommendations. I will

focus on some of them. Recommendation 1 is:

> That the NSW Government:
>
> · establish a consistent and compatible collection and analysis of data regarding the transfer of residents from aged care facilities to emergency departments, including reasons for admissions, to determine if this represents a cost shifting, and
>
> · that this information be provided in New South Wales Health annual reports to identify if further action is required.

Recommendation 2 is:

> That the NSW Government review the requirements for Advance Care Directives to be recognised when residents are transferred from aged care facilities to hospitals, and determine whether a legislative framework is required.

Recommendation 4 is:

> That the NSW Government, through the Council of Australian Governments, urge the Commonwealth Government to establish minimum staffing ratios in aged care facilities.

Recommendation 5 is:

> That the New South Wales Government develop a Working with Older People and/or Vulnerable Adults Check, modelled on the Working with Children Check.

Reform in this area is vital. I am proud to be part of a separate inquiry that will look at elder abuse. Hopefully, that inquiry will make a similar recommendation. I hope that the Government will look at any relevant future findings from that inquiry and implement them. The most vital recommendation of the inquiry into nursing homes is recommendation 7:

> That the NSW Government:
>
> · retain the requirement in section 104(1)(a) of the Public Health Act 2010 for registered nurses to be on duty in nursing homes at all times, and
>
> · amend the definition of 'nursing home' under the Act to read:
>
> **nursing home** means a facility at which residential care (within the meaning of the Aged Care Act 1997 of the Commonwealth) is provided, being:
>
> (a) a facility at which that care is provided in relation to an allocated place (within the meaning of that Act) to a care recipient whose classification level:
>
> (i) includes the following domain categories or combinations of domain categories:
>
> (1) a high Activities of Daily Living (ADL) domain category; or
>
> (2) a high Complex Health Care (CHC) domain category; or
>
> (3) a domain category of medium or high in at least two of the three domain categories; or

(4) a high behaviour domain category and either an ADL domain category other than nil or a CHC domain category other than nil; or

(ii) is a high level resident respite care.

(b) a facility that belongs to a class of facilities prescribed by the regulations.

There are different levels of aged care. The committee is not saying that there should not be low-care facilities where people can look after themselves. However, in facilities where residents need a high level of care, a registered nurse should be employed. I am not making light of the inquiry; I use this commercial slogan in all seriousness: There is no substitute for quality. There is no substitute for a registered nurse who has spent almost three years at university studying anatomy, physiology, pharmacology, neurology, cardiology and every other "ology" that concerns human medicine. An assistant in nursing [AIN] or an enrolled nurse [EN], no matter how sincere, devoted or committed, cannot be a substitute for a registered nurse. I am not belittling the vital contribution made by AINs or ENs.

In fact, that was the path I took to becoming a registered nurse. After doing work experience and volunteer work, I became an enrolled nurse in aged care and palliative care. I spent a lot of time working in those fields. I then chose to do a diploma in registered nursing and went on to achieve a bachelor of nursing. I have been through the training for both roles, and they are very different. Having worked in an aged care facility with a registered nurse as a team leader, I can say that they play a vital role. I remember that, as an enrolled nurse, when something went wrong it was great to have someone around who knew more than the rest of the staff. A registered nurse has a broader range of knowledge about medication, and heart attacks and strokes, which are unfortunately part of the everyday experience of looking after people in aged care facilities. As an enrolled nurse it was always reassuring to know that someone was able to take on that level of care.

I cannot imagine what it would be like to work in an aged care facility where the highest level of training is enrolled nurse level. Enrolled nurses are capable of providing cardiopulmonary resuscitation, but aged care is about much more than that. It is important that someone is able to identify and administer medicines and make high-level nursing decisions to ensure that patients receive the best care. To not allow us to tend to elderly people in nursing homes is disrespectful to our elderly. They have paid taxes all their lives and we have a duty of care to ensure that they receive the best possible care. Some other recommendations—particularly recommendations 8 and 11—examined those issues.

Overall, the recommendations show that it was a good and necessary inquiry. The Hon. Walt Secord read some very sobering statistics that show our ageing population will become more challenging. We will need many more nurses to cover the number of people who require aged care health services. I do not believe the answer is in thinning out the State's number of registered nurses; rather, I believe we should embrace the role of registered nurses and ensure that we train more of them. As the Hon. Courtney Houssos suggested, we should adopt a team care approach to the provision of aged care services. We should not solely rely on the expertise of registered nurses but should look further afield to the services provided by allied health professionals, who contribute to the holistic care of patients or clients in aged care.

The provision of aged care services is much bigger than simply relying on registered nurses carrying out their roles. In aged care facilities, we must ensure that we have a complete team to look after some of the most vulnerable people in our community. As I noted earlier, many aged people have contributed to communities and have given their lives to playing their parts. The best way to respect them and look after them is to ensure that they receive the very best of care. Sadly, some businesses involved in the provision of aged care facilities and services try to solely pursue the bottom line of increasing profits. As a nurse, I worked in facilities that cut corners economically by reducing purchases of bed sheets, toothpaste and other materials that were necessary to looking after aged people—all because the reductions favoured the organisation's bottom line.

I would hate to see us revert to practices adopted in the bad old days when private facilities cut everything to make a buck. Aged care nursing has come a long way in recent years to become a very dignified profession that is characterised by the respectful treatment of patients and clients. I would hate to think that standards would slip simply because laws are changed to suit the profit objectives of those who wish to focus on the bottom line. After all, achieving improvements in the bottom line will not necessarily secure the wonderful and faithful care that elderly people need and deserve. The Christian Democratic Party commends the report to the House.

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

GENERAL PURPOSE STANDING COMMITTEE NO. 6

Report: Local Government in New South Wales

Debate resumed from 29 October 2015.

The Hon. PAUL GREEN [6.22 p.m.]: I will not take up too much of the time of the House. I note that I made a fairly lengthy statement when I tabled the report, which was virtually my speech as chair of the committee. However, I wish to respond to a couple of comments that have been made since the report was published. Unfortunately, the Government went out hard against the report and basically said that it was flawed. However, people from the other side of politics said that it is a magnificent report—so I prefer to accept that appraisal!

The Hon. Adam Searle: Take the plaudits when you can, Paul.

The Hon. PAUL GREEN: I think it is a magnificent report. I commend all members who were involved in its formulation. The inquiry was wideranging and challenging as it involved dealing with numerous local government authorities throughout the State. I take this opportunity to express my great disappointment in the Minister for Local Government's comment that the report is about jacking up rates. If the Minister is serious about mums, dads and seniors right throughout local government areas not having to put their hands in their pockets and dig a little deeper to produce the next dollar for local government, he would attempt to stop the State and Federal governments from their terrible costs-shifting, which impacts so severely on local government, and provide the right funding for local government areas.

The Chair of the Independent Local Government Review Panel, Professor Graham Sansom, suggests that the Government should take all his recommendations into consideration because doing so would probably result in fewer amalgamations. The bottom line is that we should fix the funding first. That is the cry of local government authorities across New South Wales. If we did so, we would not have the situation that currently exists whereby the Government is complaining about losing a million dollars a day and about local government being out of touch as well as out of the reach of communities' expectations. I state for the record that local government does a fantastic job across New South Wales under ever-expanding expectations, and that many of them are doing their very best.

I also state for the record how sad it is to receive calls from mayors who feel as though services to their communities are being lost on their watch—local mayors who are committed to their communities and who represent communities with a heritage and a history of being represented by local government authorities. Those mayors represent communities which like the mayors and what they do in providing services to the community. Their communities feel that the Government's heavy-handed approach is taking the vocal out of local in favour of a State voice. It is very disappointing that we have reached that stage. It was only a few short years ago that Labor was being bagged for taking the vocal out of local. Now we are back to square one, except that it is the current Coalition Government that is taking the vocal

out of local.

I believe that the report is even-handed. Government members were very helpful throughout the process, even though some dissensions were recorded, which is not surprising considering the Government's current position. I thank all members of the committee for the manner in which they handled the inquiry. I also thank the committee staff who contributed to the compilation of the report.

The Hon. Niall Blair: Name them.

The Hon. PAUL GREEN: John Miller was fantastic in leading the team. Madeleine Foley and the whole team were an absolute delight to work with, as usual. While I commend the report to the House, I go further: This Government needs a bit of heart when addressing local government reform. A lot of local government authorities intend to resist reform, continue to stand alone, and become the last bastions of local government in rural and regional areas of New South Wales. I urge the Government to take the time to listen to their concerns and ensure it does not rub out small rural councils for the sake of implementing economic rationalism. It has to be more than that. It has to be about the right reform for the right time and for the right reasons. The Christian Democratic Party commends the report to the House.

The Hon. BEN FRANKLIN [6.27 p.m.]: This was a good inquiry. On the whole, it was respectful, productive and conducted in a professional manner, which once again stands testament to the chairmanship of the Hon. Paul Green. The report contains some valuable recommendations that were unanimously agreed upon by the members of the committee. For example, there was significant agreement on issues surrounding financial assistance grants in recommendations 4 and 5. Recommendation 4 states:

> That the Minister for Local Government work cooperatively with the NSW local government sector to petition the Australian Government to reverse its decision to freeze the indexation of Financial Assistance Grants.

Recommendation 5 states:

> That the Minister for Local Government work cooperatively with the local government sector to petition the Australian Government to seek to redistribute Financial Assistance Grants in order to direct additional funding to councils with the greatest needs …

They are sensible and good recommendations. I also note recommendation 14, which states:

> That the NSW Government seek to amend the Local Government Act 1993 to increase to two years the period a mayor elected by the councillors is to hold office.

That is sensible reform and is heartily supported. However, one could be forgiven for thinking that there was overwhelming opposition to some issues such as the benefits of amalgamation, the need for reform and the 4½ year process of consultation. That simply was not the case. We heard a range of views on all these issues and some very compelling evidence was presented in support of each of them. That is why Government members issued a dissenting report. Apart from the range of views, we also heard that New South Wales has 152 councils and that many of the boundaries were set over 100 years ago, with very few boundary changes since that time. In New South Wales this failure to adapt has meant increasingly insular structures, excessive duplication and a fundamentally inefficient system.

There is consensus from local government representatives across the State that reform is needed in the sector and it is clear to Government members—and to most members, I think—that inaction is not an option. This process started in 2011 with then Minister Don Page inviting all mayors and general managers from every council in New South Wales to the Destination 2036 local government conference in Dubbo. Every council was represented at the conference to discuss its long-term future. The gathering

was an excellent one and it considered how communities, economies and technologies might change over the next quarter century and how the local government sector might change to meet these challenges.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 6 to 8 postponed on motion by the Hon. Duncan Gay and set down as an order of the day for a later hour.

RETAIL TRADING AMENDMENT BILL 2015

Second Reading

Debate resumed from 21 October 2015.

The Hon. ADAM SEARLE (Leader of the Opposition) [6.31 p.m.]: I lead for the Labor Opposition in this debate on the Retail Trading Amendment Bill 2015 and I indicate that the Labor Opposition will be resolutely opposing the measures in this bill.

The Hon. Dr Peter Phelps: You're no fun, Adam.

The Hon. ADAM SEARLE: You would be disappointed if it was otherwise, Peter. The measures in this bill are unnecessary and unwarranted. They do not make social sense and they are not economically necessary. The fact is that in a full year of 365 days there are 4½ days with restrictions on trading in New South Wales. The proposal in this bill is to permit trading to the public on Boxing Day as contained in proposed section 8A. This provision will allow all shops across New South Wales to trade to the public on Boxing Day. But the really insidious measure is that it will also allow those shops to require tens of thousands of retail workers to work on Christmas Day, Good Friday, Easter Sunday and before 1.00 p.m. on Anzac Day rather than spending time with their families or at community gatherings. Proposed section 8A provides:

> (1) A shop is not required to be kept closed on a restricted trading day if:
>
> (a) the only business activities carried on at the shop on that day are receiving, unpacking or preparing goods for sale, and
>
> (b) the business activities are carried on only by persons who have freely elected to work on that day.

While proposed section 8B talks about trading to the public on Boxing Day, proposed section 8A allows shops and employers to operate their businesses for the purpose of receiving goods and packing shelves on each of the other restricted days of the year. The measures in this bill are much more pervasive and serious than mere Boxing Day trade. To characterise this bill as relating to Boxing Day trading is misleading as it is only part of the full story. Importantly, the bill provides no new protections for retail workers who do not want to work on Boxing Day and on the other restricted days.

The fact is that the term "freely elected to work" merely consolidates existing provisions in the legislation as it currently stands–in particular, in section 7 (2) and (4), section 13 (1) and (2) and section 14 (1) and (2). It recombines and re-articulates those provisions but effectively merely replicates the

current law. The bill is of course proposed by the political forces representing employers in this State and it does not address the problems faced by workers in insecure employment—that is, those who are underemployed. Many workers, particularly in the retail sector—casuals and part-time workers—do not have sufficient security of employment to resist requests to work. They feel compelled to work and will therefore surrender their family time. Of course, such workers will then not complain to the department and request prosecution of their employers.

It is worth noting that retail workers in this State and workers in the banking and finance sectors are regulated now by Federal instruments—that is, Federal law and awards. In particular, in relation to the finance and banking sectors it is clear that sections in a lot of industrial instruments deprive the workforce of any meaningful legal right to resist requests to perform work. They simply do not have those rights under the Fair Work Act. The only protection they have to resist working on currently protected days is provided under State law based on whether or not shops can trade or operate. The fact is there is no way of providing additional protections for these workers other than to say whether shops can operate on these days. It is pretty much an open-and-shut case. No attempt to window dress or soft soap amendments or to add trimmings around the edges will address this key point. This bill contains no new protections for workers and the one protection that exists under State law is being removed.

The bill before the House does not increase any of the maximum penalties. It should be remembered that although the penalty for breaching the Act is a maximum of $11,000, to date, the one and only prosecution for illegal trading under the Act has resulted in a fine of $500 for JB Hi-Fi. JB Hi-Fi would have made that amount within the first 10 minutes of its doors swinging open, so it is clear the penalties that exist as a deterrent are not a deterrent. The penalty for breaching an exemption under the existing Act is not $11,000 but $5,500 or 50 penalty units. The legislation will result in retail workers and their families losing valuable shared time and community time while not delivering any economic benefit, and this comes at a time when the retail sector in this State is performing extremely well.

An important issue about Christmas Day and Boxing Day—the two days together—is that for many people these are days of high religious and community significance. This bill is not only about Boxing Day trading to the wider public because it will result in the shops which wish to engage in Boxing Day sales also operating on Christmas Day. Putting aside the question of religious sensibilities, many people in our community rely on the break of two consecutive days to meaningfully reconnect with their families. They are days when people can spend time with family and friends. This issue takes on a sharper meaning when we look at blended families where children have to divide time between parents. In a way that is simply unwarranted, either economically or socially, this bill seriously undercuts the capacity for families to share their time meaningfully.

A case has not been made for these changes. These changes were pursued by the current Government in 2012 and they were articulated ahead of the election in March. But for those opposite it is not about economics; it is simply about ideology. They cannot bear the idea that the Parliament would intervene in a market to regulate when people can work and when they can have personal family and community time. As I indicated at the outset of my contribution, in the 365 days of a year a mere 4½ days are protected, and now the protection of one of those days is to be removed to permit trading to the public. In fact, the protection of all of those days is being removed. We should not be surprised, because the current Prime Minister has recently spoken about how we now live in a 24/7 economy. Implicit in such a statement is that there should be no distinction between night and day or one day and the next, whether it is a weekday or a weekend.

I have not seen too many grand finals being played in the middle of the week, and anyone who has been to a hospital will note that on weekends the activity seriously winds down; many doctors and other professionals are simply not available on the weekends. Weekend time is very significant in our community and so are Christmas Day, Boxing Day and the other restricted days. In his contribution, the Leader of the Government in this place made a number of claims about the bill that simply do not withstand scrutiny. The Minister said that the current retail trading regime is complex, inconsistent,

inefficient and administratively burdensome. It is no such thing. When the Act was passed in 2008, it preserved all existing exemptions to trade and it had clear expectations that shops would otherwise continue to be closed on the restricted trading days. It also established a relatively simple and clear process where shops could apply for an exemption to trade, but only if they could show exceptional circumstances that it was in the public interest for them to trade.

Most applications for exemptions have failed, not because of complexity, inconsistency or administrative burdens but because the applicants failed to show any exceptional circumstances as to why they should trade on the special days and because it was not in the public interest to allow them to trade. The retail sector clearly does not like the regime, but the reason advanced by the Government is simply wrong. Another claim was that restricted trading days are stifling growth in this State. With the current laws in place, according to the most recent Australian Bureau of Statistics retail figures, the New South Wales retail industry has recorded the second-highest increase in retail turnover of all the States and Territories. There are three jurisdictions in Australia with absolutely no retail restrictions—Tasmania, the Australian Capital Territory and the Northern Territory. With the very limited retail trading restrictions in this State, New South Wales has outperformed each of those jurisdictions over the past 12 months and in a more recent time frame.

There is no clear case of an economic benefit to the economy resulting from these changes. For example, the McKell Institute report of May 2012, entitled "Does our spending increase? The relationship between trading restrictions and retail turnover" looked at the different approaches taken in Victoria to Easter Sunday retail trading, which has changed several times over the past few decades. The very detailed analysis from the McKell Institute shows that the extension of trading hours does not result in a net overall increase in retail turnover. Rather, and perhaps unsurprisingly, it finds that the community has a limited amount of money to spend. Those who spend in the post-Christmas sales will do so whenever the shops are open.

The detailed economic analysis showed that there was no correlation between extended trading and additional retail turnover. Consumer spending that occurred on previously restricted days was simply the result of purchases that would have taken place on a regular trading day. Retail turnover overall is driven by consumer spending capacity only, and that spending will occur when the shops are open. New South Wales has already deregulated hours compared with other States. Of the mainland States, only Victoria allows two more days trading to occur on public holidays. So there is no real economic case for the measures in this bill, but there is a very compelling and social case to maintain the status quo.

The Government also made the claim that these changes make just as much sense for workers, particularly casual employees, to have the opportunity to earn more money as it does for them to choose to spend the day with their family and friends. The invocation of choice was paraded as a virtue in these circumstances. There are at least two flaws in that analysis. First, the claim that a casual employee would earn more money considers the day in isolation compared with the work allocated to employees over the December-January period generally. The fact is that wages budgets of retail shops are set as a percentage of sales. While opening on Boxing Day could conceivably increase the sales for that week or that day, overall it may not help the sales for the month.

If we are going to move to a Boxing Day sale as opposed to a sale on 27 December, it is just bringing forward the turnover that would occur a day later. Sales made later in the week or in the month are merely transferred to Boxing Day. The overall sales do not increase for the month, which means there is no net increase in wages spending by that store. If a casual employee picks up an additional shift on Boxing Day or packing shelves on Christmas Day, they will lose that income in later shifts. For the retail workforce there will not be an overall net income increase.

The second canard is this notion of choice. As I indicated earlier, there is no real choice for workers who are in insecure employment or even for part-time employees who might be underemployed but need their job. Workers in insecure work feel, at least indirectly, the pressure to work when their

employer makes a request. They have no meaningful or real industrial right to resist a request. Employers do not have to use coercion. Casual workers, fractional workers, know that if they are not convenient to the employer's needs, when future rosters are made up and the worker needs additional shifts to meet the needs of their family, their concerns and considerations will go to the bottom of the pile. The mere economic relationship is the coercion and the pressure. The employer does not need to be overbearing or to do anything that would transgress the law; the situation itself will coerce vulnerable workers to agree, not just to working on Boxing Day but to packing shelves on Christmas Day and on the other days should the employer choose to receive goods on those days. I will deal at length with that issue later. Under the individual flexibility arrangements that are in place for workers in the Commonwealth Bank of Australia there are provisions that state:

> You will work such hours as are reasonably necessary. We will inform you of the hours we need you to work from time to time and these may change with our business needs. The base remuneration we pay you incorporates a component to compensate you for any additional hours you may work. You may from time to time be required to work on a public holiday.

It is estimated that this kind of employment arrangement covers up to 90 per cent of Commonwealth Bank staff. This provision in a Federal industrial instrument deprives workers of any capacity to resist a request from an employer to work on public holidays. They have lost that right in the Federal instrument and the only thing protecting them is the State law that determines whether or not shops operate. So the notion at the heart of this bill—that the protection will be that workers must freely elect to work—is complete and utter nonsense. It is a Trojan Horse; it is a fig leaf to make some members feel okay about selling-out the work force and families in this State.

We do not live in a 24/7 economy. Privileged parts of the community protect their weekends and their public holidays. If this bill receives assent it will be akin to saying it is okay for retail workers and for those who work in the banking and finance sector to lose their rights. There has to be a dividing line between economic life and our role as workers, and personal family and community life. At the moment that dividing line is only 4½ days. For historical reasons in Sydney city, in Broadway and in other locations some so-called tourist areas have been freed from that restriction. Some people are saying it is unfair that people can shop in the city but they cannot shop in Western Sydney. It is okay to go shopping in Shellharbour but people cannot shop in Wollongong. Those restricted areas have existed for a long time and people who want to shop will have easy access to those places.

It is an important protection because as only limited retail outlets operate at the moment there is a reasonable degree of surety that the people who work in those locations on those days have volunteered to work. Many shops form part of a chain so when there is limited trading on those days they are able to look for volunteers apart from their existing workforce from the wider metropolitan area. If there are no restrictions across the State those shops that form part of a chain will not be looking for a handful of volunteers to work in these locations; they will have to rely on their regular workforce. It means that even though some employers or shops may want to employ only volunteers they will have to use employees who are not true volunteers as they will need a sufficient number of staff to operate. That is one of the vices in this bill.

It has been claimed that if any store wishes to open on Boxing Day it will be conditional on staff freely electing to work without coercion or threats. As I indicated earlier coercion is not needed. Voluntary work protection is not new—it exists already in sections 7, 13 and 14. However, the real life experience of workers is different; they have no ability to resist as the Federal instruments remove whatever autonomy they have. The issue relating to the exposure to penalties is laughable. The penalties, whether we are talking about $5,500 or 50 penalty units for a breach of an exemption condition, or the $11,000 penalty that also applies, are relatively low compared to the massive profits that retail chains stand to make from trading, and that is just the trading turnover they currently have. As I said earlier, the only fine that has been handed out so far has been $500 to JB Hi-Fi. The risk of being caught or prosecuted is low and the fine is not a disincentive when one looks at the profits that retail chains make.

The Government says that it does not expect to be overwhelmed by complaints, which is an obvious point. Employers will not need to coerce their workforces as the insecurity of their employment will dictate that they have to acquiesce to requests. As well, the Federal instruments under which they work deprive them of any ability to resist in the first place. There will be no capacity to complain because on the surface they will have agreed, so there will be no basis for any prosecution. The Government said that it will not remove restrictions on retail trading around other public holidays—Christmas Day, Easter Sunday, Good Friday or Anzac Day morning. The Minister said that this was an ironclad guarantee. With due respect to the Minister, he did not read proposed section 8A, which provides that on each of these days shops can operate for the purposes of receiving goods and having their shelves stacked.

The restriction that the bill provides for trading to the public applies only to Boxing Day, but preparing a shop for trade will now apply across the board. The bill changes the definition of "retail trading" and in so doing removes restrictions on people having to work behind closed doors filling shelves on Christmas Day, Good Friday, Easter Sunday and before 1.00 p.m. on Anzac Day. Proposed section 8A expressly permits work on each of these days. The question is whether the Government really thinks that the loss of family time or the chance of attending a religious service is any less because someone is in a shop with closed doors packing shelves rather than serving the public.

These are significant community and family days but the notion in the bill of freely electing to work is completely illusory and the legislation rips away all the protections for thousands of retail workers and those working in banking and finance. This bill does not measure up to the claims advanced by the Government. It should be rejected to preserve the limited guaranteed family and community time that workers in the retail, banking and finance sectors currently enjoy. A complete social downside will be created by this legislation and there is no economic upside. This is a blind ideological move by the Government because it hates any regulation of industry.

While much of this legislation focuses on general shops and retail, the effects on people working in banking and finance will be worse. More than 175,000 finance workers in this State are at risk of losing this important time with their families. Those workers are predominantly low-paid women, many working part time, which is true also for retail workers. The bill will open bank branches on weekends without the current rights of consultation that workers have. It will open bank branches on all public holidays other than those restricted days, which will cut bank workers public holidays to 3½ days a year. It removes the right to the August bank holiday as well as to the Boxing Day public holiday—a significant additional blow to workers in banking and finance. It is a significant backwards step for workers and is not one that has received much consideration.

Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.

The House continued to sit.

In proposed section 14CA the Government rests on the "freely elect to work" requirement that is said to afford protection. As I indicated earlier, industrial instruments in the banking and finance sector provide individual flexibility arrangements that mean that workers are not really able to resist, as a catch-all provision will ensure that they work essentially as needed and as notified, including on public holidays. So the only protection they have is whether under State law shops, including banks or financial outlets, are allowed to operate.

These workers, just like retail workers, will have limited or no bargaining power and what little protection they currently have will be removed. We are taking away a holiday entitlement from workers who are employed by some of the biggest and most powerful institutions and the big four banks combined are now on track to making profits of in excess of around $30 billion this year. We are removing what few protections their workforces currently have by removing the Boxing Day public holiday and also the

August bank holiday.

[*The Deputy-President (The Hon. Trevor Khan) left the chair at 7.01 p.m. The House resumed at 8.00 p.m.*]

The Hon. ADAM SEARLE (Leader of the Opposition) [8.00 p.m.]: Another group that will be significantly disadvantaged by this legislation is small businesses, many of which involve family members and few or no staff outside the family circle. These people welcome the Christmas Day/Boxing Day contiguous holiday, and for many it is the only break they get during the working year. Given that their competitors would open their businesses, many would feel the economic pressure also to open even though that would not be their preference. Of course, if their business is in a shopping centre, the terms of their commercial lease might compel them to open their doors if the centre is open. Again, any freedom of choice that might be said to rest with them would be removed by economic forces beyond their control. There is no discernible public pressure in favour of these reforms. As I indicated, this legislation is a product of the Government's ideology and, of course, the retail sector supports it. The Opposition believes that the benefits business operators think will result from these changes are more imagined than real. In fact, these changes are significantly retrograde.

Although some people in the wider community simply want to have the Christmas Day/Boxing Day holidays, for many those days are culturally and religiously significant. Many religious leaders have written to members of this Chamber requesting that we oppose this legislation. Those representations have come from the Most Reverend Anthony Fisher, the Catholic Archbishop of Sydney; the Most Reverend Peter Comensoli, the Bishop of Broken Bay; and Keith Hamilton, writing as the senior minister and group chief executive officer of Parramatta Mission. The Most Reverend Glenn Davies, representing a range of religious institutions, and Family Voice have also written to inform members of their strong opposition to a reduction in the number of restricted retail trading days in New South Wales.

Members should be careful about accepting the Government's urgings to support this legislation. Members of the Opposition know what happens when a political party identified very strongly with certain significant core values and beliefs is publicly recognised as transgressing or trashing them. It was not long ago that the Australian Democrats disappeared from our political landscape in the wake of the breach of their election campaign promise that there would be no GST. The enabling legislation was passed as a result of a deal they did with the Government of the day that there would be no GST on books, and they were duly consigned to the dustbin of history.

A number of us in this Chamber—members of the Labor Party, The Greens, the Christian Democratic Party and, I believe, the Shooters and Fishers Party—campaigned unambiguously on a platform of protecting the existing restricted trading days in this State, including Boxing Day, Christmas Day, Good Friday, Easter Monday and the half-day holiday on Anzac Day. For any of those members—having sought election and having been elected to this place on a platform that included protecting the Christmas Day and Boxing Day public holidays—to abandon that commitment, with whatever protections and compromises may be said to soften the blow, would be very poorly received by those who voted for them on that basis. I urge all members whose election commitments included protecting the Christmas Day and Boxing Day public holidays to think very carefully before voting in favour of the second reading of this bill.

As I indicated, a number of religious leaders have written to members of this House sharing their concerns. I will read a couple of those letters onto the record, and a subsequent Opposition speaker will seek leave to have the rest of the correspondence incorporated in *Hansard*. I understand there will be no objection to that course of action. In this modern era we have the technology to be able to do that. The Most Reverend Anthony Fisher, the Catholic Archbishop of Sydney states:

> The proposed changes would mean retail stores could open for trade on a number of significant Christian holidays.

> ... In particular I would like to echo the letters you have received from Archbishop Glenn Davies and Bishop Peter Comensoli. For many Australians the days affected by a lifting of restrictions are days where they would normally fulfil religious obligations, such as Christmas, Good Friday and Easter Sunday. They are also important family occasions. I am concerned that changes to the legislation would send the message that commerce is more important than religious observance and family time, and would effectively coerce workers to give up the little time still reserved in our community for such purposes.
>
> I respectfully encourage you to oppose any changes to the legislation in light of the impacts on families and religious observances.

The Most Reverend Peter Comensoli states:

> As a pastor, my hope is that all Christians will be free from any pressure or coercion to work on days which, for them, constitute celebrations that carry both a religious obligation and the opportunity to share joyfully with family and loved ones, and I highlight the relevant days in this case, being Christmas Day, Good Friday and Easter Sunday. In addition, Boxing Day has become an extension of family Christmas celebrations for many in Australia and is also owed legal provisions for its protection and care.

Keith Hamilton, writing as group chief executive officer of Parramatta Mission, also indicated his concern that these changes would have an adverse impact on families and communities in this State and called on the Parliament to reject the legislation. He states:

> I believe that allowing retailers to open on culturally significant days such as Boxing Day and Easter Day is out of step with the needs and views of the community at large.
>
> All families and communities should be able to celebrate culturally significant days. With just four and a half days exempt from trading throughout the year, any expansion in retail trading days is unnecessary and would have an adverse effect on our social fabric. Where once Christmas to Australia Day was a summer 'Sabbath' now is Christmas-New Year, so that making Boxing Day a retail trading day will further reduce this important 'down time' for the Australian community.
>
> Family and community time is important. Men and women should not be considered as a resource for the creation of goods and services; all people are created in the image of God with inherent worth.

Members have received a number of letters in this vein. One does not need to be religious to understand that for many in our community it is important to have the Christmas Day and Boxing Day public holidays together. They should be protected so that shops do not open in most parts of the State. People need this important downtime to regenerate and to refresh themselves for the year ahead. For many it is the only time they have during the year when they can meaningfully reconnect with their family, friends and communities. It is difficult for blended families when children have to spend time with different parents. At the moment sometimes they will go to one parent on Christmas Day and the other parent on Boxing Day. If those parents or the children are required to work on Christmas Day or Boxing Day they will not have those two consecutive days to be with family. It would be a sad day if this Parliament passed a piece of legislation that was, at its very core and essence, anti-family and anti-community. Sadly, that is what this bill is.

Even the proposed amendments that have now been lodged with the Clerks, although they may be well-intentioned, will not afford the protection they seek to give, because by focusing on freely electing to work and on penalties for breaches, they ignore the economic reality that these vulnerable workers do not have real choice. That is because their economic position, their vulnerable worker status being casual

or part-time for the most part, and the Federal legal instruments that govern that work, effectively deprive them of a meaningful basis to resist a request from an employer. The employer does not need to coerce or to be overbearing; the mere request itself, the economic situation and the legal reality will create a situation where workers do not have a choice, and a request effectively becomes a direction. That is not the direction in which this State should be moving.

The current balance where some major centres such as the Sydney central business district and other tourist areas are permitted to trade on Boxing Day is well accepted by the broader community. There is no-one marching in the streets demanding that workers be able to be required to work packing shelves on Christmas Day and the other restricted days. People are not marching in Macquarie Street outside Parliament House demanding that the sales which occur on 27 December must be brought forward to 26 December. It is simply an illusion. This is simply an ideological agenda being driven by the Government parties, and as far as I can see the other parties, who all sought and obtained election to this Chamber in March on a platform of protecting these restricted days and of keeping the status quo, should fulfil their electoral commitment and not transgress these core values on which we all sought election and obtained it.

The Hon. GREG PEARCE [8.12 p.m.]: I do not propose to repeat the details of the legislation but I want to make a few comments about the broader context. As honourable members will recall, in this Government's first term as the Minister for Finance and Services I had responsibility for industrial relations and brought in very similar legislation. I must say at the outset that I absolutely respect the views of those who have trouble with this sort of change and reform; I know that they are genuine. I had the opportunity to talk to various people about the need for these sorts of changes both in the broader world economic context in which we find ourselves at the moment and also at a local level. Mr Deputy-President, I know that I had the opportunity to have some very fruitful discussions with you in relation to this legislation. At the time it was decided not to proceed with the legislation.

Since then we have seen developments and the need to ensure that our people have the best opportunity that they possibly can be given in a very challenging world. Make no mistake about it, it is becoming more challenging; not less so. We have to address multiple issues and problems and I think it is absolutely important that we do so on a very respectful basis, where we are able to discuss the issues and not characterise them—I disagree with the Hon. Adam Searle on this matter—as ideological issues. From where I sit, having introduced this type of legislation before, it was never an ideological issue. I was trying to ensure that the people of this State get the best opportunity to enjoy the things that we can do in New South Wales, but it is also about making sure they have jobs and that we have a strong economy and, from a State Government point of view, a very strong budget.

We are seeing now a much more sophisticated debate at the Federal level in relation to reform. The Prime Minister said the reform is intended to ensure that overall the people of Australia, and in particular New South Wales, are better off and have jobs and, I would add, have opportunity. That is what this debate is all about. In the modern world our economy has to be flexible and has to recognise the issues of the twenty-first century, particularly the digital economy. We have to deal with our strengths and the changes in them. Three or four years ago we were still in the midst of the mining boom. We were doing brilliantly with our exports but we now have a situation where our population continues to grow, our State and Federal budgets are in considerable trouble, and we need to recalibrate how our economy works, and what sorts of businesses and opportunities are available.

We are strong but we need to move into areas such as tourism, services and the digital economy. Each of those areas requires absolute 24/7 flexibility to be competitive and productive in the modern world. It is also a time when some of the organisations we expected to protect, look after and promote vulnerable workers, are under considerable challenge through their own performance. In particular, the unions, their reputations—

Mr David Shoebridge: Not only unions—

The Hon. GREG PEARCE: I am a very strong supporter of the union movement. I think that they play a very strong role. But at a time when our economic circumstances have changed, when productivity is so important, when we are going through an enormous level of change, frankly people are being let down by some of the people they should have been able to rely on to support them. I am putting the unions in that category. We have also seen how some of the practices of the past are being challenged because of all of those issues I have already mentioned. One example is the electricity distribution and networks businesses. I do not want to reopen that debate but no-one can deny the changes that have been brought about by the decisions of the regulators to require considerable tightening up of work practices and costs in those industries for the benefit of the rest of the community.

I was aware that it would happen but I found it very difficult to come to terms with the need to have 2,500 or more jobs taken out in the networks companies. It is absolutely essential for the viability of those industries and the community's needs but it was not easy by any stretch of the imagination and it is not an ideological decision; it is purely driven by what is in the best interests of the community. I would like to see the network companies putting a bit more effort than we have seen so far into negotiating solutions to those problems—and I will probably get into trouble about that. I think we need to spend a bit more time working in that space, but we will not go there because this is not a debate about the electricity industry.

I congratulate members for having another look at this issue. It is absolutely driven by the factors that are affecting Australia at the moment: the increasing population, the slowdown in business, our trade position, the oversupply in some categories of workers and professions, our government budgetary position, the digital changes that we are facing, lower productivity and—I think this is really important—lower real wages. I do not believe in cutting the cake into much smaller pieces; I believe in making the cake bigger. That is how you get more for everybody. That is not ideological; it is simply about how you deal with some of the problems and opportunities. One way is to adopt these sensible changes with the qualification that no-one will be forced to work and no-one will be forced to do things they do not want to do. Give us the opportunity to grow the opportunities that we have in Sydney and New South Wales. Let us get rid of the silly situation where people in some parts of the State are able to work and do business while those in other parts cannot. This is a great opportunity and I hope that the majority of members will support the bill.

Mr DAVID SHOEBRIDGE [8.21 p.m.]: On behalf of The Greens I state our clear and unambiguous opposition to the Retail Trading Amendment Bill 2015, which is an attack on public holidays, an attack on vulnerable workers in this State and clearly an ideological attack on the concept of public holidays in New South Wales. The objects of this bill are as follows:

> (a) to allow a shop or bank to be open on Boxing Day provided that the shop or bank is staffed only by persons who have freely elected to work on Boxing Day …

We will come to the concept of "free election" in due course. The objects continue:

> (b) to allow a shop to receive, unpack and prepare goods for sale on any restricted trading day—

that basically means 365 days a year—

> provided that the shop is staffed only by persons who have freely elected to work on that day, and
>
> (c) to allow a bank to be open on the Bank Holiday (the first Monday in August) and on other public holidays (other than on Good Friday, Easter Sunday, before 1 pm on Anzac Day and on Christmas Day), provided that the bank is staffed only by persons who—

the Government says—

> have freely elected to work on that day, without obtaining approval under the *Retail Trading Act 2008* (the ***principal Act***).

Essentially, this bill proposes to degrade the status of Boxing Day as a public holiday. Currently there are only 4½ days in the entire year—4½ days out of the 365 days in the calendar—when retail traders are guaranteed the opportunity to have time with their family and friends. Those 4½ days are Good Friday, Easter Sunday, Christmas Day, Boxing Day and half of Anzac Day. That is all that retail workers are guaranteed. And this Government thinks 4½ days is one too many and wants to take one away. How appallingly mean spirited that proposal is.

The Governments says it is not ideological. The Hon. Greg Pearce said this is not ideological. Yet the only rationale to take away one of 4½ guaranteed days off that retail workers have is some unverifiable—indeed, false—economic case as well as some mantra that has been sold to the Government by the Shopping Centre Council of Australia that somehow if it adds an additional day of consumption it is going to expand economic activity. We know from the modelling that has been done by the Australia Institute and that has been considered by the Shop, Distributive and Allied Employees' Association [SDA] and others—modelling that has not been contested by any economic modelling presented by the Government—that there will not be any additional economic growth or any additional wages for low-income workers.

The existing consumption and the existing work that is available to the often low-wage, casual, female workforce in the retail industry will simply be spread over an additional day. There will not be a single additional dollar in anyone's pocket, yet retail workers will lose that crucial day with their families. The Government claims that a person will be required to work only if they have, in the words of the bill, "freely elected to work". But of course there are no new protections for voluntary workers and new section 3A proposes a very shallow definition of "freely elected to work". It states:

> For the purposes of this Act, a person has not freely elected to work on a day:
>
> (a) if the person works on the day because the person has been coerced, harassed, threatened or intimidated by or on behalf of the occupier of the shop or on behalf of the bank, or
>
> (b) merely because the person is rostered, or required by the terms of an industrial instrument, to work on that day.

I note that the Christian Democratic Party has circulated some amendments that seek to change that definition marginally and to include what purport to be some additional protections about threats of coercion, harassment or intimidation. But, as the Hon. Adam Searle said in his contribution, the idea that a casual, low-wage retail worker is going to have anything like an honest, free, genuine engagement with a large retail store—or even with a small retail store, but particularly with some of the big retailers such as Woolworths, Coles, large department stores or large chain stores—is not realistic.

An individual worker, facing the pressure of insecure work and an insufficient income, will be told, "We are not going to be opening late the Wednesday before Christmas and we are not going to be opening late the week after, so you are going to lose that overtime. Instead we are going to open up on Boxing Day. Now you freely elect to work on Boxing Day, don't you, Madam? You freely elect, don't you?" That worker is in no position to say no. That worker has no economic power. That worker will have no legislative protections because this Government—it appears with the active support of the Christian Democratic Party—is taking away their genuine right to say no. Retail workers only have the right to say no if we shut the store on 4½ days in the year and we give them the absolute right to spend that time with

their families and friends. They can spend those 4½ days with their friends and families—maybe go to the beach. But this Government wants to take away one of those days.

That definition proposed in new section 3A, even with the marginal improvements proposed in the Christian Democratic Party amendments—which have just been circulated, I might add—fails to recognise just how many workers will feel pressured and compelled to work and that that work will not be voluntary. As the SDA has said quite rightly, whether it is the casual or part-time employee, the young, new employee, the older employee who has secured a job they hope will see them through to retirement, the single parent or the parent whose partner is in insecure work, each of them is vulnerable. They are concerned about extra shifts that may not be offered to them in future if they refuse to work on a restricted trading day that they would rather spend with their family. They are not truly electing to work.

The fact is that in those workplaces when a boss says to a worker, "We want you to work on this day," there is almost no economic capacity—and at the end of the day that is what really drives this relationship—for the worker to say no. Even if the boss grudgingly says, "All right then, you're not going to work", we know that when the next opportunity for overtime comes around or the next fortuitous rostering happens that worker will face the real prospect of being downgraded by the employer. That worker might not get the overtime opportunity and they might get the bad roster outcome because they are not seen as being as dependable as the other eight workers who "volunteered"—so-called—to turn up on a restricted trading day. That is the economic reality. No matter how many words Government members want to wrap around the definition of "voluntary" to change its meaning in this Chamber it will not change the economic reality on the ground in retail workplaces. The work done will not be voluntary.

New section 8A will allow all shops in New South Wales to be open on Christmas Day, Boxing Day, Good Friday, Easter Sunday and before 1.00 p.m. on Anzac Day for the purpose of preparation of goods—that means stacking shelves and the like. Why do those workers not get Christmas off? Are they somehow less valuable than other workers and so they do not deserve Good Friday and Easter Sunday off? Are we grading workers and saying that the ones who stack the shelves and get the shop ready do not deserve public holidays? We are only talking about 4½ days a year.

Since when have we become such slaves to the market that 4½ days off a year is too many for this Government and the economic interests behind it that want to turn us into little economic units with no social life and no independent value outside the economic value we produce for our employers? Since when have we degraded ourselves so much that we are even contemplating this bill? It is a shame that crossbench members in this House are joining with the Government to live Margaret Thatcher's mantra that there is no society, we are all just individual economic units. Since when have we degraded the concept of public good to such an extent that we are contemplating taking away one of the 4½ days guaranteed time off that retail workers have?

New section 8B will remove any trading exemption for shops on Boxing Day. As I have said, that will mean thousands of workers across the State will be forced to give up a much-needed public holiday that gives them a much-needed break to spend much-needed time with their families. Let us consider what Boxing Day has increasingly come to mean for families and working people. Many families attend multiple events over Christmas. For example, married couples will spend Christmas Day with the family of one partner and celebrate Christmas on Boxing Day with the family of the other partner. Unmarried couples also recognise that they need to spend time with both sides of the family over the Christmas break. Couples can do that only if they have Christmas Day and Boxing Day off work.

In many families the parents have split up and the children need time over Christmas to see both mum and dad. Unless the parents have two days off some kids will not see one half of their family because they will not have that extra day to go to see dad or mum. They will have to elect to spend Christmas one year with one side of the family and the next Christmas with the other side of the family. People who live outside Sydney but have family in Sydney or in another centre will not be free to travel on Boxing Day to spend time with their families either. This is a deeply anti-family bill and a deeply anti-family

proposal. You would think the political parties that say they will stand up for the family as a core social unit and that continually wave the family flag would not even contemplate running this bill up the flagpole or giving its proposals a trial. Instead, it looks as though when push comes to shove on the floor of the Chamber those members who notionally wave the family flag when it is convenient for them during election campaigns will vote for a deeply anti-family bill.

It is not just The Greens, the unions and the Labor Opposition that are pointing out the social damage the bill will cause; people and organisations from across society have made multiple representations about it. I will read onto the record a joint representation made under the heading "Take the time for a better work/life balance", which was addressed to Reverend the Hon. Fred Nile but is relevant to all parties. The group wrote:

> We write to you as representatives of a range of religious institutions to inform you of our strong opposition to the proposed changes to restricted retail trading days in NSW.
>
> The proposal to permit trading in all shops on Boxing Day, and work behind closed doors on every day of the year would have a severe adverse impact on the families and the community of this State and as such, we call on you to reject any move in the NSW Parliament to legislate these changes to trading laws.
>
> We believe that allowing retailers to open on culturally significant days such as Boxing Day, or to have work behind closed doors on Christmas Day, Good Friday, Easter Day and before 1pm on ANZAC Day, is out of step with the needs and views of the community at large.
>
> All families and communities should be able to come together and celebrate culturally significant days regardless of their religious beliefs and backgrounds. With just four and a half days exempt from trading throughout the year, we feel any further increase in retail trading days is unnecessary and would have negative ramifications for our social fabric.

I commend and I support those words. We should legislate in accordance with those words. They come from: the Most Reverend Dr Glenn N. Davies, Archbishop of Sydney, Anglican Diocese of Sydney; Reverend Ken Clendinning, Director of Ministries, New South Wales and Australian Capital Territory Baptist Churches; Father Peter Smith, Justice and Peace Office, representing the Catholic Archdiocese of Sydney; Reverend Mike McGarrity, Senior Pastor, Engadine Community Church; Sister Louise McKeogh, Social Justice Office, representing the Catholic Diocese of Parramatta; and Reverend Garry Derkenne, representing the Uniting Church Synod of New South Wales and the Australian Capital Territory.

Those people know that these days are important to the people whom they meet in their parishes and churches and through their community work. They are telling us that these days should also be important to us and should be protected by us. David Barrow, who is the lead organiser of the Sydney Alliance, also wrote to Reverend the Hon. Fred Nile. The letter has been provided to all members in the hope that we will support its sentiments. Mr Barrow wrote:

> I write to you on behalf of the Sydney Alliance to ask you and the Christian Democrats to remain firm in your opposition to a reduction in the number of restricted retail trading days in NSW.
>
> In November 2012 we were **extremely pleased** to hear your strong commitments to oppose any move during the life of that Parliament and your powerful words that you would "**be a champion on this issue**".

The Christian Democrats still have a chance to be champions on the issue. They can stare down the Government and the economic rationalists. They can stand up for culturally significant days and ensure that people are given one of the days they need off work. Since when has any party been so miserable that it will not give retail workers a guaranteed 4½ days off? We understand that this proposal is what the

Government lives and breathes—its members are economic rationalists to the core. They see the people of New South Wales as little economic units that they will seek to squeeze every last drop out of. But the rest of us in this place are meant to be concerned about people as entities who have families, cultural connections and the need for some time off. The Most Reverend Peter A. Comensoli, the Bishop of Broken Bay, said in his letter to Reverend the Hon. Fred Nile:

> As a pastor, my hope is that all Christians will be free from any pressure or coercion to work on days which, for them, constitute celebrations that carry both a religious obligation and the opportunity to share joyfully with family and loved ones, and I highlight the relevant days in this case, being Christmas Day, Good Friday and Easter Sunday. In addition, Boxing Day has become an extension of family Christmas celebrations for many in Australia and is also owed legal provisions for its protection and care.

Reverend Keith Hamilton wrote on behalf of the Parramatta Mission and the Uniting Church:

> I believe that allowing retailers to open on culturally significant days such as Boxing Day and Easter Day is out of step with the needs and views of the community at large.

He is dead right; it sure as heck is. This Government, and anyone who votes with it, will be out of step with the needs and the views of the community at large. Mr Hamilton went on to say:

> All families and communities should be able to celebrate culturally significant days. With just four and a half days exempt from trading throughout the year, an expansion in retail trading days is unnecessary and would have an adverse effect on our social fabric. Where once Christmas Day to Australia Day was a summer "Sabbath" now it's Christmas to New Year, so that making Boxing Day a retail trading day will further reduce this important "down time" for the Australian community.
>
> Family and community time is important. Men and women must not be considered as a resource for the creation of goods and services; all people are created in the image of God with inherent worth.

It would be remiss not to note also the concerns that workers in the finance industry have with the proposals. I commend the strong recommendations from the Finance Sector Union [FSU] Australia, which has a long history of protecting its workers. Through its own work this union has stopped its members being the subject of bank robberies. They have a strong tradition for doing the work we should listen to. It says:

> This bill will:
>
> - Open bank branches on weekends—access to shared family time is important not only for individual workers but also for the community at large. This change will seriously impact on FSU members' ability to engage in family and community activities including coaching sport and attending religious services.
>
> - Open bank branches on all public holidays other than Good Friday, Easter Sunday, Christmas Day, and before 1pm on ANZAC day—cutting bank workers' public holidays to 3½ days per year, and
>
> - Remove the right to the August bank holiday and to the Boxing day public holiday.

The FSU is dead right. This bill will seriously impact upon bank workers and finance sector workers. The Christian leaders are right; the community leaders are right; the SDA is right. The community is not with the Government on this. It is a marginal additional day's shopping—one day's shopping. One, when there

are already 361½. This Government wants to take away one day of the 4½ days of guaranteed time off that retail workers and bank workers deserve. What a disgrace!

The Hon. GREG DONNELLY [8.41 p.m.]: I make a contribution to this important debate on the Retail Trading Amendment Bill 2015. This is a significant piece of legislation, even though it might not appear to be major and significant because it is not a large bill. Nonetheless, the bill, if passed, will impact on the lives—I say this without exaggeration—of more than one million workers and their families in this State. I participate in this debate with a heavy heart. In fact I do not know whether it is an exaggeration to say that I participate in this debate with an almost broken heart. I did not believe that this bill, which has been ploughed over in the past fortnight or so, would end up being debated in the House. I understand, after talking to members in this House and the Leader of the Government, that the bill will go through to completion of the second reading stage and then, if endorsed—which seems to be the case—it will go to Committee stage and then finally third reading stage before it is passed by the Legislative Council.

I thank fellow Opposition members who have spoken already. In particular, I thank the Hon. Adam Searle, who led for the Opposition, and who spoke with much clarity and succinctness when presenting the key arguments and examining aspects of the bill in forensic detail. We have heard from Mr David Shoebridge of The Greens. No doubt there will be more speakers, such as members of the Shooters and Fishers Party and the Animal Justice Party. No doubt we will hear in due course from a member of the Christian Democratic Party. I will attempt to reduce this argument to some practical examples and not talk about abstract notions of theory.

This year Christmas Eve falls on Thursday 24 December. Christmas Day falls on Friday 25 December, which means Boxing Day falls on Saturday 26 December and Sunday will be 27 December. As the Hon. Adam Searle and Mr David Shoebridge have described, presently in a calendar year retail workers—in due course I will talk about bank workers because they will be profoundly affected by this legislation—who work in a shop that is known as a general shop will find themselves in a situation where their shop can trade every day of the year but for 4½ days, and on days the stores must be closed. The legislation before the House tonight, if passed, will reduce 4½ days to 3½ days of guaranteed closure.

Returning to my Christmas scenario for this year, if this legislation is not passed, general stores will be closed on Christmas Day, Friday 25 December, and Boxing Day, Saturday 26 December. On Sunday 27 December, two days after Christmas Day, we would expect that general stores around the State would burst open their doors to allow people to participate in the traditional Boxing Day sales. Only general stores in designated areas in the State, as provided for by legislation, will trade on Boxing Day, Saturday 26 December, and other general stores will transact their sales on Sunday 27 December. From 6.00 a.m. their doors will burst open for the sales. If the bill is not passed, the scenario is that at one minute past midnight on Sunday 27 December, the Boxing Day sales would kick off for stores not in those designated areas. Potentially, they could get underway at one minute past midnight.

If this legislation is passed, all general stores across this State will be permitted to commence Boxing Day sales the day after Christmas—Saturday 26 December, which is Boxing Day. We are talking about a difference of 18 hours to a maximum of 24 hours before shoppers can access stores to participate in the Boxing Day sales to buy discounted items. If this legislation is not passed, customers will enter stores on 27 December. Shops will transact the same amount of business, but employees will know that they will be under no pressure whatsoever to work on Christmas Day and Boxing Day.

I make an important point that has not been mentioned: It must be understood that a large number of transactions on Boxing Day are not sale transactions but the return of unwanted presents. A lot of people go to the shops on the next available trading day after Christmas not to buy but to return unwanted gifts. Retail workers are not transacting new business; they are giving credits and taking back unwanted presents. Part of the reason retailers want the stores open on 26 December is so that they can get all of that stuff out of the way. Dealing with the return of gifts is a big job and they know they will have to do it every year at Christmas time because they know that gifts will be returned. They are very eager to

get that job out of the way as soon as possible so that they can then get on with sales transactions. A lot of the work done on 26 December, or 27 December as the case may be, is in fact dealing with returns.

If stores are not dealing with returns, what else are they dealing with? They are dealing with the reality of those very famous advertisements that we see in the *Sydney Morning Herald* and the *Daily Telegraph* in black or red print advertising 40 per cent off Van Heusen shirts and ties, Estee Lauder cosmetics, jocks and socks, et cetera. We are talking about either returning presents or getting a discount on items that can be purchased the very next day on 27 December. Those things do not have to be done on 26 December. If we look at this in detail, we realise it is all about the drive of commerce and nothing else. Any consideration of the workers is really set aside. As the Hon. Adam Searle said, no extra business is done. What happens, and this is what the employers want, is that the business is done the day before than otherwise would be the case—that is, 26 December.

The impact of the legislation on retail workers has been mentioned. I referred to the number of the persons impacted. We get to a figure of one million plus when we add in the bank and finance workers impacted by this legislation, the cleaners who work in both shopping centres and retail shops, and the security staff. There is also the impact, which is as yet uncalculated, on truck drivers, and warehouse and distribution workers. This impact will have to be worked into this whole equation somehow if Boxing Day trading is to be as successful as retailers want it to be. Of course on top of all of this is the impact on the families of the affected persons. It is no exaggeration to say that the number of those affected is northwards of one million people.

In relation to the work being voluntary, and this has been covered adequately elsewhere, I make the simple point that, even if one does not care much about retail workers, the people on the shop floor, the bank tellers, the cleaners and the security staff, at the end of the day store managers, department managers and all management staff in the stores will be required to work. It is as simple as that. Stores cannot open and function without store managers and department managers. It is a necessary requirement for opening the stores. So it is absolutely fallacious to move amendments, as I expect will occur later, that refer to voluntary work. Any reasonable person would conclude that voluntary work, certainly in regard to specifically nominated people, does not apply at all.

I will refer now to the heavy heart that I and many others in this House have and why we did not expect to find ourselves in this position. Specifically I put on the record the exemplary voting record of Reverend the Hon. Fred Nile and the Christian Democratic Party on this matter, dating back to 1999. On 25 November 1999 when the Shop Trading (Special Provisions) Bill 1999 was before the Parliament Reverend the Hon. Fred Nile spoke in debate on the bill and voted to support the closure of shops on Boxing Day. On 12 November 2002 Reverend the Hon. Fred Nile spoke in debate on the Bank Holidays Legislation Amendment Bill 2002 and voted in favour of limiting bank opening hours and the intrusion into family time.

On 7 December 2004 Reverend the Hon. Fred Nile spoke in debate on the Shops and Industries Amendment (Special Shop Closures) Bill 2004 and voted in favour of closing shops on Boxing Day as an opportunity for retail workers to rest and "enjoy family life". On 26 June 2008 Reverend the Hon. Fred Nile spoke in debate on the Shop Trading Bill 2008 and acknowledged the protection of keeping shops closed on certain days, including Boxing Day. He spoke and voted against the bill as a whole due to the technical extension of trading on Sundays. He opposed any extension of trading. On 23 September 2009 in debate on the Shop Trading Amendment Bill 2009 Reverend the Hon. Fred Nile spoke and voted in favour of strengthening provisions to prevent shops trading on the 4½ restricted trading days.

On 24 November 2010 in debate on the Shop Trading Amendment Bill 2010 and the Public Holidays Bill 2010 Reverend the Hon. Fred Nile spoke and voted in favour of those bills, which made Easter Sunday a public holiday. On 13 November 2012 at a public meeting at the Wesley Mission in the city attended by hundreds of workers Reverend the Hon. Fred Nile said, "I declare my opposition to Boxing Day trading". On 12 March 2014 Reverend the Hon. Fred Nile met a delegation of retail workers

and church leaders at Parliament House and stated his opposition to extended trading. On 2 December 2014 Reverend the Hon. Fred Nile met a delegation of retail workers at Parliament House and issued a media release supporting "family time over extending shopping time".

In March 2015 during the election campaign Reverend the Hon. Fred Nile declared his opposition to Boxing Day trading and included the defence of public holidays as a dot point on his party's how-to-vote cards. The Christian Democratic Party how-to-vote card was distributed across the State in the March 2015 State election, with photographs of Reverend the Hon. Fred Nile and Mr Ross Clifford, who, as I understand it, is the President of the Christian Democratic Party, on the reverse side. Under the heading "the one you can trust" and the subheading "better conditions" it said the party would "protect workers' rights to public holidays including Christmas and Easter". Finally, in June 2015 Reverend the Hon. Fred Nile was quoted in the *Daily Telegraph* as opposing the extension of Boxing Day trading.

In regard to undertakings made on this issue I refer specifically to an article in the *Australian Financial Review* of 2 March 2015. At the March 2015 elections there was one area of policy where Liberal Party policy clearly contravened the core values and policies of the Christian Democratic Party—that was the area of retail trading laws. When Premier Baird and Minister Constance, the then Treasurer and Minister for Industrial Relations, announced their intention to change retail trading laws, Reverend the Hon. Fred Nile was quoted in the *Australian Financial Review* as making it very clear to the Government that he opposed Boxing Day trading. The article quoted Reverend the Hon. Fred Nile as saying, "I am annoyed" and that this was just the Government giving in to an employer lobby group.

In regard to the matter before the House tonight, members have referred to strong opposition from religious and community leaders across the State. I have copies of letters sent to me by some of these religious and community leaders. Before this debate commenced I spoke to the Leader of Government in the Legislative Council, the Hon. Duncan Gay, and told him that I would be seeking to incorporate this correspondence. He indicated to me that he did not oppose the incorporation of this correspondence. I hereby seek the leave of the House to incorporate into *Hansard* correspondence from religious and community leaders regarding the Retail Trading Amendment Bill 2015.

Leave granted.

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7 November 2015

The Rev. Hon Fred Nile MLC
NSW Parliament

Sent by email:

Dear Rev. Nile,

It is with great concern that I write to you in relation to the recent attempts of the N.S.W. Government to increase the number of retail trading days in N.S.W.

As you know the sacred institution of the family is already under attack from various modern day pressures and the last thing we need now is to allow employers another opportunity to put profits before family.

We need to protect the right of families to be together on days of religious and cultural significance and we need to send a strong message to business that the N.S.W. community is not prepared to compromise on the well-being of our community for the sake of more profits.

I understand that there are inconsistencies in the current arrangement allowing some retailers to

open for business on these days while others cannot. This alone, however, is not a good enough reason to allow all retailers to trade on extra public holidays. It is not discrimination towards some businesses to maintain the current status for the sake of the family.

I kindly ask you, in these difficult times for the family unit, to oppose this legislation in the strongest possible manner and in this way deliver a message to all, that our Christian politicians are prepared to stand up and speak up for the good of all Australian families.

Yours in Christ,

Prayerfully yours
Arch. Eusebios Pantanassiotis
Monastery of the Holy Mother of God Pantanassa

———————

SN 306/11/15
10 November 2015

The Rev. Hon. Fred Nile MLC
Via Email: Fred.Nile@parliament.nsw.gov.au

Dear Reverend Nile,

I am writing this letter in solidarity with the Christian hierarchs who have raised their concern regarding the proposed reduction of traditional Christian holidays in New South Wales in the retail trading.

We respect the multi facet composition of this country: its ethnicity, colour and faith. However in spite of the passing changes and time this country still has been rooted on Western and Christian moral principle.

We understand the passing of times and the need for change. However why to change something which is working for the well-being of the society?

The proposed cuts of these holidays will bar Christian families to come together and celebrate feasts like Christmas, Good Friday and Easter as a community. These are opportunities when old traditions, stories and songs are passed from one generation to the other whichever old country or countries respected families had arrived.

We are proud to propagate our multiculturalism, why to deny this to a certain group while making it available to others, isn't justice for all? Are we not all equal under the same Australian flag? Even the very freedom in this great Country aspired by all corners old and new, of every other race, faith and colour, is because of Christian tolerance towards the other.

We think that the little time preserved for the family will do no harm to the retail industry but contrary built the moral of the family and will contribute further to the well being of the working body in the said field.

We hope that You and your like-minded friends will do their utmost to make sure that no change like this will pass in the legislation.

Our well wishes for you and the organization you represent,

With Prayers,

Bishop Haigazoun Najarian
Primate

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TracyWalker

From: Archbishop Paul Saliba [archbishoppaul@bigpond.com]
Sent: Friday, 6 November 2015 9:01 AM
To: 'Bernie Smith'
Subject: RE: Letter to Reverend Fred Nile in support to oppose any retail trade legislation-FinaLpdf

04/12/2015

To His Excellency Rev. Nile

Greetings,

I am writing concerning the Boxing Day opening up of the Commercial Business stores.

Please be informed that we, the Antiochian Orthodox Community in Australia support heartfully the keeping of the Business stores closed on "Boxing Day",

Sincerely

From the Office of the Archbishop.

http://www.antiochianarch.org.au

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Bishop's House
PO Box 246
Bathurst NSW 2795

5th November 2015

Reverend the Hon. Fred Nile, MLC
Parliament House
Macquarie Street
Sydney New South Wales 2000

Dear Mr Nile,

I write to congratulate and thank you for the work you are doing in opposing the Retail Trading bill before the New South Wales State Parliament.

The proposed changes to holiday entitlements would be a step backward for our community. It is not only individuals, but whole communities, who need to take time away from work to rest and refresh.

With every good wish,

Most Reverend Michael McKenna
Bishop of Bathurst

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5 November 2015

Reverend The Hon. Fred Nile, MLC,
Parliament House
Macquarie Street
Sydney New South Wales 2000
F.Nile@parliament.nsw.gov.au

Dear Reverend Fred Nile:

On behalf of the Assyrian Church of the East, I wish to convey my concerns regarding the proposed legislative amendments that will allow retail stores to open on established Christian holidays.

This blessed country was built on Christian values. These Christian values do not only reap benefits upon Christians - however, upon agnostics also. The holidays [viz, holy days] existent in the country's calendar are imperative in nature - and act as foundational elements therein.

We ask that full opposition be made in changing the aforementioned amendments.

May the grace of our Lord Jesus Christ, and the love of God the Father, and the fellowship of the Holy Spirit be with you, now and always and forever, Amen.

Yours sincerely,

Mar Meelis Zaia AM
Metropolitan of Australia, New Zealand and Lebanon
Assyrian Church of the East

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Reverend the Hon. Fred Nile, MLC,
Parliament House
Macquarie Street
Sydney NSW 2000
F.Nile@parliament.nsw.gov.au

23 Babah, 1732 AM
Tuesday 3rd of November, 2015
Our Ref: B.D.02.212.14.2015
No. of Page: 1
No. of Attachment: 00
Bishop's Office

Dear Reverend Fred Nile,

I write to you to express my concern and the concern of the Coptic Orthodox Church—Diocese of Sydney & Affiliated Regions about the proposed legislative changes that could allow retail stores and centres to open for trade on a number of significant Christian holidays.

I respectfully ask that your reverence oppose any changes to the retail trade legislation which could have impacts on families and religious observances.

May the lord bless you and bless all the work you are doing for HIS Name.

Bishop Daniel
With the Grace of God
Bishop of the Coptic Orthodox Church—Diocese of Sydney & Affiliated Regions

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The Right Reverend Ian Palmer
The Bishop's Registry
3 Church Street (PO Box 23)
Bathurst NSW 2795

Monday 2nd November 2015

The Rev. Hon Fred Nile MLC
NSW Parliament
Via email: F.Nile@parliament.nsw.gov.au

Dear Reverend Nile,

Having been contacted by Mr Bernie Smith, the State Secretary of the New South Wales Shop Assistants Union, I am writing to you concerning legislation changing retail trading hours that is to come before the New South Wales Parliament next week.

I have been made aware that the changes would affect shop workers, by allowing shops in regional areas to prepare for trading at times when they are presently closed and not allowed to require employees to work.

If these changes are enacted it will put pressure on vulnerable people to work at times when many would want to be with their families. I would also agree with those who say that the message it sends is to put commerce before family-time and religious observance.

May I seek your support in opposing this legislation.

Can I also add that before coming to live in Australia I was active in England during the 1980s in the "Keep Sunday Special" Campaign. The bill to permit Sunday Trading was the only time that Margaret Thatcher's Government was defeated in the House of Commons (the bill was resubmitted and did pass later).

With my prayers and good wishes.

Yours in Christ,

The Rt Revd Ian Palmer
Bishop of Bathurst and Rector of Dubbo

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Our Ref: BP2015/222b

23 October 2015

Reverend the Hon. Fred Nile, MLC
Parliament House
Macquarie Street
Sydney New South Wales 2000
Via email: F.Nile@parliament.nsw.gov.au

Dear Reverend Nile,

I write to you today to express concern about the proposed legislative changes that would see dramatic changes to retail trading days in New South Wales. These changes would mean that retail stores and centres could open for trade on a number of significant Christian holidays, and days of national significance.

As with many other religious leaders in New South Wales who have already expressed their concerns, the Maronite Eparchy of Australia also wishes to reiterate these concerns.

For many Australians, the days affected by a lifting of restrictions are days where they would normally fulfil religious obligations, such as Christmas, Good Friday and Easter Sunday. These days are also an important time for families to get together. The proposed changes by the New South Wales Government are sending the wrong message to families—that commerce is more important than religious days and time with families.

As such, I respectfully request you to oppose any changes to the retail trade legislation, so that there are no impacts on families and religious observances.

In Christ,

Msgr Marcelino Youssef
Vicar General

Friday 23rd October

The Rev Hon Fred Nile MLC
Suite 1141, New South Wales Parliament House
Macquarie Street Sydney New South Wales Australia 2000

Dear Rev Nile,

We write to you as representatives of a range of religious institutions to inform you of our strong opposition to the proposed changes to restricted retail trading days in NSW.

The proposal to permit trading in all shops on Boxing Day, and work behind closed doors on every day of the year would have a severe adverse impact on the families and the community of this State and as such, we call on you to reject any move in the New South Wales Parliament to legislate these changes to trading laws.

We believe that allowing retailers to open on culturally significant days such as Boxing Day, or to have work behind closed doors on Christmas Day, Good Friday, Easter Day and before 1 p.m. on Anzac Day, is out of step with the needs and views of the community at large.

All families and communities should be able to come together and celebrate culturally significant

days-regardless of their religious beliefs and backgrounds. With just four and a half days exempt from trading throughout the year, we feel any further increase in retail trading days is unnecessary and would have negative ramifications for our social fabric.

The New South Wales community should be permitted to attend religious services, to serve as volunteers, or simply to spend valuable time with their family and wider community on these special days. Workers should not be considered as mere tools for the creation of goods and services; all men and women are created in the image of God and have equal and inherent worth.

Family and community time is integral to cultural stability. To allow the self-interest of a small few to override the best interests of the New South Wales community at large would be an irresponsible and short-sighted response from the Government.

We respectfully ask that you withdraw the proposed changes to legislation which would reduce family and community time by permitting widespread trading on Boxing Day and work behind closed doors on all significant days in NSW.

Yours Sincerely,

The Most Rev Dr. Glenn N Davies
Archbishop of Sydney
Anglican Diocese of Sydney

Rev. Ken Clendinning
Director of Ministries
NSW & ACT Baptist Churches

Rev. Mike McGarrity
Senior Pastor
Engadine Community Church
Sydney

Fr. Peter Smith
Justice & Peace Office
Representing the Catholic Archdiocese of

Sr. Louise McKeogh, FMA
Social Justice Office
Representing the Catholic Diocese of Parramatta

Rev. Garry Derkenne
Representing the Uniting Church Synod NSW.ACT

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Friday 23rd October

The Rev Hon Fred Nile MLC
Suite 1141, New South Wales Parliament House
Macquarie Street Sydney New South Wales Australia 2000

Dear Rev Nile,

I write to you on behalf of the Sydney Alliance to ask you and the Christian Democrats to remain firm in your opposition to a reduction in the number of restricted retail trading days in NSW.

In November 2012 we were **extremely pleased** to hear your strong commitments to oppose any move during the life of that Parliament and your powerful words that you would "**be a champion on this issue**".

We seek a fresh commitment to your opposition to the deregulation of retail trading days in NSW.

That day at Wesley Mission, you heard stories from everyday people from across New South Wales who shared the importance of Boxing Day as precious family time. In front of hundreds of everyday people gathered, you shared powerful words that echoed the experiences of those

present.

You shared our sentiments of the importance of time for family, worship, community service, rest and recuperation; the unnecessary nature of these laws.

The issue of work-life balance is one of the enduring issues that arise from our listening campaigns.

We believe that allowing retailers to open on culturally significant days such as Boxing Day and Easter Day is out of step with the needs and views of the community at large.

We respectfully ask that you oppose any changes to legislation which would reduce the number of restricted trading days.

Should you remain in doubt, we would like to meet with you early next week.

Should you be able to give us a commitment on behalf of the Christian Democrats we would very much like to organise a small event and media conference confirming and celebrating your position.

Yours sincerely,

David Barrow/Sydney Alliance
Lead Organiser
Phone: 0416028001/Website: www.sydnevalliance.org.au

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Reverend the Hon. Fred Nile, MLC,
Parliament House
Macquarie Street
Sydney New South Wales 2000
F.Nile@parliament.nsw.gov.au

Dear Reverend Nile,

We write to you as representatives of a range of religious institutions to inform you of our strong opposition to a reduction in the number of restricted retail trading days in NSW.

We feel very strongly that any reduction in the number of restricted trading days under s4 of the Retail Trading Act 2008 would have a severe adverse impact on the families and the community of this state and as such, we call on you to reject any move in the New South Wales Parliament to legislate to allow for the extension of trading days.

We believe that allowing retailers to open on culturally significant days such as Boxing Day and Easter Day is out of step with the needs and views of the community at large.

All families and communities should be able to come together and celebrate culturally significant days—regardless of their religious beliefs and backgrounds. With just four and a half days exempt from trading throughout the year, we feel any further increase in retail trading days is unnecessary and would have negative ramifications for our social fabric.

The New South Wales community should be permitted to attend religious services, to serve as volunteers, or simply to spend valuable time with their family and wider community on these special days. Workers should not be considered as mere tools for the creation of goods and

services; all men and women are created in the image of God and have equal and inherent worth.

Family and community time is integral to cultural stability. To allow the self-interest of a small few to override the best interests of the New South Wales community at large would be an irresponsible and short-sighted response from the Government.

We respectfully ask that you oppose any changes to legislation which would reduce the number of restricted trading days.

Yours sincerely,

Glenn Davies
The Most Rev Dr Glenn N Davies
Archbishop of Sydney
Anglican Diocese of Sydney

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Parramatta Mission
1190 Macquarie Street Parramatta NSW 2150
Locked Bag 5360 Parramatta NSW 2124

Rev. Keith Hamilton
Senior Minister—Group CEO
Parramatta Mission
P: 02 9891 2277
F: 02 9891 4457
W: www.parramattamission.org.au
ABN: 42 266 391 917

26 October 2015

Reverend the Hon. Fred Nile, MLC,
Parliament House
Macquarie Street
Sydney New South Wales 2000
F.Nile@parliament.nsw.gov.au

Dear Reverend Nile,

I write to you as the Senior Minister/Group CEO of Parramatta Mission, expressing my opposition to a reduction in the number of restricted retail trading days in NSW.

I feel that any reduction in the number of restricted trading days under s4 of the Retail Trading Act 2008 would have an adverse impact on the families and community of this state. Therefore I call on you to reject any move in the New South Wales Parliament to legislate to allow for the extension of trading days.

I believe that allowing retailers to open on culturally significant days such as Boxing Day and Easter Day is out of step with the needs and views of the community at large.

All families and communities should be able to celebrate culturally significant days. With just four and a half days exempt from trading throughout the year, any expansion in retail trading days is unnecessary and would have an adverse effect on our social fabric. Where once Christmas to Australia Day was a summer 'Sabbath' now it is Christmas-New Year, so that making Boxing Day

a retail trading day will further reduce this important 'down time' for the Australian community.

Family and community time is important. Men and women should not be considered as a resource for the creation of goods and services; all people are created in the image of God with inherent worth.

Family and community time is integral to cultural stability, and should not be put at risk by short term financial gain by a few. In my view it is the role of State Government to provide a framework in which all people may flourish in a life that has opportunity for meaningful work and leisure.

I respectfully ask that you oppose any changes to legislation which would reduce the number of restricted trading days.

Yours sincerely,

Rev. Keith Hamilton

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Reverend The Hon Fred Nile, MLC
Parliament House
Macquarie Street
Sydney New South Wales 2000

F.Nile@parliament.nsw.gov.au

Monday 26 October 2015

Dear Rev Nile,

I am writing regarding the various amendments being proposed to current legislation on restricted retail trading in New South Wales, which will have various consequences for individuals and families.

As you know, a number of religious leaders have expressed their deep reservations, and have joined with other organisations in opposing the proposed changes.

As a pastor, my hope is that all Christians will be free from any pressure or coercion to work on days which, for them, constitute celebrations that carry both a religious obligation and the opportunity to share joyfully with family and loved ones, and I highlight the relevant days in this case, being Christmas Day, Good Friday and Easter Sunday. In addition, Boxing Day has become an extension of family Christmas celebrations for many in Australia and is also owed legal provisions for its protection and care.

Given your sustained commitment to resisting changes that can adversely affect the freedoms of Christians and other religious believers, as well as to the good of the family, I urge you to reflect carefully upon the consequences of any proposed changes and give them your prayerful consideration.

I continue to pray for you and all our elected representatives and trust you will give these matters your wise attention, and vote according to your conscience.

Yours sincerely in Christ Jesus,

Most Rev Peter A Comensoli

Bishop of Broken Bay

Cc: The Hon Gladys Berejiklian MP
NSW Treasurer

The Hon Paul Green MLC
Member of the Legislative Council

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27 October 2015

The Rev. Hon. Fred Nile MLC
Via email: fred.nile@parliament.nsw.gov.au

Dear Reverend Nile

I write to share my concerns about proposed legislation which would see the restrictions on retail trading in New South Wales reduced. The proposed changes would mean retail stores could open for trade on a number of significant Christian holidays.

I understand that a number of religious leaders have already contacted you to share their concerns about the proposed legislation. In particular I would like to echo the letters you have received from Archbishop Glenn Davies and Bishop Peter Comensoli. For many Australians the days affected by a lifting of restrictions are days where they would normally fulfil religious obligations, such as Christmas, Good Friday and Easter Sunday. They are also important family occasions. I am concerned that changes to the legislation would send the message that commerce is more important than religious observance and family time, and would effectively coerce workers to give up the little time still reserved in our community for such purposes.

I respectfully encourage you to oppose any changes to the legislation in light of the impacts on families and religious observances.

Please be assured of my continued prayers for you and the Christian Democrats.

Yours sincerely in Christ

Most Rev. Anthony Fisher OP, DD BA LIB BTheol DPhil
Archbishop of Sydney

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The Hon. GREG DONNELLY: I will clarify something that is doing the rounds, and that I consider to be an obnoxious rumour. We know this bill was flagged the week before last. Consideration of it was delayed. On Friday 30 October—that is, last Friday week—a meeting was convened. It is not absolutely clear whether or not it was jointly convened. But it did at least involve the Treasurer, the Hon. Gladys Berejiklian. The meeting took place on 30 October in the late afternoon and evening. Present were the Treasurer, the Hon. Gladys Berejiklian; one of her staff members; Reverend the Hon. Fred Nile; and four religious leaders—the Most Reverend Dr Glenn Davies, the Archbishop of Sydney in the Anglican Diocese of Sydney; the Most Reverend Anthony Fisher, OP, the Catholic Archbishop of Sydney; the Reverend Dr Keith Garner, AM, the superintendent and chief executive officer [CEO] of Wesley Mission; and, interestingly, Reverend Dr Ross Clifford, AM, President of the New South Wales Council of Churches and also President of the Christian Democratic Party.

Less than 24 hours notice was given for the convening of that meeting, so it is no surprise that only four religious leaders were able to make themselves available. It has been suggested to me that

following the meeting of those religious leaders there was a degree of movement towards some sympathy with the Government's proposition, particularly if it included some "protections" that might be available for voluntary work and related issues. I have not spoken to any of those four religious leaders, but I have spoken to people who did. I believe, from what I have been told, that the four religious leaders did not, in any way whatsoever, indicate any movement away from the clear, unambiguous positions stated in correspondence directed to Reverend the Hon. Fred Nile and to you, Mr Deputy-President (The Hon. Paul Green), the Christian Democratic representatives in this House. I believe they did not indicate any movement away from their stated positions; nor did they indicate that they were comforted by propositions that may be forthcoming.

Indeed, if one looks at their correspondence before that meeting and their correspondence after that meeting, and if one talks to those men about what happened—I did not do that directly, but I know this from my conversations with others—one finds that it is clear that they are reasonably uncomfortable about being drawn into the whole thing and participating in a meeting which, in effect, was trying to get their agreement. [*Time expired*.]

Mr SCOT MacDONALD (Parliamentary Secretary) [9.02 p.m.]: I wish to speak briefly in support of the Retail Trading Amendment Bill 2015. I want to give the perspective of people in the Hunter and on the Central Coast. In the middle of this year, not long after the State budget, the Treasurer went on a tour. I joined her on that tour, as did the member for Terrigal and the member for Upper Hunter. We met with the chambers of commerce and a range of businesses in that area. We took soundings and discussed this legislation. As the Treasurer noted at the time—and as she has subsequently noted—there was an election promise to review trading laws. We are delivering on that election commitment.

One of the anomalies that was clear on the Central Coast and in the Hunter was the mishmash of local government areas where people can shop and where people cannot shop on the affected days. People can shop in the Port Stephens electorate but if they drive across the road they cannot shop in the Maitland electorate. People can go to the shops in Wyong but they cannot shop at Lake Macquarie, including at the very large Charlestown shopping area. It is like a dog's breakfast. We got the message very clearly from the chambers of commerce and everybody we met that we should fix this—that we should sort it out. Everybody has been excited about quoting a range of people. I would like to quote the Hunter Chamber of Commerce chief executive officer Kristen Keegan. She was quoted in the *Newcastle Herald* as follows:

> "It should be the decision of an individual business, not government, whether they open their doors on Boxing Day," she said.
>
> "Boxing Day trade would provide a much needed injection into our local economy. It makes no sense that under the current legislation businesses in Port Stephens and Gosford can open but in the centre of Newcastle you can't."

As I said, I will be brief. The people of the Central Coast and the Hunter want these anomalies fixed. They want the option to shop on Boxing Day. I note that we have had a lot of gratuitous advice from lawyers and people who have never run a shop or worked on the other side of a counter. This is a good piece of legislation. Back it, and let us get on with it.

The Hon. WALT SECORD (Deputy Leader of the Opposition) [9.04 p.m.]: As Deputy Leader of the Opposition, I wish to speak on the Retail Trading Amendment Bill 2015 and add my voice in opposition to the bill. I will be brief in my comments as the Leader of the Opposition, the Hon. Adam Searle, and the Hon. Greg Donnelly have already extensively detailed Labor's position. Make no mistake: This is an attack on the most vulnerable workers. It is also about making them work on Christmas Day and takes away their genuine right to say no. It redefines the term "voluntary". Currently in New South Wales there are just 4½ days a year where certain shops are required to be closed. Those days are Good Friday, Easter Sunday, Christmas Day, Boxing Day and Anzac Day before l.00 p.m. Even then, trading is permitted in the Sydney central business district, Moore Park, Broadway and Shellharbour.

Generally, at present, retail shops can trade 360½ days each year. In other words, they can operate 98 per cent of the year. Clearly, our communities feel that 98 per cent of the available days of the year is enough for our retailers. We know this because in April 2012, a similar bill to this one—the Retail Trading Amendment Bill 2012—was introduced to this Chamber. It languished for months until it was discharged on 13 November 2012. It was quietly dropped because the overwhelming majority of the community was against the bill. The community thought that the Coalition Government understood their strong views on protecting those last special few days when families can gather together. But, no, the Baird Government was not interested for, as it is written in Proverbs, "As a dog returns to his vomit, so a fool returns to his folly." There we have it: The Government is revisiting this issue. Government members are claiming that there will be protections in place. That is not true. The so-called protections have been overstated.

We know that the proposed penalties for infringements in the legislation will have little impact or effect on employers. The penalty will be $1,100. I have been advised that previously there has been only one prosecution—and that was JB Hi-Fi, which was fined $500. And that fine would have been paid within seconds of the store opening. Thus, almost four years later, a conservative Government—with a Premier who campaigns on his faith—are returning to their plan of taking away workers' rights and forcing them to work on Christmas Day. That it is a puzzling contradiction.

On 21 October 2015 the Leader of the Government, the Hon. Duncan Gay, gave the second reading speech on the Retail Trading Amendment Bill 2015. In that speech he made a number of claims. He said that closure on the 4½ days was "stifling growth in the State". That is absolutely untrue. We know from the modelling that the expenditure will be the same; it will just be spread over the new holiday trading days. The Hon. Duncan Gay also said that under the bill workers would not face coercion or threats from employers to work on public holidays. Again, these claims are completely untrue. We all know that there are few workers who would be able to stand up to their employers or "freely elect" not to work on Boxing Day. They will simply not have the power to refuse. They will have no real choice. Workers in this industry do not have bargaining power. If they refuse or decline to work on public holidays we know that they will find their shifts drying up. They will be punished.

In reality, the Retail Trading Amendment Bill 2015 will allow all employers to require workers to work preparing shops for trading on all "restricted trading days". The bill will allow all shops across New South Wales to trade on Boxing Day. The bill will provide no new protections for workers to refuse to work. The bill will fail to respond to the reality that casual workers—those who are underemployed or in vulnerable work situations—will not be able to resist requests to work or make complaints to the regulator. The bill will make minor changes to existing penalties for breaches of the law, so employers will take the risk of forcing employees to work on those days.

The bill will affect small businesses—many of them small family businesses—which often close only on Christmas Day and Boxing Day. Often, these are the only two days they get to have a break with their families. Under most rental agreements, they will be required to open when the other outlets open. Under the Retail Trading Amendment Bill 2015 they will be forced to open whether they want to or not. Put simply, this bill will make workers work at Christmas. Allowing Boxing Day trading means that workers will be required to attend work on Christmas Day to prepare for the Boxing Day sales, instead of being with their families. Make no mistake, we will see thousands of young mums forced to stack shelves and prepare shops for the Boxing Day sales. Sadly, in modern Australia Christmas Day and Boxing Day are the only oasis left for families. This bill takes that away.

The bill significantly changes the operation of bank branches in New South Wales, which will affect tens of thousands of part-time workers, many of them mothers. Under the Retail Trading Amendment Bill, bank branches will open at weekends. The August bank holiday and the Boxing Day public holiday will be removed, and bank branches will open on all public holidays other than Good Friday, Easter Sunday, Christmas Day and part of Anzac Day, cutting workers' bank holidays to 3½ days a year.

Members will recall that there used to be many more days like Good Friday, Easter Sunday, Christmas Day, Boxing Day and Anzac Day, when shops were closed. Only a generation ago, shops did not open on a Sunday. While our ability to trade and shop has greatly increased, we regard these 4½ days as protected. The Baird Government does not. This bill is not just about allowing retailers to trade; it is about blurring the line between traditional, normal hours and days of work and the hours and days of work that attract penalty rates. It is about ignoring the needs of workers, families and communities.

It is ludicrous to claim that the community needs more opportunities to shop. While shifting our trading capacity from 98 per cent to 100 per cent can only ever lead to a marginal change in retail capacity, reducing to zero the 2 per cent of days that are still protected is a paradigm shift. It says, "Yes, shopping is more important than Anzac Day; it is more important than Christmas." Workers and their families do not see it that way. Unions NSW, the Finance Sector Union of Australia and the union representing retail workers, the Shop, Distributive and Allied Employees' Association [SDA] have criticised the bill for a range of reasons, as have religious leaders of the Anglican, Catholic, Uniting and Baptist churches. Central to their concerns is that the Retail Trading Amendment Bill takes away public holidays from parents who deserve, like the rest of us, to spend quality time with their family and friends.

In our society it is becoming increasingly difficult to find time with our families. The importance of ritual to family life and social cohesion is undisputed. Implicit in it is the understanding that on those occasions families celebrate with their own faith rituals, established over generations. Rituals meet the basic human need for certainty and comfort. That is the glue that holds families and communities together. So, while this bill directly affects 375,000 retail workers in New South Wales, the entire community will pay a price.

Is this not the same Premier who talked endlessly about the importance of communities and families during the election? Is Premier Mike Baird really saying that quality family time on a public holiday means "Make sure you send a text message to your kids during your meal break"? What else could we think, when this bill strikes at the heart of work-life balance? This bill targets the workers with the weakest industrial and political clout. It targets those who cannot say no to public holiday work but who want to make the choice to prioritise their families and communities. It should be clear now to all those families with members in the retail sector—which is most families in New South Wales—that the Baird Government will force them to choose between having time together and having jobs.

There will always be people who need to work on these important days, such as doctors, nurses, emergency workers and police, and we appreciate their efforts. We call their work "essential services". The opportunity to sell a plasma television is hardly comparable. That is why those 4½ days are so important to our State and to this nation. Whether or not you are a person of faith, those days are reserved for family and community. We come together as a country on those 4½ days.

The word "Shabbat" comes from the Hebrew meaning "rest" or "ceasing activity". To fully understand the idea of Shabbat, it is necessary to understand the significance of the other six days of the week. On the other six days we are to work, but on that day we are commanded to "rest and replenish". The Sabbath represented the first time in history that humans understood that rest from work was not a privilege for only the rich and powerful but essential to enable people to enjoy the dignity of being. From Shabbat we derive Saturday, the Sabbath day, and the concept of the weekend that has been an essential aspect of Western business culture since the reforms of the industrial revolution.

To deprive people of the opportunity to replenish is to deprive them of one of the most basic and essential parts of being human. Taking public holidays away from families, especially Boxing Day and Christmas Day, does just that. It denies us one of the few protections of those days spent with community and family. This is not just about religion; it is about the Australian way of life. It is about spending time with family. This bill will take away those precious 4½ days of holiday. We have always prided ourselves on our sense of balance between profit and family, between industry and community, and between work

and play. I oppose the Retail Trading Amendment Bill 2015.

The Hon. COURTNEY HOUSSOS [9.15 p.m.]: I speak in debate on the Retail Trading Amendment Bill 2015. Governing is about choices, and the choice tonight is clear. The choice is between, on the one hand, valuing families and the time spent with loved ones and, on the other, the unchecked interests of big business. It is the choice between well-earned leisure and unlimited days of work, between religious observance and celebration and the rampant pursuit of profit. This is about preserving the vestiges of work-life balance in the modern economy. This amending legislation is about cutting the final few precious days that workers are guaranteed to be able to spend with their families.

I have spoken at length about my belief in the need for mutually beneficial workplace flexibility. I stress the need for it to be mutually beneficial. Nothing about this amending legislation is beneficial to employees. It is about forcing workers with the least bargaining power to work on any day of the year. The change means that an employee could be pressured to work on Boxing Day instead of spending time with their family, and not just in our customer-facing role. The effect of the change could be that a mother is pressured to go to work to stack shelves in a store that is not even open. Imagine spending Boxing Day inside a closed store, stacking shelves, with no interaction with anyone, instead of spending time with family. It is a shameful proposition. The worst part is that the Baird-Grant Government promised before the election not to do this. Many members in this Chamber made promises to uphold the final 4½ days as off limits. This is a broken promise.

I will address a number of arguments mounted by the Government. The Government seems to think that there is a magical pot of money that can be spent only on Boxing Day. There is no economic benefit, because purchasing is simply shifted, not created. A study conducted in 2012 showed that in Victoria, where trading has been periodically allowed and disallowed on Easter Sunday, there was no net increase in sales over the month as a result of trading being allowed. People simply spent their money over a longer period of time. There is no net financial gain for workers either. Wages are set as a proportion of sales over a month. This means that workers may receive additional penalty rates for working on Boxing Day but they will lose an equivalent amount of work at some point later in the month.

Worst of all, this legislation is unfair for families. The current arrangements for Boxing Day trading, limited to specific areas, allow large stores to call upon their thousands of workers from across the Sydney Basin. Even with this arrangement, 35 per cent of Shop, Distributive and Allied Employees' Association [SDA] delegates and 65 per cent of members feel forced to work. How can anyone genuinely say that only volunteers will work if this bill passes tonight? The legislation will have an impact on country kids who want to return home for Christmas or take their families home. Today would have been my grandfather's eighty-fifth birthday. Many of my cherished memories with him, especially after I moved to Sydney, were created over several days of celebrating Christmas each year. For Coalition members, who claim to represent country communities, to remain silent on this bill is an absolute disgrace. Other members have canvassed issues of road safety, issues for blended families and issues for both sides of extended families.

There are but six weeks until Christmas. Plans have been made, plane tickets have been booked—"you bring the ham, we'll bring the turkey"—and now this mean-spirited Government wants to take the rug out from under some of the most lowly paid and casualised workers to make them work instead, perhaps behind closed doors. Let me make this point, which I think is important: Christmas and Easter are the two holiest celebrations on the Christian calendar. There are many Christians who attend church only on those occasions. I note the extensive advocacy from a number of Christian leaders. Other members have quoted from many letters they have received from the Archbishop of Sydney, Anglican Diocese of Sydney; the Director of Ministries, New South Wales and Australian Capital Territory Baptist Churches; the Engadine Community Church; the Catholic Archdiocese of Sydney; the Catholic Diocese of Parramatta; the Uniting Church Synod of New South Wales and the Australian Capital Territory; the Catholic Archbishop of Sydney; the Anglican Archbishop of Sydney; and the Bishop of Broken Bay. Let me read but one passage, which states:

> The NSW community should be permitted to attend religious services, to serve as volunteers, or simply to spend valuable time with their family and wider community on these special days. Workers should not be considered as mere tools for the creation of goods and services; all men and women are created in the image of God and have equal and inherent worth.

While I celebrate Christmas with my family, I appreciate that not every family does. But every family has the right to reserve time to spend together. I take this opportunity to place on the record my thanks for the tireless work of Bernie Smith and the Shop, Distributive and Allied Employees' Association [SDA] on their Take the Time campaign and for their advocacy on behalf of some of the lowest paid and casualised workers, who will be so adversely affected by these draconian changes. Other members have stated that currently retail shops can trade for 360½ days each year. There are only 4½ days when trading is not allowed: Christmas Day, Boxing Day, Good Friday, Easter Sunday and the Anzac Day half-day before 1.00 p.m.

The consequences of our actions in this House can be broad, profound and wideranging. I ask all members to consider this: by supporting this amendment, it will mean that hundreds of thousands of families will not be able to spend Christmas together. On Christmas morning this year, I hope that those opposite will be able to take comfort from knowing that tonight they supported families across our State celebrating the Christmas season with those they most love. Sadly, it seems that those members will not be so comforted. On a day that I am sure they would never trade away for themselves, they have done the opposite for others. I sincerely appeal to Coalition members and to the crossbench to support families and to not support this bill.

Dr JOHN KAYE [9.23 p.m.]: My participation in debate on the Retail Trading Amendment Bill 2015 will be brief. I associate myself with remarks made by Mr David Shoebridge during his forensic analysis and deconstruction of the mean-spirited and nasty provisions of the bill. I also associate myself with remarks made by the Leader of the Opposition, the Hon. Adam Searle, and in particular with the impassioned remarks made by the Hon. Greg Donnelly and his analysis of the bill. I acknowledge in this House that we have been well served by a number of members who have worked as union officials and who have brought that experience to bear and who, in many cases, have enriched the deliberations of this Chamber by their view of the economy as seen through the eyes of employed people. That is an important and valid view that is desperately needed in our examination of this legislation.

I also thank the Shop, Distributive and Allied Employees' Association [SDA], in particular Mr Bernie Smith, for the information and advice they have provided. I also thank the Finance Sector Union, particularly Julie Angrisano for the work she has done on this bill. But more importantly than those individuals, I thank their members for their solidarity, for sticking with each other and for sticking with the concept that life is more than just work. While work is a critically enabling component of life, there is more to it, such as balance. I note the silent interjection of the Hon. Bronnie Taylor, noting that I am making this speech at 9.25 p.m. But I genuinely elected to do so. In fact, I fought hard for the right and opportunity to do so.

The Hon. Adam Searle: I think we all did, John.

Dr JOHN KAYE: I think every member in this Chamber did in one way or another. But that should never reflect on the rights of individuals to spend time with their family, their community and their loved ones, to spend time on their own and away from work, and to spend time reflecting on their lives, where they have been, where they are going and their humanness. This bill seeks to reduce the paltry 4½ days a year of guaranteed public holidays, which are guaranteed restrictions on trading in the New South Wales economy, to 3½ days a year. This is not just about bank employees and retail workers; rather, this is about every employed person across New South Wales and their right to have time with their families, their friends and their communities, and by themselves.

The Government argues that this legislation will produce economic benefits, create consistency across the State and create more choice for workers. Let me be absolutely clear, each one of the assertions made by the Government is utter, complete and profound nonsense. The bill will not produce economic benefits. I will deal with that in more detail shortly. In as much as the bill may have economic benefits, those benefits must be measured against the intangible benefits of the human values of time away from work and interaction. If there is a fistful of dollars in this for some people, that fistful of dollars is at the expense of retail workers and bank employees who will be losing 22 per cent of precious time they currently are guaranteed to be able to spend with their family, their friends and their community.

A member who preceded me in this debate referred to the need for consistency. I am totally in favour of consistency, but let us make it consistent with the best possible outcome, not consistent with the worst possible outcome. This is a race to the bottom. This is a levering down of conditions for working people in Australia. We may say that some workers have to work on Boxing Day, therefore all workers should be exposed to working on Boxing Day. Make no mistake, if that happens to bank employees, it will happen to everybody across the entire economy. The Government says that this bill is about choice for workers. It is all very well for members of this House, with our eight-year contracts—some of which are renewed and extended to 16 years or more—our fancy salaries and our staff, to talk about workers having the right to negotiate and to say no and that of course workers will not be intimidated to make certain choices.

The bill contains somewhat useless provisions. I understand Reverend the Hon. Fred Nile wants to insert more provisions. We can insert every legislative provision we like, but where the rubber hits the road in industrial negotiations is when one worker is told, "We want you to work on Boxing Day", with the unsaid words being, "and if you don't turn up for work on Boxing Day don't bother coming back on the next Monday, or Tuesday, or Wednesday, or Thursday for a middle-of-the-day shift because you'll never get one again." That is not said. Nobody ever says it.

The Hon. Daniel Mookhey: No, it is said often.

Dr JOHN KAYE: I stand corrected. Maybe it is said and this bill makes it illegal, but that is irrelevant because in reality the hundreds of thousands of employees and the million-plus people the Hon. Greg Donnelly identified will be intimidated. We can create all the Fair Work Commission provisions and industrial provisions for New South Wales we want and we can argue which one is better, as no doubt we will—and I am not opposed to that—but that will not work. In the end, where the employer has the capacity to shift arrangements there will be pressure on workers and no free choice for workers.

This bill tells retail and bank employees they have to work on Boxing Day if their employer wants them to do so. That means many retail employees will have to work on Christmas Day. Let us be clear, this is an attack on Christmas Day. If shops are open on Boxing Day, there will be people unpacking, receiving, delivering, preparing and shelving on Christmas Day. One cannot vote for this legislation and be pro-Christmas. One cannot vote for this legislation and not expect people to have to work on Christmas Day because retail stores cannot throw open their doors on Boxing Day with nothing on their shelves. This bill is about allowing employees in the retail sector to be forced to work on Christmas Day. Any member who votes for this bill in the pretence that it is not so is having themselves and their voters on.

The bill also removes a bank holiday in August and the protections on other public holidays for bank workers. It is an attack on a largely casual, largely female, largely low-paid banking workforce as it opens them up to the same sort of intimidation that is faced by retail employees. It reduces 4½ protected days a year to 3½ days a year, or even 2½ days a year. If we go down this path and do not protect Boxing Day, it means nothing is sacred and there will be no protected days. This will affect not just bank and retail employees but everyone across the economy and they will all face having no time with family and no time for community activities. The Hon. Greg Pearce made an interesting contribution that exposes the greatest single weakness in this legislation. He claimed to be pro-union, which I find really

interesting. Those of us who were here—

The Hon. Sophie Cotsis: In 2011?

Dr JOHN KAYE: As the Hon. Sophie Cotsis says, those of us who were here—

The Hon. Daniel Mookhey: With friends like him—

Dr JOHN KAYE: As the Hon. Daniel Mookhey says—

The Hon. Sophie Cotsis: How many days?

Dr JOHN KAYE: I think it was four days; I felt I was talking for four days. The Hon. Greg Pearce referred to the playbook of conservative economics in the twenty-first century. He said, "We face tough times and we have to do something to address these grim times." He said we need to create better opportunities, although he did not say for what. He said we have to be flexible. The word "flexible" reminds me that I am not very good at yoga but I do know that it hurts people like me like hell. That is probably true of "workplace flexibility", which in many cases is used by employers to extort from their employees more hours of work. Then the Hon. Greg Pearce gives the game away by arguing we have to make a bigger pie to create more wealth to be redistributed—or distributed, as I do not think he believes in redistribution but in trickle down—and so there is more work for everybody. This is a nice idea but it is where the Government's argument falls over.

The Hon. Greg Pearce said more trading hours would mean more stuff is purchased which in turn would mean more economic activity and so more jobs. As members are aware, I am an engineer and as such I constantly make fun of physicists. There is a great physicist joke, a version of which I think has been told on *The Big Bang Theory*, where physicists say they have the solution to getting more milk from a cow; however, it only works for a perfectly spherical cow living in a vacuum. The Hon. Greg Pearce has created the economic equivalent of the perfectly spherical cow working in a vacuum. Indeed, if we had perfectly spherical employees and employers he might be right. But I have bad news for the Hon. Greg Pearce: nobody is perfectly spherical and none of us lives in a vacuum.

The harsh reality is that employers have a wages budget line, a certain amount of money to be spent on wages. Whether they spend that money on 26 December or 27 December does not make any difference as they will only spend a certain amount of money in any budget period. Retailers do not create more work hours by being open on 26 December; they just reallocate jobs from other days. Opening on Boxing Day will not create more jobs because there will be no additional money to pay workers. There will not be a sudden handing over of wealth from employers to employees by opening on Boxing Day.

The Hon. Greg Pearce brought up the idea that more stuff would be purchased. My household tries to operate to a budget which means that if we buy a new barbecue on 26 December we will not buy another one on 27 December. In fact, we would buy the barbecue on 27 December if the store was not open on Boxing Day. Having retail outlets open for more hours does not create more consumption. The Government's argument falls over at that point. Being open for longer does not create more jobs, more consumption or more economic activity; it does not grow the pie or resolve the economic challenges that this State and this nation face. We cannot create more wealth by shops being open for more hours; it will not work. We know it will not work because it is exactly what former Victorian Premiers Jeff Kennett and Ted Baillieu did in that State. As the May 2012 report of the McKell Institute points out:

Victoria provides us with an opportunity—

I would say a perfect but highly unfortunate opportunity—

to measure the impact of changes to trading restrictions on Easter Sunday.

In Victoria, former Premier Kennett liberalised trading hours and when Labor was elected to government it regulated trading hours again. Then the Liberals under Ted Baillieu were elected to government and they deregulated, followed by Labor who re-regulated. We have a perfect non-spherical laboratory not operating in a vacuum in Victoria. What were the conclusions from Victoria? The McKell Institute report states:

> What was observed however was that there was no significant, ongoing benefit from deregulation for Victoria. Any changes arising from regulatory shifts are completely lost within the broader year-to-year volatility.
>
> …
>
> The data simply refutes the theory that an extension of trading days will lead to a sustained increase in turnover. It is evident from these graphs that retail trading is much more affected by other external factors, such as interest rate changes or consumer confidence levels, than it is by changes to the number of trading days.

We are comprehensively wasting our time but worse than that we are inflicting pain on working people across New South Wales to achieve no economic outcome. This Government talks about getting New South Wales moving and making New South Wales number one again—whatever is the slogan du jour from the lips of Government members—but this is challenged by their profound economic stupidity and the cargo cult mentality that having retailers and banks open for longer hours will create more economic activity. What is really going on here is that the playbook, Professor Ian Harper's Competition Policy Review, the neoliberal bible of Australia, said that the Government should do this, but the panel gives no reasons. The panel gives a series of dysfunctional and irrelevant examples, but there is no economic argument and no rationality behind what it is saying. For example, it says:

> The growing use of the internet for retail purchases is undermining the original intent of restrictions on retail trading hours.

I have parsed that sentence; I have tried to translate it into French to see whether I can make some sense of it. It makes no sense. Certainly there is a threat to bricks and mortar retailing from online trading, but shops cannot confront that threat by being open more hours; no evidence is presented to show that that will help them to confront that threat. The panel goes on to say:

> In any event, as bricks and mortar stores opt for an online presence to counter this disadvantage, the notion of restricted trading hours becomes less meaningful.

Again, I cannot understand that sentence; it makes no sense. When one looks at it in the cold, hard light of day it is a nonsensical assertion. The panel continues:

> The Panel believes that deregulation of retail trading hours is overdue, and that remaining restrictions should be removed as soon as possible.

There it is. The playbook—the real agenda—is to get rid of all the restrictions. Anybody who votes for this legislation is moving us down the path of losing Anzac Day morning, Easter Sunday and Christmas Day. The Harper review let the cat out of the bag. Those opposite should talk to Ian Harper and tell him to be more subtle because they are doing this one step at a time.

The Hon. Adam Searle: He's incapable of subtlety.

Dr JOHN KAYE: I pass no judgement on him, but he is the oracle of neoliberalism. He is the guy who is driving the agenda. He says:

The extended jurisdictions choose to retain restrictions. These should be strictly limited to Christmas Day, Good Friday and the morning of Anzac Day.

He is basically saying that if we cannot get them this time we will come back and get them next time round. I am reminded of one critical feature of our society. If this legislation is to have any value whatsoever it is to remind us how important organised labour is to our society. At a time when organised labour is under attack from the Coalition Government in Canberra and from this Government in New South Wales and at a time when a number of officials in organised labour have done terrible things and have sold out their members, this legislation reminds us how important a good union is to protecting the workforce.

Imagine where we would be without the intervention of the Shop, Distributive and Allied Employees' Association and the Finance Services Union. Imagine where we would be now in this debate in relation to hours of work without the trade union movement of New South Wales and Australia. I am a member of the trade union movement; I have been a member all my life. I recognise it is not perfect because it is made up of human beings, some of whom are fallible and some of whom are more fallible than others. But I am reminded by this legislation that without organised labour we hand over all the power to the employers, and we know what they would do—they would destroy our family and community life and they would destroy us. I condemn this legislation and I urge all members to vote against it.

The Hon. SHAOQUETT MOSELMANE [9.43 p.m.]: I make a contribution to debate on the Retail Trading Amendment Bill 2015. I note the passion and compassion shown by speakers in this debate over the past few hours when speaking on a disgraceful bill that wipes out the few days of restrictions on trading that retail workers have won over decades. This bill is chipping away at long-established and hard-won rights to have proper family and religious days. If passed, this bill will have a significant impact not only on retail workers but also on families across the State. As the Hon. Greg Donnelly mentioned, it is a small bill, but it is a menacing bill that goes to the heart of the rights of workers. To strip workers of their right not to work for 4½ days out of 365 days is unfathomable. The bill has three brief objectives:

(a) to allow a shop or bank to be open on Boxing Day provided that the shop or bank is staffed only by persons who have freely elected to work on Boxing Day.

That seems innocuous in that workers have a choice of whether or not to work, but in reality that is completely contrary to what the bill says. The other objectives of the bill are:

(b) to allow a shop to receive, unpack and prepare goods for sale on any restricted trading day provided that the shop is staffed only by persons who have freely elected to work on that day, and

(c) to allow a bank to be open on the Bank Holiday (the first Monday in August) and on other public holidays (other than on Good Friday, Easter Sunday, before 1 pm on Anzac Day and on Christmas Day), provided that the bank is staffed only by persons who have freely elected to work on that day …

The Government has shown that it is ideologically driven with this poison in the bill. The bill is entirely unsympathetic to the rights of retail workers. We care for the workers. We care that ordinary people working in retail outlets get the appropriate rest from work on special occasions such as Christmas Day, Boxing Day, Good Friday, Easter Sunday and Anzac Day. The trade restrictions that exist and that have existed for a long time for those public holidays are there for good reasons that have been well articulated by many speakers in this debate. The restrictions give the families and loved ones of retail workers an opportunity to spend time together on special days in the calendar year, some of those days having important religious significance as they provide retail workers with a chance to take a break from what can be a gruelling work schedule. They also give the general population some time away from the hustle

and bustle of the commercial world and bring families and loved ones together in a meaningful way.

The Government has three key arguments for removing these restrictions. Not many Government members have spoken in debate on this bill but their arguments are as follows: Work will be voluntary; some shops already trade on Boxing Day so it is unfair to stop others doing so; and there are economic benefits and opportunities for retail workers to earn more money. The reality is far from that. This bill does not provide any new protections for voluntary work. The reality for thousands of retail workers—as the Hon. Greg Donnelly said, up to a million workers—in casual or in insecure employment is that they will feel unable to say no to work even though they would rather be at home, particularly workers who are desperate to ensure that they earn a living and that the family's income is secure, and particularly people who come from a non-English speaking background whose ability to defend themselves is weaker.

The Hon. Sophie Cotsis: No chance.

The Hon. SHAOQUETT MOSELMANE: No chance. The second argument of the Government is that some shops already trade on Boxing Day so it is unfair to stop others doing so. The vast majority of New South Wales shops have been shut on Boxing Day. Shops that can trade are a historical legacy from the previous Act. If the argument for a balance of fairness between businesses in expanding Boxing Day trading is accepted, retailers will be back with the same argument about Easter Sunday, when shops are open for trade in tourist areas.

The third argument concerns economic benefit and opportunities to earn money. The New South Wales retail industry is already performing strongly and there is no economic benefit from these changes. Members heard from Dr John Kaye and others who have reiterated the point that it does not contribute to the economy. Opening on one more day will not increase sales; it will just shift sales from one day to another. Clearly there are no real positive impacts from the bill but it will deny the rights of workers to have those 4½ days off. If this bill is enacted shops across New South Wales will be forced to open on Boxing Day thereby forcing tens of thousands of retail workers to go to work rather than spend valuable time with their families. It denies retail workers the ability to get two consecutive days off, being Christmas Day and Boxing Day.

Reverend the Hon. Fred Nile said that this is a Christian country but there is nothing Christian in this bill; there is nothing Christian in it at all. Christmas Day and Boxing Day, two of the most important religious days in the Christian calendar, will now see workers forced to work. I will not use the word that I had in mind, but it is unfair for Reverend the Hon. Fred Nile to say one thing and then to vote differently in this Chamber. This is a concern for the retail workers who work in the front of the shop, but these legislative changes will also enable shops across New South Wales to require tens of thousands of retail workers to fill shelves behind closed doors on Christmas Day, Good Friday, Easter Sunday and before 1.00 p.m. on Anzac Day as they prepare for retail trade. This is an outrageous rip-off of rights that were hard won by workers over decades. It robs them of the opportunity to spend more time with family and friends at community or religious functions.

This bill provides no new protection for retail workers to refuse to work or ensure that only workers who have "freely elected to work" are working on these days. The Government will this week put forward a ridiculous argument that only those who freely elect to work will work on those days. That view belongs in fantasyland. Furthermore, it will pit workers against one another knowing full well that many people who are under pressure from the cost of living will be forced to take on the work. We all know the pressures of a competitive workplace. We all know that workers do not want to displease their bosses for fear of losing their jobs or some other retribution.

Retail workers generally comprise low-income earners such as students, mums and other workers who have little bargaining power and who will feel the pressure from their bosses to work on these days. Why should they be compelled to work and surrender their family time? I conclude by reiterating the points that were well made by all my colleagues. The Hon. Greg Donnelly quoted

comments made by Reverend the Hon. Fred Nile in this Chamber concerning the need to protect the rights of workers on religious days, yet here we are letting the workers down on this important bill. I commend the comments of all my colleagues. I condemn this bill.

The Hon. MARK PEARSON [9.53 p.m.]: I will be brief in my contribution to debate on the Retail Trading Amendment Bill 2015. When I was travelling along the highway to a court case I noticed a large billboard with words written on it that could be seen by everybody travelling along that highway. The four words written on that billboard were, "Shut up and shop." That statement underpins the attitude behind this bill. The Animal Justice Party opposes the bill. Over the past few weeks, and as we are speaking in this Chamber, many families have become fractured, dispersed and scattered throughout New South Wales. Children, husbands, wives and partners have had to leave country towns to travel to cities or towns hundreds of kilometres away in order to work. They often work in banking, supermarkets or stores such as David Jones or Myers. These people are all scattered and disconnected from one another.

They have not been able to enjoy the usual fabric of family life because society requires them to travel long distances in order to work. They are looking forward to and have planned this Christmas Day and Boxing Day to come together and to spend time with one another to talk about their experiences and to nourish their relationships and the love that they feel for one another. They might attend various religious rituals that are dear to them, or maybe no rituals at all, but those two days are crucial to a fundamental principal in our society that gives people who have fondness, love, a sense of protection and goodwill for one another an opportunity to have that experience. These rights have been protected by governments of this State and country, but if this bill is enacted it will immediately corrode, undo and strike down fundamental familial bonds and friendships and the caring and compassionate principles that are celebrated and held dear by our society.

We cannot allow the corrosion of those principles. This bill will begin that corrosion. It is far more important that these families, children and broken people who have to travel long distances to work for lengthy periods have an opportunity to come together. That is what is in their hearts and minds now and we have no right to strike it down. On only two days out of 4½ people who are vulnerable in these situations know they are protected from any aggressive or pushy industry that wants to force them to work against their will out of greed and economic interest. It is unconscionable for anybody to support this bill. It goes against the fundamental fabric and principle of caring that ensures the good structure and fabric of family life, friendship and respect for individuals who want to be free from the burden and task of labour on that day. I condemn this bill.

Reverend the Hon. FRED NILE [9.58 p.m.]: I speak on behalf of the Christian Democratic Party to the Retail Trading Amendment Bill 2015. This bill has three objects:

(a) to allow a shop or bank to be open on Boxing Day provided that the shop or bank is staffed only by persons who have freely elected to work on Boxing Day, and

(b) to allow a shop to receive, unpack and prepare goods for sale on any restricted trading day provided that the shop is staffed only by persons who have freely elected to work on that day, and

(c) to allow a bank to be open on the Bank Holiday … provided that the bank is staffed only by persons who have freely elected to work on that day …

So those words, "freely elected to work" are critical. The concern of our party has been to devise amendments to this bill to ensure that that will happen. The Baird Government has introduced this legislation to expand shopping on Boxing Day across New South Wales to towns and other places where it is still not allowed. However, over half the population of New South Wales can already shop on Boxing Day as is done in other States.

The Hon. Greg Donnelly: That is just not true.

Reverend the Hon. FRED NILE: Because they receive exemptions from the law, large areas of New South Wales, such as the South Coast, from Shellharbour to Eden and the North Coast from Port Stephens to Coffs Harbour, already have open shopping on Boxing Day. However, Boxing Day shopping is banned in Newcastle, Wollongong and other towns. Members should study the maps that have been provided by the Government showing the large areas where shopping is already permitted in New South Wales.

The Hon. John Ajaka: Point of order: All other speakers have been allowed to speak in silence without interjections. Reverend the Hon. Fred Nile has the right to make his contribution without interjection.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I uphold the point of order. I remind all members, particularly those who have just come into the Chamber, that the level of debate has been of a good standard. We should maintain that.

Reverend the Hon. FRED NILE: Our party is committed to protecting the workers and that is why we have spent a great deal of time in studying this legislation and preparing amendments which we believe will continue to protect our holy days, such as Easter and Christmas. What we are seeking to do is to provide protection for workers who do not wish to work on Boxing Day and to protect shopkeepers who want to keep their shops closed on Boxing Day. We want to guarantee that there will be no changes to Christmas Day, Easter Sunday, Good Friday or Anzac Day. We want to ensure that no shop is open on Christmas Day, Good Friday, Easter Sunday or Anzac Day for receiving or unpacking goods or for packing shelves and to ensure Boxing Day will remain a public holiday by the payment of penalty rates for those employees who volunteer to work on Boxing Day.

It is obvious that our party is totally committed to protecting holy days. Also, we have prepared amendments to include a review of the legislation and, finally, to insert a sunset clause to cause the Boxing Day arrangements in the bill to lapse if not successful. In other words, if these commitments we are ensuring in the legislation are, in fact, not fulfilled then the bill would lapse. I am pleased that these amendments have been supported by the heads of churches in New South Wales and the New South Wales Council of Churches, particularly as outlined in a letter I have received today on the letterhead of the Archbishop of Sydney, Dr Glenn Davies, which states:

The Hon. Greg Donnelly: You're a fraud Fred, an utter fraud.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I call the Hon. Greg Donnelly to order for the first time.

The Hon. Robert Brown: Point of order—

Reverend the Hon. FRED NILE: The member is interjecting to object to the truth, that is the problem with the member.

The Hon. Robert Brown: This point of order has already been made. I have a lot of sympathy with some of the interjectors but I do believe that everybody else has been given a fair go so the member should be allowed to speak in silence.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I uphold the point of order. I again remind members that if they cannot control themselves, they should go to the members lounge.

Reverend the Hon. FRED NILE: I have received this letter today on the letterhead of the Archbishop of Sydney. It is not a fraudulent letter.

The Hon. Greg Donnelly: No, I said you're a fraud, Fred; I said you're a fraud.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I call the Hon. Greg Donnelly to order for the second time.

Reverend the Hon. FRED NILE: The Archbishop's letter is addressed to Reverend the Hon. Fred Nile and the Hon. Paul Green. He writes:

> Dear Paul and Fred, greetings.
>
> I met with the Board of the NSW Council of Churches this morning, which comprises the heads of the major Protestant churches in the State. We discussed the Retail Trading Amendment Bill 2015 and the amendments that were discussed with you both and the Minister for Industrial Relations in her office last Friday week.
>
> While some reluctance was expressed with regard to any legislative change which might diminish family time, we all agreed that the current legislation is both anomalous and discriminatory. However, we believe that the amendments which are being proposed by the Christian Democratic Party to the Government's amendment bill significantly address the current anomalies across the State as to who may trade and who may not trade on Boxing Day.
>
> In particular, the following points have convinced us to give our public support to the bill which includes the above-mentioned amendments, and which the Minister for Industrial Relations has agreed to support.
>
> 1. The current legislation (proposed by a former Labor Government) is manifestly unjust, providing a landscape of inconsistencies across the State with respect to trading on Boxing Day, whereas the new legislation provides not only consistency across the State, but genuine protections for employees who do not wish to work on Boxing Day, with a fine attached, per employee, for any breach of the Act.
>
> 2. The new legislation also provides protection for businesses who do not wish to open on Boxing Day, with a fine attached for any breach of the Act.
>
> 3. Furthermore, there is an absolute ban on employees working behind the scenes (unpacking, delivering et cetera) on Christmas Day, Good Friday, Easter Sunday and Anzac morning, which as a new provision, directly protects workers.

He is referring to the workers already working on Boxing Day who do not have those protections. He continues:

> 4. The appointment of an independent review to commence by 1 March 2017 and to be completed by 1 September 2017 to investigate the effectiveness of the legislation, particularly with regard to the protection of workers, is also a welcome provision.
>
> 5. Whatever the outcome of the review, the amendment Act will lapse, due to a sunset clause in the new legislation will lapse within two years. Thus new legislation will be required to continue the changed working conditions on Boxing Day. I have no doubt that the CDP and Heads of Churches will be very interested in the outcome of the review, which will determine the nature of our support for the continuation or modification of the changed conditions for trading on Boxing Day in the future.
>
> Although the Rev. Keith Garner, Director of Wesley Mission and the Roman Catholic Archbishop

> of Sydney, the Most Rev. Dr Anthony Fisher are not members of the NSW Council of Churches, in discussion with both of these men, they have indicated their broad support for the amendments to the bill outlined above.
>
> I trust the above is helpful to you both as you engage in debate on the bill in the Legislative Council in the near future.
>
> With every good wish.
>
> Grace and peace.
>
> Glenn N Davies
>
> Archbishop

I thank the Archbishop for his willing cooperation to assist us in this debate. I have received some letters from some of the ethnic church leaders who sadly have been misled by some dishonest people in this Chamber. Quoting Bishop Najarian of the Armenian Church, he says in his letter:

> The proposed cuts of these holidays will bar Christian families to come together and celebrate feasts like Christmas, Good Friday and Easter as a community.

This legislation has no impact on Christmas, Good Friday or Easter but these church leaders have been misled in a dishonest campaign to say the legislation is going to have the shops open on Christmas Day and at Easter. I also received a letter from the Greek Orthodox Church and I am quoting the same section:

> We need to protect the right of families to be together on days of religious and cultural significance ...

I repeat: There is no attack on religious public holidays in this legislation. If there were, the Christian Democratic Party would not support it. However, it will ensure trading hour consistency across New South Wales. Retailers in the other States can open for business on Boxing Day, but I do not see the Labor Party launching campaigns to change their legislation. As Government members said, the Coalition went to the March election having made a commitment to modernise the retail trading legislation in respect of Boxing Day.

Unlike retailers in the Sydney central business district [CBD] and in some eastern suburbs, retailers in suburban Sydney are not exempt from the requirement to close their doors on Boxing Day. We can choose to shop or work in a retail business or to open the doors on Boxing Day in the Sydney CBD or the eastern suburbs but not in Parramatta, Campbelltown or Penrith. The existing discriminatory legislation affects the working class people of the western suburbs. Shops in a number of holiday centres in regional New South Wales are permitted to trade on Boxing Day, but those in adjacent centres a short drive away are not. While the Wollongong Mall shops are closed on Boxing Day, shops 20 minutes away at Shellharbour are open. Shops in Wyong can trade but those in Newcastle cannot. Shops at Moama on the New South Wales side of the Murray River must be closed, but shops five minutes away over the bridge in Echuca, Victoria, are permitted to open their doors. The existing legislation discriminates against consumers, retailers and employees because of where they shop, where they work, and where they run their business.

The Christian Democratic Party supports provisions that would allow shops to open on Boxing Day. However, employees must freely elect to work without coercion or threats made by or on behalf of their employer. That is not now the case for workers who work on Boxing Day. The Christian Democratic Party wants to strengthen the rights of workers who do not wish to work on Boxing Day. Nothing in the

legislation changes the status of Boxing Day as a public holiday. Therefore, workers retain their rights under the Commonwealth Fair Work Act and the relevant awards and agreements that apply to them. This legislation includes penalties for forcing employees to work on Boxing Day, and failure to comply will constitute a breach of the legislation and could lead to prosecution and the imposition of 200 penalty points or an $11,000 fine for each breach.

Boxing Day will remain a restricted trading day and shopkeepers will not be able to be compelled by their landlord to open for business. If they do not have staff who freely elect to work or if they simply do not believe that it is appropriate or worthwhile to open their doors on Boxing Day, any lease arrangement that compels them to do so is voided by the Retail Trading Act. I am pleased that the Government has given a commitment, which it will repeat during this debate, to maintain restrictions on retail trading on other public holidays such as Christmas Day, Easter Sunday, Good Friday and Anzac Day morning. We thank the Government for that ironclad guarantee.

I have prepared additional proposed amendments that will be discussed in the Committee stage. They include an amendment designed to remove clauses from the bill that allow unpacking, loading et cetera on restricted trading days—that is, Good Friday, Easter Sunday, Anzac Day morning, and Christmas Day. The Christian Democratic Party's proposed amendment will make it illegal to engage any employee for work on restricted trading days. As I said, such a breach will attract an $11,000 fine in respect of each affected employee. The amendment makes it clear that the fine for such a breach is to be applied per employee. Reference has also been made to naming and shaming those companies that endeavour to force their employees to work. In addition, a $22,000 fine or 200 penalty points will be imposed on shopping malls that force businesses to open their doors against their will.

The Christian Democrat proposed amendments also provide for the ministerial appointment of an independent person to review the amendments to the Act, including the level of compliance by employers and any complaints by employees, and to report to the Parliament by 1 September 2017 about whether the amendments have been functioning as intended. If the review finds that that is not the case then a sunset clause will automatically kick in on 30 November 2017, and we will revert to the status quo; that is, the legislation will once again prohibit shopping on Boxing Day. The onus would be on the Government in the case of a positive review to extend the legislation so that it operates permanently. Retail traders will know that if they intimidate or force employees to work by any means and that is discovered in due course they will lose the opportunity to trade on Boxing Day. As I said, there are no proposed amendments affecting the remaining restricted trading days.

I am pleased that the Government is committed to protecting the religious public holidays. Because I am always cynical about government departments enforcing legislation, I have secured a commitment from the Government that NSW Industrial Relations will allocate five full-time staff to undertake compliance activities solely in respect of Boxing Day this year. Those officers will be 100 per cent devoted to ensuring that any complaints are investigated. NSW Industrial Relations will also significantly increase education activities in the lead-up to Boxing Day to ensure that employers and employees know their rights and responsibilities. I have outlined the purpose of the Christian Democratic Party's proposed amendments and I will leave further discussion on them until the Committee stage. This is a fair way in which to deal with the legislation. I assume that the amendments will be passed. The votes on the amendments will be a test of the consistency of the noisy members of the Labor Party.

The Hon. ROBERT BROWN [10.18 p.m.]: The Shooters and Fishers Party will vote against the second reading of the bill, will support Reverend the Hon. Fred Nile's amendments, and will vote against the third reading, irrespective of the numbers. That is purely and simply because we believe that we must be consistent, and we have been consistent on this issue from day one. One little thing worried me when I examined the amendments; that is, the reference to a trial and deciding someone is guilty when there is no evidence. I am not a lawyer, but we have more lawyers than we can poke a stick at in this place and perhaps some of them can examine that provision more closely. I commend Reverend the Hon. Fred Nile for trying to make this legislation work. However, as I said, at the end of the day, the Shooters and

Fishers Party opposes the legislation but will support the amendments. Even rednecks can count to 20; we know the numbers. However, we will see what happens after 2019.

The Hon. ERNEST WONG [10.20 p.m.]: I join my colleagues in opposing the Retail Trading Amendment Bill 2015. As has been outlined, Labor strongly opposes this bill and my colleagues have outlined the substantial arguments for our opposition. I thank the Hon. Adam Searle, in particular, for his leadership on this matter. Therefore, my remarks will be brief. But it would be remiss of me not to comment on the negative effect this bill will have on family and community life in New South Wales. It can hardly be argued—although those opposite are trying—that Australians do not already have a robust and thriving retail culture. The days of broadly restricted retail trading hours are long gone.

Australians long ago embraced two key social ideas. First, save for a very few exceptions, customers should be free to choose when they want to shop and businesses should be free to respond to this. Secondly, shopping can, in itself, be a leisure pursuit. This mix of ideas has seen Australian retail deregulated and transformed over the past 40 years. The old argument that, for example, some citizenry would find it offensive that shops should open on Sundays has been overturned by a clear pivot towards the freedom of the individual consumer and the freedom of the market. With 98 per cent of all available days of the year available for retail trade, it can only be argued that our retail sector has, for all intents and purposes, full capacity at its disposal. One cannot seriously argue that leveraging the remaining 2 per cent of days is the greatest issue facing our retail sector. I would have thought, for example, that the debate about putting internet purchases on equal GST footing is far more pressing.

But on the other hand, it is eminently arguable that the remaining 2 per cent of days reflect a clear community consensus that these particular days are special, and warrant preserving. These days include Christmas Day, Good Friday and Anzac Day—three of the most special family- and community-oriented days in our calendar. Does the Government not understand that these days have not been preserved lightly? Does the Government not understand that the fact that these days are still preserved, even decades after trading hours were first reformed, reflects a strong and intergenerational agreement to keep these days for family and community life? As I said earlier, we cannot argue that Australians have not embraced retail reform; they are happy to shop and to have opportunities to do so. But there is no evidence—none whatsoever—that they wish to see this extended to our iconic days such as Christmas Day and Anzac Day.

Even the most retail-frenzied of my friends and family understand that some days are sacred. Rather than being resentful on a day when shops are closed, they are grateful because the contrast only highlights the importance of the day, providing a point of reflection and a chance to be with family and community. And make no mistake, New South Wales communities would expect a great deal more consultation before a change like the one contemplated in this bill could be accepted. For example, they want the Government to be upfront about the fact that this bill will mean their family members can be forced to work on Christmas Day. That is the reality of this bill. While those opposite will try to make distinctions between stocking work versus open retail and claim workers still have rights of refusal, let us be realistic about this: If a major retail chain employer wants a casual staffer to work on Christmas Day to prepare for the sale, what choice do they have? They can take the risk that they will never get a shift again or they can call their mum and tell her to take their place setting off the table.

That is the reality of this bill, and that is how it will unfold in thousands of New South Wales households over generations to come. It strikes me as fascinating that a Government that claims to be socially conservative wants to rip away one of the few remaining protections of our social and community traditions. I have been a member of Parliament for 2½ years but I am still naïve because when I first read this bill I thought the Labor Party should get behind the Christian Democratic Party and support it in its fight for the Christians and for the spirit of Christmas. But I am confused now. Even though I am not a Christian, I celebrate and treasure the value this festival brings to all Australians. As a matter of fact, the very first value that I learned when I came to Australia 36 years ago was that we all have the equal right to a peaceful mind and to celebrate with our family the festival that we Australians treasure without the

pressure of being called in to work by employers.

I believe many members of this Chamber are Christians and I urge all the true Christians to come to their senses and oppose this bill—a bill that will tear the fabric of Australian culture. In summary, this bill is a poor deal for New South Wales families and communities. It is a retrograde step for our social inclusion and community spirit—and all for what must be, at best, an absolutely marginal change to an industry that already has near-capacity trading at its disposal. Accordingly, I join my colleagues in opposing the bill. I thank members for their attention.

The Hon. DANIEL MOOKHEY [10.25 p.m.]: Time itself is now a form of social inequality. Who controls their own hours of work? Who has their hours of work controlled for them? The illusion that some proffer is that this type of control is a universal right, able to be exercised by all and a matter of free will. This illusion is nonsense. As always, the entitlement to choice over the hours a person works is a function of a person's power in the labour market. When the evidence about how that power is distributed in the New South Wales labour market is aggregated, agglomerated and considered, the picture is clear: Those who work in the professions, those who work in occupations that have social prestige, and those who work in industries that receive and can pay the higher end of the pay scale have real choices over the hours they work. And they have collectively exercised their power to keep Boxing Day work free—kudos to them. But the problem is this: Those industries, those professions and those occupations do not comprise, and never have comprised, the majority of the workforce.

Employment in the two industries that this bill affects—the retail industry and the finance industry—collectively dwarfs the number of people employed in the industries and professions whose members are in full control of their working hours. Everybody—the Government, industry groups and the workers themselves—agrees that the capacity for these workers to exercise choice absent legislative constraints on their hours of work is negligible. That is why this Government and the masters it answers to in the employer groups are so invested in removing legislative restrictions—because legislative restrictions are the only barrier to their total control over the hours worked by their workforce. This is the meaning of class relations this century: less a conversation about who owns what; more a conversation about who can do what.

In my contribution to the second reading debate on the Retail Trading Amendment Bill 2015, I will point out how this Government is putting all its power behind those who already have plenty of power against those who only wish to have enough power to spend Boxing Day with their families, like everyone else. I will start by tackling head on one furphy put forward by the proponents of this bill: the furphy that a whole class of workers are aching to work on Boxing Day, and their aspirations are held back by the folly of government regulation. The problem with that argument is that those prepared to make it are never prepared to cite any form of empirical evidence that quantifies precisely how many people would freely choose to work if the legislation were passed. Nor do they single out who those people are, their demography or their geography. What they offer as evidence is actually mere assertion; and the assertion is sharply contradicted by the evidence in the public domain—evidence about the choices workers make when they do have meaningful power.

This question has been canvassed extensively. Two leading scholars Jerry Jacobs and Kathleen Gerson of Harvard University found that in nation after nation, especially in the OECD, a growing proportion of workers are putting in excessively long work weeks of 50 hours or more; and there has been a significant rise in combined working time in dual-income households. More consequentially, the academics found that most workers would trade some income for more control, flexibility and family support. They also found that most workers believe using family-friendly policies will jeopardise their future work prospects and thus fear the penalties that will be applied to them for using them. This fear is the reason that Parliaments past have understood the need for legislative intervention—for laws that stipulate which hours and days can be worked. Knowing that there is already a massive mismatch between the needs of our economic system and the needs of families, absent legislation, the needs of our economic system will always beat the wishes of families. Government members say that this is a scare

and that this scare is answered in the bill by the inclusion of the caveat "freely elected". Let us examine the calibre of that caveat. The bill states:

> For the purposes of this Act, a person has not freely elected to work on a day:
>
> (a) if the person works on the day because the person has been coerced, harassed, threatened or intimidated by or on behalf of the occupier of the shop or on behalf of the bank …

Apart from the fact that the bill is lax in defining coercion, harassment, threats and intimidation in this context, and notwithstanding the lack of definition of an "occupier"—which is itself an incredibly complex task in the retail industry—the bill offers no meaningful system for this alleged right to be exercised. If a worker wishes to exercise this right and they are refused, it is not at all clear whether they have an appeal right or to whom they can appeal. And because so many of those employed for the holiday period are employed seasonally, by the time they could access an appellate jurisdiction under other forms of legislation, their employment contract is likely to have expired.

Indeed, the meaningless of this provision is abundantly clear once you appreciate that, no matter the protestations of some members, the bill does not include a clear sanction against an employer or occupier who engages in coercion, harassment or intimidation. There is no provision for exemplary damages and no requirement to pay compensation. At best, an inspector might be able to bring suit for breaching other provisions of the Act, but even if an inspector gets that far in proving a breach of the Act or a breach of an exemption, that offers no relief to the worker affected. The Crown will win a fine but the worker will get nothing. The Government may well claim that this is the necessary price to be paid by the few so the many can benefit, but that contention is wrong as well. Take the examples of Victoria and Western Australia: Both are States that allow unrestricted trading on Boxing Day; both still lag behind New South Wales in retail turnover.

Turning to the case of Victoria in more detail, as other members have mentioned, in 1992 the Victorian Kennett Government removed trade restrictions on Easter Sunday. Business was able to operate on that day just like any other day until the Bracks Labor Government reintroduced the former balance in 2002. During the decade in which trade was allowed on Easter Sunday, a wealth of data was collected to consider the impact of increased trading days on consumer demand and retail volumes. All that data said there was no change. In fact, this was predicted. In 1992 the Australian Bureau of Statistics [ABS] stated:

> To date, there appears to be no discernible systematic shift to the trading-day patterns. This may suggest that at the macro economic level the extension of trading hours has not expanded the volume of monthly retail revenue.

The prediction that the ABS made in 1992 was supported in 2012—20 years later—by a report by the McKell Institute to which other members have referred. That report found:

> … the data simply refutes the theory that an extension of trading days will lead to a sustained increase in turnover.

Rather, any additional demand for trading on Boxing Day is likely to be a readjustment of the month-long demand, because if there is something you want to buy and you cannot buy it on 26 December you are probably going to just buy it on 27 December. It is right and fair that there be trading in the holiday period, and it is true that retail trading in the Sydney central business district is important to tourists and for tourism. I am not against retail trade, which is why I am for the balance that is already provided in current legislation.

The law, as it stands, allows for businesses to apply to operate on a restricted trading day and

allows trading in designated tourist precincts. Balance is the result of the measures taken by current legislation in respect of these competing interests. This bill, if it passes, will shift the balance to those with power at the expense of those without. The result will be greater bifurcation of the workforce. Some will do very well and others will be marginalised. The marginalised will be retail workers and finance workers. It will separate them from the rest of the workforce when it comes to income, jobs and rights.

Retail workers already labour on the periphery of the workforce. They are more prone to casualisation, they are more prone to part-time work and they are more likely to work split shifts. In times of economic splendour, all those factors conspire to become a depressant on real wages. That is the reason wages growth in the retail sector has historically lagged behind wages growth in other industries. That point is not seriously contested; nor is it novel. What is novel is how the retail industry, and to a lesser degree the healthcare and social assistance industry, internalises loss in times of economic downturn. All the evidence suggests that this risk is passed on to retail workers.

Take the experience of retail workers during the recent great recession. One of the most lauded features of Australia's response to that global recession was how the wage component of the contraction in national income experienced by Australia was channelled into a reduction of working hours, not job losses. This was a key point of difference between Australia's experiences during the global financial crisis [GFC] and Australia's experience during the 1991 recession. But we should be very honest about who paid the price of reduced working hours—that is, retail workers gave up their work so the broader economy could remain afloat. This is a practical example of what it is like to live life as a marginalised worker, as a member of the precariat, lacking in power and subject to everybody else's decisions. This bill, if passed, would drive those workers further to the margins. While everyone else shops, those workers will serve.

My concluding point is that, as bad as this is for those workers, it is also bad for the whole community because the distinguishing feature of the Australian labour market, unlike other OECD nations such as the United States, the United Kingdom and New Zealand, is our steadfast commitment to equality in the labour market. Unlike those countries, we do not believe it is fine to tolerate tremendous swathes of income inequality if some measure of compensation is offered through either charity or welfare. We have always had an enlarged vision of what a person and a family can and should derive from their labour: high pay, secure jobs, the right to rise, access to leisure, and the chance to exercise meaningful control over their own lives. We have insisted that this entitlement is everybody's birthright, not just available to one class of worker, one occupation or one profession.

That is the practical meaning of the egalitarian ethos and we should be proud of the type of society this ethos has created—a society that lacks a peasant class. But we should be equally conscious of how this ethos dies. It dies if parties continue to pursue extreme industrial relations policies nationally and at a State level. It dies if governments, both State and Federal, make or join applications to various forms of industrial tribunals to knock off weekend rates and night-time rates. And it dies if this Parliament rejects evidence and embraces ideology on matters as seemingly inconsequential as whether hundreds of thousands—or, as my colleague the Hon. Greg Donnelly pointed out, millions—of workers are required to work on Boxing Day. This Parliament should signal to this State that we are better than that, and it should reject this bill.

The Hon. SOPHIE COTSIS [10.37 p.m.]: I join my New South Wales Labor colleagues and a number of crossbenchers in strongly opposing the Retail Trading Amendment Bill 2015. I acknowledge the Leader of the Opposition in the upper House, the Hon. Adam Searle, not only for representing us but also for putting forward the case against this bill. I also acknowledge my colleague the Hon. Greg Donnelly who, as we have seen, continues to be a passionate advocate for retail workers across this State. I acknowledge Bernie Smith, the general secretary of the Shop, Distributive and Allied Employees' Association [SDA]. He is in the gallery tonight—thank you, Bernie. I acknowledge Robert Tonkli, the assistant general secretary of the SDA, who is also in the gallery. I also acknowledge Julia Angrisano, NSW/ACT Branch Secretary of the Finance Sector Union [FSU].

I started my working life as a shop assistant in a small clothing store. I was 14 years old. Probably many of us in this place and lots of people across New South Wales started our working lives as shoppies many years ago. I used to work the Thursday night and Saturday morning shifts. I did not work in Westfield; I worked in a shop outside. But I can tell you that I had to do what my boss told me to do and I had to do what jobs I was asked to do. The power of a small-time, casual retail worker is very limited.

It is a furphy for people who are supporting this bill to say that there will be protections for retail workers in the bill or in amendments they will propose. That is bull. We know what will really happen. As a member who has represented casual workers and hospitality workers, who were mainly women, I know where the bargaining power lies. It certainly does not lie with the worker in either the retail or hospitality industries. This is a bad deal for workers, families and the community. As the Leader of the Opposition in the upper House said, it is particularly bad for blended families and, as the Hon. Courtney Houssos stated, it is not good for regional workers.

After my five-year retail stint I was a shift worker at Sydney Airport. I had to work on Christmas Day, Boxing Day and Easter Sunday. At Sydney Airport we had no choice: We had to work those days and if we did not we would not get other shifts. It is a furphy for Government members to say that workers have protections. They do not have protections. In 2011 and 2012 when I was shadow Minister for Industrial Relations I spent a lot of time talking to retail workers. When the former Minister for Industrial Relations, who is not in the Chamber at the moment, spoke earlier he seemed quite proud in saying that unions—

The Hon. Shaoquett Moselmane: His union connections

The Hon. SOPHIE COTSIS: Yes, he spoke about his union connections. I thought: Is this the same guy that we spent four days with debating the capping of wages and changes to workers compensation legislation? That Minister kept us here for days on end fighting hard for the workers of this State. I have met a number of retail workers in the Hunter, most of whom were women working casual jobs to support their families and put their kids through school. Many of them were single mums who had to work on weekends because it was the only way for them to afford tutoring so their kids could do well in the Higher School Certificate and get into university, which is a dream of retail workers. They have to work on weekends, and to say that they will have protections to not work on Boxing Day is absolute bull. We will see how many workers will be forced to work on Boxing Day this year.

The retail workers I met were well represented by the Shop, Distributive and Allied Employees Association [SDA]. They told me that they loved working in retail. They acknowledged that they had to work on weekends, but also said how much they valued their 4½ days off and spending Christmas Day and Boxing Day with their families. I think it was Reverend the Hon. Fred Nile who said that Boxing Day is not a religious day. He may say I am verballing him if I am wrong, but according to Wikipedia:

> Boxing Day is a holiday traditionally celebrated the day following Christmas Day, when servants and tradesmen would receive gifts, known as a "Christmas box", from their bosses or employers, in the United Kingdom, Barbados, Canada, Hong Kong, Australia, Bermuda, New Zealand, Kenya, South Africa, Guyana, Trinidad and Tobago, Jamaica and other former British colonies. Today, Boxing Day is the bank holiday that generally takes place on 26 December.
>
> Due to the Roman Catholic Church's liturgical calendar, the day is known as St. Stephen's Day to Catholics, as well as in Italy, Finland, and Alsace and Moselle in France. It is also known as both St. Stephen's Day and the Day of the Wren or Wren's Day in Ireland. In some European countries, most notably Germany, Poland, Belgium, the Netherlands and those in Scandinavia, 26 December is celebrated as the Second Christmas Day.

Boxing Day is a religious day. It is also a family day and an important day. As the Hon. Greg Donnelly

stated, this bill will leave more than half a million New South Wales workers worse off. Because of this bill 375,000 retail workers and approximately 175,000 people who work in the finance sector will lose valuable workplace protections that have been previously guaranteed by law. Those workers will lose valuable protections—some of which are more than 100 years old—that ensure that they can take a break from work to spend time with their families and take part in important community days such as Christmas, Easter and half a day on Anzac Day.

Make no mistake: This bill is about the Government selling out the rights of those workers to benefit the big end of town. The winners under the bill will be Australia's largest and most profitable corporations—the big four banks and the conglomerates behind Coles and Woolworths. Those businesses are perfectly entitled to push for whatever suits their commercial interests and agendas. However, it is the responsibility of the government of the day to weigh the commercial interests of business against the wider interests of the public. This Government has failed to live up to that responsibility with this bill.

For more than 100 years unions and the Labor Party have fought to put in place protections to prevent workers from being exploited. They include the eight-hour working day, the five-day working week and penalty rates. People from the corporations who are watching this debate tonight and getting ready to pop their Moet and Chandon bottles are also pushing for the removal of penalty rates for the same workers. Those people who earn six-figure salaries that start with a three or a four are the same people who do not have to work on Christmas Day or Boxing Day.

The Hon. Shaoquett Moselmane: They will be having a holiday.

The Hon. SOPHIE COTSIS: Yes, or they will be out sailing and drinking their Moet and Chandon. I know at some point we will have to fix up the amendments that Reverend the Hon. Fred Nile will move, just as we had to do with his amendments to the workers compensation legislation. On that occasion he introduced amendments in the middle of the night that stuffed people up. He is doing it again and we will be back here fixing his mistakes before the review that he wants has been conducted. We will see.

The worker protections that I mentioned were secured after long-fought campaigns by working people in this State and country to ensure that people were treated fairly and not exploited in the workplace. This bill undoes a vital protection—the restrictions on trading that mean that retail and finance workers are able to spend time with their families. The present restrictions on trading are important because they are the only effective way to prevent workers being forced to work on significant days such as Christmas Day and half of Anzac Day. The nature of shift work and casual employment means that workers know that if they do not take the shifts they are given by their employer they cannot expect to receive shifts in the future. The Government will claim that there are safeguards in the bill to prevent workers from being forced to work. The claims that there are sufficient safeguards are simply rubbish and show that the Liberal-Nationals are totally ignorant of what it is like to be a casual retail worker.

I note that in his second reading speech on 21 October the Minister stated that "stores would only open conditional on staff freely electing to work without coercion made by or on behalf of the retailer". Anybody who has worked in retail or represented retail workers knows that is complete rubbish. Union officials get umpteen phone calls and emails from employees about the pressure to work that they have to endure. That is what is going to happen. I highly respect the Minister, but the notion that workers can freely elect to work is obviously coming from the big end of town. It is absolute rubbish and it is not going to happen. Coalition members are completely out of touch and I am astonished that The Nationals believe this notion as well.

A report by the McKell Institute looked into penalty rates, but also retail trade in a number of regional centres. We know many retail workers are employed in regional centres. Many of those retail workers have sought representation from their Federal members of Parliament. I wish to know what they have told their constituents, but whatever it is they are not saying it tonight. The position of part-time and

casual workers is by its very nature precarious and insecure. Anyone who has been engaged in part-time or casual work knows that employers do not have to make overt threats to force people to work. Your name is simply left off the roster—that is how it works. The common experience is that workers either work the shifts they are given or they are not given shifts. The only way to prevent workers being forced to work on important family days such as Christmas Day, Easter Sunday, Boxing Day and Anzac Day is to restrict trading on those days, which is why we have the Act that the bill seeks to amend.

The Government does not understand the pressures faced by people who have insecure jobs. The bill will add to those pressures, putting more strain on families and thus weakening the community bond that brings our society together. This is not the first time that the Coalition has brought forward this proposal. In 2012 it did the same thing to weaken protections for retail and finance workers. That bill passed the Legislative Assembly, but it was rightly rejected in this place because of the harm it would have done to New South Wales workers. This bill should also be rejected. As I mentioned at the outset, I have spent a lot of time with retail workers over the past four years. I am proud to support the Take the Time campaign, which includes a large number of community and religious organisations led by the SDA. The Take the Time campaign rightly draws attention to the importance of maintaining a balance between work and life, ensuring that workers are able to take the time to spend important days such as Christmas Day, Boxing Day, Easter Sunday, and Anzac Day with their families.

Many retail workers are women who value the flexibility that working part-time affords them, but they desperately want the security of knowing that they will be able to spend Christmas Day and other important days with their families. The bill is an affront to those women. The Liberal Party thinks that the profits of big business are more important than the precious and irreplaceable moments these women will share with their families. The bill devalues retail and finance workers because it says their time is worth less than that of other workers. I respect the essential public servants who work on those days, but for the majority of the remainder of the workforce, there is an expectation that it is not necessary to work on Christmas Day and Boxing Day. Those days are traditional days off work. It is a sacred time to spend with family. I met with retail workers in Charlestown. Most of them were women and they were members of the SDA.

We talked about their families and how much they loved their jobs. Many of them are proud volunteers who lead community organisations. They are parochial and love the Hunter. They told me that many of them have blended families and because of their different situations, Christmas Day and Boxing Day are the days that they spend at each other's places or they travel for three hours or so to visit their kids and grandkids. I hope that the Minister has spoken to retail workers to find out their experiences and what they go through. If not, I call on the Minister to do so. A number of religious leaders have written to the Government. Those letters have been read by my colleagues in this place so I will not repeat them. The May 2012 report of the McKell Institute entitled "Does our spending increase? The relationship between trading restrictions and retail turnover", analysed data from the Australian Bureau of Statistics [ABS] and found that the extension of trading hours does not increase retail turnover. The report stated:

> Due to the nature of retail trading, many retail workers regularly work on weekends and are not able to spend this time with family and friends. In New South Wales, the four most significant days of reflection (Good Friday, Easter Sunday, Christmas Day and Boxing Day) as well as Anzac Day morning are restricted to allow retail workers a small number of guaranteed occasions to spend with their family and friends who also have the time off.
>
> At a time when our community is suffering from a lack of interpersonal connection, and the challenge of balancing work and life commitments is becoming increasingly difficult for many, it seems ill advised to further accelerate this process by removing trading restrictions without a compelling case for the broader societal benefits.

The McKell Institute report concluded by stating that the push for unrestricted trading hours would be unlikely to stimulate more consumer demand. Put simply, the bill strips workers of their rights. It tears

apart the rights of families to spend time together on some of our most sacred days. The bill undermines our social bonds and will not deliver the economic benefit that the Government plans. My colleague the Hon. Greg Donnelly and a number of other colleagues stated that we do not have a money tree that will provide additional money to be spent. That is not how it works. In July 2015 the *Sydney Morning Herald* published an article that confirmed the statistics of the ABS that since 1995 volunteering numbers have fallen and will continue to fall. Before I conclude, I recite this poem for the retail workers:

Jingle bells, rushing through the bill, with one vote right of way
Over workers go, laughing all the way
Cash registers going ding, means I am missing family time
What fun is there when I am stuck here without my family tonight
Jingle bells, living hell—

[*Time expired*.]

The Hon. LYNDA VOLTZ [10.57 p.m.]: I also oppose the Retail Trading Amendment Bill 2015. The reality is that this Government does not understand women. It never has and never will. Since this Government came to office, we have seen gender pay go backwards and the pay gap has increased. We have seen its lack of ability to appoint women to the frontbenches of this Chamber or to put them on Liberal Party tickets. We are now witnessing another attack on women in one of the most worst paid sectors in Australia. The reality is that 20 per cent of women work in the food and retail trade industry and constitute the lowest paid workers in the country. This Government is attacking the lowest paid workers in a sector that employs mainly women. More than half of the women in New South Wales are employed in only four industries, but this Government does not care because it is easy for it to take away the rights of women.

Retail is one of the industries with a high proportion of female employees—they make up 54 per cent of the workforce. Retail trade is an industry that predominantly employs women and many of these jobs are insecure and lack rights, such as paid holiday, sick or carers leave. Over half the female workforce employed as sales workers are working part time. Over 50 per cent of women who work part time are employed on a casual basis. Casual employees generally do not receive paid leave and have no guarantee of ongoing employment. The extensive casualisation of women's part-time employment results in many women working in poor quality jobs that lack basic employment rights. These are statistics from a State Government report; they are not statistics that I have made up.

We do not have to go far to see that—we can just go to the Federal Government's Workplace Gender Equality Agency data and look at the figures for employees without paid leave entitlements by gender and occupation. These figures show the differential between men and women. Which occupation has the highest differential of employees without paid leave entitlements? It is sales workers, and it is women sales workers who lead the country in the differential in paid leave entitlements. But that does not matter to this Government, because it has consistently been willing to hang women out to dry.

The irony is that those on the Government side come into this Chamber and say that women will freely choose what they do on that day in negotiation with their employers—just like Michelle Payne got up on Melbourne Cup day and said, "I freely chose to ride whichever mount I get." What about those women in the Australian Defence Force? They are some of the toughest women I have ever come across. They have Acts which cover them, and yet we had to have a royal commission into how those women are treated. Let us look at the glass ceiling and see where women are. Let us have a look at pay equity and see where women are. Are we saying that somehow women are freely choosing these things? Are we saying that somehow there is no coercion? Are we saying that somehow there is no requirement for women to toe the line and just get on with the job? We have seen this happen everywhere. We know this happens in industry.

Here this Government is taking out the lowest paid workers in this country—the people with the

least rights and the least leave entitlements—and hanging them out to dry. It is throwing them out. This Government is treating women with the same disrespect we have seen it treat women with time and time again. We see it in their own representation. We have seen it in with women's refuges. We see it everywhere. We see it with the gender pay gap, and in the way it has increased under this Government. One would think that the gender pay gap would decrease over time. But, no, for the first time it has turned around and it is increasing. That is okay, because we know this Government has little regard for the value of women.

Now we find out that it has little regard for the value of families. Government members espouse in this Chamber how much they care about families and what families do. Yet here is the one time of year—the only time of the year—where for two days a family can spend time together. This is the only time of the year that that can happen. This is the only time of the year that small businesses are closed and those workers can stay home with their families. This is the only time of the year when women working in retail are not put upon to turn up to work because someone else has not. This is the only time of the year—where after mum has spent Christmas Day cooking, slaving over a hot stove and running around after everybody—when she can sit back and say, "There are Christmas leftovers. Let's chuck them in the esky and go outside for a game of french cricket in the backyard or down on the beach." This is the only time in New South Wales that families can sit down together. All of that is irrelevant to this Government. Despite it professing to have some sort of family values, it all gets chucked out the window. It is just like everything else with this Government.

I have sat in this Chamber on many occasions and been lectured by those opposite about how important our cultural and social norms are. I must admit that I have always thought it was a bit ethnocentric. But at the end of the day those opposite are always banging on about how important our cultural norms are. Well, here we are talking about our cultural norm. This is our social norm. And what do those opposite want to do? They want to do what they always do—that is, to go for the dollar, to go for the money and throw our cultural norms out the window. They are the Kim Kardashians of the New South Wales Parliament—they are only interested in materialism.

The Government is not interested in what we have done as people. It is not interested in how we live our lives. There are no ethics bound up in all of this. This is about one thing; this is about the almighty dollar, and the Government worshipping its power. It is a disgrace that those opposite have brought this bill before the Chamber. It is terrible. It goes against everything that those opposite get up in this Chamber and profess. What is more, it is a confirmation of what those opposite think of the women of this State. I oppose this bill.

The Hon. PENNY SHARPE [11.03 p.m.]: I too make a brief contribution to this debate on the Retail Trading Amendment Bill 2015 and indicate that I do not support it. For 361½ days a year people can shop until they drop in this State. There are only 4½ days when most shops are closed and people can have a public holiday. That is a pretty small amount of time for people to spend time with family, celebrate holidays and have some down time away from the rampant consumerism that threatens to engulf us—if it has not engulfed us already. Time, particularly the time of the lowest-paid workers and those with the least power, is something that we should value far more than we do.

We are already having an ongoing debate about whether penalty rates should be removed. Penalty rates are important because they recognise and value the time of workers—they value the time of those who work outside of normal hours and who work outside of what is considered to be the normal working week. We could not do without those workers. They work overnight, they work on weekends and they work on public holidays. Penalty rates are important. Similarly, the debate we are having here tonight is about what is the time that we value for our community. There are very few times—4½ days per year—where retail workers and finance sector workers are not required to work.

I place on record my concern about this idea that casual workers are protected and have some sort of power in the way all this occurs. At the age of 15 I started working in the retail sector. There are

three particular experiences that I want to share with the House tonight. First, I was a pretty nerdy band kid and I wanted to play at a band competition during Easter. I was given the time off. However, I was not given any shifts for another six weeks. I had to go and beg the boss for shifts and reassure him that I was serious about the job. So I did get my little Friday night and Saturday morning job back. At the age of 17 I was sacked, because basically he did not want to pay any more than the $2.97 per hour he was paying me. That was my first retail job. I had no power in that job. Even if I had wanted to complain, there was no one to complain to.

The second job I had was as a waitress in a coffee shop. I worked there diligently for over 12 months. I worked there during the university holidays. One day my skirt was dirty so I turned up to work in pants. I did not get another shift ever again. When I rang to ask why they were not putting me on the roster they simply said they did not need me anymore. That is not an unusual situation; that is the everyday situation of people in casual work. It is not about getting a chance to have a proper negotiation with the boss. Either you turn up or you do not get shifts or you get the sack. It is as simple as that. The idea that there is any kind of negotiation around this is simply ridiculous.

I want to join my colleague the Hon. Lynda Voltz in talking about the impact this lack of power has on women. Women who are part-time workers already have an unfair burden in relation to caring responsibilities not only for their children and their family but also, increasingly, for elderly parents will feel this more than anyone else. We have carved out 4½ days where they are free to have some time off. What we are considering here tonight is eroding this even further to 3½ days. To many, that might not sound like a lot. But for people who only have 4½ days a year where they are guaranteed that they do not have to turn up to work without the threat of losing their job it matters a great deal.

We talk a lot about the need for family time. As we sit here at 11.05 p.m. on a Tuesday night we know well that we do not work family-friendly hours. We know that our deregulated employment market has meant that fewer and fewer people are able to work family friendly hours. Time is becoming one of the most precious commodities that we have as individuals—time to spend with our families, time to look after our health, time to work, time to rest and time to play. If we do not value that as a society then we are simply living in an economy—an economy that does not value people and the connection that we have to one another.

We should not be supporting this bill. It is very simple: the restricted trading days will go from 4½ days to 3½ days. That extra day is precious. It allows two public holidays in a row, when families can move—that is, family members can go and see one another over the holiday. The final thing that I will say about this bill and why we should not support it is that not one person who will vote for it tonight will have to work on Boxing Day. So voting for this bill shows a great disrespect for the lowest paid workers, who rely on us to protect their interests and their connection to the community, and who rely on us to have some respect for their time.

The Hon. SARAH MITCHELL (Parliamentary Secretary) [11.09 p.m.], on behalf of the Hon. Duncan Gay, in reply: I acknowledge the contributions of members to this debate. The Government went to the electorate in March with a public commitment to modernise retail trading laws to provide more certainty and choice for consumers, retailers and employees. It is not unusual for the New South Wales retail economy to turn over approximately $8 billion per month, and it provides employment for 10 per cent of the New South Wales workforce—more than 375,000 jobs.

Our current retail laws are outdated and increasingly out of step with contemporary patterns of work, leisure and shopping. The current retail trading regime is complex, inconsistent, inefficient and administratively burdensome. This bill allows trading on Boxing Day across New South Wales, removing current inconsistencies; protects workers' rights; gives existing workers some rights on Boxing Day that they currently do not have; and prevents small businesses from being forced to open. I commend the bill to the House.

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

The House divided.

Ayes, 20

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Green	Reverend Nile
Mr Blair	Mr Khan	Mr Pearce
Mr Clarke	Mr MacDonald	Mrs Taylor
Mr Colless	Mrs Maclaren-Jones	*Tellers,*
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mr Mason-Cox	Dr Phelps

Noes, 19

Ms Barham	Dr Kaye	Mr Shoebridge
Mr Borsak	Mr Mookhey	Mr Veitch
Mr Brown	Mr Pearson	Mr Wong
Mr Buckingham	Mr Primrose	
Ms Cotsis	Mr Searle	*Tellers,*
Dr Faruqi	Mr Secord	Mr Moselmane
Mrs Houssos	Ms Sharpe	Mr Donnelly

Pair

Mr Gay	Ms Voltz

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Trevor Khan): If there is no objection, the Committee will deal with the bill as a whole.

Reverend the Hon. FRED NILE [11.20 p.m.], by leave: I move Christian Democratic Party amendments Nos 1 to 6 on sheet C2015-145B in globo:

No. 1 **Retail trading amendments**

Page 3, schedule 1. Insert after line 12:

[3] Section 5 Offence of trading on restricted trading day

Insert after section 5 (2):

(3) A person commits an offence against this subsection if the person commits an offence under subsection (1) in circumstances of aggravation.

Maximum penalty: 100 penalty units for each person who did not freely elect to work on the restricted trading day.

(4) In subsection (3), ***circumstances of aggravation*** means circumstances in which the shop was staffed by any person who did not freely elect to work on the restricted trading day concerned.

(5) If on the trial of a person charged with an offence against subsection (3) the trier of fact is not satisfied that the offence is proven but is satisfied that the person has committed an offence against subsection (1), the trier of fact may acquit the person of the offence charged and find the person guilty of an offence against subsection (1), and the person is liable to punishment accordingly.

No. 2 **Retail trading amendments**

Page 3, schedule 1 [5], lines 20–31. Omit all words on those lines. Insert instead:

[5] Section 8A

Insert after section 8:

8A Shop not required to be closed on Boxing Day if staff freely elect to work

No. 3 **Retail trading amendments**

Page 4, schedule 1. Insert after line 2:

[8] Section 14C Banks not to be open for retail banking business on bank close days

Insert after section 14C (2):

(2A) A person commits an offence against this subsection if the person commits an offence under subsection (1) in circumstances of aggravation.

Maximum penalty: 100 penalty units for each person who did not freely elect to work on the bank close day.

(2B) In subsection (2A), ***circumstances of aggravation*** means circumstances in which the bank was staffed by any person who did not freely elect to work on the bank close day concerned.

(2C) If on the trial of a person charged with an offence against subsection (2A) the trier of fact is not satisfied that the offence is

proven but is satisfied that the person has committed an offence against subsection (1), the trier of fact may acquit the person of the offence charged and find the person guilty of an offence against subsection (1), and the person is liable to punishment accordingly.

No. 4 **Retail trading amendments**

Page 4, schedule 1. Insert after line 24:

[14] Section 16

Omit the section. Insert instead:

16 Nature of proceedings for offences

(1) Proceedings for an offence under this Act or the regulations may be dealt with:

(a) summarily before a Local Court, or

(b) summarily before the Supreme Court in its summary jurisdiction.

(2) If proceedings are brought in a Local Court, the maximum monetary penalty that the Local Court may impose for the offence is 100 penalty units, despite any higher maximum monetary penalty provided in respect of the offence.

No. 5 **Retail trading amendments**

Page 4, schedule 1. Insert after line 24:

[14] Section 22A Provisions relating to shops in leased premises

Insert after section 22A (3):

(4) An owner or lessor of premises, or a person acting for an owner or lessor of premises, must not require an occupier of a shop located in the premises that is the subject of a lease to keep the shop open at any time on a restricted trading day.

Maximum penalty: 200 penalty units.

No. 6 **Retail trading amendments**

Page 4, schedule 1. Insert after line 24:

[14] Section 26

Omit the section. Insert instead:

26 Review of Retail Trading Amendment Act 2015

(1) The Minister is, as soon as possible after 1 February 2017, to appoint an independent person to review this Act to determine whether the policy objectives of the *Retail Trading Amendment Act 2015* (the ***amendment Act***) remain valid and whether the terms of this Act remain appropriate for securing those objectives.

(2) The review is to be undertaken as soon as possible after 1 February 2017.

(3) A report on the outcome of the review is to be tabled in each House of Parliament on or before 1 September 2017.

27 Sunset of amendments made by Retail Trading Amendment Act 2015

(1) This Act is amended on 1 December 2017 as set out in schedule 3.

(2) The *Retail Trading Regulation 2014* is amended on 1 December 2017 as set out in schedule 4.

[15] Schedules 3 and 4

Insert after schedule 2:

Schedule 3 Repeal on 1 December 2017 of amendments to Act made by Retail Trading Amendment Act 2015

(Section 27 (1))

[1] Section 3A Meaning of "freely elected to work"

Omit the section.

[2] Section 4 Shops to be closed on restricted trading days

Insert after section 4 (2):

(3) Subsection (1) (e) does not apply to a shop located in the precinct prescribed by the regulations as the Sydney Trading Precinct.

[3] Section 5 Offence of trading on restricted trading day

Omit section 5 (3)–(5).

[4] Section 7 Businesses of certain kinds exempt from trading restrictions

Omit "have freely elected to work on that day" from section 7 (2).

Insert instead "have freely elected to work on that day, without any coercion, harassment, threat or intimidation by or on behalf of the occupier of the shop".

[5] Section 7 (3) and (4)

Omit section 7 (3).

Insert instead:

(3) For the purposes of subsection (2), a person is not taken to have freely elected to work on a restricted trading day merely because the person is rostered, or required by the terms of an industrial instrument, to work on that day.

(4) Subsections (2) and (3) have effect despite any other law.

[6] Section 8A Shop not required to be closed on Boxing Day if staff freely elect to work

Omit the section.

[7] Section 13 Staffing on restricted trading days

Omit "have freely elected to work on that day" from section 13 (1).

Insert instead "have freely elected to work on that day, without any coercion, harassment, threat or intimidation by or on behalf of the occupier of the shop".

[8] Section 13 (2)

Insert after section 13 (1):

(2) For the purposes of subsection (1), a person is not taken to have freely elected to work on a restricted trading day merely because the person is rostered, or required by the terms of an industrial instrument, to work on that day.

[9] Section 14C Banks not to be open for retail banking business on bank close days

Omit section 14C (2A)–(2C).

[10] Section 14CA Banks may be open on certain bank close days if staff freely elect to work

Omit the section.

[11] Section 14D Extension of Bank Holiday to other financial institutions

Omit section 14D (3) (a). Insert instead:

(a) the financial institution (or the branch) opens in accordance with an approval granted under this Part, or

[12] Section 14D (4) and (5)

Insert after section 14D (3):

(4) An approval for a financial institution to open on Bank Holiday may be granted under this Part as if a financial institution were a bank. For that purpose, a reference in this Part to a bank includes a reference to a financial institution.

(5) A financial institution must not fail to comply with a condition of an approval granted under this Part.

Maximum penalty: 50 penalty units.

[13] Section 14E Restrictions on granting approval for banks to open

Omit "or on Christmas Day" from section 14E (1).

Insert instead ", on Christmas Day or on Boxing Day".

[14] Section 14F Staffing on bank close days

Omit "have freely elected to work on that day" from section 14F (1).

Insert instead "have freely elected to work on that day, without any coercion, harassment, threat or intimidation by or on behalf of the bank".

[15] Section 14F (2)

Insert after section 14F (1):

(2) For the purposes of subsection (1), a person is not taken to have freely elected to work on a bank close day merely because the person is rostered, or required by the terms of an industrial instrument, to work on that day.

[16] Section 16

Omit the section. Insert instead:

16 Proceedings for offences

Proceedings for an offence under this Act or the regulations maybe dealt with summarily.

[17] Section 22A Certain lease provisions of no effect

Omit section 22A (4).

[18] Section 26 Review of Retail Trading Amendment Act 2015

Omit the section.

Schedule 4 Repeal on 1 December 2017 of amendment to Retail Trading Regulation2014 made by Retail Trading Amendment Act 2015

(Section 27 (2))

Clause 4

Insert after clause 3:

4 Sydney Trading Precinct

For the purpose of section 4 (3) of the Act, the Sydney Trading Precinct is the precinct described as:

(a) having a northern boundary composed by the southern shoreline of Port Jackson Harbour, extending from Rushcutters Bay to Jubilee Park at Blackwattle Bay, and

(b) having a western boundary extending from Jubilee Park at Blackwattle Bay, along the western side of Glebe Point Road to Parramatta Road, and then in a direct line to the corner of City Road and Cleveland Street, Chippendale, and

(c) having a south-western boundary extending from the corner of City Road and Cleveland Street, Chippendale, proceeding in a direct line to the corner of South Dowling Street and Todman Avenue, Kensington, and

(d) having a south-eastern boundary from the corner of South Dowling Street and Todman Avenue, Kensington, proceeding in a direct line to the corner of Council Street and Bondi Road, Bondi Junction, and

(e) having a north-eastern boundary from the corner of Council Street and Bondi Road, Bondi Junction, proceeding in a direct line to the corner of New South Head Road and Neild Avenue, Rushcutters Bay, and then in a direct line due north to the southern shoreline of Port Jackson Harbour.

Amendment No. 6 includes changes to schedules 3 and 4. These are incidental amendments arising from the earlier five amendments. Amendment No. 1 will ensure that a fine is imposed on businesses that open on a restricted day when employees have not freely elected to work. The fine is per employee. The amendment ensures that businesses that are fined for opening on a restricted day with staff working who have not freely elected to work will be fined per employee rather than one fine for the day. The maximum penalty is 100 penalty points per employee, which is currently $11,000. That penalty will increase each year.

Amendment No. 2 protects Good Friday, Easter Sunday, Anzac Day morning and Christmas Day. This amendment will ensure that under the law shops across New South Wales will not be allowed to hire employees to unpack goods or prepare goods for sale on the most important days of the Christian calendar—Christmas Day, Easter Sunday and Good Friday—and on Anzac Day morning. This will ensure that all staff and employers will be free to spend these important times with their families and friends. The Christian Democratic Party strongly believes that employees should not work these tasks or volunteer on these holy days and that employers should not seek to employ anyone on these days. The amendment reflects the sanctity of these days, which is so important to members of the community. I welcome the Government's ironclad commitment that it will not remove restrictions on retail trading on other public holidays such as Good Friday, Easter Sunday, Anzac Day morning and Christmas Day.

Amendment No. 3 will ensure that the fine imposed on a bank that opens on a restricted day when employees have not freely elected to work is per employee. This amendment ensures that banks

that are fined for opening on bank close days with staff working who have not freely elected to work are fined per employee rather than just one fine for the day. The maximum penalty is 100 penalty points per employee, which is currently $11,000. Amendment No. 4 will ensure that larger fines can be issued by outlining which courts can deal with those fines. This amendment facilitates larger fines by allowing for proceedings to be held in higher courts if required.

Amendment No. 5 introduces a fine for shopping centres or other lessees that force a business to open. This amendment provides a punitive measure to deter shopping centres and other lessees from forcing businesses to open on restricted trading days. The fine would be 200 penalty points, which is currently $22,000. This will help to ensure that all business owners have the opportunity not to work and to spend time with their family on Boxing Day if they wish. It will ensure that they have a true choice in whether to open the business. I note that under the Government's bill shopkeepers cannot be compelled by their landlord to open. If staff members do not freely elect to work or if the business owner simply does not think it is appropriate or worthwhile to open on Boxing Day, then any lease arrangement that compels them to do so is made void by the Retail Trading Act. The Christian Democratic Party amendments strengthen that part of the bill.

Amendment No. 6 is an important and unique amendment. It introduces a sunset clause and independent review. The amendment provides for the ministerial appointment of an independent person to review the amendments to the Act, including the level of compliance by employers and any complaints by employees, and to report to Parliament by 1 September 2017 in order to determine whether the amendments have been functioning as intended. If the review finds that that is not the case, then the sunset clause would automatically commence on 30 November 2017, reverting to the status quo, that is, this bill would no longer have any effect.

I thank my colleague the Hon. Paul Green for his initiative in working through this amendment. The onus would be on the Government, in the case of a positive review, to extend the bill so that it operates permanently. The Christian Democratic Party believes this creates an incentive for the Government to ensure that the Act operates in the way that it is intended, where employee and employer rights are fully protected. I am pleased to move these amendments. I note the references by members that this bill, without the amendments, favours the higher end of town. I am aware that the higher end of town in the metropolitan area already has Boxing Day trading. I commend the Christian Democratic Party amendments.

The CHAIR (The Hon. Trevor Khan): Order! I call the Hon. Walt Secord to order for the first time.

The Hon. SARAH MITCHELL (Parliamentary Secretary) [11.26 p.m.]: The Government supports the amendments moved by Reverend the Hon. Fred Nile.

The CHAIR (The Hon. Trevor Khan): Order! I call Mr David Shoebridge to order for the first time.

The Hon. SARAH MITCHELL: The Government accepts the reasoning for amendment No. 1 and will accept the amendment, noting that the bill already introduces the freely elect to work provision for shops in the Sydney trading precinct where it has previously not applied on Boxing Day. In relation to amendment No. 2, the Government believes that the key benefits for communities, businesses and workers flow from the opportunity for shops in all areas to trade on Boxing Day. Therefore, the Government is prepared to accept the amendment.

The Government accepts the reasoning put forward for amendment No. 3 and will accept the amendment. Amendment No. 4 facilitates the larger fines proposed. Once again, the Government will accept it. In relation to amendment No. 5, under the Government's bill shopkeepers cannot be compelled by a landlord to open. If they do not have staff members that freely elect to work or if they simply do not think it is appropriate or even worthwhile to open on Boxing Day or on any other restricted trading day,

any lease arrangement that compels them to do so is voided by the Retail Trading Act. The Government acknowledges that this amendment provides for a greater deterrent and will accept it. In relation to amendment No. 6, the Government has always been committed to ensuring that the Act operates as intended and the rights of employees and small businesses in particular are upheld. The Government will accept this amendment.

The Hon. ADAM SEARLE (Leader of the Opposition) [11.28 p.m.]: The Opposition will support these amendments because they represent a slight softening of the legislation before the House. Amendments Nos 1 and 3 provide for multiple penalties per worker but the amount of the penalty is the same as for the current offence. It is not so much an increased penalty but is multiplied by the number of workers affected. Given the Government's extremely poor record on reinforcing the existing law—one prosecution—I do not know how much of a deterrent this represents. Even with the multiplication of the penalty, when we consider what retailers make, particularly large chains, I am sure that very many of them would regard that as a small cost of doing business.

In particular, amendment No. 2 is an improvement because it removes the provision in the bill that would allow shops to operate on the other restricted days, including Christmas Day, for the purposes of receiving goods and stacking shelves. Shops that trade on Boxing Day will not have goods sitting around for two days unattended. This amendment sets up an invitation to outlets wishing to trade on Boxing Day to wilfully break the law by having workers coming in on Christmas Day to receive the goods and stack the shelves. There are no two ways about it; that is what the amendment sets up. The penalties to which retailers will be exposed compared to the turnover of the retail chains are so small so as to represent no deterrent. What looks like an improvement to the legislation is not an improvement.

Reverend the Hon. Fred Nile: If they abuse it, the bill will lapse. They will not have it.

The Hon. ADAM SEARLE: I will come to those amendments in due course. This amendment sets up an invitation to retailers to break the law while running a risk of prosecution. If they are prosecuted, they will pay a relatively small penalty compared with their turnover. It is a paper improvement, which the Opposition will embrace, but it does not address the fundamental problem in the bill. The only protection we can provide for those who work in the retail and banking and finance sectors is whether or not the shops and financial institutions will be able to operate. The workers will have no other protection at law. We are giving away their protection.

I note the interjection made by the mover of the amendments, the Leader of the Christian Democratic Party, about schedules 3 and 4—the lapsing provisions whereby on and from 1 December 2017 the changes are to lapse and by which we will have a two-year experiment. That also is an improvement and it will be interesting to see how that all pans out. As I read the amendments, they will be automatic. I do not think the bill has a differential proclamation clause. The whole bill will have to come into effect on the same day, so the Government will have to bring the lapsing provisions into effect. If that does not work out as intended, as Reverend the Hon. Fred Nile said the bill will lapse. But the real issue is: What will be the quality of the information?

The fundamental problem in this situation is that because the workers who will be affected have no real ability to resist or say no when requested—that is, they do not have to be coerced or overborne—the fact is they will not be in a position to make a complaint to the regulatory agency. I am not sure that, even with the care that has been taken to formulate the amendments, the information on any review will reveal the true picture. But in the spirit in which the amendments have been moved, the Opposition will embrace the amendments as being better than nothing, but only barely. For a party that campaigned heavily on protecting restricted days, it is unfortunate we are in the position whereby one of the 4½ remaining protected days in the year is being given away.

The Hon. ROBERT BROWN [11.33 p.m.]: The Shooters and Fishers Party supports the amendments. I commend Reverend the Hon. Fred Nile and the Hon. Paul Green for the work they have

done in formulating the amendments, which are numerous and complex. I just pray to God that the Government does not skunk you, Fred.

Mr DAVID SHOEBRIDGE [11.34 p.m.]: The Greens do not oppose the amendments, but we want to be very clear that they go almost no way towards resolving our concerns about the bill. With these amendments, Boxing Day is still lost for retail workers. These amendments, which propose some marginal changes to the words relating to the definition of "freely elected", will make no industrial difference on the ground to retail workers. For reasons discussed at length during the second reading debate, Reverend the Hon. Fred Nile and those who assisted in compiling the amendments would know that retail workers do not have the industrial muscle to assert that so-called freedom to not work.

The idea that some person who is appointed by the Minister will be able to conduct a genuinely independent review when there will not be evidence before him of the factual and real coercion that will happen to retail workers highlights the hollowness of the review that is being proposed. One could almost imagine that the Minister has drafted the amendments or that the Shopping Centre Council of Australia drafted and formulated the amendments.

Reverend the Hon. Fred Nile: We drafted the amendments. The Christian Democratic Party drafted the amendments.

Mr DAVID SHOEBRIDGE: I make that assertion because I doubt the Christian Democratic Party could have come up with a set of amendments that provides so little for retail workers and so much for the Shopping Centre Council of Australia and for the Government. If individual workers are not willing to put up their hand and say, "I am not in a position to work. I do not want to work. I want to spend time with my family", because they are scared of losing the next shift or potentially their job—bearing in mind the contribution to this debate made by the Hon. Penny Sharpe in which she related her experience of working in the retail industry—that is part of the greater truth of working in the retail industry. They are marginal employees with no industrial muscle who cannot say no to their boss.

Reverend the Hon. Fred Nile: They will have the industrial muscle now.

Mr DAVID SHOEBRIDGE: They cannot say no to their boss. I note the interjection by Reverend the Hon. Fred Nile that they have the industrial muscle now. They do not.

Reverend the Hon. Fred Nile: They do.

Mr DAVID SHOEBRIDGE: They do not. They have an excellent union, but that excellent union has come to Parliament and said, "Don't pass this bill", because it knows the industrial reality in the workplace a great deal better than do the members of this Chamber. The union has come forward and said that the industrial reality in the workplace is that retail workers will not be able to exercise this purported freedom. It is a retreat freedom that the Christian Democratic Party is giving them. That is what the union is telling members of this Parliament—the union that represents thousands of those workers. The union is telling us that its workers will not be able to exercise this purported freedom. That is the experience of the union on the ground.

The CHAIR (The Hon. Trevor Khan): Order! I remind Mr David Shoebridge that in speaking to the amendments he must address the Chair and not address his remarks to Reverend the Hon. Fred Nile.

Mr DAVID SHOEBRIDGE: The amendments are a hollow promise to retail workers. They are a hollow promise to finance sector workers. They provide no protection. The new section 26 proposed by the amendments states:

The Minister is, as soon as possible after 1 February 2017, to appoint an independent person—

I suppose the Minister selects who the independent person is and will define "independent"—

> to review this Act to determine whether the policy objectives of the Retail Trading Amendment Act 2015 … remain valid and whether the terms of this Act remain appropriate for securing those objectives.

It does not appear that whoever is appointed will even embark upon a fact-finding exercise. That person will just have a policy review about whether the objectives remain valid and whether the terms of the Act remain appropriate. They will not even have to speak to a single retail worker, let alone be in a position to actually gather evidence about what on earth happened in December 2015 and in December 2016. They will be appointed after the Boxing Days have been and gone.

They will not be in the shops talking to workers when they need to be trying to get a genuine response. They are appointed after the fact, not required to talk to retail workers, not required to talk to the union and only doing a policy and not a factual review. I can write the report that this pretend independent person chosen by the Minister and who supports the bill will present to make sure that the sun never sets on it. I can clearly predict the report will say, "The policy objectives of the Retail Trading Amendment Act 2015 remain valid." It will conclude that the terms of the Act remain appropriate except for the sunset clause, which should be removed. We will have this same debate in 2017 leading up to Christmas. The *Daily Telegraph* will run the typical line that the Government should be supported in giving a fair go for the west as though there are thousands of retail workers in the west.

The CHAIR (The Hon. Trevor Khan): Order! Mr David Shoebridge is not speaking to the amendments. I invite him to concentrate on the words of the amendments and not go beyond that.

Mr DAVID SHOEBRIDGE: The pretend independent review could be written today. It will not look at any facts but just regurgitate the Government's propaganda about the so-called policy rationale for the bill and securing the objectives. The Hon. Robert Brown raised concerns about some of the evidentiary provisions for the aggravated offences. Of all the critiques I could make of the bill I could not make that because the proposed aggravated offences in new sections 5 and 14C provide that a retailer can be prosecuted for the more serious aggravated offence but if the evidence presented cannot justify the aggravated offence and can justify the non-aggravated offence a conviction can be made on the non-aggravated offence.

The Hon. Robert Brown: I stand corrected.

Mr DAVID SHOEBRIDGE: It is a fairly standard form and it makes sense if one reads it with the balance of the provisions as opposed to just as an amendment, which is the difficulty in reading the amendments. I turn to the sunset clause. Two weeks ago this Chamber gave yet another extension to the sunset clause on the Terrorism (Police Powers) Bill, just as this Chamber has done repeatedly when it comes to terrorism legislation. The Commonwealth Parliament has extended every sunset clause that comes before it. In fact, in all the research we asked the Parliamentary Library to do on sunset clauses there was just one instance of the sun actually setting in all of the pretend debates on the principle of sunset clauses in the entire legislative history of State and Federal parliaments.

This is a pretend protection and it is notionally the biggest thing in these amendments. It suggests we can let water flow under the bridge and have the quasi-independent review that will not look at any facts along with some marginal changes to the definition of "free and voluntary" and tightening up of protections on stocking shelves but the really big thing is the sunset clause. However, the sun never sets on these clauses and once the retail sector gets its teeth into trading in other parts of the State and the banks—some of the most powerful and clearly the most cashed-up institutions in the country—get their teeth into trading on public and bank holidays it will be next to impossible to see the sun set on these provisions. The sun will likely set only if we get a different government that is forced to change this legislation through popular opinion.

The sun will not set on these provisions while this Government is in office because it is ideologically committed to getting the mock independent report to justify Reverend the Hon. Fred Nile agreeing to a bill that attacks Boxing Day and Christmas, and I think Reverend the Hon. Fred Nile should acknowledge that. The amendments do not cure the bill but marginally sweeten a bitter pill for retail and bank workers. I am surprised that this close to Christmas we would be giving up Boxing Day as a protected day. I am also surprised that the Christian Democratic Party is giving up Boxing Day, an important part of the Christmas break, for retail and bank workers. Sometimes the nature of politics surprises with how little principle matters. This is one occasion where principle has been sacrificed and I do not know what for and why.

The CHAIR (The Hon. Trevor Khan): Order! I remind Mr David Shoebridge that he should speak to the amendments.

The Hon. GREG DONNELLY [11.45 p.m.]: I intend to make a brief but relevant contribution to the Committee stage of the Retail Trading Amendment Bill 2015. First I will respond to a comment by Reverend the Hon. Fred Nile in the second reading debate that relates to the amendments before us now. He threw out the challenge to the Opposition to support the Christian Democratic Party amendments as if we could not get behind these amendments. We have before us a set of amendments that in effect take a mongrel bill and make it a dog bill. The Christian Democratic Party amendments have moved the bill that far. I encourage members to look at page 3, specifically lines 20 to 30, of the bill itself—so before the amendments we are considering—as an example to underline my point:

Insert after section 8:

8A Shop not prohibited from receiving, unpacking and preparing goods for sale if staff freely elect to work

(1) A shop is not required to be kept closed on a restricted trading day if:

(a) the only business activities carried on at the shop on that day are receiving, unpacking or preparing goods for sale, and

(b) the business activities are carried on only by persons who have freely elected to work on that day.

(2) This section has effect despite any other provision of this Act or of any other Act or law.

We clearly understand the effect of that provision would be, if carried into legislation, to enable companies to require employees to work at particular times at which they otherwise would not have to work. The Christian Democratic Party has moved amendments suggesting it has generously and diligently drafted amendments to ameliorate that fact. The point is that this is not like other legislation that comes before this Chamber where the Government drafts the legislation with Parliamentary Counsel to create ambit in the bill that then allows Reverend the Hon. Fred Nile and the Hon. Paul Green to swoop down with amendments put before us to reach a compromise solution that is satisfactory. This is different because you, as the leader of the Christian Democratic Party, and the Hon. Paul Green—

The CHAIR (The Hon. Trevor Khan): Order! I remind the Hon. Greg Donnelly that he is not addressing Reverend the Hon. Fred Nile.

The Hon. GREG DONNELLY: I am addressing you. Both these representatives of the Christian Democratic Party came into an election campaign and gave undertakings in writing on their how-to-vote cards promising people in New South Wales protections with respect to working on certain days.

The CHAIR (The Hon. Trevor Khan): Order! The member is not speaking to the amendments.

The Hon. GREG DONNELLY: I am.

The CHAIR (The Hon. Trevor Khan): Order! The member is giving a second reading speech.

The Hon. GREG DONNELLY: No, I am not.

The CHAIR (The Hon. Trevor Khan): Order! The member will not argue with me. He is not addressing the amendments.

The Hon. GREG DONNELLY: This is precisely the point on the consideration of these amendments: how they got here and what their purpose is. The one million or more citizens of New South Wales who will be impacted by this legislation are not dills.

The Hon. John Ajaka: Point of order: My point of order relates to relevance to the amendments that are being debated. The member has indicated that he is supporting the amendments so he should give the reasons why he is supporting the amendments. He cannot at the same time continue to criticise the substance of the bill; that occurred during the second reading debate.

Mr David Shoebridge: To the point of order—

The CHAIR (The Hon. Trevor Khan): Order! Mr David Shoebridge does not need to speak to the point of order. The Hon. Greg Donnelly knows what I think. He will confine his remarks to the amendments.

The Hon. GREG DONNELLY: Indeed. Thank you, Mr Chair, for the ruling. The amendments presented this evening by the Christian Democratic Party are an attempt to create a salve or a balm to give rest to their consciences tonight. But that will not work because the people impacted by this legislation understand in their bones the effect of this type of legislation. They may have left school at the age of 15, they may be casual and part-time workers, they may be single mothers, they may be women, they may be university students and they may be school kids, but they understand in their bones and in their hearts the impact of this legislation. The truth is that these amendments are an attempt to create a salve or a balm for the consciences of the Christian Democratic Party, and it will not work. We are forced, because we have no choice, not to oppose these amendments.

Reverend the Hon. Fred Nile: You have a choice. Have you got courage?

The CHAIR (The Hon. Trevor Khan): Order! Reverend the Hon. Fred Nile will come to order.

The Hon. GREG DONNELLY: But the confidence trick of the Christian Democratic Party is to come before this Chamber with a suite of amendments to then be able to say at the end, "Look what we have achieved." Reverend the Hon. Fred Nile and the Hon. Paul Green can rest assured that the people impacted by this legislation understand the confidence trick that is being perpetrating on them. This is fraudulent and unacceptable, but at the end of the day what can we do? I find it sickening to my stomach that this man went to the State election promising protections for the people of New South Wales on the back of his how-to-vote cards and what does he do? He betrays the people of New South Wales. Reverend the Hon. Fred Nile is a disgrace. We have no choice other than to accept the amendments but I am appalled by Reverend the Hon. Fred Nile's actions.

Question—That Christian Democratic Party amendments Nos 1 to 6 [C2015-145B] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendments Nos 1 to 6 [C2015-145B] agreed to.

The CHAIR (The Hon. Trevor Khan): After the House resolved itself into the Committee of the Whole and after leave was granted to take the bill as a whole, Mr David Shoebridge handed up a handwritten further amendment, which reads as follows:

> Insert a new section 3A (3) "That unless and until Schedule 3 of the Retail Trading Amendment Bill 2015 comes into effect, the members of the Legislative Council must gather in the Legislative Council Chamber from 10.00 a.m. to 2.00 p.m. each Boxing Day to debate the impact of the bill".

Mr David Shoebridge: A good amendment.

The CHAIR (The Hon. Trevor Khan): Order! I call Mr David Shoebridge to order for the second time. I note that approximately two weeks ago an email was provided to each and every member of this Chamber with regard to dealing with amendments. I read from the 2015 A *Practical Guide to Committee of the Whole*. In part it provides as follows:

> Rulings of the Chair have consistently maintained that amendments should be lodged prior to the House resolving into committee of the whole. This enables the Minister, other members and the Clerks-at-the-Table to examine the effect of the amendments and to assist in the orderly and efficient consideration of bills, particularly complex or controversial bills.
>
> Amendments received after the House has resolved into committee of the whole will only be accepted at the discretion of the Chair.
>
> Amendments can be lodged either with a Clerk in the Chamber or with the Procedure Office. When amendments are received they are stamped and signed by the Clerk with the date and time of receipt.
>
> Chairs of Committees have consistently ruled that amendments in committee of the whole must be lodged in written form (SO 109 (7)).
>
> On occasion members have moved amendments, or moved amendments to amendments, without first circulating a written amendment. It is for the Chair to decide whether to accept such an amendment. At a minimum, it would be expected that proceedings in committee would be paused while the amendment is put in writing and circulated for the information of members.

I also note that at page 360 of *New South Wales Legislative Council Practice* by Lovelock and Evans observations are made on issues of admissibility of amendments, particularly with regard to relevance. One of the observations is as follows:

> An amendment is out of order if it is vague, trifling or tendered in a spirit of mockery.

The final matter that I refer to—

Mr David Shoebridge: Not a mockery.

Dr John Kaye: What about Fred's amendments?

The CHAIR (The Hon. Trevor Khan): Order! I am making a ruling and members will remain silent. The final matter is that I note the long title of this bill is "an Act to amend the Retail Trading Act 2008 to make further provision with respect to restricted trading days and bank trading days; and for other purposes". I find that the proposed amendment is outside the leave of the long title of the bill. I also find that the amendment is trifling, if not tending to be a mockery. Therefore, I do not have to decide on the final issue with regard to the time of the filing of the amendment. However, if I had been required to do so,

I would have found that it was too late and I would have been required to pause these proceedings to allow all members to consider it. Therefore, on that basis, I find that the amendment is out of order.

Title agreed to.

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

Bill as amended agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Sarah Mitchell, on behalf of the Hon. Duncan Gay, agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. SARAH MITCHELL (Parliamentary Secretary) [12.01 a.m.], on behalf of the Hon. Duncan Gay: I move:

That this bill be now read a third time.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.01 a.m.]: It is not often that we make a contribution on the third reading of a bill. Despite the amendments adopted by this Chamber the Opposition will be opposing this bill on the third reading for the following reasons: It does not address the fundamental problem inherent in the bill, which is that retail workers and those working in banking and finance do not have any practical ability to resist a request to work on the restricted days now permitted. Further, it sets up a tension which invites retail outlets to break the law in terms of the receiving of goods and stacking shelves prior to Boxing Day trading, which makes a mockery of the prohibition. And, although the repeal provisions in schedules 3 and 4 remove the bad aspects of the legislation, as I read the amendments that have been adopted they will also repeal the few good changes made, such as the multiplication of the penalties provisions in the Christian Democratic Party amendments. It takes us back to a complete status quo.

It still creates a situation where for this year and for next year retail workers and those working in banking and finance will be exposed to having to work on Boxing Day. The reality is that I think many people will effectively be required to work on Christmas Day as well, contrary to the letter of the bill and the amendments. It is inexorable because I do not believe that retail outlets will have the goods received and shelves stacked two days in advance collecting dust and sitting there as a target for vandals and thieves. Although the amendments were no doubt put forward in a spirit to ameliorate the harshness of the legislation I think they will completely fail to meet the pitch of the ball. The Opposition will be opposing this bill on the third read.

Mr DAVID SHOEBRIDGE [12.03 a.m.]: The bill that has come out of Committee is, in substance, little different from the bill that went into Committee. Boxing Day will still be lost for the better part of one million workers in this State. The pretend additional protections that have been adopted are next to meaningless in the opinion of the union that represents these workers. The Finance Sector Union similarly understands that once you open up Boxing Day trading its workers will not have the industrial muscle to stand up to their employers. This has been a pretend fix to a bill that is as ugly coming out of Committee as it was before it went in. The Greens will not be supporting this bill on the third reading.

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

The House divided.

Ayes, 20

Mr Ajaka	Mr Gallacher	Mrs Mitchell
Mr Amato	Mr Green	Reverend Nile
Mr Blair	Mr Khan	Mr Pearce
Mr Clarke	Mr MacDonald	Mrs Taylor
Mr Colless	Mrs Maclaren-Jones	*Tellers,*
Ms Cusack	Mr Mallard	Mr Franklin
Mr Farlow	Mr Mason-Cox	Dr Phelps

Noes, 19

Ms Barham	Dr Kaye	Mr Shoebridge
Mr Borsak	Mr Mookhey	Mr Veitch
Mr Brown	Mr Pearson	Mr Wong
Mr Buckingham	Mr Primrose	
Ms Cotsis	Mr Searle	*Tellers,*
Dr Faruqi	Mr Secord	Mr Donnelly
Mrs Houssos	Ms Sharpe	Mr Moselmane

Pair

Mr Gay	Ms Voltz

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.

ASSENT TO BILLS

Assent to the following bills was reported:

Bail Amendment Bill 2015
Terrorism (Police Powers) Amendment Bill 2015
Criminal Procedure Amendment (Child Sexual Offence Evidence Pilot) Bill 2015
Home Building and Duties Amendment (Loose-fill Asbestos Insulation Affected Premises) Bill 2015
Regulatory Reform and Other Legislative Repeals Bill 2015
Occupational Licensing National Law Repeal Bill 2015
Strata Schemes Management Bill 2015

Strata Schemes Development Bill 2015
Treasury Corporation Amendment Bill 2015
Superannuation Administration Amendment (Investment Management and Other Matters) Bill 2015
State Insurance and Care Governance Amendment (Investment Management) Bill 2015

GAMING AND LIQUOR ADMINISTRATION AMENDMENT BILL 2015

Second Reading

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [12.12 a.m.]: I move:

That this bill be now read a second time.

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

Leave not granted.

I am pleased to introduce the Gaming and Liquor Administration Amendment Bill 2015. This bill implements structural reforms to the liquor and gaming regulatory framework designed to better support the important policy settings applying to these sectors. Over the past few years the Government has taken significant steps to better manage the risks associated with liquor and gaming activities.

The PRESIDENT: Order! Members have asked to hear the Minister's speech. He will be heard in silence.

The Hon. NIALL BLAIR: The reforms now underway as represented in this bill and other administrative work by the Department of Justice are the next logical step. The Government is focused on strengthening compliance and enforcement, improving transparency and accountability, and ensuring community members are properly equipped to navigate this complex system.

The current liquor and gaming regulatory framework commenced on 1 July 2008. It replaced a longstanding court-based regime that was inflexible, complex, legalistic and costly. This court-based system was adversarial, often requiring residents and others opposed to a licence application to give evidence under oath and to be cross-examined in the Licensing Court. The current administrative-based regulatory model has been in place now for more than seven years with New South Wales the only jurisdiction in Australia where there are two regulators sharing responsibility for liquor and gaming regulation.

The Independent Liquor and Gaming Authority is currently the decision-maker for all licensing proposals and a number of disciplinary matters. The Office of Liquor, Gaming and Racing undertakes most of the Secretary of the Department of Justice's statutory functions under delegation as well as providing policy support to the Minister and engaging with stakeholders on behalf of the Government. The Office of Liquor, Gaming and Racing's delegated functions include a range of compliance and enforcement actions, such as the imposition of sanctions and licence conditions, the issuing of directions to licensees, and taking action against irresponsible liquor promotions.

The Gaming and Liquor Administration Act 2007 establishes the Independent Liquor and Gaming Authority, and provides a statutory framework for its operation as well as the appointment of inspectors by the Secretary, Department of Justice. In 2014 the Gaming and Liquor Administration Act was amended to include objectives to: ensure the probity of public officials who are engaged in the administration of the gaming and liquor legislation; ensure that the authority is accessible and responsive to the needs of all persons and bodies who deal with the authority; promote fair and transparent decision-making under the

gaming and liquor legislation; require matters under the gaming and liquor legislation to be dealt with and decided in an informal and expeditious manner; and promote public confidence in the authority's decision-making and in the conduct of its members.

However, there has been growing concern and frustration expressed by some industry and community stakeholders about the current liquor and gaming regulatory arrangements. These arrangements have the potential to undermine these objectives or, at the very least, the objectives could be better served by a more integrated approach. These concerns relate to: a lack of clarity and accountability regarding statutory responsibilities; significant delays in dealing with both routine and complex matters, including disciplinary matters; inconsistency in decision-making; regulatory overlap between the functions of the Independent Liquor and Gaming Authority and the Office of Liquor, Gaming and Racing; inefficient processes adopted for licence application transactions; the risk of regulatory capture of inspectors who are permanently based at the casino; and a lack of transparency in decision-making.

Dr John Kaye: Point of order: I think we should test whether the Minister will be given leave to incorporate the balance of his speech if he wishes to do so.

The Hon. NIALL BLAIR: I seek leave to have the remainder of my second reading speech incorporated in *Hansard*.

Leave granted.

It is clear that the current regulatory model is no longer fit for purpose and that structural reforms are needed so that the Government's liquor and gaming policy settings, including its 2014 liquor reforms, are not compromised.

The measures contained in this bill will improve the institutional arrangements applying to the liquor and gaming regulatory framework while providing a stronger compliance and enforcement focus particularly in relation to high-risk activities and venues.

Importantly, the bill does not change the Government's policy position in relation to things like the 1.30 a.m. lockout, the 3.00 a.m. cease liquor service, or the three strikes and violent venues schemes.

The bill also preserves the independent decision-making of the Independent Liquor and Gaming Authority in relation to contentious licensing proposals and disciplinary matters.

I now turn to the measures contained in the bill.

<u>Removal of the statutory position of the Chief Executive, Independent Liquor and Gaming Authority [ILGA]</u>

The bill removes the statutory position of Chief Executive of the Independent Liquor and Gaming Authority and the capacity for the authority to employ staff.

Those staff formerly employed by the authority, including the Chief Executive, are being transferred to the Department of Justice as part of an administrative order being made by the Government.

The transfer of staff from the Independent Liquor and Gaming Authority to the Department of Justice is part of the establishment of an integrated liquor and gaming regulator.

Known as Liquor and Gaming NSW, it will absorb most of the functions undertaken by the Office

of Liquor, Gaming and Racing as well as delegated decision-making on behalf of the Independent Liquor and Gaming Authority for routine licensing applications.

These routine licensing applications include applications for a liquor licence for restaurants, community groups and wineries.

Liquor and Gaming NSW will have two distinct streams: an operational stream with compliance and licensing functions and a policy stream with policy, strategy and support functions.

The transfer of Independent Liquor and Gaming Authority staff includes those inspectors that have been permanently based at the casino undertaking casino inspections and compliance activities.

For a long time this group of inspectors has been embedded at the casino and exposed to the risk of regulatory capture.

As part of the broader liquor and gaming inspectorate employed by the Department of Justice, this risk will be significantly reduced and the regulator will be well positioned to effectively regulate the restricted gaming facility at Barangaroo when it comes online in 2019.

The bill removes the definition of a casino inspector for the purposes of the Gaming and Liquor Administration Act with all inspectors with liquor, gaming and casino responsibilities forming part of the compliance and enforcement force within Liquor and Gaming NSW.

This liquor and gaming inspectorate will have compliance and enforcement functions across the liquor gaming registered club and casino sectors and enables inspectors to be rotated across these sectors, allowing knowledge sharing and minimising the risk of regulatory capture.

The Secretary, Department of Justice, will continue to be responsible for the appointment of all inspectors under the Gaming and Liquor Administration Act.

Having inspectors with regulatory responsibilities for the casino located within the broader compliance workforce within the Department of Justice will also enable compliance approaches and proactive strategies that are being used to improve liquor serving practices and reduce alcohol-related harms across the State's 16,000 licensed premises to be applied at the casino.

Clearly there is a need to reduce alcohol-related assaults at the casino in line with reductions that have been recorded across New South Wales.

The reforms will make a larger pool of inspectors available at high-risk times and increase the regulator's operational capacity.

This enables surge activities to be undertaken when required at the casino or when other priority matters need to be addressed.

Liquor and Gaming NSW will also be responsible for providing administrative and secretariat support to the Independent Liquor and Gaming Authority in exercising its statutory functions.

This will include the preparation of material for the authority's meetings, making recommendations to the authority on licensing and disciplinary matters and the preparation and publication of the authority's decisions.

Review of statutory decisions

The current regulatory model does not include a merit review mechanism of decisions made by the Independent Liquor and Gaming Authority.

The absence of a review mechanism, particularly in relation to contentious matters that have a strong public interest, such as a new hotel licence, has been problematic for both business operators and local communities.

For business operators there has been no low-cost non-technical recourse available for a review of a decision to refuse an application that has involved significant investment over a period of time.

For local communities there has been no low-cost non-technical recourse available for residents and others opposed to a new liquor licence being approved in their neighbourhood.

In fact, the problems that led to the 2008 creation of the Independent Liquor and Gaming Authority have been replicated in the current system.

That is, the pre-2008 system was legalistic, adversarial, complex and slow.

The bill provides for licensing decisions to be reviewed in certain circumstances.

For decisions made by the Independent Liquor and Gaming Authority, a review will be available from the NSW Civil and Administrative Tribunal in relation to contentious liquor and gaming applications, such as the grant of a new hotel or packaged liquor licence.

The types of applications determined by the Independent Liquor and Gaming Authority that can be reviewed by the NSW Civil and Administrative Tribunal will be prescribed by regulation prior to the commencement of the bill.

Standing for seeking a review of a decision made by the authority will be limited to the applicant and those persons who made a submission and who were required to be provided notification of the application.

The bill provides that a review of a decision can be sought within 28 days of the authority's decision being published on the website of Liquor and Gaming NSW.

The fee payable for a review of a decision made by the authority will be prescribed by regulation prior to the commencement of this bill.

Having the New South Wales Civil and Administrative Tribunal review certain licensing decisions made by the Independent Liquor and Gaming Authority builds upon existing arrangements whereby the NSW Civil and Administrative Tribunal [NCAT] can already review certain disciplinary decisions made by the authority.

For instance, NCAT can already review decisions made by the Independent Liquor and Gaming Authority in relation to the imposition of a third strike imposed on a licensed venue, and the issuing of a long-term banning order applying to a person in the Sydney central business district [CBD] and Kings Cross precincts.

The bill also enables delegated decisions made by Liquor and Gaming NSW to be reviewed by the Independent Liquor and Gaming Authority.

This is to ensure that the exercise of the delegation continues to be done in a way that the authority considers to be appropriate.

The delegated decisions that can be reviewed by the authority will be limited to those applications that will be prescribed by regulation and will include the grant or removal of a liquor licence.

Consistent with the review of decisions made by the authority in the first instance, standing for seeking a review of a delegated decision will be limited to the applicant, and those persons who made a submission and who were required to be provided notification of the application.

The fee to seek a review of a delegated decision by the Independent Liquor and Gaming Authority will also be prescribed by regulation prior to the commencement of the bill.

Ministerial directions

The bill enables the responsible Minister to issue directions to the Independent Liquor and Gaming Authority.

These directions relate to the way it conducts its business, the frequency of its meetings and other administrative arrangements to improve the timeliness and transparency of the authority's decision-making.

These directions will not apply to any advice, report or recommendation made to the Minister or Government.

Nor will they apply to any decision to grant, suspend or cancel a licence or any disciplinary proceedings determined by the authority.

The inclusion of these ministerial directions in the bill recognises the need for processing and administrative improvements to the authority's statutory functions to reduce delays and improve service levels for stakeholders.

For instance, the authority currently meets on a monthly basis to consider licence applications and disciplinary matters.

This arrangement is not appropriate at a time when there are extensive delays in determining both routine and complex licensing and disciplinary matters and matters are adjourned for various reasons adding to the frustration of the applicant and other parties.

The issuing of ministerial directions will provide greater flexibility in the way the authority conducts its business so that these delays are minimised.

However, the issuing of ministerial directions will not interfere with the authority's status in making decisions independent of Government.

It is appropriate that the authority's independent status is maintained so that the public can have confidence that its decisions are free of Government interference.

The bill also makes minor amendments to the Casino Control Act 1992 by no longer requiring the Independent Liquor and Gaming Authority to exercise functions relating to inspecting the operations of the casino and the detection and prosecution of offences at the casino.

Consistent with the Government's objective of centralising compliance and enforcement efforts across the liquor gaming registered club and casino industries the Secretary, Department of Justice will be responsible for compliance and enforcement activities at the casino.

This includes the capacity for the secretary to prosecute offences under the Casino Control Act alongside the Director of Public Prosecutions, the Commissioner of Police and the authority.

Finally the bill requires the Independent Liquor and Gaming Authority to have due regard to any recommendations made by the Secretary, Department of Justice in relation to an application or any other matter under consideration by the authority under the gaming and liquor legislation.

This recognises the extensive liquor and gaming regulatory expertise that is available within the Department of Justice that is to be properly considered by the authority when determining an application or disciplinary matter.

The bill will also require mandated decisions made by the Independent Liquor and Gaming Authority to be published on the website of Liquor and Gaming NSW.

This is consistent with the policy intent of establishing an integrated regulator Liquor and Gaming NSW within the Department of Justice to improve service delivery, minimise duplication of regulatory effort and reduce costs.

Again I can confirm that the bill will not encroach on the policy settings of the Liquor Act 2007 or the Gaming Machines Act 2001.

I commend the bill to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [12.17 a.m.]: The Opposition has some significant concerns about the bill now before the House. We will be proposing some amendments which have been lodged with the Clerks which speak to our concerns. If the bill is not satisfactorily amended, we will be opposing it. Our significant concerns are that the measures in this bill compromise and undermine the independence of the Independent Liquor and Gaming Authority [ILGA]. We were also disappointed by the way the Government has gone about the bill—introducing the bill in the other place without consultation and without much warning and certainly without thorough public and stakeholder consultation. This has meant that the community has not been allowed to have full and proper consideration of the proposed changes.

There are a number of changes. First of all, the bill provides for limited, but real, ministerial control and direction over what is now a completely independent body. It also removes certain functions that the Independent Liquor and Gaming Authority now has under the Casino Control Act. In particular the provision of inspectors and the regulatory staff of ILGA and those functions under the Casino Control Act, if this bill is passed in its current form, will now be undertaken by a new regulator, Liquor and Gaming NSW, within the Department of Justice. Work that is now being conducted by a completely independent body effectively will be conducted by an arm of Executive government, again reducing the independence of those key and important functions. That causes a great deal of concern because, as far as the Opposition is aware, there is no clamouring by the wider community for the changes contained in this legislation. We are very concerned about what motivations might be prompting these changes.

Of course, the bill contains some measures that are worthy of support—for example, the introduction of an affordable appeal mechanism. That is an important step forward for members of the wider community. Currently decisions made by the Independent Liquor and Gaming Authority can be appealed to the Supreme Court only on narrow legal grounds. In practice, that means that an appeal would be viable only for those with deep pockets and those with commercial interests. The Opposition believes the appeal mechanism provided for in the bill is a step in the right direction, but it does not go far enough. As such, we have proposed amendments that will put a bit more flesh on the bone than is provided in this legislation. As I indicated, the Opposition is significantly concerned about what it sees as the erosion of the independence of the ILGA. We are disappointed that the bill appears to be aimed primarily at the erosion of that independence. In the 2013-14 Independent Liquor and Gaming Authority

annual report the chairperson, Mr Chris Sidoti, indicated that the authority's independence was critical. He said:

> The Crown Sydney investigation, the regulation and supervision of The Star and the day to day regulation of the liquor and gaming industries, all demonstrate the importance of having an independent regulator to ensure that liquor and gaming in the State are provided with integrity and a minimum of harm. Policy concerning these industries is properly a matter for the political processes of Government and Parliament but implementation and administration of the law are best done independently.

Importantly, he went on to say:

> Independence is at the heart of the Authority's nature and functioning. It is clearly provided in the law we administer. It is enhanced through the appointment of statutory office holders to lead the Authority.

The chairperson speaks about the integrity of the authority being connected to its independence. The Opposition believes that independence will be fundamentally compromised by the terms of this bill. It would be useful if the Minister were able to elaborate on that point. The Minister with carriage of the bill in the other place, the Deputy Premier—who I note is in the President's gallery—was not able or willing to do so in reply to the second reading debate. These matters have an interesting history. In his second reading speech when introducing the Liquor Legislation Amendment (Statutory Review) Bill 2014 on 15 October 2014 the then Minister for Hospitality, Gaming and Racing, the Hon. Troy Grant, stated:

> The Government's response supported 84 of the 91 recommendations made by the review either in full or in principle and noted five recommendations for further consideration.

The review referred to by the Minister was the November 2013 "Report on the statutory review of the Liquor Act 2007 and the Gaming and Liquor Administration Act 2007". At page 31 the review noted:

> Submissions expressed strong interest in relation to the structure of the liquor regulatory framework...
>
> However, the consensus supported the current administrative approach to decision making and regulation, with support from some submissions for operational changes.

The review also noted at page 35:

> The review supports the continuation of the current administrative approach to regulating the sale and supply of liquor in New South Wales, as well as the continuation of the Authority in its role as a determinative mechanism under the Liquor Act 2007, Casino Control Act 1992, Gaming Machines Act 2001, and Registered Clubs Act 1976.
>
> The review does not consider there are significant flaws in the current structure.

Recommendation 12 on page 40 notes:

> The Authority should remain responsible for:
>
> ...
>
> - its current role in relation to casino-related matters.

The Australian Hotels Association made a submission to the review on 30 August 2013, in which it stated

at page 24:

> Our experience throughout the industry is that there is clear delineation—both within the Liquor Act and in practice—between the roles and functions of the OLGR and the independent statutory licensing and quasi-judicial functions of ILGA.

The submission went on to say:

> It is our view that the objects intended and set by Government—to maintain an arms-length regulator—have been demonstrated to be successful and should, in general terms, be continued, unless there emerges cogent and compelling reason to combine the now separate quasi-judicial and enforcement functions under one umbrella. We presently do not see that need, for the reasons of the approach now adopted by OLGR, as outlined in the next section, and particularly since re-arrangement where OLGR staff undertaking work and exercising delegations on behalf of the Authority, are now under the supervision of and accountable to the Authority.

In August 2014 the Government released its response to the review. At page 9, in dealing with recommendations 12 and 13, it stated:

> Response—Supported
>
> The government acknowledges and supports the review's findings that the current structure of decision making should continue. The government also notes that maintenance of the Independent Liquor and Gaming Authority as the independent liquor and gaming determinative body was strongly supported by both industry and community representatives at consultation meetings held in April 2014.

The Opposition wants the Government to explain what has changed in the 12 to 13 months since the Minister introduced that earlier legislation. In his second reading speech when introducing this bill in the other place on 27 October 2015 the now Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, the Hon. Troy Grant—who is still in the gallery—stated:

> However, growing concern and frustration have been expressed by some industry and community stakeholders that the current liquor and gaming regulatory arrangements have the potential to undermine these objectives and that, at the very least, the objectives could be better served by a more integrated approach.

Of course, the Minister with carriage of the bill in this place made the same speech. Where has that concern been articulated? The Opposition is not aware of any further review. No-one is marching in the streets or beating a path to the Opposition's door saying, "We have a significant problem and we need to fundamentally change the institutional arrangements." No, this bill comes from nowhere. There has been no fanfare, no public consultation, and no stakeholder consultation. Who has promoted and urged its introduction? What is the motivation behind this bill, where have these ideas come from, and why has the Government sought so peremptorily to have it passed by the Parliament without proper and thorough consideration of its ramifications? Who raised concerns, as claimed by the Government and the two Ministers? When did they express their concerns and in what form did they express them? Why have other parties in this Chamber and this Parliament not been made aware of those concerns so that they can be ventilated properly and thoroughly and so that we can come up with solutions?

Dr John Kaye: It happened on Friday of the long weekend.

The Hon. ADAM SEARLE: I acknowledge the interjection. It is almost as if the Government is trying to hide something. The fact that this important piece of public policy is being debated in this Chamber at 12.30 a.m.—

The Hon. Trevor Khan: It's early.

The Hon. ADAM SEARLE: It is well outside the observation of the media. That gives a little currency to the idea that the Government is hoping no-one will notice. In his second reading speech in the Legislative Assembly the Deputy Premier quite curiously said:

> The transfer of Independent Liquor and Gaming Authority staff includes those inspectors who have been permanently based at the casino undertaking casino inspections and compliance activities. For a long time this group of inspectors has been embedded at the casino and exposed to the risk of regulatory capture. As part of the broader liquor and gaming inspectorate employed by the Department of Justice, this risk will be significantly reduced and the regulator will be well positioned to effectively regulate the restricted gaming facility at Barangaroo when it comes online in 2019.

He continued:

> It will enable inspectors to be rotated across these sectors, allowing knowledge sharing and minimising the risk of regulatory capture.

In the 20-odd years that casino inspectors have been involved in the regulation of the State's one and only licensed casino, I am not aware of any independent or credible reports that have given even a hint of regulatory capture, or that the work of the inspectors has been in any way compromised by their being embedded in the casino. It is interesting that the Government, on the basis of absolutely no evidence, is promoting that as the reason for this profound and significant change in the bill. One can be forgiven for not noticing this provision, as it appears on the last page of the bill:

> **Schedule 2 Amendment of Casino Control Act 1992 No 15**
>
> **[1] Section 141 Functions of Authority under this Act**
>
> Omit section 141 (2) (j) and (k).

They are the inspectorate functions currently undertaken by the independent authority. Those functions will be transferred to the Department of Justice, an executive agency under the direct control of the government of the day. We will go from having a cop on the beat 24 hours a day at the casino to having intermittent, periodic inspection. How that will lead to a more effective outcome is far from clear. There is no criticism on the basis of any evidence of the current situation. This provision in the bill seems to take a great step back from effective enforcement. It is almost like the Government is trying to do a socking great favour for the casino, and for the future casino at Barangaroo, but is not willing to come clean and have the debate up-front or in public.

The Opposition believes this represents a significant watering down of the compliance and enforcement functions that are currently being undertaken and, frankly, neither the Minister nor the Government have put forward a good reason for it either because they lack the competence to do so or because there is no credible argument for them to advance in this respect. The Opposition will wait to find out the actual reason. Also, a legislative mechanism was created by the Casino Control Amendment (Supervisory Levy) Bill 2013 such that the inspectorate function is effectively paid for by industry. On 22 May 2013 in introducing the legislation in the Legislative Assembly former Minister Souris said:

> Under the existing arrangements much of the cost of maintaining the casino regulatory regime in New South Wales is borne by taxpayers. Regulatory systems are in place to protect industry integrity and ensure that the operation of the casino is free from criminal influence and exploitation. Regulation also promotes community confidence that the conduct of operations at

> the casino is fair and that the casino is operated in a responsible manner. The casino environment is a dynamic one and the regulator is required to regularly review and adjust its approach to protect against emerging risks and maintain public confidence. There is currently no ongoing levy imposed on the casino to assist in meeting the day-to-day public costs of maintaining this regulatory system.

On that basis inspectors on site at the casino and other casino-related authority staff were funded by the casino operator at no cost to the Government or community. I assume that this levy will continue to underpin those activities, but again they will be conducted by an executive agency under the direct control of the Minister rather than by an independent body. Through continuous on-site supervision and monitoring of the casino the inspectors have, over a considerable period, contributed to consumer protection and harm minimisation together with revenue and duty protection, ensuring there is a compliant casino operator who respects the public interest and that illegal and undesirable activities are precluded.

A comprehensive level of knowledge and expertise in the games, rules of games, internal controls and operation of the casino and corporate knowledge is, in our view, vital to regulate a casino effectively. That knowledge and expertise is not something that can be picked up at the drop of a hat. We believe removing those enforcement functions from the independent body, bringing them inside the Department of Justice and making them part of a broader inspectorate that does a variety of things runs the significant risk of diluting the expertise of the inspectors who currently superintend the casino. We are concerned about the removal of this independent function that is part of the provisions in the bill that reduce the independence of the independent regulator.

The provision in the bill that provides for ministerial control and direction—with certain exceptions, we understand—is certainly at the very least an over-reach, if not something more sinister. If the Government has concerns about the operation of ILGA—for example, it does not meet regularly enough; it was reluctant to publish its decisions or other formal procedural matters regarding how it goes about discharging its functions—it could have a sensible conversation with the Opposition about those concerns or craft legislative provisions that address those limited concerns. The bill has a much broader ministerial control and direction power—again, with certain and important exceptions that we acknowledge—but, taken in combination, we see this creeping erosion of the independence of this independent regulatory body. We think that is unacceptable and sends a very bad signal not just to the community but also to the industry and those undesirable elements that might be circling bodies such as the casino and seeking to compromise the integrity of its operations.

We are concerned about some of the administrative reorganisations—for example, the independent authority will no longer directly employ its staff, who will go through the Department of Justice. I foreshadow that the Opposition has a suite of amendments that will address those concerns and deal with the administrative reorganising, particularly the notion of designated public service employees. Our amendments will deal with the ministerial control of ILGA, which we think is not the right signal to send and is undesirable. The Opposition embraces the administrative review mechanism through the NSW Civil and Administrative Tribunal [NCAT] but thinks it can be improved, and one of our amendments deals with that. We also want the functions of the authority under the Casino Control Act to remain as they are at present, particularly the inspectorate and compliance and enforcement function. Those are the Opposition's concerns. In the spirit of constructive opposition, we have not merely railed against the imperfections in the bill and the problems that may be attendant upon its enactment but come up with a solution.

We ask the Government to engage constructively with us so that a sensible reform package can be passed by Parliament, one that meets the concerns articulated by the Government—that is, some concerns that the Independent Liquor and Gaming Authority [ILGA] is not operating as properly and effectively as it ought to—but without undermining or compromising the integrity of independent regulation or sending a bad signal to undesirable elements who would seek to compromise the integrity of liquor or casino regulation in this State. If the bill is not amended in the way in which I have foreshadowed, the

Opposition will vote against the third reading of this bill. The Opposition is prepared to give the Government the benefit of the doubt and not oppose the second reading of this bill so that this Chamber will have the opportunity to consider the Opposition's constructive and positive amendments. But we say this to the Government in all seriousness: Gaming and liquor administration in this State has had a bumpy and chequered past, and the current arrangements have stood the test of time.

Again I go back to that review in 2014 in which the Government supported the current structure and regime. Nothing has occurred in the past 12 to 13 months that would warrant the changes encapsulated in this bill. So we ask the Government to be frank with the Chamber about where these reform measures have truly come from and what has prompted them. What is the urgency and why has the Government not proceeded in a more thoughtful fashion, seeking to engage stakeholders and the community in the reform discussion? Because failure to do so, of course, raises questions and concerns about the bona fides embedded in or underpinning these reform measures, and that is unfortunate because it is important that the public has confidence in the regulatory regime in this area. With those observations I indicate that the Opposition does not support the bill in its current form. The Opposition will not oppose the second reading of the bill because we want to have a serious discussion about the amendments that we propose. But if this bill is not amended to address our concerns, the Opposition will vote against the third reading of the bill.

Dr JOHN KAYE [12.42 a.m.]: On behalf of The Greens I address the Gaming and Liquor Administration Amendment Bill 2015. I note that I am doing so at close to quarter to one in the morning. It is almost impossible to escape the conclusion that this is being done in the dead of night, just as the original media announcement of these changes was made on the Friday afternoon of a long weekend. In *The West Wing* it was referred to as "taking out the trash" and that is exactly what the Minister has done here. This has been done in secret. Because if this really was exposed, if this was done in the full gaze of public opinion, the people of New South Wales would be deeply concerned. John Crozier, is the Chair of the Royal Australasian College of Surgeons Trauma Committee, said this about the bill:

> It is my firm personal belief that the bill in its present form, which I have considered in some detail, will only increase the risk of alcohol related harms and consequential public and family costs. The bill that appears heavily weighted in favour of the liquor and gambling industry is likely to lead to an increase in the number of high risk premises such as large discount bottle shops close to schools and vulnerable, low socioeconomic communities.

He said:

> I commend you to refer the above bill to the appropriate committee so that the real costs, impacts and likely harms of the proposed legislation can be responsibly considered with the input of independent expert advice and ensures the safety, health and welfare of all New South Wales citizens remains of paramount importance.

The Greens strongly oppose this legislation, which will take away from New South Wales a quality independent liquor regulator, charged with enforcing the laws about alcohol sales, electronic gaming machines and the casino. It will create a bias in favour of approval for applications for extended licences, new licences and new poker machine entitlements. It takes away from the State the independence of the Independent Liquor and Gaming Authority [ILGA] and it undermines that independence in a number of ways. The first thing, and possibly the worst thing, is that it strips the Independent Liquor and Gaming Authority of its independent staff. Instead, the authority will be reliant on staff from Gaming and Racing NSW, staff who are directly responsible to the Minister through the secretary of that department. The consequence of doing so is underlined by the statement made by Mr Chris Sidoti, the Chair of the Independent Liquor and Gaming Authority, who said in the ILGA 2013-14 annual report:

> Independence is at the heart of the Authority's nature and functioning. It is clearly provided in the law we administer. It is enhanced through the appointment of statutory office holders to lead the

Authority. It is—

and I emphasise this—

> made possible through staff who are accountable only to the Authority and resources under the control of the Authority. Many issues relating to staff assisting the Authority and the budget available to the Authority have been resolved during the year, furthering the Authority's capacity to do its job independently and effectively.

Chris Sidoti, the chair of the authority, says extremely clearly that having his own staff is critical to his independence. I add that the Independent Liquor and Gaming Authority is an evidence-based regulator. It collects and understands a large body of evidence. It is reliant upon having expert staff to do so—expert and independent staff who respond only to the evidence and not to the political whims of the Minister or the department. Yet what is happening in this legislation is that those expert staff are being taken out of ILGA and put back into what used to be called the Office of Liquor, Gaming and Racing [OLGR], which is now Liquor and Gaming NSW.

[*Interruption*]

If the Minister wants to say something, I advise him to pass a note to the Minister at the table rather than trying to mouth at me. The capacity for ILGA to do its own work and to maintain its evidence base is being taken away by this legislation. The second way in which the independence of ILGA is being undermined is by new section 37A, which will force ILGA to take submissions from the secretary into consideration. I am somewhat mystified by this provision because we already know that the Independent Liquor and Gaming Authority takes seriously all submissions. New section 37A is really saying it is not that the authority has to take them into consideration but that it has to privilege those decisions.

What it is really saying is, "We, the Government, want to take away the independence of ILGA by forcing you to respond to our submissions." There has been absolutely no evidence presented to us that suggests that the Independent Liquor and Gaming Authority treated any submission from the secretary of the department in any way that was cavalier. In fact, all that we saw from the authority was that it dealt with everybody even-handedly. Clearly new section 37A is trying to say is that the authority should view submissions from the secretary as privileged communication, as communication that holds a specific place that is greater than that of any other expert. It is about undermining and intimidating the independent authority step by step.

The legislation also seeks to provide an appeal from decisions by the authority to the NSW Civil and Administrative Tribunal [NCAT]. They will be merit appeals, not appeals on matters of law. The Minister says time and again in the media, "This is a great thing. It will allow folk who have objected to make an appeal and that is terrific." That is, of course, until people realise three things. The first is that NCAT is not an expert tribunal. The Independent Liquor and Gaming Authority has expertise in this area. In the decade or so of its operations it has built up a knowledge base that is second to none. It has an understanding of factors such as liquor outlet density, trading hours and the interaction of outlets with low socio-economic and disadvantaged communities. NCAT has no such expertise. It has four jurisdictions, none of which go anywhere near liquor licensing or gaming machine licensing. The bill will hand over the hearing of appeals from an expert body to an inexpert body.

The second aspect is that the appeal rights are savagely limited. If a successful application is to be appealed only those who live within the notification zone, which is either 50 or 100 metres from the proposed site, and—not or—who put in a submission are allowed to lodge an appeal. That is to say, individuals who live more than 100 metres away from a site cannot appeal against a decision of the Independent Liquor and Gaming Authority. That is extraordinary. The idea that people who live more than 100 metres away from a new poker machine or grog palace will not be affected by it trivialises the damage done by alcohol and gaming outlets in suburban settings. The idea that people cannot lodge an

appeal to an approved proposal unless they live within the notification zone and they have made a submission underlines the reality of this legislation. It is not about a fairer process; it is about a biased process. It is about shutting the community out. If an appeal is lodged against a rejection of an application there is no guaranteed right that an objector—even one who lives within the notification zone and who put in a submission—will be heard by NCAT. In fact, they could be locked out from NCAT.

For example, a person who lives 20 metres away from a proposal for an 8.00 a.m. to 12.00 a.m. alcohol and poker machine outlet might have put in a submission and done all the right things. If the Independent Liquor and Gaming Authority rejects the proposal and the applicant appeals the decision that person has no guaranteed right to be heard before NCAT. Casula residents who are appealing against the rejection of a freedom of information application made under the Government Information (Public Access) Act have been effectively shut out from NCAT and told that they do not have the right to appeal an NCAT decision. That has happened because NCAT is the home of expensive lawyers who can rack up bills very quickly and who are very smart. The problem is that NCAT is a lawyer's jurisdiction and communities such as the one in Casula that is battling against the De Angelis proposal for poker machines and alcohol service at a new pub will be unable to afford lawyers.

We know that Mr De Angelis has deep pockets and that he employs standover men to go to community meetings. He has lots of money to throw around and he has fancy lawyers. The community will be outgunned at NCAT because it is a jurisdiction that will not give a fair hearing to communities. The Casula residents who were excluded from joining in the issue of the Government Information (Public Access) Act or GIPA request would likely, on the same legal arguments, be excluded from any defence if the authority were to reject to the De Angelis application. That is despite them having a vital interest in the outcome. It is an unfair process that is tilted in favour of the applicants.

The other appalling aspect of the legislation is its proposal to strip out the expertise of the casino inspectors employed by the authority. What a gift to Packer and The Star! Instead of expert inspectors who understand casino operations and know what breaches of the Act and regulation to look for, we will send in the same inspectors who run around looking at poker machines in corner pubs and clubs. The only argument being put forward is that it is to avoid regulatory capture, as the Minister said in his second reading speech. Not one iota of evidence has been produced to say that there is any regulatory capture or to say that the inspectors are anything but fabulous. What is really going on is that, like ILGA, the inspectors are too fabulous.

Why is the authority being attacked in this way? First, it needs to be said that the authority approves 99 per cent of the thousands of applications it receives each year. But in three important categories it is standing up to the liquor and gaming industry. Of the 10 undue disturbance complaints it received in the past 12 months the authority rejected 10. Of the 16 applications for consideration of extending trading authorisation it rejected 13. It also rejected nine out of 20 applications for packaged liquor licences and one out of five hotel licences. The authority did that because it has a strong understanding of the implications of density and the consequences of approving these types of outlets in areas where they could do a large amount of damage.

I have watched the authority work. On a number of occasions it has made spectacularly sensible decisions, but those sensible decisions have annoyed the industry. I refer to the words of Mr Bruce Bulford, who is the principal of what he describes as a boutique hospitality legal practice with extensive liquor licensing and gaming law experience. The practice is an associate member of the New South Wales Branch of the Australian Hotels Association. Last year Mr Bulford wrote on his blog:

> ... an examination of the "decisions on interests", published on the ILGA website, will show almost all applications for extended trading hours being refused and a considerable number of refusals for new licence applications because they were in areas (like Surry Hills) considered to have reached "saturation point".

Hear, hear! ILGA was responding to the evidence on density. Mr Bulford wanted it to ignore the evidence on density and to go back to the bad days of Kings Cross. Mr Bulford went on to say:

> What is clear to me however, is that persons making certain types of applications to ILGA, do so at their own peril. An application to increase gaming machines in a Level 3 LGA is highly likely to be refused, as demonstrated by O'Hara's case. O'Hara's case also mentions the five Class 2 LIA applications lodged with ILGA (including the O'Hara application), only one has been granted.

Hear, hear! Thank goodness ILGA is standing up to the idea that we are allowing more poker machines in high-risk areas. The bad outcome is that this Government has listened to people like Mr Bulford and it has noted the submissions of the Australian Hotels Association's 2013 review of the Act, whose recommendation 18 stated that an amendment be incorporated to permit appeals of ILGA decisions. This Government has listened to the Distilled Spirits Industry Council of Australia that stated that ILGA should provide a position for stakeholders affected by decisions to appear before it and to argue their case before a greater restrictions regulation is imposed.

The review should investigate creating the ability for ILGA decisions to be reviewed by a court of competent jurisdiction. NCAT is not a competent jurisdiction. The reality is that, once again, we have the industry calling the shots in New South Wales. The industry gets what it wants every time and this time it wanted to undermine the independence of ILGA and to put an appeals process in place that is biased towards it. That is exactly what it has received from this Government. I have quoted the chair of the College of Surgeons Trauma Council. He wants this matter reviewed. Accordingly, I move:

That the question be amended by omitting "be now read a second time" and inserting instead:

"a select committee be established to inquire into and report on the Gaming and Liquor Administration Amendment Bill 2015.

(2) That, notwithstanding anything to the contrary in the standing orders, the committee consist of seven members comprising:

(a) three Government members,

(b) two Opposition members, and

(c) two crossbench members, being Reverend Mr Nile and Dr Kaye.

(3) That the Chair of the committee be Reverend Mr Nile and the Deputy Chair be Dr Kaye.

(4) That members may be appointed to the committee as substitute members for any matter before the committee by providing notice in writing to the Committee Clerk, with nominations made as follows:

(a) nominations for substitute government or opposition members are to be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whip or Deputy Whip, as applicable, and

(b) nominations for substitute crossbench members are to be made by the substantive member or another crossbench member.

(5) That a committee member who is unable to attend a deliberative meeting in person may participate by electronic communication and may move any motion and be counted for the purpose of any quorum or division, provided that:

(a) the Chair is present in the meeting room,

(b) all members are able to speak and hear each other at all times, and

(c) members may not participate by electronic communication in a meeting to consider a draft report.

(6) That, unless the committee decides otherwise:

(a) submissions to inquiries are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration,

(b) the Chair's proposed witness list is to be circulated to provide members with an opportunity to amend the list, with the witness list agreed to by email, unless a member requests the Chair to convene a meeting to resolve any disagreement,

(c) the sequence of questions to be asked at hearings alternate between opposition, crossbench and government members, in that order, with equal time allocated to each,

(d) transcripts of evidence taken at public hearings are to be published,

(e) supplementary questions are to be lodged with the Committee Clerk within two days, excluding Saturday and Sunday, following the receipt of the hearing transcript, with witnesses requested to return answers to questions on notice and supplementary questions within 21 calendar days of the date on which questions are forwarded to the witness, and

(f) answers to questions on notice and supplementary questions are to be published, subject to the Committee Clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration."

I have circulated the terms of reference for this inquiry. This is a serious matter. If we get it wrong, it will have huge consequences for domestic violence, street violence and problem gamblers. This matter deserves more consideration than being debated at 1.05 a.m. in this Chamber. It deserves more consideration than a debate in the media. The bill must be subject to expert opinion. Accordingly, I commend my amendment to the House.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [1.02 a.m.], in reply: I thank honourable members for their contribution to debate on the Gaming and Liquor Administration Amendment Bill 2015. Over the past 12 months the need for regulatory reform in the liquor and gaming space has been reinforced by lengthy delays in determining licensing proposals and disciplinary matters. Some disciplinary matters have taken more than 12 months to be determined, which is at odds with the Government's objective of minimising alcohol-related and gambling-related harm and ensuring that these industries are operated responsibly and in line with community expectations. The level of regulatory duplication and overlap that exists between the Office of Liquor, Gaming and Racing [OLGR] and the Independent Liquor and Gaming Authority [ILGA] causes delay and frustration for stakeholders and has the potential to undermine the Government's policy settings in regulating the liquor and gaming industries.

The Gaming and Liquor Administration Amendment Bill 2015 strikes an appropriate balance by retaining the Independent Liquor and Gaming Authority to determine contentious licensing proposals and

disciplinary matters with Liquor and Gaming NSW being responsible for compliance, enforcement, delegated decision-making of routine matters and the provision of policy support to the Government. The bill abolishes the statutory position of chief executive and removes the ability for the Independent Liquor and Gaming Authority to employ staff, with administrative and secretariat support being provided to the authority by Liquor and Gaming NSW. The bill enables certain licensing decisions to be subject to a merit review, which will provide a low-cost review mechanism that is not currently available to applicants and other parties. The Independent Liquor and Gaming Authority will be able to review certain delegated decisions made by Liquor and Gaming NSW, such as the granting of a new licence for a restaurant, with delegated decisions that can be reviewed by the authority to be prescribed by regulation.

The bill also enables the NSW Civil and Administrative Tribunal [NCAT] to review contentious licensing proposals determined by the Independent Liquor and Gaming Authority, such as an application for a hotel licence or a package liquor licence. The decisions for which a merit review can be sought by NCAT will also be prescribed by regulation. Enabling NCAT to conduct a merit review of contentious licensing decisions made by the authority is consistent with the current arrangements whereby a review can be sought by NCAT for certain disciplinary decisions made by the authority. This includes the imposition of a third strike and issuing a long-term banning order that applies to licensed premises in the Sydney central business district and Kings Cross precincts.

While the bill enables ministerial directions to be issued to the Independent Liquor and Gaming Authority, these directions will be limited to administrative arrangements to improve the timeliness and transparency of its decision-making. The ministerial directions will not affect the authority status as an independent decision-maker nor will they encroach upon the authority's functions in determining licensing proposals and disciplinary matters.

The bill also amends the Casino Control Act 1992 to reflect the integrated approach to compliance and enforcement across the liquor, gaming, registered club and casino sectors by making the Secretary of the Department of Justice responsible for compliance and enforcement at the casino. The bill also provides the secretary with the same standing as the Director of Public Prosecutions, the Commissioner of Police, and the Independent Liquor and Gaming Authority to prosecute offences under the Casino Control Act. Finally, the bill will not encroach upon the Government's policy settings for the liquor and gaming sectors, with several policy reforms such as the 1.30 a.m. lockout and 3.00 a.m. cease liquor service to undergo statutory review in 2016.

The New South Wales Liberal-Nationals Government recognises that the current liquor and gaming regulatory structures are not serving the people of New South Wales in the way they should, nor are they supporting the Government's policy setting to reduce alcohol and gambling-related harm. The bill strikes an appropriate balance by retaining the Independent Liquor and Gaming Authority as an independent decision-maker for contentious matters while introducing reforms that will improve transparency, accountability and timeliness of regulatory decision-making. Mr Adam Searle, in his contribution, was right to—

The Hon. Adam Searle: The Leader of the Opposition to you.

The Hon. NIALL BLAIR: The Leader of the Opposition, in his contribution—and I apologise for calling him by his name—is right to cite the mentioned review and the maintenance of the licensing structure and independence of ILGA. The bill keeps but strengthens the structure and introduces efficiency, transparency and timeliness of liquor regulation. ILGA remains independent and OLGR becomes Liquor and Gaming NSW in a strengthened form with an additional compliance capacity. The Leader of the Opposition also mentioned the issue of no stakeholder consultation. I am informed and understand the Labor briefing confirmed this was done with the Foundation for Alcohol Research and Education and the NSW/ACT Alcohol Policy Alliance and members associations, including the Cancer Council NSW, the Royal Australasian College of Physicians, the Police Association of NSW, and the Thomas Kelly Foundation. I confirm that the Police Association of NSW supports the bill, which was noted

by the Deputy Premier in his second reading speech.

For the first time, the community will receive affordable access to NCAT for appeals of liquor licensing. This is true transparency. I ask, with greater transparency what could be hidden? Worldwide best practices of casinos not to embed inspectors in casinos is now being adopted in the bill. The Deputy Premier has a strong track record in this area. He was the first Minister to ban for life people from participating in the liquor industry. The Deputy Premier also oversaw the introduction of identification scanners, managed the lockouts that we have here in New South Wales and introduced licence suspensions for premises selling alcohol to minors, including one pub and two bottleshop outlets to date. The Government stands by its liquor policy. It has demonstrated that it will ensure a safe, responsible and accountable regulatory environment in which the people of New South Wales can have confidence.

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

ADJOURNMENT

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) [1.10 a.m.]: I move:

That this House do now adjourn.

TOCAL COLLEGE FIFTIETH ANNIVERSARY

The Hon. RICK COLLESS (Parliamentary Secretary) [1.10 a.m.]: Members of this House have heard me speak many times about the importance of agricultural education and would understand my passion for agricultural education. As a proud graduate of the Hawkesbury Agricultural College—along with my parliamentary colleagues the Hon Niall Blair, MLC; the Hon. Paul Green, MLC; and Dr Geoff Lee, the member for Parramatta—I have worked hard on the various issues of agricultural education that have been debated in this House over my time here.

These issues included the downgrading of the Murrumbidgee Agricultural College; the attempted closure of the Hurlstone Agricultural High School by the previous Government; the problems the University of Western Sydney Hawkesbury Agricultural Campus had a couple of years ago in attracting agriculture students; and the success of the Charles Sturt university at Wagga Wagga, with its large-animal veterinary course and four-year agricultural science degree—which I had the honour of launching a few years ago. These are the sorts of issues that have been at the front of my mind over the years when considering agricultural education.

Earlier this year I was honoured to accept a position as a board member of the CB Alexander Foundation, a not-for-profit statutory authority established to assist with the management of the CB Alexander campus of Tocal Agricultural College. Charles Boyd Alexander was the last the private owner of the property "Tocal", which is just south of Patterson in the lower Hunter Valley. CB Alexander died in 1947 and left a complex will that intended his estate to be used to assist destitute, homeless and orphaned children by training them for careers in agriculture. It was to be another 18 years before a proposal championed by Mr EA Hunt was accepted to establish an agricultural college by the trustees of the Presbyterian Church. David Hunt, the son of EA Hunt, served on the foundations for many years. His granddaughter Susan Hunt remains on that foundation today.

The college was officially opened in 1965 as the CB Alexander Presbyterian Agricultural College by the then Prime Minister, Sir Robert Menzies. The college faced some financial difficulties and in 1970 the operation of the college was transferred to the New South Wales Government. It was renamed the CB Alexander Agricultural College. The transfer occurred during a period in which New South Wales was establishing new agricultural colleges. It had recently established a college near Leeton named the Yanco

Agricultural College. It later became known as the Murrumbidgee College of Agriculture. The Orange Agricultural College was established in 1973 in addition to the original agriculture college—that being, of course, the Hawkesbury Agricultural College, which was established in 1891. Wagga Agricultural College was established in 1949.

Last Friday, 6 November, the college at Tocal celebrated the fiftieth anniversary of its opening, on what is known as foundation day. Foundation day is celebrated every year at the Tocal college. This year was especially important given it was the fiftieth year. A highlight of the day was an address by a Tocal College old boy, Steven Powles. Steve spent one year at Tocal in 1973. He was dux of the year and was granted admission to the Hawkesbury Agricultural College in 1974, just one year behind me. On graduating from Hawkesbury, Steve enrolled at a university in Michigan, USA, and went on to complete a PhD. He is now a professor of agronomy at the University of Western Australia. His is a great story, and I am sure CB Alexander is looking down on him with a beaming smile. It would be exactly what he had in mind when he was drafting his will.

The final address of the function was delivered by the Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, the Hon. Troy Grant. The Deputy Premier has a strong connection with Tocal. When he was a police officer stationed in the lower Hunter with the Major Crime Squad during 1994 and 1995, his family lived in the homestead at Tocal and he and his wife became important contributors to the Tocal community. The Deputy Premier unveiled a plaque commemorating the fiftieth anniversary of the commencement of the college.

One name at Tocal that is synonymous with the CB Alexander College is Dr Cameron Archer, AM. Dr Archer started at Tocal in 1974 and became principal in 1987. He retired just a few weeks ago, after 40-odd years of service to agricultural education for which he was made a member of the Order of Australia. I congratulate the college on a great 50 years and I congratulate Dr Cameron Archer on his magnificent service to agricultural education.

TRAVELLING STOCK ROUTES

The Hon. MICK VEITCH [1.15 a.m.]: Tonight I want to talk about travelling stock routes—or TSRs as they are affectionately referred to. It is a topic that has been the subject of much discussion in recent times. Without a doubt, sections of rural and regional communities have a real interest in the management and administration of travelling stock routes. My interest in this topic is not just because I am the shadow Minister responsible for public policy; I am sure that I am one of the few members of Parliament—although not the only one—from either of the Chambers who has sat on a horse and followed a pretty large mob of cattle along the long paddock. I did this with my father.

The Hon. Catherine Cusack: You are not the only one.

The Hon. MICK VEITCH: I said I was not the only one. It has hard but it was fun. The opportunity to sit and chat at the end of the day with other drovers was significant to my adolescent mind. I also had the opportunity on travelling stock routes to access waterways for fishing. My interest in this area of public policy is real and genuine; it is not a romantic interest based on memories past. In 2014 the New South Wales Parliamentary Research Service—a valuable service for members of Parliament—released a briefing paper titled, "The Long Paddock: A legislative history of travelling stock reserves in NSW". It is a good research paper. Travelling stock reserves and travelling stock routes are parcels of Crown land reserved and managed under legislation for use by travelling stock. The briefing paper from the library tells us of the evolution of TSRs:

> Starting in the mid-1800s, stock routes rapidly proliferated throughout the more densely occupied portions of pastoral Australia, with alternatives to main routes being established, feeder trails developed, and with this the increasing recognition of the routes at law as well as in custom.

> Recently, it has been suggested that many TSRs emerged from networks of travel lines developed by Aboriginal people criss-crossing the continent prior to European contact.

The legislative beginnings of TSRs arose in 1832 with the Scab in Sheep Act 1832.

The Hon. Dr Peter Phelps: A great Act.

The Hon. MICK VEITCH: The honourable member is very conversant with that Act, I have no doubt. Then there was the Crown lands review in 2013. In 2012, the New South Wales Government set up an inter-agency steering committee, independently chaired by Michael Carapiet, to review the management of Crown lands. The 2013 report by the steering committee noted that travelling stock reserves were once used to move stock from farms to markets or railheads and observed that most are no longer being used for their original purpose. They are used for recreation, other social uses, access and heritage. The report recommended that Local Land Services works with the relevant stakeholders to develop assessment criteria to review all travelling stock routes and determine their future ownership and management.

As most members of the House would be aware, the Minister has now launched a statewide planning process for the almost 500,000 hectares of travelling stock reserves and routes under the care, control and maintenance of the Local Land Services. Interestingly, there are about two million hectares of TSRs in New South Wales and the Local Land Services manages about 25 per cent. The Local Land Services has developed a NSW Travelling Stock Reserves Draft State Planning Framework which is open for public comment. Comments were to be made by 3 November, but the deadline has now been extended by the Minister to 5.00 p.m. on 4 December. I am heartened by the following comment in the Minister's media release of 22 September 2015:

> While access for travelling stock will continue to remain the primary purpose for our reserve network, it is important that Local Land Services balances this with economic, cultural, recreational and environmental uses.

A number of stakeholders have contacted me about the management and future of TSRs in New South Wales. I have urged them, and I urge all stakeholders, to make submissions to the current public consultation process. I urge the Minister to make the submissions to the draft TSR planning document public and to do so in a timely fashion. People have raised with me issues such as the impact of the new planning framework on watering places for stock and the potential for a strategic disposal process of elements of the TSR estate. Apiarists have raised concerns about any attempted move towards the auctioning of beekeeping sites on TSRs. A lovely old couple raised a concern about the firewood collection opportunities under the new regime. Recreational fishers have expressed concerns about the potential impacts on access to their favourite fishing holes. By far the greatest concern raised, the topic with the most heat, is that relating to funding for TSRs. The draft planning framework document is very clear. It states unambiguously:

> Business planning will be integrated into regional planning processes to ensure there is a trend towards full cost recovery from all TSR uses, including conservation.

This concern has been raised with me by several stakeholders. I agree with the Minister when he says that the long paddock has been managed in a haphazard and inconsistent manner. This must change. [*Time expired.*]

AUTOMOTIVE INDUSTRY ENGINEERING COURSES

The Hon. LOU AMATO [1.20 a.m.]: I have been actively involved in the automotive industry for more than 30 years. One of the biggest challenges faced by business operators is the ever-increasing shortage of qualified professional personnel. To illustrate that, in 2013-14 tertiary institutions reported a

28 per cent reduction in enrolments in automotive engineering courses. As an employer I found it extremely difficult to obtain suitable staff, even when generous remuneration packages were offered. The situation has been exacerbated by the rapid change in technology, which has seen major changes in vehicle design and maintenance requirements. The introduction of stricter emissions controls and the use of after-exhaust treatment systems mean that automotive and heavy duty vehicle engineers must possess a greater skill set than in times past.

The Government is aware of the community's reliance on well-maintained transport facilities. These facilities include private and heavy duty vehicles that are largely being used for public transport and the carriage of essential goods and services. In response to the greater knowledge requirements of an industry undergoing rapid change, the Government has begun the construction of a new multimillion-dollar Transport Engineering Technology Centre, which is to open in early 2016. The TAFE South Western Sydney Institute Transport Engineering Technology Centre at Wetherill Park will provide twenty-first century training and education facilities. The facilities will address the current supply shortage of professionally trained automotive and heavy vehicle engineering personnel.

New and updated course curriculums have been designed to meet the expected increase in demand for courses in light vehicle technology, heavy vehicle mechanical technology, plant mechanics, automotive electrical technology and engineering technology professions. The refurbishment of auto workshops, lecture rooms and student and staff facilities, including the construction of new covered outdoor workshops, will make Western Sydney home to the largest training facility of its kind. The new technology centre is being constructed with state-of-the-art communications equipment such as wi-fi connectivity throughout the classrooms, workshops and common areas. The 2016 opening of the multimillion-dollar facility has been timed to coincide with the expected spike in demand for courses in automotive transport, engineering, technology and logistics.

To meet the ongoing challenges of industry change, the new centre will offer students a twenty-first century learning environment, changing from a traditional teacher-centric model to a learner-centric model. The new model will allow more than 1,000 students to be engaged in workshop projects and activities rather than in a traditional classroom-delivery approach. That will provide students with real world industry training and challenges. Real world projects and challenges will facilitate a better student experience. The Wetherill Park facility is an example of how extensive consultation with students and industry stakeholders can build a state-of-the-art modern training facility.

The new facility will be ready to meet the training and educational challenges of technologically driven industries that are responsible for the servicing and maintenance of complex machinery. Those industries must be able to respond to continual change through technical obsolescence and other pressures, such as stringent emission legislative requirements. The current Wetherill Park facility attracts students from many areas of New South Wales, including the Hunter Valley, Blue Mountains, northern beaches and Sutherland shire. The upgraded facilities are expected to attract students from even further afield. In addition to ensuring that the latest cutting-edge learning facilities are available for students and industry stakeholders, many innovative building and infrastructure design features have been implemented.

Such innovations will substantially reduce the impact of the centre on the environment in line with the Government's policy of sustainable development through the use of rainwater harvesting for non-drinking water applications; the extensive use of insulation in walls and ceilings of all classrooms to reduce energy consumption for heating and cooling; high roofs and natural ventilation that is designed to maintain comfortable temperatures in the main workshop during the summer months; the smart use of natural lighting; and the extensive use of light-emitting diode [LED] lighting throughout the building to further reduce the centre's carbon footprint.

Once again I commend the Government for its forward-thinking policies that are focused on jobs, infrastructure and growth. I especially applaud the directing of budget funds into vocational education and

training, which will maintain the already phenomenal growth that New South Wales has experienced under the Baird Nationals-Liberal Government. [*Time expired.*]

GROSS DOMESTIC PRODUCT GROWTH

The Hon. DANIEL MOOKHEY [1.25 a.m.]: I commend a report released today by the Chiefly Research Centre and its Inclusive Prosperity Commission. The author of the report is acclaimed economist Stephen Koukoulas and is entitled "Inclusive Prosperity—How reducing income inequality can enhance productivity and growth." The context of the report is the significant fear among economists and public policymakers about the falling rate of gross domestic product [GDP] in Australia. After an unprecedented period of sustained economic growth because of the production phase of the mining boom, GDP growth is now forecast to dip below 3 per cent per annum. Of course, that is a troubling result for Australia.

Today's report injects some much-needed truth into the national conversation we are having about a return to above 3 per cent growth: That the economy grows faster when prosperity is broadly shared and greater levels of economic equality are achieved. That is based upon five key propositions. First is the importance in economic policy of the marginal propensity to consume, which is a concept that is as old as the general theory—which incidentally I re-read. It holds that a relative increase in one's income will be more likely to be spent on consumption if the initial income is lower. Put simply, it means this: If a billionaire is given a million dollars, she is pretty likely to save her next dollar in income; if we give that dollar to a person on the minimum wage, he or she is almost guaranteed to spend it—an outcome with a greater likelihood of boosting economic growth.

Marginal propensity to consume is important because it allows us as public policymakers to target income distribution at those in the economy who are most likely to trigger the highest multiplier effect—a virtuous cycle. Therefore, policies that strip workers, especially low-paid workers, of conditions such as penalty rates are profoundly anti-growth. They are more likely to result in a contraction of aggregate demand and produce a negative impact on GDP. The second proposition established by the report is the significant value of education as a key indicator of social and economic wellbeing.

The report found that nations with higher levels of numeracy and literacy also were more likely to be nations with higher levels of economic equality. Nations with higher inequality consistently were less numerate and less educated. Therefore, education can never be considered to be a social cost by the economic community but, rather, a long-term investment in the resilience of the economy. Policies that strip TAFEs of funding and reduce the resource base available to teachers and divest from teacher quality are likely to result in greater income disparity as young people fail to achieve the skills necessary to compete in a twenty-first century economy.

The third proposition is that greater equality is likely to result in stronger growth in productivity. Drawing on the work of preeminent economist James Galbraith, the report argues that a fairer distribution of income leads to the presence of high value adding industries because workers are better able to maintain high levels of capital productivity. The fourth argument of this report is that greater innovation is the result of greater income equality. This is because risk taking is the result of confidence and those with enough material resources are more confident in taking risks and in recovering from loss.

The final argument in this paper is that greater equality leads to improved living and health standards, thereby boosting labour market participation, reducing healthcare pressures on the budget, and reducing the cost of the retirement system—both the pension and the superannuation system. As the report states:

> Put simply, the research shows a strong consensus that greater equality lifts demand, ensures a smarter and healthier workforce as the general population has a greater access and opportunity to maximise education attainment and health, and strengthens productivity and innovation.

As I mentioned, the report's purpose is to frame the next stage of the national economic debates regarding the slump in Australia's economic growth. We have two choices. The first is the low road—cutting wages and reducing condition, lowering taxes on the wealthiest and raising government revenue by extracting more from the lowest paid. This is a strategy that responds to open markets by removing any shackle that would cause business to flee to shores less demanding. It is not an illogical response but it presumes that Australia's survival is tied to competition with every other low-cost jurisdiction.

If one is a realist, one accepts that Australia cannot win a race on those terms and rather than positioning the country for competition with nations in the infant stages of economic development, the better strategy is to move the nation up the global value chain by securing Australia's long-term future by morphing the country into a knowledge leader not merely a price-beater. This strategy recognises that the only way to secure permanent economic activity and investments in a city or regions is to turn our cities and regions into value-adding hubs.

Places so endowed with high levels of expertise, so defined by the exchange of information about an industry's knowledge core that the city or region itself is the comparative advantage: the easiest place for businesses to participate in ecologies that produce innovations, develop product variations, plan advancement and add value. The point about this strategy is that it depends on but also leads to greater economic inequality. The point of this report is to present equality as a condition central to the national economic debate, not as a trade-off with economic growth but as a recipe to create economic growth. I commend the report and encourage all my colleagues to read it.

FERNHILL ESTATE SUBDIVISION

Mr DAVID SHOEBRIDGE [1.30 a.m.]: Developers continue to chip away at the iconic Fernhill Estate and its surrounds, with another proposal for subdivisions of the land aimed at producing significant environmental harm and even more substantial developer profit. Penrith City Council seems intent on duchessing the proposal through, despite many of its councillors apparently being compromised on the issue and deliberately ignoring damage proposed to the federally protected critically endangered shale sandstone transition forest on the site.

I have previously visited this beautiful site and raised my strong concerns about the abuse of heritage provisions on the site that at the time were being used to facilitate overdevelopment under a loophole that the owners thought they had discovered where heritage sites were encouraged to engage in activities that were otherwise unlawful under the local environmental plan [LEP] notionally to raise money for maintaining the heritage property. That previous proposal was actively supported by Penrith council and its Liberal majority and was only withdrawn once it was clear a very engaged local community would legally challenge this proposed abuse of the heritage laws.

The site was eventually handed on after the then owner defaulted on its mortgage over the property to a set of developers called the Tripps who have since presented themselves as saviours of the site whilst pushing for concessions on planning and event laws to allow them to make it more profitable. The most recent proposal is for a spot rezoning through the gateway process at 88-89 Nepean Gorge Drive, Mulgoa, with the current minimum lot size of 10 hectares being proposed to be reduced to two hectares, meaning that 11 lots will be squeezed onto the western corner of the site.

The subdivision will now go to the notorious gateway process. If it makes it through that gateway, a development application [DA] is anticipated, which will include a biobanking proposal. Biobanking can be summarised as a process where a developer identifies two important environmental sites and is allowed to destroy one if it protects the other. Progress on the development will require the Office of Environment and Heritage to implement the biobanking arrangement and apply what is called the "fit and proper person test" which includes the following provision: whether or not the person has demonstrated to

the Minister the financial capacity to comply with the person's obligations under the proposed biobanking agreement.

There is a strong argument that development should be refused not only as the proponent is highly unlikely to be able to undertake it but also as the proponent cannot be relied on to deliver any proposed obligations under the biobanking agreement. The proposed development would also have an unacceptable impact on important environmental and conservation values in the area. The site includes 111 hectares of critically endangered shale sandstone transitional forest, a crucial site for this ecological community whose principal threats come from, not surprisingly, development pressures in Sydney's western and south-western suburbs.

This is also an ecological community protected by the Environment Protection and Biodiversity Conservation Act, meaning that any development that would have a significant impact on the environmental values cannot proceed without approval from the Federal environment Minister—an approval both the council and the State planning department seem to ignore entirely. It is also an important habitat for the critically endangered Cumberland plain snail. The proposed development is also proximate to the Greater Blue Mountains World Heritage Area and is considered likely to impact both directly and indirectly on the conservation values of that important area.

If this was not already enough to disqualify the planning proposal at first stage, the land is clearly bushfire-prone and, as such, any development on it will require substantial clearing of the endangered ecological community, which will also impact on the Greater Southern Sydney Koala Corridor. There have been many proposals for Fernhill and the land around it over the past few years, with many of them failing. It bears asking why this particular development is being driven so strongly and why the developer is so cocky about the outcome. Despite strong community opposition, the Liberal Party-dominated council voted to support the matter proceeding to Gateway on 14 September 2015.

Not only are there concerns about the viability of Angas Securities pushing this proposal—it has been recently described as a failing financial house—but there is a history of dubious political involvement on the site, which is no secret to the locals. The developers connected with the site have a history of wining and dining local Liberal representatives at a council, State and Federal level, and clearly the developers have strong associations with the Liberal Party. The Fernhill Estate has previously been found to be selling tickets to events in advance of council approval—so they knew something—and has hosted events for many of the decision-makers on council as well as State and Federal representatives. As well, the mayor was pictured in the local paper in racing silks in an advertisement for an unapproved event on the site.

Deputy Mayor Greg Davies got married at the Fernhill site, with Federal Liberal member of Parliament Marise Payne, councillors Bratusa and Thain, and State Liberal member of Parliament Stuart Ayres in attendance. The locals say quite loudly and clearly that it has such a clear connection with Liberals on the council and at a State and Federal level will they ever get a fair hearing on this proposal.

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

Motion agreed to.

The House adjourned at 1.35 a.m. Wednesday 11 November 2015 until 2.00 p.m. on the same day.