LEGISLATIVE COUNCIL

Wednesday 6 May 2009

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The President (The Hon. Peter Thomas Primrose) took the chair at 11.00 a.m.

The President read the Prayers.

AUDITOR-GENERAL'S REPORT

The President tabled, pursuant to the Public Finance and Audit Act 1983, a performance audit report of the Auditor-General entitled "Grants Administration", dated May 2009.

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

UNPROCLAIMED LEGISLATION

The Hon. John Robertson tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 5 May 2009.

TABLING OF PAPERS

The Hon. John Robertson tabled the following paper:

(1) Youth Advisory Council Act 1989—Report of NSW Youth Advisory Council for the year ended 30 June 2008.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.05 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 199 outside the Order of Precedence, relating to an order for papers regarding freedom of information requests to the Roads and Traffic Authority, be called on forthwith.

Question put.

The House divided.

Question—That the motion be agreed to—put.

Ayes, 22

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

Noes, 18

Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Robertson	Ms Westwood
Ms Fazio	Ms Robertson	
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	*Tellers,*
Mr Kelly	Mr Tsang	Mr Donnelly
Mr Macdonald	Ms Voltz	Mr Veitch

Question resolved in the affirmative.

Motion agreed to.

Order of business

Motion by the Hon. Duncan Gay agreed to:

That Private Members' Business item No. 199 outside the Order of Precedence be called on forthwith.

ROADS AND TRAFFIC AUTHORITY: FREEDOM OF INFORMATION REQUESTS

Production of Documents: Order

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.12 a.m.]: I move:

That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of the passing of this resolution the following documents, created since 1 January 2006, in the possession, custody or control of the Roads and Traffic Authority (RTA) or the Minister for Roads:

(a) all documents relating to the handling by the RTA of freedom of information requests from the following members of Parliament:

(i) Barry O'Farrell MP,

(ii) Andrew Stoner MP,

(iii) Mike Baird MP,

(iv) Andrew Fraser MP,

(v) Honourable Duncan Gay MLC,

(b) all documents, including emails, briefs, file notes and any other record revealing communications between the RTA and the Minister in office, or any staff in the Minister's office, during the period the RTA was handling each of the freedom of information requests referred to in paragraph (a), and

(c) any document which records or refers to the production of documents as a result of this order of the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [11.13 a.m.]: The Government opposes the motion.

The Hon. Trevor Khan: Why?

The Hon. PENNY SHARPE: I am about to tell you why. On 25 August 2008 the Roads and Traffic Authority's chief executive issued instructions to the Roads and Traffic Authority's executive team about the appropriate handling of freedom of information matters. On the same day the authority began a detailed review of its freedom of information management processes to ensure future freedom of information applications were handled appropriately. The review recommended that the Roads and Traffic Authority redesign its freedom of information processes, update freedom of information process documentation and carry out further targeted freedom of information training.

The implementation of the recommendations was overseen by a project working party comprising senior Roads and Traffic Authority staff and independent external parties. I have been advised that freedom of information training was rolled out in November 2008 for Roads and Traffic Authority staff involved in

freedom of information processes and a one-hour freedom of information awareness seminar was attended by members of the authority's executive. Those training sessions were given by an independent freedom of information lawyer.

New freedom of information processes and policy had been developed by the Roads and Traffic Authority and had been put in place, starting on 12 February 2009. The aim of those new processes and policy is to ensure that all staff are clear on the requirements of the Freedom of Information Act and their individual roles and responsibilities. A draft of the proposed freedom of information policy was sent to the New South Wales Ombudsman on 4 February for feedback.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 22

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

Noes, 18

Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Robertson	Ms Westwood
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Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	*Tellers,*
Mr Kelly	Mr Tsang	Mr Donnelly
Mr Macdonald	Ms Voltz	Mr Veitch

Question resolved in the affirmative.

Motion agreed to.

HIGH-FRONT ROOF GUTTERS

Debate resumed from 5 May 2009.

Ms SYLVIA HALE [11.22 a.m.], in reply: I thank members for their contributions to the debate. The purpose of this motion is twofold. The first is to draw attention to the failure of the Office of Fair Trading to inform the community of the dangers posed by high-front gutters and the methods used to install them. The second purpose is to urge Fair Trading to take positive steps to ensure that manufacturers, tradespeople, and home builders are made explicitly aware of their obligations, as set out in the Building Code of Australia [BCA] and the relevant Australian Standards, to prevent water from gutters flowing back into buildings. This is not a difficult task, although it does require Fair Trading to withdraw and rewrite the misleading and confusing advice that currently appears on its website. I will enlarge on this issue after I have responded to the specific criticisms raised in the debate.

Greg Donnelly led the attack, arguing that it was a waste of time because it was "after all, the job of qualified tradespersons to install those gutters in accordance with very specific building codes". In response one could ask, if there is no problem and everyone is complying with the BCA and doing the right thing, why have the Department of Planning, the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales and the Building Professionals Board all recently produced circulars and posted advice on each of their websites in order to raise awareness of the problem and to indicate what is required when installing eaves gutters? Mr Donnelly then accused the Greens of claiming that:

> Installation methods employed by the plumbing industry for high-front guttering do not meet the requirements of the Building Code of Australia.

Well, he is right there—that is the substance of our complaint. On numerous occasions the Government has been asked to advise if current methods of installing high-front gutters comply with the BCA, but there has been no response, only silence or obfuscation.

Mr Ken Wooldridge asked Paul Dengate, co-ordinator of technical investigations in Fair Trading's Home Building Service, precisely this question. His questions were:

> Does the high front slotted gutter with the spring clip system attached to the metal facia installed at my residence of 5 Demi Parade, Harrington, comply with: Legislation introduced in the year 2000,
>
> 1) New South Wales Plumbing Code of Practice
>
> 2) The Building Code of Australia
>
> 3) Australian Standard 3500 part 5 residential (Mandatory) and part 3

On 12 September he emailed Mr Dengate again, pointing out that his questions had not been answered, and again seeking answers because, as he wrote:

> I need a response in writing stipulating the above legislation. This is necessary due to advise I have received from my insurance company, that any claim made would **not** be considered if any of the building works do not comply with mentioned standards, codes and practices. I have been further advised that if I on sell my property I would be passing on this problem and also received legal advice that in fact this situation could affect a potential sale of my property.

Mr Wooldridge is still waiting for an answer to his questions. Certainly Archicentre, the industry body representing more than 1,000 architects across the country, is convinced there is a problem with the installation of high-front guttering systems. The CSIRO is equally convinced. As early as August 2003, in its publication *Building Technology File*, No. 22, the CSIRO warned of the problems with high-front gutters:

> The front bead of eaves guttering is usually higher than the highest point of the rear vertical face that sits against the fascia board. A common mistake where there is a long run to the downpipe, is to install the guttering with the front bead level with or above the top of the fascia so as to allow for fall to the downpipe. The reasons why this is an error are:
>
> - Where there is a roof overhang, this allows water to overflow onto the eaves lining. In the case of framed external leaf walls, the rainwater is fed into the frame.
>
> - Where there is no overhang and extruded bricks are used for the external leaf, the overflowing water spills into the core holes and saturates the brickwork from within.
>
> - Where water cannot feed entirely into the extruded brickwork or where pressed clay bricks are used, rainwater falls directly into the cavity if one is present.

The CSIRO is aware of the problem. The article then goes on to explain what must be done if installations are to be installed in accordance with the Building Code. Mr Donnelly's next criticism of my motion is that "when the Master Plumbers Association, New South Wales, examined this issue in detail in 2007..., it said its expert committee did not see the need to change installation procedures". Let me set Mr Donnelly straight. On 4 September 2007, the Master Plumbers wrote to all major gutter manufacturers, saying:

> Following our research on the issue, the Association's position is that:
>
> 1. High front gutter installations do not provide overflow measures that meet the requirements of the Australian Standard.
>
> 2. Manufacturer's installation instructions are only informative and have no value as the instructions do not form part of the regulation via the NSW Code of Practice.
>
> 3. Current guttering methodologies do not adequately address the overflow measures as detailed in the Australian Standards …

The Master Plumbers' letter continues:

> Due to the concern raised in respect of compliance, as it relates to overflow requirements, it is incumbent on the Association to advise members of how manufacturers view their compliance with the Standards and Codes.

The association offers to publish in the *Plumber's Pipeline* newsletter the responses from the manufacturers. Needless to say, the Master Plumbers Association is still waiting on a reply. Mr Wooldridge is waiting on a reply, and I am waiting on a reply.

Mr Donnelly then resorts to the discredited device of shooting the messenger, namely suggesting that the University of Newcastle' s research on the inadequacy of slots as a means of providing continuous overflow

was worthless because it was commissioned by persons with an allegedly commercial interest in the industry. Mr Donnelly no doubt would be interested to learn that the Office of Fair Trading sent a copy of the report to the Australian Building Codes Board for comment, with the result that all reference to slots has now been removed from the Building Code of Australia 2009, which came into force on 1 May. So much for Mr Donnelly's dishonest and unworthy attempt to impugn that research. The reference to slots has been removed, contrary to anything Mr Donnelly asserts, because, as the code itself warns, slots do not meet the performance requirements of the code. Mr Donnelly then went on to trumpet the virtues of the information sheet that appeared on Fair Trading's website on 2 February this year.

In his contribution Reverend the Hon. Fred Nile was equally impressed with that advice. In my view, however, the advice is deliberately misleading. It gives equal weight to two headings, "continuous overflow measures" and "non-continuous overflow measures", and to various diagrams that appear under those headings, the clear implication being that both approaches are equally acceptable and will result in compliance with the Building Code of Australia. But the standards and codes require full-length continuous overflow for eaves gutters and only continuous overflow provision can ensure that if a gutter overflows at any point—and even if there are no downpipes at all—the excess rainwater will be directed away from, rather than into, the building. In typically duplicitous fashion, Fair Trading tries to skirt the embarrassing issue of the inadequacy of slots as a compliance measure by stating at the very bottom of its advice:

> Slotted gutters may provide an overflow measure; however, the slots must be of sufficient size. It is recommended that the gutter manufacturer be consulted on this.

It further states:

> It is important to note that gutters may become blocked anywhere along their length, so non-continuous overflow measures may not be sufficient to prevent water flowing back into a building.

As I noted when first speaking to the motion, I followed Fair Trading's advice and on 6 March emailed Neil Creek, the representative of the major gutting manufacturers, to establish what size slots would be sufficient to enable compliance. He replied that consulting with seven manufacturers was time consuming but he would "release an industry document late April/early May to coincide with the introduction of the Building Code of Australia 2009". On 1 May I again inquired as to progress and again I was told:

> The process in developing the industry document is requiring me to liaise with an extensive range of people in the industry supply chain.

Clearly, for manufacturers, compliance with the building code is proving an awkward and extremely embarrassing nut to crack. If they cannot work it out what hope has the hapless consumer, such as Mr Wooldridge and tens of thousands of others, whose home insurance might be at risk because non-complying guttering that is inherently unfit for the purpose has been installed? Fair Trading should step into this gap—the gap between what the manufacturers promote and from which they profit, and what the public is entitled to expect and the building code mandates. Rather than calling manufacturers to account and genuinely trying to protect the community, Fair Trading chooses to act as the manufacturers' cheap apologist. The experts could not be clearer on what needs to be done. All that is needed is for Fair Trading to act diligently and honestly and do what the motion asks. None of this is a big ask. [*Time expired*.]

Question—That the motion be agreed to—put.

The House divided.

Ayes, 19

Mr Ajaka	Mr Gay	Ms Parker
Mr Clarke	Ms Hale	Mrs Pavey
Mr Cohen	Dr Kaye	Mr Pearce
Ms Cusack	Mr Khan	
Ms Ficarra	Mr Lynn	*Tellers,*
Mr Gallacher	Mr Mason-Cox	Mr Colless
Miss Gardiner	Reverend Dr Moyes	Mr Harwin

Noes, 21

Mr Brown	Reverend Nile	Ms Voltz
Mr Catanzariti	Mr Obeid	Mr West
Mr Della Bosca	Mr Robertson	Ms Westwood
Ms Fazio	Ms Robertson	
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	*Tellers,*
Mr Kelly	Mr Smith	Mr Donnelly
Mr Macdonald	Mr Tsang	Mr Veitch

Question resolved in the negative.

Motion negatived.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. DON HARWIN [11.39 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 4 in the Order of Precedence, relating to the Hurlstone Agricultural High School Site Bill 2009, be called on forthwith.

While this private member's business item comes after item No. 3 in the order of precedence, it will involve only the delivery of the second reading speech and debate will then be adjourned. Frequently when private members' business is considered the order of business is varied to allow the period of five calendar days to commence. That is all the Opposition is seeking to do by varying the order of business.

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

Motion agreed to.

Order of Business

Motion by the Hon. Don Harwin agreed to:

That Private Members' Business item No. 4 in the Order of Precedence be called on forthwith.

HURLSTONE AGRICULTURAL HIGH SCHOOL SITE BILL 2009

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

Second Reading

The Hon. CHARLIE LYNN [11.40 a.m.]: I move:

That this bill be now read a second time.

This is a bill for an Act to require the Hurlstone Agricultural High School site to be retained for educational purposes. The objects of the bill are to ensure that the Hurlstone Agricultural High School site remains in public ownership and to limit the use of the site to that of a government school. Clause 1 sets out the name of the proposed Act. Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act. Clause 3 defines the Hurlstone Agricultural High School site and contains other interpretative provisions. Clause 4 specifies the objects of the proposed Act, as referred to in the overview I have just given. Clause 5 prohibits the Hurlstone Agricultural High School site from being sold, transferred, leased or otherwise alienated. Clause 6 restricts development of the site so that it can be used only for the purposes of a government school. Clause 7 prevents any development of the site from becoming a project to which part 3A of the Environmental Planning and Assessment Act 1979 applies.

Hurlstone Agricultural High School is a selective high school of excellence located in a diminishing green belt on the south-western fringe of the Sydney metropolitan area. The origins of the school are steeped in

our history. It began in 1878 with a vision by John Kinloch to establish his own school, the Hurlstone School and College, named in honour of his mother. The original estate lay in the vicinity of Hurlstone Park, Ashfield. John Kinloch was one of the first graduates of the University of Sydney. Financial hardship eventually forced the sale of the college to the New South Wales Government, which saw the value and benefit to the community of an agricultural college. Visionaries such as John Kinloch have long since departed the ranks of this once proud party.

The Hurlstone Agricultural Continuation School was reopened in 1907 and commenced with one pupil. By the end of the first year it had 30 students. The student population grew to 148 and the school subsequently moved to a 330-hectare property at Glenfield, which was part of an original land grant to the convict James Meehan. The school took possession of the property in 1926 and has educated rural leaders, agricultural scientists and farmers ever since. Today the school has a student population of 967 from metropolitan, regional and rural areas of New South Wales. The Hurlstone Agricultural High School has a proud alumni, a proud heritage of service to the nation and has achieved academic excellence in agricultural education.

According to the prospectus of the school, in 1920 its students nobly upheld the honour of their school in the Great War—156 boys, who represented 54 per cent of the student population aged 18 years and over. Ten of those boys never returned. In World War II the students answered the call again. During the war 844 boys fought with Australian and British forces, with 68 making the supreme sacrifice for our freedom. One of these men, Corporal John Edmondson, tragically was killed while fighting in Tobruk. He was the first Australian to be awarded the Victoria Cross in World War II. The Edmondson VC RSL Club in Liverpool commemorates his memory and his sacrifice for nation. The proud spirit of Hurlstone is reflected in the words of the school song, which was penned in 1912:

Come, gather round, ye Hurlstone lads,
And sing with might and main;
'Tis here we learn our dairy work
And how to sow the grain.
'Tis here we learn our orchard work,
To spray, and prune, and drain,
'Neath the eye of the good old boss of Hurlstone.

Hurrah! Hurrah! For the plough, the harrow and the hoe
Hurrah! Hurrah! For the wheat in a waving row,
And when we're out upon our own,
The good results will show.
What we have learned at dear old Hurlstone.
We've soldered in the plumbers shop,
And shaped the sheets of tin;
We've hammered nails and blunted planes—
A craftsman's skill to win;
And often after 'ragging', the office we've been in,
So well known to all of us at Hurlstone.

You ought to see our football team,
When they start kicking goals;
They score the tries and tear it in
With all their hearts and souls,
While on the field the other side,
Lie 'dead' in countless shoals,
When the Blue and Gold play up for Hurlstone.

We've sought the mighty liver fluke,
And learned about its ways,
And how it is, and why it is Merino wool it pays,
And faced with aid of microscope
The fierce Amoeba's gaze
In the modern science room at Hurlstone.

And here's to those who've gone before,
To fortune and to fame, Old Boys in far Gallipoli
Who made for us a name,
And in the years that are to come
We hope to do the same, for the honour of
The dear old School at Hurlstone.

It would be a sad indictment of the character of any member of this Parliament who would contemplate a vote to sell off the proud heritage of Hurlstone Agricultural High School to property developers for 30 pieces of silver. As a former soldier, I say there could be no greater insult to the memory of Corporal John Edmondson, VC. It

begs the question whether anything is sacred to this mob, which is desperate to stay in power for the sake of staying in power. The Hurlstone farm is a vital resource for the quality teaching of agriculture. The decision to sell the land is based on the notion that the school has surplus land. However, agriculture involves practical experience; you cannot teach it out of a book. Students need to be able to smell, see and feel what it is like on a farm in order to be good at it.

Best practice suggests that 160 hectares can sustain 127 cattle; Hurlstone Agricultural High School has 118 cattle. It also has 76 sheep, 29 goats, 58 pigs, three alpacas and 248 poultry. The 115-hectare farm is fully utilised at slightly above recommended stocking levels. Land and animals are linked to specific husbandry and agricultural education outcomes. Hurlstone agricultural farm has no surplus land. The entire farm is valued and used for educational purposes. If the land were sold, the school would no longer function as it does now; the school would stagnate.

No doubt the Treasurer is using eastern suburbs logic in his fire sale of our public asset. We know he lives among the elite in Sydney's wealthiest and most exclusive suburbs, many of whom have made their millions from property development. Many are generous donors to the Labor Party. The Treasurer's boundary between east and west is Sussex Street. Westies live on the other side of the divide. The Treasurer does not mind mixing with these types for the odd photo opportunity, but they would never be invited to rub shoulders with his rich and powerful friends around Vaucluse and Rose Bay. If there is one position that will get you on the social A-list in Vaucluse and Rose Bay, it is that of Treasurer. Money is the language of the eastern suburbs and status is assessed by how much you have or how much you control. How you got it does not matter much.

The blood of the former Premier and former Treasurer had barely been cleaned from the carpets in Sussex Street when the present Treasurer got the call. Now he has made his mark: the State's economy has been trashed by the highest-spending Government in New South Wales history. Its last budget was a shambles because it could not deliver in its own party the numbers needed to privatise the power industry. The Treasurer put together a fire sale of public assets that included the Hurlstone Agricultural High School at Glenfield. He rubbed salt into the wound by adding that students in western Sydney and rural New South Wales would have to walk further to and from classes each school day. It was heavy stuff. He got to speak in the Legislative Assembly. He was on television and radio. He was on the eastern suburbs A-list—speaking to double-A people about the triple-A rating. He jetted off to New York at the pointy end of the plane just as it all began to unravel. The Premier was told that the westies were revolting.

The Treasurer agreed, but the Premier thought he did not fully understand the message so he had to prick his bubble by telling students that they could catch a bus to school. Then the shadow Treasurer and former shadow Minister for Finance, Mike Baird, took a closer look at the Treasurer's fire sale of the Hurlstone Agricultural High School. In his reply to the Treasurer's mini-budget on 3 December, the shadow Treasurer said he was amazed to hear that the State Property Authority, which is our articulate expert in this area, did not have input in determining the valuation of the property. He advised that a critical amount of more than $800 million for all the public assets in the fire sale had not been verified by the Government's experts, who had no involvement in the process. The Government's own advisers say that they will not be able to sell 140 hectares, as they have been telling the public. The most realistic assessment is that they will be able to sell only more like 50 hectares, which will deliver only a fraction of the expected revenue included in the now-disgraced mini-budget. The black hole left by the Premier's backflip on school bus passes is now Eric's abyss. It is clear that the Treasurer's figure of $800 million was a SWAG, which is an old Army acronym for scientific wild-assed guess!

If that was the Government's figure late last year, one can only guess what the property now would be worth, as we plunge deeper into the worst recession that we have had since the Great Depression. This is not the first time that this Labor Government has tried to get its grubby hands on the school so that it could sell it off to wealthy land developers. In 2003, another eastern suburbs icon, the Hon. Andrew Refshauge, tried to flog it when he was the Minister for Education and Training. Back then he was reminded by some astute students of the school that his predecessor, the Hon. John Watkins, had "completely ruled the sale of the land out". In a letter to the Hon. Andrew Refshauge, they wrote:

> Hurlstone is a unique school, which continues to mould students into leaders of society. Our school prides its reputation on producing a well rounded student, that is offered the best education due to the many different facets of learning that are offered at Hurlstone.

The Hon. Christine Robertson: I know a lot of good people out at that school. They are not compost!

The Hon. CHARLIE LYNN: Were you speaking English?

The Hon. Matthew Mason-Cox: She is a SWAG.

The Hon. CHARLIE LYNN: Yes, the Hon. Christine Robertson is a SWAG. The letter goes on to state:

> Agriculture is one of the key learning areas in which students excel both in and out of the classroom. This is shown in outstanding HSC results and also our pursuits outside the classroom in developing skills that most government schools can't offer, such as competing in shows, involvement in organisations such as Rural Youth, becoming involved with animals and developing a love for agriculture.

[*Interruption*]

The Hon. Christine Robertson may well mock what the students wrote to Andrew Refshauge, but they were genuine. I know she does not have a feel for western Sydney, but some of us who have lived there all our lives do. Further back, in 1995, a residential agricultural high school review into the viability of agricultural production of agricultural schools reported:

> The consensus of the working party was that none of the farming ventures would ever be commercially viable operations, because of the small size and the use of unionised labour which is both inflexible and expensive. Each of the schools however, operate what could be considered a main farming activity; Hurlstone dairy operation [at Glenfield], Yanco piggery [in the Riverina] and Farrer stud beef cattle [at Tamworth].

The one common factor that each of those schools needed to fulfil their role as agricultural educators is land—not virtual land, but real land that can sustain crops and livestock on a sufficient scale for educational purposes. Our historic economic development has been underpinned by agriculture. We owe the standard of living we enjoy today to this vital industry. The combination of modern science, quality education and real experience will ensure that we continue to develop our leadership in this field, where demand threatens to outstrip supply because of climatic and population trends in the world in general and our region in particular.

Farmers have already been belted around by the drought. The New South Wales Government is making a bad situation worse by cutting the number of city students who will be exposed to agriculture. I should mention that students of non-English speaking backgrounds comprise more than 60 per cent of the student population at Hurlstone. In the working-class western suburbs there are a lot of students who would otherwise not be introduced to agricultural pursuits, but the Hurlstone working farm gives them that opportunity. But, more importantly, something of value that cannot be measured in economic terms is that our rural students from throughout New South Wales who reside at the school as part of their education have the opportunity of meeting students from a wide variety of non-English speaking backgrounds and to learn about their culture and language. They form lifelong friendships and mateships, which helps them to understand the diversity of culture in metropolitan Sydney. That is an experience that many students do not get in country towns. That is the unknown role played by the Hurlstone Agricultural High School.

The Hon. Lynda Voltz: Is that like what they did out at Camden?

The Hon. CHARLIE LYNN: The rejection in Camden was based on planning grounds.

The Hon. Lynda Voltz: Did they take to cultural diversity down there?

The Hon. CHARLIE LYNN: We want diversity, and there is diversity in Camden. I know the Hon. Lynda Voltz knocks Camden and does not like Camden, or anywhere west of the Sydney CBD, but our aim is to protect the integrity of the district.

The PRESIDENT: Order! I remind members of the importance of a second reading speech, which the Hon. Charlie Lynn is making, and I ask members not to interject.

The Hon. CHARLIE LYNN: The proposed sell-off of Hurlstone will have a serious long-term impact on our rural economy. It goes without saying that if we do not have good farmers and farming practices, which is what the Hurlstone Agricultural High School teaches, we will not have viable rural towns in many areas, due to their dependence on farming families. But rather than trying to geld the industry, as this short-sighted,

quick-fix Government seems intent on doing, we should be seeking ways of enhancing it. We have land. We have the talent. All we need is the commitment from those who are charged with articulating our vision for the future.

Unfortunately the vision of the short-sighted political pygmies in this Government is limited to 2011. One has only to look at the pathetic response by the Government to an attempt by the Leader of The Nationals, Andrew Stoner, to debate in the other place as a matter of urgency the fire sale of the Hurlstone Agricultural High School. The Government had a great opportunity to explain how it would use the proceeds of the sale to add value to agricultural education in the State; but rather than do that, those political pygmies gibbered on about using the money to fund infrastructure upgrades at nearby public schools. Any funds left over would be reinvested in capital works in schools throughout the State or redirected to services in other agencies. That is Orwellian speak for marginal seat slush funding. It does not get any more pathetic than that.

If the current Government had been in charge when the First Fleet arrived, the convicts would have stayed aboard and put back to sea. The appointment of the new Minister for Planning, Kristina Keneally, by the new Premier, Nathan Rees, prompted speculation that she may well have been passed a poison chalice. On 29 November last year, the *Sydney Morning Herald* noted that the Planning portfolio had been plagued by controversy over the millions of dollars that hungry developers had poured into Labor's coffers. While the new Minister might have been presented as a political cleanskin, she was also still on training wheels in regard to experience in running a ministry. The *Sydney Morning Herald* noted that after only 12 weeks in the job, she had already set alarm bells ringing.

A tight circle of Labor elders associated with former leaders Paul Keating, Bob Carr and Morris Iemma began to notice some uncanny parallels behind the scenes with the actions of her political patron, the Minister for Finance, Joe Tripodi, and his fellow hard Right powerbroker, the Hon. Eddie Obeid, in the months leading to Iemma's downfall. They expressed concern that the new Minister looked as though she was about to repeat the planning mistakes of the past, when the suburbs in western Sydney were left without decent shops, schools and rail links for years. Major concerns were expressed about the fact that some of the State's most powerful housing and land release agencies had been stripped of planning functions while Joe Tripodi was handed a big say in the management of more than $1 billion worth of strategic land around Sydney.

The *Sydney Morning Herald* noted that the well-regarded Growth Centres Commission, which was set up three years ago to kick-start new suburbs on the outskirts of Sydney and to make sure that roads, water and sewerage were delivered properly, has been absorbed back into the under-resourced Department of Planning. The new Minister advised the *Sydney Morning Herald* that she had consulted widely in her attempt to clean up the planning system—a task that former Minister for Planning, Frank Sartor, had commenced. Unfortunately, Frank was knocked off his perch because he rattled too many factional cages in the process. The Minister's detractors in her own party accuse her of not only delivering much of the Tripodi-Obeid agenda—an agenda that was resisted by Morris Iemma and Frank Sartor—

The Hon. Eric Roozendaal: Point of order: If the Hon. Charlie Lynn wants to attack a member of the other House, he should do so by way of a substantive motion. He is clearly casting aspersions on members of the House and he knows the appropriate way to do that. I would have thought a member of his expertise and experience—

The Hon. Melinda Pavey: And intellect.

The Hon. Eric Roozendaal: Let us not go that far. I thought the Hon. Charlie Lynn would realise the importance of observing the rules of the House. If he wants to attack a member of the House, he should do so by way of a substantive motion.

The Hon. CHARLIE LYNN: To the point of order: This information is already public knowledge. I am quoting widely from the *Sydney Morning Herald*.

The Hon. Eric Roozendaal: Selectively quoting.

The Hon. CHARLIE LYNN: Everybody in New South Wales knows it as well.

The PRESIDENT: Order! Imputations against other members are disorderly at all times. I remind the Hon. Charlie Lynn of the particular importance of second reading speeches and I ask him to confine his remarks to the long title of the bill that he is proposing.

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

QUESTIONS WITHOUT NOTICE

POLICE AWARD NEGOTIATIONS

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Police. When will the Minister announce which local area commands could be the subject of amalgamation as stated in correspondence between the Government and the New South Wales Police Association dated 23 April 2009? Given the Minister's assurance in the House that no such local area command amalgamations would take place, at what point and by whom was the decision made to include such proposed amalgamations in the Government's bargaining posture for police award negotiations?

The Hon. Greg Donnelly: Point of order: I seek clarification as I understand the Leader of the Opposition was asking for an announcement of Government policy.

The Hon. Michael Gallacher: No, they have already announced it.

The Hon. Greg Donnelly: No, I think your words—

The Hon. Michael Gallacher: The letter was dated 23 April 2009.

The PRESIDENT: Order! The Chair understands the concerns expressed by the Hon. Greg Donnelly about such terms in the question as "will the Minister announce". However, having reviewed the question in its entirety, I rule that it is in order and the Minister may answer it.

The Hon. TONY KELLY: I am happy to provide an answer because once again the Leader of the Opposition is misguided. The letter to which he referred is not a letter from me or a letter about government policy. The letter he referred to is the letter that the Commissioner of Police sent to the Police Association to commence negotiations on the new pay claim. I understand that the current award expires on 1 July, from memory. So negotiations between the police commissioner and the Police Association have commenced, as negotiations have commenced with every other public service organisation in the State, to see where they will land. I have not seen the letter and I was not a party to the letter—the Leader of the Opposition has certainly produced some words this morning. However, I assume that the letter states, in line with government policy, that the Treasurer and the Government have provided 2.5 per cent for wage claims across the spectrum of the New South Wales public service and that negotiations relating to efficiencies and other items to arrive at a higher figure will commence. So it is not a matter of government policy; it is a matter of negotiation on a new wage claim, which has only just commenced.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. Will the Minister guarantee that he will not, as he has said previously, support any amalgamations of local area commands as part of these negotiations?

The Hon. TONY KELLY: It is entirely up to the commissioner and the association to agree on whatever they like. If they agree on something, and it depends on what they—

The Hon. Michael Gallacher: You are the one who distributes the money, and you are the one who is now saying, "No, change our position". Before you said "No way"—

The Hon. TONY KELLY: The Leader of the Opposition did not listen to my earlier answer.

The Hon. John Robertson: They don't listen.

The Hon. TONY KELLY: Members opposite do not listen. The Leader of the Opposition did not listen to my earlier answer. The Government and Treasury are offering 2.5 per cent per annum for the next three years. There will be negotiations on other matters. The police commissioner will put up a whole host of other matters and, I assume, the Police Association will also put up matters. The negotiations will be between those two organisations and they will come to a landing on them.

PAEDIATRIC INTENSIVE CARE SERVICES

The Hon. IAN WEST: My question is addressed to the Minister for Health. Will the Minister inform the House of any initiatives to boost health services for seriously ill children?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for his ongoing interest in health matters. More than 2,000 children are admitted to intensive care units in our public hospitals every year. They represent the State's sickest and most vulnerable. It is vital that the Government provides our hardworking and highly skilled paediatric workforce—doctors, nurses and allied health professionals—with the resources they need to support these children so that they can be nursed back to good health. Last week I had the opportunity to visit Westmead Children's Hospital and learn more about its paediatric intensive care unit. The New South Wales Government has allocated an extra $1 million in funding to the hospital for a new paediatric intensive care bed. This additional investment not only provides additional capacity for critically ill children; it also assists the highly specialised and dedicated doctors and nurses who care for them.

The bed will enable the hospital to treat an extra 90 critically ill children every year. The hospital now has 19 paediatric intensive care beds, taking the total in New South Wales to 37. New South Wales has a world-class intensive care service for children made up of a network of services at Westmead Children's Hospital, Sydney Children's Hospital and John Hunter Children's Hospital. Ninety-seven per cent of children admitted to these intensive care units survive their illness. This is a tribute to the skills and dedication of our healthcare professionals and the State Government's commitment to deliver the best possible health services to New South Wales families. These intensive care facilities are supported by specialist retrieval services—the New South Wales neonatal and paediatric Emergency Transport Service.

The network ensures that, regardless of where a child lives in New South Wales, they get the specialist care they need. The New South Wales Government has boosted intensive care services for children, including eight additional paediatric intensive care beds since 2004-05, a mobile intensive care service for children and babies provided through the New South Wales neonatal and paediatric Emergency Transport Service, and care and support for ventilated children who no longer need to be in an intensive care unit. The funding for the new bed at Westmead is in addition to the $1 million announced in the 2008-09 budget for a bed at Sydney Children's Hospital. It is important for the Government to roll out these services because New South Wales continues to experience a baby boom, with Sydney mothers aged 35 years and older leading the way.

The findings of the latest *New South Wales Mothers and Babies* report shows a nearly 8 per cent increase in the number of births since 2004. A total of 77 per cent of these babies were born in public hospitals—an increase of 9 per cent over the past five years. Most of these births happen without complication. In fact, New South Wales can boast the lowest perinatal and neonatal death rates of any State in the country, and among the lowest rates in the world.

While the New South Wales Government continues to deliver vital front-line health services to support families across the State, members opposite have embraced a plan to rip $300 million out of these front-line services and spend them on bureaucracy. Barry O'Farrell wants to more than double the number of area health services from 8 to 20. Mr O'Farrell and Ms Skinner say their policy does not come with any extra funding. Mr O'Farrell either has no idea how to cost a proposal or he has set out to deliberately mislead the public or he intends to take away the funding for his misleading bureaucratic exercise by deleting valuable services. The funding required for Barry's bureaucracy would pay for the equivalent of about 3,500 registered nurses.

The Hon. Duncan Gay: You are deliberately lying.

The Hon. JOHN DELLA BOSCA: No, I'm not.

INSECT CONTROL PAYMENTS

The Hon. DUNCAN GAY: My question is directed to the Minister for Primary Industries. Since 2000 how much money have the rural lands protection boards paid to the Government for insect control? What are the full details of the current locust loan to the livestock health and pest authorities, including the total amount, interest accrued and the payback period? When will the Minister change this current locust loan into a grant?

The Hon. IAN MACDONALD: I note that the member has made a series of comments, along with other members of The Nationals on this and related issues over the past month or so. In relation to the pest

insect levy, my understanding was that the amount owing under the original loan for the 2005 locust plague that spanned most of the State was in the order of $14 million. As part the State's contribution to this program it picked up certain interests as well as made a significant contribution in the order, if I remember correctly, of approximately $5 million or $6 million. The insect levy has been in place since 1934 and in that period has been used to fund not only periodical outbreaks of plague locusts but most often to also assist with the payment of the Australian Plague Locust Commission, which is the overarching body that handles locusts in the western parts of the State.

As part of its drought policies the Government waived the insect levy for a number of years subsequent to that. Last year, given that there was a considerable harvest—the first one in some time—the Government reached an agreement to collect not only some of the previous levy but also some of the costs of the October-November campaign, which substantially reduced the impact of plague locusts upon agricultural production in the State. In fact, it has been noted that farmers in both instances saved hundreds of millions of dollars because of the campaign for a very small outlay via the pest insect levy. The Government will continue to collect the levy. As the member noted, this year the Government will collect a small portion of what is owed as well as the costs of the previous campaign.

The costs of this campaign are pretty well open. A number of organisations have access to the costs of the campaign. The Government will not waive the full amount of the agreement it had from the 2005 campaign and, depending on conditions across the State, will over time continue to collect it, although at this point there are no set steps as to when the sum is to be paid back. Clearly in 2005 when the agreement was reached it was felt that it would be paid in four or five years but, given the drought, this will obviously stretch into the future.

The Hon. Duncan Gay: How much money did you get from the boards for the pest levy, so far?

The Hon. IAN MACDONALD: I will have to get the member that figure. I understand that most farmers are complying with their legal obligations both on rates and the pest insect levy because, unlike The Nationals, they have a commitment to this system and understand that they need this type of levy arrangement to ensure that farmers continue in the future to save hundreds of millions of dollars of damage that could be caused by pest plague locusts in this State.

RSL AND LEAGUES CLUBS GAMBLING INCOME

Reverend the Hon. Dr GORDON MOYES: My question is directed to Minister for Primary Industries, representing the Minister for Gaming and Racing. Is the Minister aware that most of the State's RSL and leagues clubs solely rely on excessive profits from gambling? In particular, is the Minister aware of the staggering earnings from gambling such as: Bankstown District Sports Club, $67 million last year; the Mounties Club, 66 million from poker machines; Hurstville RSL Club, 95 per cent of its revenue; Wests Ashfield Leagues, 88 per cent of its revenue; Canterbury Leagues Club, $80 million a year; and Panthers, $93 million from gaming profits. Given that more people are unemployed and our community has a gambling addiction problem, what stringent measures will be established to ensure greater scrutiny of the operations of RSL and leagues clubs and to encourage clubs to change their focus from increasing poker machine revenue to other means of revenue?

The Hon. IAN MACDONALD: I will take that detailed question on notice and seek an answer from my colleague.

POLICE NUMBERS

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Police. What is the latest information on the Government's commitment to deliver record numbers of police to New South Wales?

The Hon. TONY KELLY: Police are joining the NSW Police Force in record numbers and they are staying longer. That is not a political message; it is a fact. Since the last election 1,774 police officers have graduated from the Police College. That is an extra 345 over and above the 1,429 who have left the force in that time. The Government is delivering record police numbers in New South Wales. The authorised numbers now stand at a record 15,306. By the end of 2011 it will be 15,956 police in the NSW Police Force maintaining our position as the fourth largest police force in the Western world.

The PRESIDENT: Order! The Hon. Rick Colless and the Hon. Melinda Pavey will cease interjecting.

The Hon. TONY KELLY: Today I advise the House that a new class of 317 recruits are due to become probationary constables of the NSW Police Force this Friday. That is 244 men and 73 women—25 per cent are women—who have chosen to dedicate their working lives to the service and protection of the community of New South Wales. That means that more than 2,000 men and women have now successfully completed their time at the Police College in Goulburn in the two years since the last election. That is 2,000 jobs and 2,000 working families gainfully employed by the Rees Government. The Government has imposed tough standards and strict requirements on its newest recruits, something for which it makes no apologies. The Government will only accept the very best.

The new recruits have worked hard over many years to reach the level of fitness and competency that is required to get through the door. And it is this dedication and perseverance to achieving their goals that will make them valuable members of the force. These men and women have chosen a challenging yet rewarding career. I have been advised that the 317 recruits will join 73 local area commands across the State. At this stage 53 recruits will join commands in rural and regional areas. I am very proud of the Rees Government's record on police numbers in rural areas. Rural police numbers under this Government have increased by more than 45 per cent. Unlike the Opposition this Government has a proven track record of supporting its hardworking police officers backing them to the hilt with the best resources, equipment and tough laws in order to get the job done.

The Government's support helps our police use modern smart policing strategies as an effective weapon in the fight against crime. And they are getting results. The latest New South Wales Bureau of Crime Statistics and Research figures show that 15 out of 17 major crime categories have either fallen or remained stable over the past two years. We should all acknowledge that although the latest group of officers attest on Friday, their education has not stopped. In fact it is only beginning.

As honourable members have heard, those officers will undergo a further 12 months of formal training on the front line before they graduate and are confirmed as full constables. I extend my thanks to their families and friends who have supported them through their training and who will continue to support them through their careers. I call on all members of the House to congratulate them on their attestation.

VANDALISM OF POLICE PROPERTY

Reverend the Hon. FRED NILE: I ask the Minister for Police a question without notice. Is it a fact that in 2007-08 more than 1,000 incidents of theft and vandalism of New South Wales police stations and properties occurred; from July 2008 to February 2009 there have been 718 such incidents, and since July 2007, 26 police stations been broken into? Does the Government acknowledge the negative message those statistics convey to the community that not even police can protect themselves? What is the Government doing to rectify the problem and protect the weapons particularly and the property of the New South Wales Police Force?

The Hon. TONY KELLY: I thank Reverend the Hon. Fred Nile for his question.

The Hon. Matthew Mason-Cox: A question without notice?

The Hon. TONY KELLY: I certainly had no notice from the member. Obviously, it would be preferable that no police equipment is ever lost or stolen. However with police on duty around the clock across New South Wales, in challenging and difficult circumstances at times, some loss or theft is bound to occur. Considering that currently there are more than 15,000 serving police officers, I am of the view that the level of lost and stolen equipment over the past year is remarkably low. The comprehensive risk management strategies that the New South Wales Police Force has in place are obviously responsible for reducing the theft level. I am satisfied that the issue of lost or stolen police property and equipment is being managed effectively by the Police Force. However, graffiti and malicious damage are significant problems for the community.

The senseless behaviour of vandals turns private properties and public facilities into eyesores that are costly to clean or repair. The problem extends to public sector buildings and even to some police stations. Much of the damage to police stations is done by people already in police custody for other offences. Any person found responsible for damaging a police station, or any property for that matter, will be dealt with appropriately by police.

The Government has taken significant steps to tackle the blight of graffiti by prohibiting the sale of spray cans to under 18s; imposing strict penalties including removing the graffiti and $2,200 fines and six-month jail terms; requiring spray paint to be kept in locked cabinets to restrict access; and establishing the Anti-Graffiti Action Team to help police, local councils and agencies to tackle graffiti crime.

CATARACT SURGERY WAITING LISTS

The Hon. JENNIFER GARDINER: My question without notice is directed to the Minister for Health. Will the Minister inform the House whether his department or any of the eight area health services have instructed doctors to change the way in which they list patients awaiting cataract surgery? Minister, is it a fact that doctors are now required to not list both eyes of a patient as awaiting surgery but instead to list only one eye at a time, which effectively halves cataract surgery waiting lists? Does the Minister condone the use of such means to make hospital waiting lists appear shorter than they really are?

The Hon. JOHN DELLA BOSCA: Again the Opposition is resorting to information from probably the most disreputable bastion of people intent on telling fibs about the health system. Our surgeons, theatre nurses and all people connected with the great performance of surgery in New South Wales public hospitals really deserve our congratulations instead of continuous abuse and, frankly, wrongful allegations from members on the other side of the Chamber. The first part of the question is simply absurd.

The Hon. Duncan Gay: Why don't you do your job instead of slagging the Opposition? It is spin. That is all it is.

The Hon. JOHN DELLA BOSCA: Well, no. It is just a nonsense to suggest that the Minister for Health, or the office of the Minister for Health, or the director general of New South Wales Health, would instruct surgeons on the way in which they were to prepare patients for care. That is what is suggested in the first part of the member's question and it is simply an absurdity. I have had no involvement in instructing any surgeons or any area health services about the way in which cataract surgery is to be listed as ready for care. The vast majority of patients on elective surgery waiting lists are, of course, treated in public hospitals and a small percentage of specific surgery is contracted out to the private sector—that is, a range of surgical procedures including various eye surgeries.

In response to the suggestion that in some way I, or anyone in the Department of Health, interferes in the way that cataract surgeons or eye surgeons prepare their patients for care: that is simply not the case. If the member were to ask me a serious question about the way in which waiting lists work, or how eye treatment is working, I would be happy to provide her with an answer.

CRIMINAL TRIAL DELAYS

The Hon. LYNDA VOLTZ: My question without notice is addressed to the Attorney General. Will the Attorney General update the House on the latest initiatives to reduce delays in criminal trials?

The Hon. JOHN HATZISTERGOS: In my time as Attorney General I have become concerned about the length of time that many criminal trials are taking. Recent figures from the Productivity Commission show that New South Wales criminal courts lead the nation in the timeliness of criminal matters, often by very significant margins, based on measures such as the backlog of cases older than 12 and 24 months. While there have been significant improvements in criminal matter disposal times in New South Wales District Court since 2000, the average trial lengths in New South Wales have been increasing over the past 10 years, from approximately 4.6 days in 1996 to 7.25 days in 2007.

Members would recall the infamous sudoku trial, in the matter of *R v Lonsdale & Holland*, which was aborted when it was found that jurors had been playing sudoku in court. The background to this case shows the need for reform. The problems combined to produce a lengthy and ultimately aborted trial at a cost to the State of over a million dollars. The two accused were charged with conspiracy to manufacture a commercial quantity of amphetamines. The trial involved more than 100 witnesses and 66 days of evidence. Due to a number of defence objections, jurors were made to listen to hours of audiotape, during which there were substantial portions of silence. It was hardly surprising that they were unable to maintain their full attention on the proceedings.

No-one wins from long and drawn out criminal trials. They extend the anguish of victims; they tie up our courts, meaning that trials take longer to start; they waste the time of our prosecutors; and they mean jurors have to put their lives and jobs on hold for longer. Long criminal trials also mean accused people have to wait longer to know the outcome of their case, all the while incurring more legal fees and potentially remaining behind bars longer on remand. For those reasons, I convened the Trial Efficiency Working Group to look at the problem and come up with solutions to make criminal trials more efficient. The working group was chaired by

Justice Peter McClellan, Chief Judge at Common Law, and included Supreme Court and District Court judges as well as representatives of the Aboriginal Legal Service, my department, the Bar Association, the Commonwealth Director of Public Prosecutions, the Criminal Defence Lawyers Association, the New South Wales Director of Public Prosecutions, the Judicial Commission, the Law Society, the Legal Aid Commission, the Public Defenders, and senior members of the criminal bar.

The working group produced a considered and practical report that made 17 recommendations. Those recommendations include: surveying juries regularly to ensure their needs are met and they understand the trial process; relaxing the legislation to allow for the admission of summaries and charts of a witness' evidence where it will not result in unfair prejudice; encouraging judges to report barristers who breach bar rules to the Bar Association; creating a scheme of three tiers of case management involving compulsory defence and prosecution disclosure of certain matters, a system of pre-trial case conferences and intensive pre-trial case management; giving courts the power to require parties to identify the issues in dispute in the trial; early briefing of Crown Prosecutors, and Public Defenders to allow them to participate in pre-trial management; and measures to improve the use of technology in court. The Government is acting on those recommendations. In closing, I thank all members of the working group for their hard work and dedication. They have produced a practical blueprint for improving the efficiency of criminal trials in New South Wales.

PROGRAM OF APPLIANCES FOR DISABLED PEOPLE

Mr IAN COHEN: My question without notice is addressed to the Minister for Health. How many children and young people are on the Program of Appliances for Disabled People [PADP] waiting lists to receive essential communication aids and devices? What is the impact on a child's educational development of having to wait for 12 months or more for a communication device and aid, which allows a child to communicate with family and teachers? In a recent report by the Public Schools Principals Forum on the Provision of Services for Special Needs/Disabled Students, it was clear that New South Wales students with disabilities are not receiving the necessary funding support. Do existing clinical priority rating factors for communication devices available under the Program of Appliances for Disabled People reflect the importance of communication devices in a child's overall development? If not, will the Minister take action to address that issue?

The Hon. JOHN DELLA BOSCA: That is a very good question and the member is right to be concerned about this issue, which I have been engaged with since the time I was Minister for Disability Services. Obviously the member has picked up on a very important point and I am keenly aware of it. The timely provision of communication devices that are capable of extending the capacity of a child are very important for their ability to engage the education system and indeed their family, as well as for their development emotionally and intellectually. Many people fail to realise that many young disabled people who need communication devices are capable, if given educational opportunities, of extraordinary progress in their intellectual and emotional development. Indeed, I think everyone would accept that all children are entitled to the provision of devices that allow them to develop to the best of their potential. It is matter on which we are very focused and in which I am particularly interested.

The Program of Appliances for Disabled People, or PADP as it is commonly known, which is a shared program between the Department of Disability Services and the Department of Health, provides equipment to assist people with a disability including those with temporary disabilities due to accident trauma or other injuries. It takes both public health clients and clients of the permanent disability services. This year the Government will spend about $26 million on the PADP, which is double the budget in 2001. The demand for this program is high as the PADP provides essential equipment to assist people to live in the community. That is why the New South Wales Government, in a joint initiative with the Commonwealth, has allocated an additional $11 million to clear the waiting list for equipment and aids this year. We are also seeking to improve the efficiency of the program by implementing recommendations from the independent review of the PADP conducted by PricewaterhouseCoopers.

The New South Wales Government is committed to making the PADP easier to access for people with disabilities and their families and more efficient for health professionals prescribing equipment. The review was completed in 2006 and implementation of key recommendations is progressing well. The changes to the PADP will mean more people with disabilities will get the essential equipment they need in a more timely way, with less red tape and better assistance to live and work in the community.

AMBULANCE SERVICE INQUIRY RECOMMENDATIONS

The Hon. ROBYN PARKER: My question is directed to the Minister for Health. Why has the Government failed to respond to the majority of recommendations from the inquiry into the New South Wales

Ambulance Service to address evidence presented to the inquiry such as bullying and harassment, a lack of confidence in upper management, low morale, lengthy grievance processes, portable radios for all officers, a 24-hour station at Bundeena and two officers for all on-call crews in the Hunter region? Given that ambulance officers are still making complaints about the service, is this not evidence that the Government has failed to listen to officer complaints? Why has the Minister not supported all the recommendations from the inquiry?

The Hon. JOHN DELLA BOSCA: The honourable member and her colleague Jillian Skinner are participating in a fairly public form of bullying against a public servant, the current director of the Ambulance Service. That is something they should be publicly held to account for. It is not appropriate for any member of this House to attack a public servant in the way they have—

The Hon. Robyn Parker: Point of order: I think the Minister ought to withdraw that statement. There is no evidence to that effect and it is quite out of order and offensive.

The PRESIDENT: Order! That is not a point of order.

The Hon. JOHN DELLA BOSCA: The Government has responded to the inquiry's findings. Action has already been taken on a majority of the issues examined by the inquiry. The Ambulance Service is now delivering compulsory training to all staff to prevent bullying and harassment. Two extra investigation staff have been allocated to the professional standards and conduct unit, which ensures matters are dealt with more rapidly. The professional standards and conduct unit is refocusing on its core business of dealing with serious staff misconduct. In addition, the service has engaged a Healthy Workplace Manager to manage staff grievances, including allegations of bullying and harassment.

As part of the State Government's Caring Together: The Health Action Plan for NSW, our response to the Garling inquiry into the health system, a comprehensive training and support program for health staff will be undertaken to improve work cultures and procedures for managing bullying and complaints. More than 3,000 Ambulance Service staff have already attended respectful workplace training programs.

The Ambulance Service has also been working hard to refine its approach to dealing with staff-related concerns. This includes the development of new case management practices, simple guides to help staff who are handling grievances, and the establishment of a network of field-based grievance contact officers. Paramedics in the field demonstrate they are a passionate, dedicated and highly skilled workforce. The very nature of their work, often under stress and in extreme situations in a command and control environment, obviously means that the workplace is at extreme risk of bullying and harassment. That has been part of the issue we have been dealing with since I became Minister for Health. An upper House report should not be allowed to drag down the reputation of our paramedics or the Ambulance Service. I have been out with paramedics doing their job and have found a high level of dedication.

The Hon. Marie Ficarra: You rejected the report.

The Hon. JOHN DELLA BOSCA: No, I rejected your nonsense, not what paramedics have to say. We have had both an Auditor-General's report and a review by the Department of Premier and Cabinet, and action has been taken. Independent bodies have praised the Ambulance Service for its response. The Ambulance Service has a very low attrition rate, indicating that morale, as measured by one of the most acceptable workplace means of measuring it, is quite high. The attrition rate is much lower, I might say, than the private sector average and the average for many other public sector bodies. That points to a workforce that is committed to the job and likely to respond to the initiatives this Government has put in place to not only make the clinical services they offer world class, which they already are, but to ensure they have an optimal working environment given the stressful nature of their jobs.

COPPER THEFT

The Hon. MICHAEL VEITCH: My question without notice is directed to the Minister for Energy. Could the Minister please update the House on the Government's campaign to reduce the incidence of copper theft across New South Wales?

The Hon. IAN MACDONALD: I thank the honourable member for his question and his interest in this vital topic. In recent years the level of theft across the electricity supply network has been increasing at an alarming rate. In fact, the New South Wales Bureau of Crime Statistics and Research figures released last year

showed that stealing from electricity suppliers was one of the fastest growing forms of theft in New South Wales. Between April 2007 and March 2008 there were 247 recorded incidents of theft on property owned by electricity companies. This was more than double the number of incidents recorded between April 2005 and March 2006. Break and enter offences at these properties also tripled over the same period.

Not surprisingly, the impact on electricity suppliers has been significant. The combined cost of theft at electrical substations and depots and from powerlines across Sydney, the Central Coast, the Hunter and the Illawarra in the 2007-08 financial year was more than $1 million. Of course, this does not account for the cost and inconvenience to these companies and their customers when power supply is interrupted. I am pleased to inform the House today that the Government is now turning the tide on this wave of criminal activity.

I am pleased to say that the latest figures from EnergyAustralia show the crackdown on copper theft is working. Thefts from EnergyAustralia assets have dropped by more than 50 per cent, from 92 incidents in the period from July 2007 to March 2008 to just over 40 incidents for the corresponding period this financial year. Even more encouraging is that only 11 incidents have been recorded since December last year when EnergyAustralia unveiled the latest phase of its multimillion-dollar upgrade of security and surveillance across its network. Of course, there is another contributing factor in this fight against copper theft. Demand for copper is dropping because of the global financial crisis, so copper prices are falling, which makes it less attractive for thieves.

In 2007 the New South Wales Government launched a proactive campaign targeting copper theft. This was developed by New South Wales Crime Stoppers, the New South Wales Utilities Copper Theft Security Committee and the New South Wales Police Force in partnership with my office and the Minister for Police. We have been working with scrap metal dealers, the construction industry and other businesses to help us to stop this crime.

The campaign has helped to reduce copper theft in some areas due to the use of permanent DNA tracing technology, and arrests were also made thanks to the support of the public. Following the success of the New South Wales campaign I also helped to launch a national campaign in August last year. However, we need to remain one step ahead because thieves are becoming increasingly sophisticated and brazen in their attempts to obtain copper. For example, in one arrest made at an EnergyAustralia depot in Sydney's northern suburbs last year, thieves were equipped with two-way radios, wore wigs for disguises, and were armed with a taser stun gun.

I am pleased to inform members that EnergyAustralia has committed more than $106 million to the task of protecting the network from criminal elements and to ensure the safety of the community. Over the past five years EnergyAustralia has invested $90 million on security upgrades at major substations. In an effort to make these assets even more impenetrable, EnergyAustralia is also investing a further $16 million over the next five years. Copper is widely used on the electricity network across the State. For EnergyAustralia this includes on nearly 50,000 kilometres of overhead and underground cabling; at 178 zone or regional substations; and at almost 30,000 distribution centres or kiosk substations. Staying on top of copper theft is a massive task. [*Time expired*.]

JUNEE CORRECTIONAL CENTRE OFFICER ENTITLEMENTS

Ms SYLVIA HALE: My question is directed to the Minister for Corrective Services. I refer to the Minister's answer to my question yesterday in which he stated that the jobs of prison officers at Parklea were safe because one of the options that they would have would be to stay at Parklea under the new private operator. Will the Minister make it a condition of any contract to manage Parklea that the new operator employs any existing employee who wishes to continue to work at Parklea, or will the Government instead be giving the new private operator the right to pick and choose which, if any, of the Parklea employees it wants to keep? Is it the case that the Minister's so-called jobs guarantee is no more than a right for prison officers to apply for their own job, and not a right to keep that job?

The Hon. JOHN ROBERTSON: Yet again I find that I am giving the same answer, but I will say it again, and today I will say it a little more slowly. The tenderer must invite existing departmental personnel employed at Parklea Correctional Centre to participate in a merit selection process for available positions. In undertaking the merit selection process the successful tenderer will be required to select a departmental employee when that employee has sought a position and is of equal merit to another candidate who is not a departmental employee. That means that a departmental employee will have preference of employment with the

new operator. Let me make it clear that any employees who are unsuccessful in their applications will still be given the opportunity to be transferred elsewhere within the department to continue to work with the Department of Corrective Services. If they apply and they are unsuccessful, and they wish to stay with the department, the department will provide them with a position.

UNFUNDED SUPERANNUATION LIABILITIES

The Hon. GREG PEARCE: My question is directed to the Treasurer. Given that the General Government Financial Statement for March discloses that unfunded superannuation liabilities have blown out from the budget position of $17.4 billion—which, in itself, was a blow-out of over $3 billion from 30 June 2007 to over $30.5 billion now—but the Treasurer has not allowed for any increase in payment of superannuation expenses to begin to fund this deficit, is the State's triple-A credit rating, which is already on negative outlook, further at risk of downgrade? Is the Treasurer aware that yesterday in the other place the Premier refused to confirm this Government's commitment to the triple-A credit rating? What impact will this blow-out in unfunded superannuation liabilities have on the current budget?

The Hon. ERIC ROOZENDAAL: The member asked a good question, which is what I always expect from him. I thank him for the question and I will deal with each of the issues raised in it. I refer, first, to the State's triple-A credit rating. We are indeed in negative outlook and the challenge for this Government is to do everything in its power to defend that triple-A credit rating. At this time creditworthiness is critical right around the world—and it is certainly critical in New South Wales. Having said that this Government will do everything in its power to defend that triple-A credit rating, I say also that there have been a number of well-publicised impacts on the budget that can be acknowledged in this House.

A massive downturn in revenue has been reflected right around the country, even at the level of the Commonwealth Government. Revenue from the GST in particular has dropped dramatically and that will have a large impact on this State. We have seen a downturn in land transfer duties, which is a reflection on the New South Wales property market, and there was the impact of monetary policy on the property market when interest rates were higher. We have seen some major impacts on our revenues. Having said that, I reiterate that this Government will still do everything in its power to ensure that this State's triple-A credit rating remains.

The Hon. Greg Pearce referred also to unfunded superannuation liabilities. I do not think any scheme in the world has not had a major blow-out in liabilities because of downturn in the value of the equity market. That is hardly a surprise revelation to anybody who has looked at his or her superannuation benefits—which I suspect Opposition members do quite often. Clearly, unfunded superannuation liabilities impact on our net financial liabilities, but New South Wales and other States have had discussions with the agencies about the challenge of unfunded liabilities. We remain confident that the actions we are taking are appropriate and fiscally responsible.

As we frame the budget we need to balance the actions that we take to ensure we support jobs in New South Wales and, in particular, to ensure that we support infrastructure, which creates jobs in New South Wales. That is why we have a $56.9 billion record infrastructure spend over the next four years—the largest infrastructure spend of any government in the country over the next four years. This is all about underpinning and supporting jobs.

STORM DAMAGE RELIEF

The Hon. CHRISTINE ROBERTSON: My question without notice is addressed to the Treasurer. Can the Treasurer update the House with the latest information on relief being provided for people whose property has been damaged in storms?

The Hon. ERIC ROOZENDAAL: I thank the member for her question and for her interest in this matter. When the worst in nature strikes it brings out the best in us—in local communities and in emergency services that aid those who have been affected. The reaction by Australians to the tragic bushfires in Victoria is a testament to that. In recent times New South Wales has been hit by natural disasters that have devastated communities, destroyed lives, and damaged property. A series of severe storms and floods wreaked havoc on areas including the Hunter and Central Coast in June 2007, the Lismore area in October 2007, western Sydney on 9 December 2007, far western New South Wales on 21 and 22 December 2007, northern New South Wales in January 2008, and the mid North Coast of New South Wales in March and April this year.

Amongst the many measures that the New South Wales Government has taken to help these communities is the stamp duty relief provided for the replacement of motor vehicles written off as a result of the

declared natural disasters. This stamp duty relief is a small but practical recognition of the devastating impact that floods and storms have had on local families and businesses. I am advised that the Office of State Revenue has approved over 4,300 applications for relief made by motorists from these affected regions, resulting in $1.515 million in refunds of motor vehicle stamp duty. That is an average refund of around $350. Refunds are made only when the written-off vehicle that is being replaced was comprehensively insured and the insurance does not cover stamp duty for a replacement vehicle.

The amount of duty refunded is calculated on the lower of the costs for the replacement vehicle, or the value of the insurance payment for the written-off vehicle. In the Hunter and on the Central Coast 2,948 applications were finalised that were valued at $1.173 million in refunds. A few months ago on the mid North Coast about 100 houses and numerous businesses in the Coffs Harbour central business district were flooded, hundreds of people were evacuated from their homes across the region, and farmers were urged to move livestock, feed, pumps and other equipment from low-lying areas. Motorists on the mid North Coast whose cars had been written off by the floods are being urged to contact the Office of State Revenue to see whether they are eligible for the stamp duty rebate on their replacement vehicles.

It is estimated that this measure could save local families around $1,000 on a new average-size sedan worth $33,000. It could also mean a saving of around $450 on a new small car worth around $15,000. I am advised that storms cost insurance companies, on average, around $200 million each year. However, by the Insurance Council's own figures, the insured damage bill for storm-related events since 2007 was $2 billion. This is why emergency government assistance in times of distress is so vital. Natural disaster declarations provide for a range of assistance to people who have suffered property damage—including residents, councils, business owners and primary producers. In particular, it assists councils with the cost of repairing serious road damage caused by floodwaters.

Other measures provided to communities include personal hardship and distress assistance through the Department of Community Services to people in distressed financial circumstances due to damage to homes and essential household contents; loans of up to $130,000 for those in urgent need—these loans may be used to meet carry-on requirements and the replacement of livestock and plant; loans of up to $130,000 for small businesses; and loan assistance for churches and voluntary non-profit organisations for the restoration of essential facilities that have been damaged or destroyed.

INVESTMENT INSTRUMENT RATINGS

Dr JOHN KAYE: My question is directed to the Treasurer. Can the Treasurer explain to the House the role played by Treasury in the preparation of investment orders under section 625 of the Local Government Act 1993? In particular, in the second half of 2008 did Treasury advise the Minister for Local Government to remove the approval of investment instruments that were rated by Moody's or Standard and Poor's as "A" or better? Has Treasury lost confidence in the ability of the rating agencies to determine and advise on appropriate levels of risk associated with securities and companies issuing securities in respect of local government investments?

The Hon. ERIC ROOZENDAAL: I am advised that in respect of the investment funds of councils the Government has emphasised consistently that councils need to seek independent financial advice, protect the capital components of their investments and diversify their investments. I am advised that this advice has been conveyed through regular circulars from the Department of Local Government. In addition, following the Cole report in April 2008 guidelines were strengthened to explicitly prevent councils from investing in collateralised debt obligations. Further details should be sought from the Minister for Local Government.

PUBLIC HOSPITAL RELIGIOUS REPRESENTATION

The Hon. MELINDA PAVEY: My question is directed to the Minister for Health. Will the Minister inform the House whether the North Coast Area Health Service has considered deleting the Port Macquarie Base Hospital's Chaplain position as part of the 40 positions planned to be cut across the Hastings-McLeay network? Is the Minister aware that the potential deletion of this position has created uproar within the community and that the hospital's Medical Staff Council Chairman, Dr Stephen Begbie, has said that it is a very destabilising process and is not based on logic or clinical priority? Coming on top of the decision to remove crucifixes from the Royal North Shore Hospital, is the Government against the comfort that faith can give to patients and families in their time of greatest need?

The Hon. JOHN DELLA BOSCA: I am not aware of any proposal to delete the position of Chaplain from Port Macquarie Base Hospital. I undertake to the member and the House to investigate that matter and provide advice as soon as I am in a position to respond to the question. Regarding the issue raised at the end of the question about decisions at Royal North Shore Hospital, the member should be careful when endorsing Easter-time beat-ups by the popular press. The fact of the matter is that the decision that caused some degree of community concern and some political angst just before Easter was made three years earlier by the Director of Nursing on behalf of the Nurses Trust, which actually built the chapel back in the 1960s as a non-denominational facility.

Subsequently, and obviously, that pre-Easter beat-up caused a good deal of fear and loathing and, I believe, legitimate community concern. Most people accept that New South Wales is a diverse society of religious faiths, not only of the major Christian denominations, as I pointed out at the time. Reverend the Hon. Fred Nile might correct my theological and liturgical views, but certainly there was a time when many Protestant denominations would not have approved of crucifixes being in places of worship. Subsequently that changed, but I believe some denominations still are not comfortable with some elements of Christian religious icons in churches. Notwithstanding also that we—

The Hon. Duncan Gay: What sort of rubbish are you talking about? Where does this come from? I have been in and out of Protestant churches all my life and they are full of crosses.

The PRESIDENT: Order! The Deputy Leader of the Opposition will come to order.

The Hon. JOHN DELLA BOSCA: Reverend the Hon. Fred Nile might come to my aid subsequently. I advise the Deputy Leader of the Opposition that crosses are not crucifixes. He is showing that his ignorance extends not only to politics but to religious matters as well.

The Hon. Duncan Gay: Justify your statement of fear and loathing.

The Hon. JOHN DELLA BOSCA: I want to answer the question and not respond to the member's foolish interjections. As I said, he is demonstrating that his ignorance of religious matters is almost as serious as his ignorance of public affairs. The simple fact of the matter is that we live in a religiously diverse society in which people practice all faiths, such as Hinduism, Buddhism and Islam, and want to express themselves through their worship and faith in private and public places at our hospital facilities. Most chapels in our hospital facilities actually were provided by private trusts built under specific trust arrangements and put in place for non-denominational worship. That is a matter of fact. In response to the concerns that were raised before Easter, I referred this matter to the appropriate body, which is the peak chaplaincy body that advises New South Wales Health, the director general and the Minister on chaplaincy matters. I expect that we will receive an appropriate, sensitive and intelligent outcome from the chaplains—attributes that do not reside with members on the Opposition side of the House.

PUBLIC SERVICE DELIVERY

The Hon. PENNY SHARPE: My question is addressed to the Minister for Public Sector Reform, and Special Minister of State. Will the Minister update the House on what action the Government is taking to ensure better public service delivery?

The Hon. JOHN ROBERTSON: I thank the member for her question and her ongoing interest in essential public services. I am pleased to report to the House today that the New South Wales Government is delivering on its commitment to boost front-line service delivery to the people of New South Wales. The "NSW Public Sector Workforce: A 2008 Snapshot" was released this morning and demonstrates the positive changes the Government's policies are achieving. The real story in these latest statistics is that in 2007-08 more workers than ever were in front-line service delivery positions. The 2008 snapshot shows an average of about 310,000 full-time equivalent workers in the New South Wales public sector throughout the year to June 2008, or about 10.6 per cent of the New South Wales labour force.

The most significant increases in staffing for front-line services were in health, education, policing, transport and community services with these areas alone experiencing a total increase of over 5,600 new positions. For example, education grew by 599 full-time equivalent positions; the health sector grew by 2,956 positions; the transport sector grew by 542 full-time equivalent positions; the police sector grew, as outlined earlier by my colleague the Minister for Police; and the community services sector grew by

865 full-time equivalent positions. The snapshot shows that about 61 per cent of all full-time public sector employees during the year worked in the health and education sectors, comprising nurses and doctors in our public hospitals and teachers and educators in our public school system.

Prior to the last election the New South Wales Government pledged to reduce 5,000 non front-line or back-office jobs while boosting numbers in front-line delivery positions. It has well and truly delivered on this commitment. To balance this growth in front-line positions the Government also put in place a freeze on the filling and advertising of all non front-line positions. The recruitment freeze is to ensure we can further invest in the delivery of services to the people of New South Wales. Front-line positions, trainee, apprentice and graduate positions are all exempt from the freeze.

In fact, we have seen a massive boost to apprenticeships and cadetships with the Rees Government's decision to invest in 6,000 new training places over the next four years. This investment in training will be critical in ensuring that the New South Wales Government is well positioned for growth when the economic climate improves. Our investment in training, jobs and the future of New South Wales is in stark contrast to the Opposition's promise at the last election to cut 29,000 jobs with the flick of a pen.

The Hon. Michael Veitch: How many?

The Hon. JOHN ROBERTSON: Twenty-nine thousand jobs. The Rees Government is committed to the effective management of services in New South Wales. As the House would be aware, the Government made a commitment in the mini-budget to reduce Senior Executive Service numbers by 20 per cent—a saving of $120 million over four years. That decision was driven by the need for the Government to tighten its belt and for a robust ongoing appraisal of Senior Executive Service numbers in each agency as priorities and agencies change. The Government is well on track to meeting these savings. Our public sector workforce does a great job. Our teachers, health professionals and emergency services personnel are the backbone of our communities, making New South Wales a strong and dynamic State. As the workforce snapshot shows, the growth in employment is where it is most needed—in Health, Education and in the Police Force—improving front-line service delivery to the people of New South Wales.

ENERGYAUSTRALIA POWER LINE MAINTENANCE

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. Will he advise whether EnergyAustralia or his office has received an increasing number of complaints about excessive tree lopping and unnecessary tree removal undertaken by EnergyAustralia or its subcontractors? Have EnergyAustralia's tree-lopping practices changed recently? Has EnergyAustralia adopted a change in practice as a cost-cutting exercise to reduce power line maintenance?

The Hon. IAN MACDONALD: I thank the member for his question. I am not aware that there has been a policy change in relation to tree lopping by EnergyAustralia, or indeed by any of the other utilities across the State. I am not aware of complaints that may or may not have been sent either to the department or to me in recent times. I undertake to investigate this matter for the member and to report back to the House on another occasion to provide him with a response.

The Hon. JOHN DELLA BOSCA: If members have further questions, I suggest they place them on notice.

EDUCATION SPONSORSHIP AND HEALTH

The Hon. JOHN HATZISTERGOS: On 1 April 2009 Dr John Kaye directed a question without notice to the Minister for Health, who referred the question to the Minister for Education and Training. I provide the following response that I received from the Minister for Education and Training:

> I am advised that the *Maths Online* website was initially developed to be of benefit to McDonald's employees. In making the material more widely available the sponsorship arrangement between McDonald's and *Maths Online* has remained totally independent of the NSW Department of Education and Training.
>
> As such, this arrangement is not endorsed by the NSW Department of Education and Training or any of its representatives. The NSW Department of Education and Training promotes active, healthy lifestyles among students. Students in New South Wales schools learn about healthy eating and healthy food choices as part of the Personal Development, Health and Physical Education learning area. Students learn that takeaway foods can be part of a healthy eating plan provided they are eaten occasionally, in smaller portions and lighter, lower fats and lower salt items are chosen more often. The messages about healthy food choices promoted in schools have not changed.

IDENTITY CONCEALMENT

The Hon. JOHN HATZISTERGOS: Reverend the Hon. Fred Nile asked me a question on 1 April 2009 relating to the wearing of face masks, hoods or scarf face coverings in public areas. In response to that question I provide the following answer: There are no laws in New South Wales regulating the wearing of face-covering items, such as motorcycle helmets in banks. Like the ban on the wearing of hats in certain hotels and clubs, such a rule can be enforced by banks as a condition of entry to their premises to the extent that it does not infringe laws, such as the Anti-Discrimination Act 1977. The Government is targeting outlaw motorcycle gangs with tough laws that target offenders on the basis of their criminal activities, not their headwear. We also have tough and effective laws, enacted following the Cronulla riots, to prevent and deal with riot situations. The Government has no plans for legislation like that apparently being considered in Greece.

Questions without notice concluded.

[*The President left the Chair at 1.03 p.m. The House resumed at 2.30 p.m.*]

STANDING COMMITTEE ON STATE DEVELOPMENT

Report: Nanotechnology in New South Wales

Debate resumed from 1 April 2009.

Reverend the Hon. FRED NILE [2.30 p.m.]: I had almost concluded my remarks on the previous day on which this report was debated. However, I want to add how pleased I am with the Government's response to the Standing Committee on State Development report on nanotechnology. The Government's report is positive, which makes important the work of the committee, the hearings, and the field visits to universities and companies involved with nanotechnology. I thank the Government for its response.

Dr JOHN KAYE [2.31 p.m.]: I speak on behalf of my colleague Lee Rhiannon and the Greens to the Government's response to the report of the 2008 parliamentary inquiry into nanotechnology—a response that was released last week. In short, the Government's response is a lost opportunity and a setback for workplace safety, public safety and the environment. While there are some useful commitments, the Government has characteristically backed away from many of the stronger and more critical recommendations of the committee. The Government has committed to push the Federal Government for national mandatory reporting for companies that use nanotechnology, as exists in Canada, France and California. Yet New South Wales has made no commitment to proceed with its own scheme in the absence of a national scheme.

Without any national labelling scheme on the horizon, New South Wales could be playing a leading role in setting standards for industry operations and establishing a State-based scheme. Instead, the Rees Government has dropped the ball, leaving consumers exposed to potentially grave dangers from nanotechnologies. The Government says that it will raise with the Commonwealth the possibility of mandatory labelling of nanoingredients in sunscreens and cosmetics, as recently agreed in the European Union. But the Government has rejected the recommendation for New South Wales to seek mandatory labelling of nanofoods, despite Friends of the Earth polling in 2008 that showed that 92 per cent of Australians supported such labelling.

The Government has also refused to proceed with a State-based mandatory labelling scheme for nanoparticles used in workplaces in the absence of a national labelling scheme. State-based action is not beyond the bounds of reasonableness. In the United States of America, where the Federal Government has been slow to act, as has the Australian Federal Government, states like California have taken up this baton and introduced their own mandatory labelling scheme. It seems fairly clear that the Federal Government is in no hurry to regulate for safety when it comes to nanotechnology. Just last month Dr Craig Cormick, the Manager of Public Awareness at the Australian Office of Nanotechnology, a unit within the Federal Department of Innovation, Industry, Science and Research, responded to the concerns of the Australian Council of Trade Unions [ACTU] about workplace safety by saying:

> We've heard this debate over and over every time a new technology comes along, whether it's a microwave, whether it's gene technology, whether it's mobile phones. How much testing should we do before a product is safe for the community?

It does not sound like Dr Cormick has safety high on the agenda of the Office of Nanotechnology. A central recommendation of the New South Wales parliamentary inquiry was to treat nanoparticles as new chemicals because of their unique physical, chemical and biological behaviour and the consequent novel health and

environmental risks they pose. In practice, this would require regulators to conduct safety assessments of nanoingredients before they could be used in products. This crucial recommendation underlines the need for governments to assess health and environmental risks before allowing the widespread application of nanomaterials. Nanoparticles in commercial use have been demonstrated to cause asbestos-like harm to human health and carry real risks of contaminating the natural environment. But the Government has refused to acknowledge these risks, turning its back on the future harm that nanotechnology may well cause workers, consumers and the environment. New South Wales is left with a gaping regulatory hole. With the products of nanotechnology already in some food packaging materials, sunscreens, health products, paints and building equipment, the Government has a clear responsibility to clean up industry practices—

Reverend the Hon. Dr Gordon Moyes: As soon as possible.

Dr JOHN KAYE: —as soon as possible. I acknowledge the interjection. In Europe the safety risks of nanotechnology are being recognised by parliaments. Only a couple of weeks ago the European Parliament backed a report by Swedish Green Carl Schlyter urging the European Commission to take strong regulatory action on nanomaterials. Members of the European Parliament said that all nanomaterials should be considered as new substances and warned that existing legislation does not effectively manage the risks associated with nanotechnology. A majority of members of the European Parliament voted for the principle of no nano safety data, no market for all nanomaterials until all relevant legislation is reviewed. Schlyter's report follows the adoption by the European Parliament's environment committee of another report calling for products containing nanotechnology which are already on the market to be withdrawn until safety assessments can be made.

Meanwhile, the European Agency for Safety and Health at Work has listed nanotechnology as its top emerging workplace danger. Last month the ACTU called for the precautionary management of workplace risks and nano-specific regulation by the end of 2009 to avoid another asbestos tragedy. It wants mandatory registration of all commercially used nanomaterials and full disclosure to workers of any nano exposure. In this new but rapidly expanding area, the Government should be regulating in a way that respects the precautionary principle. Instead, the Rees Government is burying its head in the sand, despite a growing number of scientific minds urging caution. It is clear that the nanotechnology industry, keen to boost its profits through the use of nanomaterials, will not lose any sleep over the Government's response to this report.

The Hon. MICHAEL VEITCH [2.38 p.m.]: I am pleased to participate in this debate on the report of the Standing Committee on State Development into nanotechnology in New South Wales. First, I will focus my remarks on the occupational health and safety implications of the production of nanomaterials. As members would be aware, the protection of working conditions and workers' rights is a passion of mine. Addressing the health and safety issues relating to the potential toxicity of nanomaterials in New South Wales industry presents some matters of urgency. The CSIRO advised the committee that the greatest present risk of human exposure to the potential toxicity of nanomaterials is from nanoparticle "dust" that may be inhaled or, less likely, ingested or dermally absorbed. The CSIRO advised that the risk is highest in the workplace during the manufacture of nanoparticles in dry form, and subsequent processing and handling of these materials.

The primary concern is not the regulatory framework itself but the lack of knowledge and capacity to enable industry to adequately meet its legislative and duty of care obligations. Mr Dunphy, the Director of the Hazard Management Group at WorkCover New South Wales, gave evidence to the committee that current State legislation is designed to cover all workplaces and all risks and emerging technologies. The risk management approach, which forms the basis of this regulatory framework, results in the constant assessment of new risks and dangers, and as such allows for all eventualities. While the current regulatory framework is sufficient to manage the risk of nanomaterials, a lack of knowledge about nanomaterials and a lack of nanotechnology industry infrastructure is hindering the capacity of businesses to act upon their duty of care obligations. Mr Dunphy acknowledged that:

> Even with the current controls there are difficulties in applying risk management principles to nanotechnology, principally because accurate and cost effective monitoring and measurement instruments, reference material and testing methodologies are still being developed internationally.

The sheer scope of nanotechnology must be recognised. Nanotechnology is as broad as science itself and has implications for virtually all scientific disciplines. One of my sons has a saying that nano is mega: it is a huge field. The committee heard that the exact number of companies that manufacture or use engineered nanomaterials in New South Wales is unknown, with estimates ranging between 23 and 40. There are a number of issues associated with our currently limited knowledge of the potentially hazardous nature of engineered nanomaterials. A clear issue is that we need to understand the hazards to be able to classify the materials

accurately, and subsequently to provide appropriate information for users on labels and material safety data sheets. Secondly, identification of the chemicals present and the hazards they pose also determines the need for other regulatory requirements, such as the need to notify of relevant authorities when certain materials are being used, handled or stored, or the need for routine health surveillance of workers. The lack of knowledge with regard to nanomaterials hinders our ability to assess and measure accepted levels of exposure to nanomaterials in the workplace. I fully support recommendation two of the report, which states that:

> The New South Wales Government ensure that all relevant State regulatory agencies be involved in developing a coordinated and cohesive position on what amendments, if any, are required to the current regulatory framework in order to best regulate nanomaterials over their life-cycle.

I draw the attention of the House to the Government's response to that recommendation. While the most pressing issue is the practical application of the legislative framework, I wholeheartedly support doing everything possible to enhance the legislative framework. I fully support recommendation three of the report, which states:

> WorkCover New South Wales work with those companies, or premises of which it is aware that manufacture or use engineered nanomaterials of 300 nanometres or less in size in one or more dimensions, to promote workplace safety in the use of nanotechnology.
>
> That WorkCover New South Wales advertise its intention to undertake this endeavour and call for companies manufacturing or using engineered nanomaterials of 200 nanometres or less in size to contact it to participate in their workplace safety endeavour.

This review of the nanotechnology industry will allow Government to provide a more effective response to the health risks presented by nanomaterials. I also express my full support for the stated policy of WorkCover New South Wales that until more is known about the health and safety risks of nanomaterials it impose the as-low-as-reasonably-achievable [ALARA] principle on the nanotechnology industry. Basically, until more is known about nanomaterials, industry should do everything possible to limit human exposure. It is important that we promptly move to redress this imbalance in nanotechnology knowledge and infrastructure so that the nanotechnology industry can move forward safely and deliver on its almost limitless potential for economic growth and discovery.

On this side of the House we believe in civilising capital. We fight to expand employment opportunities while at the same time protecting the quality of those jobs. We should not turn a blind eye to the potential dangers of nanomaterials, nor can we afford to shut down an industry out of hysteria or fear. We must move quickly to forge a middle path, so that our scientific and high-tech industries can travel down it with safety and so gain economic advantages for the State of New South Wales.

The Hon. MELINDA PAVEY [2.44 p.m.]: I join with my colleagues from the State Development Committee in endorsing many of the comments made by the Hon. Michael Veitch. I note with interest the contribution of Dr John Kaye of the Greens, who is not in the Chamber and is not a member of the committee. Like many members of the Greens, he argues that the sky is about to fall in. I do not believe the sky is about to fall in. I think precautionary approaches need to be taken, as is happening generally in Australia and throughout the world. Nanotechnology is daunting and challenging but it also opens a window to an incredibly exciting future. Our committee was very privileged to be asked to look at an emerging technology that will have such a profound impact on our way of life and our future.

The inquiry showed that New South Wales is behind the eight ball when compared with Victoria. Victoria has had a nanotechnology unit since 2003, a joint venture between three major Victorian universities—Monash University, Swinburne University of Technology and the Royal Melbourne Institute of Technology University—with the Victorian Government providing $12 million in funding. I was disappointed when I compared that effort with the way the New South Wales Government has responded to this challenge. This State is behind the eight ball, but it is not too late. The committee was given the terms of reference for this inquiry in December 2007 and some 18 months later the committee finally had a response from the Government. Whilst the response from Minister Jodi McKay accepted the committee's recommendations, I do not think New South Wales is doing nearly enough to support the amazing scientists in the CSIRO and in the Australian Nuclear Science and Technology Organisation, in the Sutherland shire, to harness nanotechnology and make New South Wales a leader in the field.

Minister Firth gave the committee its terms of reference: essentially to address the regulatory framework and the adequacy of the national nanotechnology strategy. Whilst the committee's recommendations are very firm that there needs to be a national approach to this matter, I think Victoria has taken the lead in the

debate in Australia. It is important to note that nanotechnology deals with matter that is one-millionth of a millimetre in size: it is incredibly difficult to get one's mind around that type of technology. It is also important to remember that nanomaterial exists within the environment right now. We could well be breathing in nanoparticulate material, given what exists currently in the environment. Nanomaterials exist naturally and not all nanoscale materials exhibit novel properties.

At a very basic level of science we are yet to develop an internationally accepted definition of nanotechnology. Whilst there is a need for a worldwide regulatory framework, that has been delayed because scientists across the world cannot define or accept an international definition of nanomaterial. In our terms of reference we dealt with the regulation of nanomaterials. The committee heard evidence from David Henry, an occupational health and safety officer of the Australian Manufacturers Workers Union, who wanted us to recommend a moratorium on any nanotechnology involvement. Mr Peter Dunphy, the Director of the Hazard Management Group at WorkCover New South Wales, pointed out that all industrial processes are not without risk, and that it is a matter of balancing the benefits to society with the need for occupational health and safety protection similar to the controls applied to hazardous chemicals, carcinogenic materials, and the many other things that workers encounter in the workplace. Our focus is on ensuring that the hazards that have been used in the workplace are being managed responsibly and that there are appropriate controls in place for the workers, based on a risk-management approach.

One of the committee's strong recommendations regarding risk management was that WorkCover should audit New South Wales companies that are involved in nanotechnology. During evidence given to the committee it became clear that there was no answer to the question of how many New South Wales companies are involved in the production of nanomaterials. The best estimate given was between 23 and 40 companies. It is six months since the committee tabled its report and I still have not received an answer from the Government to those very basic questions of protecting workplaces. I point out that the industry has been very involved in self-regulation and establishing codes of conduct. The industry has accepted the world's best advice.

The committee received evidence that people who employ workers in nanotechnology are acutely aware of the dangers, the risks, and the unknowns involved. Employers are working towards world's best practice. However, we do not have all the answers in front of us, but we have to weigh up the benefits and the available evidence. There has been a lot of attention on a sunscreen developed by the CSIRO involving nanotechnology—a zinc cream that can protect people's faces, especially noses, from skin cancer, with the cosmetic benefit of it being an invisible, clear cream. To have that technology and product available when Australia's rates of death from skin cancer are so high demonstrates that potential threats and dangers need to be balanced with real benefits that assist and protect our community. I highlight also that the State Development Committee is unique: all its members are country and regionally based.

The Hon. Michael Veitch: And very proudly so.

The Hon. MELINDA PAVEY: And very proudly so. Because of that, we spend a lot of time ensuring that regional points of view are put forward. The Hon. Michael Veitch, although he did not actually brag, mentioned that his son has been chosen by the University of New South Wales to join an accelerated science program. He is, quite amazingly, very bright. My point is that it is a passion of country-based members that kids from regional New South Wales have access to the best science and mathematics opportunities. One important recommendation of the committee is that the number of secondary school students pursuing careers in the enabling sciences needs to be increased. The committee noted that the primary government initiative for providing exposure to exciting technology via the annual Science EXPOsed event showed that schoolchildren from regional centres were disadvantaged in their access to that event.

The committee recommended that the Office of Science and Medical Research, in collaboration with the Department of Education and Training, examine and develop a strategy to ensure greater access for regional students to the Science EXPOsed program. Nanotechnology is with us, and it is here to stay. It will bring enormous social and medical benefits to our communities. We must work closely with all evidence that is at hand regarding the workplace and in dealing with business on this issue. That needs to be done in an open and transparent manner, not in a manner that makes people scared of this science. The health advances that will come through science are quite profound.

Further, all the expert evidence given to the committee showed that, unfortunately, New South Wales is not leading the charge in science. We have had two science Ministers since the report was initiated. Leaders in science in New South Wales clearly desire that there be a stand-alone science Minister, not a second-grade

science Minister who does not have science as the full focus of the portfolio. New South Wales has a lot of brilliant people. The committee was constantly impressed with the quality of people who appeared before it. [*Time expired*.]

The Hon. TONY CATANZARITI [2.54 p.m.], in reply: I am pleased to respond to the debate on Report No. 33 of the Standing Committee on State Development, and I thank all of honourable members who have contributed to the debate. In thanking those members, I also place on record my appreciation of the level of commitment and goodwill they have shown to the work of the committee. The State Development Committee, while robust in its dealings and deliberations, nonetheless works in the best interests of the citizens of this State. I believe that the committee has once again delivered a report that will be of value, and in this particular instance that value extends beyond the scope of New South Wales and will benefit all of the people of Australia.

As members have noted, nanotechnology is not unlike any other human endeavour. Like all technology, and all human effort, it comes nonetheless with mixed blessings. Some technology will be welcome, and others will be unwanted intrusions into our lives. As our report shows, these need to be managed to the best of our skills. I believe that this report will go some considerable way to assisting the State, regulatory authorities, industry, and the consumer to better manage this newly emerging science, technology and process.

This was a most interesting inquiry to be involved with because of the sheer number of professors, doctors and scientists across a wide range of fields who gave evidence to the committee. The committee heard from at least 10 professors and 20 doctors of philosophy and met with representatives from dozens of agencies including Standards Australia, the Australian Nuclear Science and Technology Organisation, CSIRO's Materials Science and Engineering, and Monash University's Australian Centre for Human Health Risk Assessment. I direct members to the witness and submission lists, which will give them an indication of the type of evidence the committee had to deal with.

I believe that my colleagues, and the committee staff who supported us, deserve credit for the large amount of work we undertook to understand this material at the level required to do justice to it in the report. I also draw attention to the fact that the Government has now made its response to the committee's report. As I pointed out in my opening remarks In this debate, the committee's work received considerable interstate interest, and this is reflected in yesterday's *Brisbane Times* article on the Government's response, entitled "NSW pushes for nano risk labels". The article stated:

> The NSW Government will push for national mandatory labelling of nano-sized particles used in workplaces and improved testing facilities to assess the safety of new nanomaterials.

Further, the article reported that the Minister for Science and Medical Research, Jodi McKay, stated:

> We need to make sure that regulation keeps pace with technology.

This response has been welcomed widely, and the Assistant Secretary of the Australian Council of Trade Unions, Geoff Fary, welcomed the New South Wales Government's precautionary approach to nanotechnology, which also backs a national reporting scheme for companies that use, manufacture, transport or dispose of nanomaterials. Of the committee's report and the Government's response, Mr Fary said:

> It lends weight to calls we've been making for the Federal Government to act in this area.

I am pleased that the committee has produced a report of considerable value, and I urge all members to familiarise themselves with the interesting and growing science and industry of nanotechnology. I congratulate all involved and commend the report to the House.

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

Motion agreed to.

STANDING COMMITTEE ON LAW AND JUSTICE

Report: Review of the Exercise of the Functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council—First Report

Debate resumed from 30 October 2008.

The Hon. CHRISTINE ROBERTSON [3.00 p.m.]: I am pleased to commence debate on the thirty-seventh report of the Standing Committee on Law and Justice entitled "Review of the exercise of the

functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council—First Report". The report was tabled in the House on 30 October 2008. I would like to start by thanking my fellow committee members for their considered and collaborative work in conducting this review and producing this bipartisan report. The report and its two recommendations were adopted unanimously. Over the past 10 years the Standing Committee on Law and Justice has worked very effectively to supervise the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council. Our important role has now expanded to the supervision of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council.

Under section 68 of the Motor Accidents (Lifetime Care and Support) Act 2006, a committee of the Legislative Council is required to fulfil this supervision role. The Standing Committee on Law and Justice was appointed on 30 May 2007 to do so and to report to the House at least once a year. Accordingly, this is the committee's first review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council. The Lifetime Care and Support Scheme is a New South Wales Government scheme that provides treatment, rehabilitation and care for people who have been catastrophically injured in a motor vehicle accident in New South Wales. The scheme is administered by the authority and commenced operation on 1 October 2006 for children, and on 1 October 2007 for adults. This first review was conducted concurrently with the committee's ninth review of the Motor Accidents Authority and the Motor Accidents Council. As members are aware, the Lifetime Care and Support Scheme evolved out of the Motor Accidents Authority administered Motor Accidents Compensation Scheme, which provides compulsory third party insurance for people injured in motor accidents in this State.

As the Lifetime Care and Support Scheme is still in its infancy, the committee's first report is relatively brief and preliminary. It concentrates on setting out the elements of the scheme, documenting its performance to date and examining a range of emerging issues identified by review participants and by the committee itself, a number of which we suggest should be monitored as the scheme's implementation proceeds. The committee plans to conduct more in-depth reviews as the scheme matures, as its performance takes shape, and as emerging issues become more apparent. The committee received submissions from a number of stakeholders and heard evidence from representatives of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council, the Greater Metropolitan Clinical Taskforce Brain Injury Rehabilitation Directorate, the Law Society of New South Wales, the New South Wales Bar Association, and the Insurance Council of Australia. In addition, detailed information was gathered through a process of written questions and answers, both prior to and after the hearing. The committee expresses its thanks to all who participated in this review for their valuable and thoughtful contributions.

Like various stakeholders to this first review, the Standing Committee on Law and Justice enthusiastically welcomes the Lifetime Care and Support Scheme and congratulates the New South Wales Government on its establishment. The scheme sets a new benchmark in care and support for adults and children who are catastrophically injured in motor vehicle accidents, regardless of who was at fault in the accident. It serves as a model for other jurisdictions, both nationally and internationally. The scheme has been carefully designed to meet the immediate and enduring needs of participants and their families. It is underpinned by human rights principles and a sophisticated and equitable funding arrangement. The committee commends the authority, the advisory council and the Motor Accidents Authority for their substantial work in designing the scheme and commencing its implementation.

In our role in supervising the functions of the Motor Accidents Authority and the Motor Accidents Council, the committee identified several years ago the desirability of a structured yet flexible system of lifetime care and support in lieu of compensation to meet the long-term needs of people who are catastrophically injured. It is with enormous satisfaction that we now see such a system up and running. The scheme commenced operation a little over a year ago and is not expected to reach maturity for 30 years. In the meantime, those administering it have a significant responsibility to ensure its effective implementation, most especially because of the profound impact the scheme will have on the functioning, wellbeing and quality of life of participants, both now and over their entire life course.

The Lifetime Care and Support Authority and its board of directors are charged with achieving these significant goals for participants whilst also ensuring the prudent management of the scheme's substantial funds, generated through a levy on motorists. In future reviews the committee will keenly observe the way the authority and the board execute and balance these responsibilities. The committee's report examines scheme performance to date. Given the short time that the scheme has been operational, performance data is inevitably preliminary. Nevertheless, on the basis of that information the committee concludes that the scheme has

performed satisfactorily to date. We look forward to monitoring performance in greater detail, and with greater certainty, in future reviews. The committee notes that expenditure to date on participants' care and support is a mere fraction of the amount projected for the relevant period, whilst appreciating that this is a reflection of the fledgling state of the scheme. We also note that the surplus has been invested for future use.

We were pleased to observe that the Lifetime Care and Support Authority is working to establish systems for data collection, performance monitoring and quality assurance, and we look forward to examining these systems as they are bedded down and start to inform the work of the authority. Various issues concerning the Lifetime Care and Support Scheme's early implementation emerged during this first review, each of which is documented in the committee's report. We note the very positive response among stakeholders to the establishment of the scheme, along with the reported successes of the implementation process to date and the collaborative action the authority is taking to address issues as they emerge. The committee also acknowledges the authority's work to engage stakeholders in the design and rollout of the scheme, which will continue to be vital to its effective implementation over the years to come.

Concerns about potential gaps in eligibility and about the scheme's eligibility criteria were raised during the review. In the committee's view, issues concerning the potential extension of eligibility are inevitably complex and we consider it would be premature to draw firm conclusions at this stage of the life of the scheme. We will observe with interest the extent to which eligibility becomes a contested issue as the scheme matures, as well as what claims are made in respect of eligibility and any particular gaps that become more problematic in time. Similarly, it will be interesting to see whether rehabilitation providers' concerns regarding the need for greater clarity about the intended target group for the scheme continue to be an issue over time. It may be that the boundaries of eligibility are tested in the scheme's initial period and, in turn, better defined in practical terms. The committee considers the extent to which eligibility becomes an issue, and over what period, should have a bearing on how soon any review of eligibility criteria should take place.

I will take up an issue in relation to that. The rehabilitation programs structured so that a particular individual is managing the care of participants in the scheme were proving to be incredibly successful in ensuring that the appropriate treatment and support were given. It was sometimes difficult for me and other members of the committee to discern whether there was some confusion between top-class rehabilitation processes and the Lifetime Care and Support Scheme. It was a little fuzzy for us to observe at that stage, but certainly it was an issue that was brought to our attention.

A number of review participants highlighted the authority's responsibility to ensure that all those who are eligible for the scheme enter it in a timely way. The committee is satisfied that the Lifetime Care and Support Authority is investing significant effort in this area, most notably through widespread ongoing training for hospital and rehabilitation staff. The authority has acknowledged that the orthopaedic system is the weaker area of its net but has also indicated that it is seeking to address this weakness. We further observed that the authority appears to be effectively harnessing the resources of the health system in this respect. Again, the committee will monitor this issue over time.

The Lifetime Care and Support Authority advised the committee that on the basis of advice from paediatric experts it is almost impossible to assess the long-term care needs of very young children. It is desirable to extend the interim participation period for this group. The committee sees value in that proposal and accepts the medical rationale for it. Accordingly, the first of our two recommendations is that the Minister for Finance seek an amendment to the Motor Accidents (Lifetime Care and Support) Act 2006 to provide that children less than three years of age when injured are not assessed for lifetime participation until they are aged at least five years.

The Law Society of New South Wales raised a concern about the inability of participants to opt out of the scheme and manage their own care and support if they wish to do so. The committee acknowledges the philosophical position of the Law Society in respect of this issue but considers it a matter of policy on which it has not yet formed an opinion. We note that no disability groups have raised this issue with us to date, but we will monitor the issue to see whether it becomes more contentious as the scheme matures. The report explores a number of issues relating to the provision of services to scheme participants, specifically service gaps and innovation, supported accommodation, and attendant care.

The committee is satisfied that the service provision aspects of the scheme's early implementation are proceeding in a considered and planned manner, with due consideration being given to ensuring responsiveness to the range of individual needs to be addressed over time. Given that attendant care is expected to constitute the

largest proportion of care provided under the scheme, the report concluded that it was vital for attendant care to be appropriately renumerated, well planned for, and efficiently and effectively delivered. The committee is pleased to note that the Lifetime Care and Support Authority is seeking to address an identified gap in supported accommodation, and it will monitor the authority's work in this area over time. We also consider it important for the authority to watch for other emerging gaps in services over the coming years and to address them proactively.

Several strategies were proposed to ensure appropriate support for family carers of lifetime care and support participants. The committee acknowledges the substantial contribution that carers and other family members make in the recovery, care and support of people who are injured in motor accidents. We encourage the Lifetime Care and Support Authority, in its strategies, to ensure that carers are recognised and actively supported. Health service staff reported that the advent of the scheme has seen a significant increase in the paperwork required of them. The committee acknowledges the important role of area health staff in the scheme's operation, as well as the additional demands that the scheme is placing on them.

While recognising the need for the authority's decisions about individual participants to be well substantiated and transparent, we encourage the Lifetime Care and Support Authority in its work to streamline administrative processes and reduce duplication as far as possible so that the right balance is struck between transparency and utility. While acknowledging the additional work arising from the scheme, the committee considers that decisions as to how area health services should spend the revenue gained via scheme reimbursement are matters for those area health services. We will make inquiries with New South Wales Health as to the administration of this aspect of the program and return to this issue during next year's review.

Rehabilitation staff also raised a concern about ambiguity in the role of the lifetime care and support coordinators vis-a-vis clinical staff. The committee notes that the role of the lifetime care and support coordinator is central to the operation of the scheme and considers it understandable that there be an initial period of adjustment and change on the part of treatment and rehabilitation staff associated with the advent of the role of the coordinator. We further acknowledge that the authority has recognised and is responding to this issue. We will watch with interest to see whether this issue is resolved over time, or whether it becomes a greater cause for concern.

Noting the significant impact that decisions within the scheme have on confirmed and prospective participants, as well as the substantial sums of money involved, the committee sought advice from the authority on the mechanisms in place to ensure transparency and accountability in decision making about individual participants, as well as in payments to care and equipment providers The committee considers that the significant transparency and accountability mechanisms built into the scheme are sound, and that funding in respect of decisions is appropriately safeguarded. Stakeholders commented on the importance of ensuring that information about the scheme is accessible to people with a disability. Our report noted the authority's work to provide accessible information, and we encourage it in its efforts to further ensure such a provision. The committee acknowledges the efforts of the authority in advising participants of their rights within the scheme. At the same time, we believe that further consideration should be given to the most appropriate mechanism for review of scheme decisions and to the desirability of an independent advice and advocacy service in order to ensure that participants enjoy adequate procedural rights. The committee considers that it would be valuable to make use of the role of the Lifetime Care and Support Advisory Council in respect of this issue.

Accordingly, our second recommendation is that the authority, in consultation with the Lifetime Care and Support Advisory Council, formally consider the range of options for independent review of decisions and the provision of independent advice and advocacy to potential and actual participants with a view to recommending the preferred options for both. I have more to say about this issue but I will do so when I reply to the debate on this report. I look forward to the contributions of my fellow committee members and I thank the secretariat for working on this interesting first review of the Lifetime Care and Support Scheme.

The Hon. DAVID CLARKE [3.15 p.m.]: As a member of the Standing Committee on Law and Justice I speak in support of the committee's first review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council, which was conducted simultaneously with its ninth review of the Motor Accidents Authority and the Motor Accidents Council. The report arises pursuant to the committee's oversight responsibility of both the Lifetime Care and Support Authority and its administration of the Lifetime Care and Support Scheme. It is a responsibility that the Standing Committee on Law and Justice takes most seriously.

The purpose of the scheme, which was established pursuant to the Motor Accidents (Lifetime Care and Support) Act 2006, is to provide treatment, rehabilitation and care for people who have been catastrophically injured in a motor vehicle accident in New South Wales, regardless of who was at fault in the accident. How often it is that we hear heart-wrenching stories of those who have suffered massive and life-debilitating injuries as a consequence of motor vehicle accidents. How often it is that we come across those who have suffered partial or total paralysis, serious brain injury or other horrific injuries—tragic cases that have such an overwhelming impact on people's lives—as a result of motor vehicle related accidents.

In a humane society such as ours it is incumbent on us all—it is especially incumbent on legislators—to ensure that people who have been catastrophically injured are provided with the treatment, rehabilitation and ongoing care that their injuries and disabilities require. That is what the Lifetime Care and Support Scheme is meant to do, and it is the responsibility of the Standing Committee on Law and Justice to exercise its oversight authority in the best interests of those who are intended to be the scheme's beneficiaries. The scheme for children under the age of 16 commenced on 1 October 2006 and the scheme for adults commenced on 1 October 2007. That scheme provides treatment, rehabilitation and ongoing care services for those severely injured in motor traffic accidents in New South Wales, regardless of fault. It encompasses, among others, those who have suffered serious spinal cord injuries, brain damage, multiple amputations, and blindness.

The Lifetime Care and Support Authority administers the scheme and the Lifetime Care and Support Advisory Council advises the Minister on matters relating to its operation. I do not wish to traverse all the issues raised in the committee's report because the report speaks for itself. However, it could be said that whilst the scheme is in its infancy, on the whole it is operating satisfactorily. I wish to comment briefly on the two recommendations that were made by the committee. The first deals with the participation of young people. The chief executive of the Lifetime Care and Support Authority drew the committee's attention to the strong views of paediatric experts that it is nearly impossible to assess the long-term care needs of a brain-injured child where the child was injured when aged under five years, thus rendering the scheme's two-year interim participation period insufficient. On behalf of the authority he recommended a legislative change to provide that the interim participation period for children under five years of age at the time of injury be extended to five years.

Thus the committee has recommended that the Minister for Finance seek an amendment to the Motor Accidents (Lifetime Care and Support) Act 2006 to provide that children under three years of age when injured are not assessed for lifetime participation in the Lifetime Care and Support Scheme until they are at least five years old. This worthy amendment, which is based on strong medical advice, will greatly enhance the scheme in achieving its purposes. We ask the Government to act on that recommendation without delay. The second recommendation put forward by the committee relates to issues arising from the scheme's dispute resolution processes. Evidence was received by the committee that the scheme's non-judicial review process could be made more procedurally fair and transparent by the incorporation of an appeals process in respect of decisions pertaining to interim and lifetime participation, and that there should also be a right to independent legal representation. The committee saw merit in this view and accordingly recommended:

> That the Lifetime Care and Support Authority, in liaison with the Lifetime Care and Support Advisory Council, formally consider the range of options for independent review of decisions and the provision of independent advice and advocacy in respect of applicants, interim participants and lifetime participants in the Lifetime Care and Support Scheme.
>
> This should include the development of recommendations as to the desirability of and the most appropriate mechanisms for each.

I believe that such mechanisms as this recommendation proposes will help engender greater confidence in the scheme by those it is meant to help. I commend the report to the House.

The Hon. JOHN AJAKA [3.20 p.m.]: As a member of the Standing Committee on Law and Justice I speak on report No. 37 entitled "Review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council". I thank the Hon. Christine Robertson, chair of the committee, other committee members and the secretariat staff for their assistance and efforts. The Lifetime Care and Support Scheme is administered by the Lifetime Care and Support Authority and commenced operation on 1 October 2006 for children and on 1 October 2007 for adults. The scheme provides treatment, rehabilitation and care for people who have been catastrophically injured in a motor vehicle accident in New South Wales, and in so doing seeks to support accident victims in their struggle through recovery to lead active and meaningful lives. The scheme evolved out of the Motor Accidents Compensation Scheme, which provides compulsory third party insurance for people injured in motor accidents in New South Wales. This is the committee's first review of the scheme since its commencement. I refer now to the recommendations of the committee, the first of which states:

> The Minister for Finance seek an amendment to the Motor Accidents (Lifetime Care and Support) Act 2006 to provide that children less than three years of age when injured are not assessed for lifetime participation in the Scheme until they are at least 5 years of age.

In making this recommendation, the committee recognised the difficulties of understanding the long-term ramifications of injuries incurred during childhood. For instance, when a young child has suffered a brain injury it is difficult to determine the seriousness of the damage and the full effect it has, and will have, on the child's development. The Lifetime Care and Support Authority explains that at present standardised assessment of children under three years is not possible and that the long-term effects of an injury are very difficult to predict before a child reaches the age of five years.

A child's brain is the most delicate and progressive organ within the body and does not reach its reasonable and potential development until the age of five. So to assess a child's long-term care needs under the age of three ultimately is meaningless because the assessment will result in an inadequate analysis. This amendment will extend the interim participation period for children under the age of three years at the time of the motor accident. This will allow the Lifetime Care and Support Authority to make its determination regarding lifetime participation at an age where a standardised assessment tool can be administered. This recommendation allows assessors to make proper and well-informed decisions concerning the child and their injury so that they receive the correct and proper care they deserve. This recommendation ultimately will rectify the eligibility criteria for children under and over the age of three.

Under the old criteria, children under the age of three were assessed and given a medical certificate by a specialist who testified that the child would most likely have a permanent impairment due to injury, resulting in the need for constant care. However, under the new criteria this will no longer be the case. Only children over the age of three—mainly at the age of five—will be assessed using WeeFIM, the paediatric adaptation of the Functional Independence Measure [FIM], which identifies at first instance whether the child will have an ongoing need due to injury. The assessment of children above the age of three will serve to reassure doctors and physicians that they are acting in the child's best health interests, and can provide some form of faith in their decisions concerning the lifelong care needs of that child. I refer now to recommendation 2, which states:

> That the Lifetime Care and Support Authority, in liaison with the Lifetime Care and Support Advisory Council, formally consider the range of options for independent review of decisions and the provision of independent advice and advocacy in respect of applicants, interim participants and lifetime participants in the Lifetime Care and Support Scheme. This should include the development of recommendations as to the desirability of and the most appropriate mechanisms for each.

This recommendation's main reason relates to the fairness of the review process. Participants have the right to attain a proper appeals process regarding decisions concerning interim and lifetime participation, as well as those about the care and support to be provided and by whom it will be provided. The Law Society of New South Wales and the New South Wales Bar Association dismissed this particular facet of the recommendation, believing instead that independent legal representation and advice for participants would be the most effective response. It provides a professional and helpful advisory service that gives advice to seriously disabled or injured persons on ways to best challenge bureaucratic assessment of their needs.

The committee acknowledges that the assessment and the review of an assessment of a participant's treatment and care is a long and complex process. In both cases assessment involves medical reports and decisions on rehabilitation, care and support issues, and requires the time and expertise of medical practitioners and rehabilitation specialists. We cannot underestimate the hardship it places upon the participants and believe that this will provide the most appropriate mechanism for review of decisions within the scheme. Our main objective is to ensure that all participants receive reasonable and fair entitlements to various care and support arrangements by ensuring that all their rights are upheld and they are provided with good advice and information when needed.

The committee indicates the value in making use of the Lifetime Care and Support Advisory Council's role regarding this issue and, by doing so, drawing on its members' expertise. Initially this allows experts in catastrophic injury management to make accurate and sufficient decisions concerning participants. The final item within this recommendation to which I refer is the review-decision process. We recommend that the Lifetime Care and Support Authority, in consultation with Lifetime Care and Support Advisory Council, formally consider the range of options for independent review of decisions and judicial review whilst allowing the provision of independent advice and advocacy to potential and actual participants, with a view to recommending the preferred options for both. This offers greater and wider protection to participants who will benefit in the long term. Even though it is difficult to tamper with legislation, this provides an alternative that ensures participants are receiving proper assistance and advice concerning their issues.

The Hon. CHRISTINE ROBERTSON [3.27 p.m.], in reply: I thank the Hon. David Clarke and the Hon. John Ajaka for their contributions and concur with their observations. During the review by the Standing

Committee on Law and Justice the Insurance Council of Australia raised the concern that decisions in respect of care and support in the Lifetime Care and Support Scheme may impact upon compulsory third party [CTP] insurers and sought a formal role in such decision-making. In future reviews the committee will watch with interest the boundary issues in respect of the Lifetime Care and Support Scheme and the compulsory third party scheme and determine whether they need to be addressed. We are mindful that in clarifying what is and is not a treatment, rehabilitation or care expense the Lifetime Care and Support Authority and the Motor Accidents Authority must balance fairly the interests of the Lifetime Care and Support Scheme participants, compulsory third party claimants and insurers.

A significant issue explored during this first view, which no doubt will inform future reviews, is the actuarial estimations for the financial liabilities of the scheme. The committee notes the concerns of the Law Society of New South Wales, informed by an independent actuarial review of the Lifetime Care and Support Authority's cost estimations, that those costings may not be accurate and may ultimately impact upon participants' entitlements. Nevertheless, at this stage the committee accepts the authority's advice that in the absence of sound and comprehensive data it reasonably based its estimates on a number of inherently uncertain assumptions. We note also that the authority has been candid about this fact. In addition, the authority has indicated that its assumptions and estimates are revised annually, based on the experience of the scheme. The committee further notes the authority's assurance that participants' entitlements cannot be reduced as more people enter the scheme. Rather, liabilities will be fully funded each year by the levy on green slips and by investment income.

Notwithstanding these assurances, the committee will monitor the scheme's financial liabilities over time. In managing the scheme's estimated and real financial position, due consideration needs to be given to the significant sums of money involved, the entitlements of and outcomes for participants, and the imposition upon New South Wales motorists of the medical care and injury services levy. Concerns were raised during the review about the cost to motorists of the medical care and injury services levy and about the ranking system by which individual motorists' levies are calculated. In addition, stakeholders sought greater transparency through the itemisation of each of the charges constituting premiums.

The committee addressed that last issue in its ninth report entitled "Review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council " and recommended that the Motor Accidents Authority, in consultation with the Motor Accidents Council, consider by 30 June 2009 the advantages and feasibility of further itemisation of the medical care and injury services levy on compulsory third party green slips. The argument against that was that there is a massive amount of information on green slips already. It is very important when providing that type of information that it is clear and open, for the benefit of those requiring information, and that it is not too complicated. The authorities are working through that issue. The committee trusts that the information provided by the authority addresses the concerns in this area and clarifies the administration of the levy.

In conclusion, the committee considers that many of the issues raised during the first review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council were perhaps to be expected during the establishment of such a substantial and complex scheme. Our report observes that, to its credit, the authority has been open in acknowledging some of the scheme's teething problems, and has displayed a readiness to consult and work with stakeholders to address them. It remains to be seen which of these issues dissipate as the scheme's implementation proceeds and which coalesce into areas specifically needing further examination and action. At this stage the committee considers that the scheme's implementation is proceeding well.

Once again we congratulate the New South Wales Government on the establishment of the scheme and note the profound and positive outcomes that it is intended to bring about. We also applaud the model that it represents for other jurisdictions, not only in its goals but also in its design and administration. The committee again acknowledges the substantial work of both the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council, as well as the Motor Accidents Authority, in establishing the scheme and commencing its implementation. What was very interesting about listening closely to evidence about the scheme was the new, good and effective models of care within Health that are being implemented within the rehabilitation sector and in relation to the scheme. The committee will watch the scheme with great interest.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

The Hon. DON HARWIN [3.33 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 4 in the Order of Precedence, relating to the Hurlstone Agricultural High School Site Bill 2009, be called on forthwith.

I moved this contingency motion to allow the Hon. Charlie Lynn to conclude his second reading speech. I believe he needs only another 10 minutes to do that, but I doubt that he intends to take all that time. I commend the motion to the House.

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

Motion agreed to.

Order of Business

Motion by the Hon. Don Harwin agreed to:

That Private Members' Business item No. 4 in the Order of Precedence be called on forthwith.

HURLSTONE AGRICULTURAL HIGH SCHOOL SITE BILL 2009

Second Reading

Debate resumed from an earlier hour.

The Hon. CHARLIE LYNN [3.34 p.m.]: The political links between this Labor Government and developers needs to be examined during debate on this bill. The *Sydney Morning Herald* reported that the Minister for Planning has detractors within her own party who accuse her not only of delivering much of the Tripodi-Obeid agenda—an agenda that was resisted by Morris Iemma and Frank Sartor with fatal political consequences for both of them—but also of accommodating the Urban Taskforce, which is regarded as the most aggressively anti-regulation group of the developer mates lobby groups. Unlike associations in the industry, its membership is by invitation only. One can only imagine the joy of receiving an invitation from Joe and Eddie! The former Minister for Planning, Frank Sartor, regards it as the least credible of the property lobbies.

The co-founder of the task force is David Tanevski, who is a key player with a long association with Labor. He has been mates with Joe Tripodi for many years, and the two are veterans of past Labor branch-stacking battles. The director of the task force is Aaron Gadiel, a former chief of staff to both Joe Tripodi and the Hon. Eddie Obeid. The new Minister for Planning, Kristina Keneally, has a strong personal allegiance to Joe Tripodi because he delivered the numbers for her preselection. Her husband, Ben, was a friend of Joe Tripodi's at the University of Sydney. The Taliban would envy this network.

The *Sydney Morning Herald* revealed that its sources believed Joe Tripodi, the Hon. Eddie Obeid and their front organisation, the Urban Taskforce, wanted particular developers outside the planning protocols of the Growth Centres Commission to jump the queue. One does not have to be a Rhodes Scholar to identify Labor's developer mates. The invitation list for developer donors who attended a fundraising dinner in support of Labor mayor Nick Lalich when he ran for the seat of Cabramatta in the recent by-election is a veritable who's who of Labor mates. Some of them could have walked straight out of the set of *Underbelly*! These developers have a lot of political clout in south-western Sydney's Labor circles. Overdevelopment in western Sydney is obviously not one of the major concerns, but we have a responsibility to stop any attempt to rape our heritage and diminish the quality of agricultural education in this State.

Last year the Department of Primary Industries objected to a school being developed on prime agricultural land in Camden because of its detrimental impact on diminishing viable agricultural land. The department emphasised the importance of protecting scarce agricultural land from urban encroachment in the Sydney Basin. Unfortunately the Treasurer's vision for a parcel of land like Hurlstone Agricultural High School is limited to the number of housing blocks and shops that his developer mates can put on it. The proposed

development of the land will increase the burden on local infrastructure, which already is at capacity. Glenfield is already congested and does not have the infrastructure to cope with more development. Local hospital waiting times are painfully long and the M5 Motorway cannot cope with the daily demand.

The Government obviously has thought about the problems it faces in meeting its obligations to its developer mates and so organised a smoke and mirrors strategy to dupe the public in regard to its real intentions. Its first challenge was to create a perception that it is at arms length from the land grab. This was done by announcing an independent public inquiry. The second problem would be how to limit the collateral damage to their local parliamentary representative Dr Andrew McDonald. This would be done by arranging for Dr McDonald to call for the independent public inquiry, and get the Government to agree to his call. On 17 February the local Macarthur newspapers announced "an independent public inquiry into the planned land sell-off at Hurlstone Agricultural High School".

True to form and right on cue, the local member, Dr Andrew McDonald, chimed in and said, "… the question of land use on the Hurlstone site has to be resolved once and for all". Dr McDonald said he was confident that the Premier and the Minister for Education and Training, Verity Firth, would agree. And sure enough, during the following week on 24 February the Minister for Education and Training announced that both she and the Premier, Nathan Rees, would back Dr McDonald's call for an independent and public inquiry. The Minister gushed that "whoever chaired it would be independent". Yeah, sure!

We now know that the Government already had drawn up plans to have an inquiry into the sale, with the terms of reference and a draft list of names of participants having been drawn up in February—long before Dr Andrew McDonald proposed an inquiry and Verity Firth said, "What a great idea!" All that was missing from these documents was the outcome of the inquiry. Any Minister who needs a public inquiry to understand the value of an agricultural educational facility that is accessible to students from western Sydney and rural New South Wales is a dunce. The Minister's assurance that the chair of the inquiry would be independent is pure folly. Such a person does not exist in this State. After 13 years of Labor rule, under the ruthless influence of Joe Tripodi and the Hon. Eddie Obeid, any such person either has been gelded politically or they are completely compliant with the outcomes that Labor wishes to achieve. We know that the Government's spin doctors would have monitored the local media to see if the locals had swallowed the subterfuge of a so-called independent inquiry. No doubt they would have been disappointed at a posting from "Independent" on the website, who advised:

> It seems like this inquiry has been put together to save Andrew McDonald not Hurlstone. How unusual for an inquiry to have an 'investigation' arm to it. Where will these experts come from? Will they be truly independent? Why, when the sale was first announced did then government say that it was the sale of 'surplus' land? Now the school is going to be 'compared' to other selective schools, James Ruse, Farrah and Yanco to ensure they are 21st century whatever that means? I don't know of one public school that you could consider 21st century. They simply do not have the funds to have 21st-century facilities. It would seem now the school has demonstrated that there is no surplus land they want to find a method to sell Hurlstone. This government can not be trusted. They have lied and deceived this State for far too long and this witch hunt has been designed to allow the local members to stand up and say look at what I got for you. Well we have one message to the government. Hands off our farm and hands off this local greenspace. Hurlstone is not for sale and if one inch of this land is sold then Andrew McDonald and his government can expect it to be an issue at the next election.

And this one from Darlusz:

> Rather than sell the farm, how about improving it, and making it an educational resource for schools from all around Sydney to visit. Bus students in from urban schools for a day of education on the farm! This country is built on agriculture, we should be encouraging kids in urban centres to learn about it, and experience it, without travelling for hours to see a real farm.

I do not know Darlusz. I do not know if Darlusz is a he or she, and I do not know where he or she lives. But I do know that Darlusz has displayed more commonsense on this issue than the entire caucus can muster as a collective. If we want students to achieve excellence in our public education system, we should take note of what they have to say, and it is obvious that they are against this proposal. An organisation called Team Macarthur has been heralded as a new power group within the dysfunctional Labor Party. The group comprises the member for Macquarie Fields, the member for Camden, the member for Campbelltown and the member for Wollondilly. If they want to represent their constituents, they can stop the sale by walking into the Premier's office and saying, "It's not on." They did it with electricity privatisation—members opposite did it—and they can do it with Hurlstone school. The question we must ask is this: Do the members of Team Macarthur have the intestinal fortitude to walk in and stop this fire sale and protect the small amount of green belt we have left from Labor's developer mates? It will be interesting to see whether they turn out to be the men of Macarthur or they scurry away as the mice of Macarthur. I tend to think it will be the mice of Macarthur.

The Hon. Michael Gallacher: They're rats.

The Hon. CHARLIE LYNN: Yes, rats in their ranks—they need a few. I challenge those members to stand up and take on the Treasurer. The Treasurer's experience of farm products is a boutique supermarket in Rose Bay, and he thinks Centennial Park is extensive quality farmland. That is all he has got. I challenge the men of Team Macarthur to stand up to the Treasurer and the Premier and stop this land grab and this donation to their Labor mates. Normally there are two sides to most arguments but that is not the case with the Government's plan to sell off the Hurlstone farm. I challenge the Government to provide details of any community benefit or any moral justification for the sale. There will certainly be no improvement to agricultural education, which is the raison d'être of the school.

There is obviously no heritage value in the farm or any value in practical agricultural education in the eyes of the Treasurer. Obviously the Government does not see any value in protecting the last remnant of the once famed green belt separating us from Sydney's ugly urban sprawl. This is just a grubby cash grab in the finest traditions of the New South Wales Labor mates club. The sale is bad for education, bad for agriculture and bad for the local community. I call on members to support this bill and save Hurlstone farm from Labor's greedy developer mates.

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

CRIME PREVENTION

Debate resumed from 5 May 2009.

The Hon. HENRY TSANG (Parliamentary Secretary) [3.43 p.m.]: I support the motion moved by my colleague the Hon. Tony Catanzariti. I commend the Government for its leadership in bringing together Government agencies, local communities and stakeholders to work together. A good example of that is the Rees Government's strengthening of the bond between the community and the Police Force. There are many more police from non-English speaking backgrounds than ever before. That demonstrates that New South Wales is a harmonious multicultural society with many police of Asian background. In particular, many tourists and foreign students frequent Chinatown; they feel safe because they see familiar faces, speak their language and understand the culture.

The Rees Government has not stopped there. Statewide, there are now 33 ethnic community liaison officers. The hardworking men and women of the New South Wales Police Force work in partnership with communities to build a sense of public safety and trust and to reduce the fear of crime. Thirty-three civilian ethnic community liaison officers, or ECLOs, are employed across 26 locations to help police build trust with migrants, refugees and communities from diverse cultural, religious and linguistic backgrounds. Ethnic community liaison officers are responsible for improving communication with and participation by these communities through customer service, victim support, targeted project work and contributing to the implementation of the New South Wales Police Force Ethnic Affairs Priorities Statement. This program was initiated by the Ethnic Communities Council of New South Wales some years ago, when I was the senior vice-chairman of the council.

Ethnic community liaison officers are expected to work across the community and are not employed on the basis of their ethnicity or culture. They are energetic people who are creative and good communicators, and have experience working with people from a variety of backgrounds. Where are they located? Cabramatta Local Area Command has four ethnic community liaison officers speaking Lao, Thai, Khmer, Mandarin, Cantonese and Vietnamese; Bankstown Local Area Command has two ethnic community liaison officers speaking Vietnamese and Arabic; Parramatta Local Area Command has two ethnic community liaison officers speaking Greek, Cantonese, Mandarin and Hakka; and the City Central Local Area Command has one ethnic community liaison officer, Mr King Lee, who has been there for more than six years and is able to speak Cantonese and Mandarin; Fairfield Local Area Command has one ethnic community liaison officer speaking Spanish; Holroyd Local Area Command has one ethnic community liaison officer speaking Swahili and Kikuyu, which are African dialects; Burwood Local Area Command has one ethnic community liaison officer speaking Dina, which is a southern African dialect; Campbelltown Local Area Command has one ethnic community liaison officer speaking Tongan; Campsie Local Area Command has two ethnic community liaison officers speaking Arabic and Samoan; Green Valley Local Area Command has one ethnic community liaison officer speaking Timorese and Portuguese; Macquarie Fields Local Area Command has one ethnic community liaison officer

speaking Fijian; Rosehill Local Area Command has one ethnic community liaison officer speaking Hindi, Urdu, Bengali and Russian; and North Shore Local Area Command has one ethnic community liaison officer speaking Croatian, Bosnian, Serbian, Macedonian and Slovenian.

The Opposition should be impressed that the Rees Government is working hard for the community of New South Wales, encouraging our law enforcement officers to strengthen community ties. Having good relations with the community is key to preventing crime and keeping the community safe.

The Hon. MICHAEL VEITCH [3.48 p.m.]: I acknowledge this Government's bold move in creating the capacity for local communities to contribute to the development of local solutions to local antisocial problems, particularly in rural areas of New South Wales. This action continues the Government's track record in developing and implementing new crime prevention initiatives. The New South Wales Government will continue to implement initiatives aimed at lowering crime rates. The Government presents a comprehensive system that best utilises our record numbers of police officers, new and improved resources and facilities, community-based crime and antisocial solutions and sector-specific approaches such as the Pastoral and Agricultural Crime Working Party. I particularly look forward to seeing the Pastoral and Agricultural Crime Working Party in action as I believe this will take a similar approach to crime prevention to the work being undertaken by crime prevention partnerships but will, rather, consider methods of crime prevention that can involve the rural community at the local level.

This working party brings together key stakeholders to focus their relevant expertise on issues in and around the pastoral and agricultural sector, and the important job of policing it. The working party will include representatives from the New South Wales Police Force, the Department of Primary industries, the New South Wales Farmers Association, the rural lands protection board and the Ministry for Police as the secretariat. I understand that the working party is making great efforts to allow farmers direct access, so that knowledge and information comes through at ground level. Once again, the Rees Government is working with the community. Rural crime investigators do a great job and the working party will be identifying measures that build on this to assist police in conducting successful investigations of pastoral and agricultural crime.

The working party will also identify gaps in relevant legislation and have the scope to recommend legislative change where needed. The re-establishment of the working party has been welcomed from corners far and wide, including Mr Jock Laurie, President of the New South Wales Farmers Association. I know the Hon. Trevor Khan is keen to hear what the New South Wales Farmers Association has to say. Gerard Martin, the hardworking and well-respected member for Bathurst, will chair the pastoral and agricultural crime working party. Similar to the work being done by crime prevention partnerships, this working party will consider methods of crime prevention that can involve the rural community at a local level. One of the other key tasks of the working party will be to look at the ongoing expertise of New South Wales police officers with respect to policing rural crime. Let us not forget that under this Government police numbers in the country have increased to the point where they currently stand at 5,199 officers whereas the Opposition managed to only have 3,595 police in rural New South Wales in 1996.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! There are too many interjections coming from Opposition benches.

The Hon. MICHAEL VEITCH: The Rees Government is committed to ensuring that the policing of rural areas in New South Wales receives the attention it deserves. This Government cares about crime prevention—whether in the city or the country—and has established a system, which will ensure that communities are part of an inclusive process that both rewards and engenders them with that essential sense of pride and wellbeing in their local environment. Another recent example of this Government's initiative is the petrol theft forums held earlier this year in the Hunter region. This continued improvement in embracing both local businesses and the community in crime prevention has gone hand in glove with the Government's record in recruiting record numbers of police in both urban and rural New South Wales.

The construction of new police stations in rural areas such as Dubbo and Orange show that this commitment goes beyond just putting more bodies on the street. No wonder the communities of rural areas of New South Wales feel safer than at any time previously in recent history. Crime prevention partnerships will use local stakeholders to assist police develop appropriate solutions to address hoodlum behaviour and crime. This is a Rees Government initiative. Any system that makes crime prevention an inclusive process can only benefit our communities, especially one that empowers those communities to engender solutions specific to their needs.

Places like the hinterlands of New South Wales have a different demographic, business and lifestyle environment to the coastal cities and we will make sure that they do not end up with a one-size-fits-all crime prevention package that does not acknowledge these rural issues. As my colleagues have indicated, community safety precinct committees are being created statewide from local stakeholders, including the local parliamentary representative. This is where a very real opportunity exists for those specific issues to be raised, discussed and solved by both law enforcement agencies and other stakeholders. These crime prevention partnerships show that at least one party acknowledges the need for innovation to ensure the safety and security of its citizens. I support the motion of the Hon. Tony Catanzariti.

The Hon. MARIE FICARRA [3.54 p.m.]: I have signed the Keep Our Cops petition. I joined the campaign for better police wages and conditions. As stated on their website, police in New South Wales do a difficult job but increasingly officers are leaving the force, some bound for new careers, others simply relocating interstate. One may ask: Why? The answer is: Because the pay they receive from this New South Wales Labor Government for the work that they do simply is not up to scratch. Sign up today to keep our cops in New South Wales and support the campaign for better police wages and conditions. How many Government members have signed the petition? Has the Hon. Lynda Voltz signed the petition? I am sure she has not.

The people of New South Wales are sick of being fed mistruths, distortions and political spin by this Labor Government. With regard to the recent bikie gang legislation, the Liberals-Nationals coalition welcomes strong surveillance provisions for the Police Force, the Police Integrity Commission and the Crime Commission. South Australia has had this strong legislation for a long time, and even though Commissioner Scipione asked for similar laws to be introduced by this Government many months ago, it took bikie violence in a public domain—bringing the current levels of gang violence home to the people New South Wales—for this Government to act decisively and to do what it should have done last year when we first had a significant escalation in bikie murders and shootings.

Between 6 November 2008 and 11 December 2008 there were 16 drive-by bikie gang shootings targeting houses, vehicles and businesses in Mount Druitt, Fairfield, Seven Hills, Belmore, Glenwood, Carlingford, Merrylands and Leumeah. Did this Labor Government move then? No. The bombing of the Hell's Angels clubhouse on 4 February 2009 and recent shootings, and a murder at our Sydney domestic terminal, were only the latest in a series of violent assaults and attacks. It took a long time for this Government to do what it was elected to do, that is, protect our communities. So let us look at other aspects of this Government's poor management of our police resources.

Detective numbers across this State have fallen by one-third, from 2,370 to 1,596, over the past seven years. Even the elite State Crime Command, which contains the Gang Squad, has lost 13 detectives over the past two years, and today this Government is being hypocritical by wanting to congratulate itself and waste the time of this House. It has been revealed that the New South Wales criminal investigative experience is leaving our Police Force and, in many cases, is being replaced by rookie investigators who are doing their best but, let us face it, they are still inexperienced. This Government has done little to retain and encourage experienced officers to remain in the force.

Just last night we spoke with police officers, who were dining with us, who said they were on full pay staying at home for years and years waiting to be released from the Police Force. Why? So that the numbers on the books look good. That is a pathetic way to run our Police Force. Other senior designated detectives have had to be transferred from the State Crime Command to other squads, such as counter terrorism, but have not been replaced. Recruitment of detectives has declined. Why? We could be here for a very long time trawling through this Labor Government's mismanagement of a very important portfolio but let us look at last year's mini-budget when the Minister for Police said:

> The Rees Government has quarantined frontline police resources from any savings measures outlined in today's mini-budget. On behalf of the community of New South Wales I thank the Treasurer for that.

But what do we discover? The New South Wales Police Force bureaucracy will cut 72 front-line support roles per year for the next three years—56 front-line positions have already gone and the remaining front-line police officers have had to pick up the slack. This Government has the audacity to pat itself on the back while it moves police officers like chess pieces all over the board, trotting out fictitious front-line policing numbers, while those dedicated officers are having to do the jobs that normally would have been done by well-trained, relevant support staff—not fat cats but police support staff doing jobs such as photographing crime scenes, assisting intelligence gathering, payroll administration and information technology infrastructure maintenance.

Why did the Minister for Police mislead the public? Why has Minister Kelly not been able to secure funding to save these support staffing positions so front-line police can go and do what they are good at: policing on the front line? Surely the cuts could have been found elsewhere. The Minister reassured the public that $22 million of cuts in the mini-budget would be enough to insulate the New South Wales Police Force against further cutbacks. Clearly that is not the case. How many more support staff are to be axed? Perhaps Minister Robertson, who is responsible for public sector reform—

The Hon. Rick Colless: Who?

The Hon. MARIE FICARRA: Yes, who? Perhaps Minister Robertson, who led to the downfall of our previous Premier, Morris Iemma, could shed some light on how many more public sector jobs are to go not only from the Police Force but also from all the other various government departments. The Government has lost its direction and the people of New South Wales have been losing confidence in its ability to police and protect our streets. The poor security at Sydney airport is a concern to all. Imagine if Sydney airport was the subject of a terrorist attack! The recent bikie gang affray and murder has clearly shown us the result of poor crime prevention preparation—malfunctioning security equipment and infrastructure.

I turn now to other areas of the operation of the New South Wales Police Force. The much-lauded Strike Force Raptor involved 72 highway patrol officers, along with licensing and uniformed police working together with the New South Wales Police Gangs Squad. On paper, that looks effective, yet that task force has been criticised by senior State Crime Command detectives. On 30 March 2009 the *Daily Telegraph* reported the detectives referring to the Government as:

> … simply making a new squad on a daily basis—once the heat goes out of it, the politicians keep trotting out the line that a strike force is investigating it, but we've got people who are working on three task forces at the same time.

That comment is echoed publicly by our very hardworking Coalition shadow Minister, the Hon. Michael Gallacher. He said, "Operation Raptor was more about publicity than policing." Despite all the fanfare about new police recruits, the truth is that we have fewer frontline police today than we had in 2003. Whilst our population is growing, in particular in the western, north-western and south-western regions of Sydney over the past five years, the Labor Government has cut the number of police patrolling our streets. Turning to western Sydney, a region examined by the Opposition, I will compare police numbers in that region's local area commands in 2003 and 2008.

In Blacktown, police numbers are down by 15; Blue Mountains down by 15; Hawkesbury down by 6; Holroyd down by 18; Mount Druitt down by 1; Parramatta down by 26; Penrith down by 39; Quakers Hill down by 10; St Marys down by 28; Rosehill down by 8. In that small section of western Sydney, police numbers are down by a total of 166 front-line police officers. And the Government has the audacity to move a useless, time-consuming and wasteful motion congratulating itself. That really is pathetic. The House should be debating government legislation, not private members' motions. That just shows how slack the Government is.

However, since the motion is on the agenda we will debate it. The Opposition will show up the Government's failure, and it will be recorded in *Hansard*. As I said, in total that is a decrease of 166 front-line police officers from 2003 to October 2008. The recent increase announced by the Minister of 70 new officers falls well short of that loss for Sydney's west over the past five years. Rising levels of assaults and malicious injury to property, including graffiti, are indicative of a lack of police presence in those suburbs. Local residents have lost faith in their local Labor members.

The Hon. Amanda Fazio: That is not true.

The Hon. MARIE FICARRA: Well, it will be true, and that will be evident on 26 March 2011. We all look forward to that day. According to the response time statistics contained in the 2007-08 Police Annual Report, one in five people in this State are waiting in excess of an hour for assistance for crimes such as robbery, domestic violence assault and car theft. This is not a criticism of our hardworking police officers, but rather of the Government, which is not providing the support they require. That is, the Government is not putting enough police resources where they are needed. It is Labor Government spin that there are more police officers than ever on our streets. No-one believes it, because the statistics do not lie; they tell a different story.

I refer now to the Labor Government's Criminal Infringement Notices [CIN] scheme. That ill-conceived Labor initiative has failed to reduce crime and needs to be immediately reviewed. These notices have weakened the public's perception of law enforcement and they fail to target crime effectively. A huge

number of fines remain unpaid, and the rate is increasing. Most of those notices were for offensive public behaviour, and feedback from police officers is that the Government needs to reform the CIN process as identification measures are ineffective. Police officers are asking for fingerprinting and DNA analysis of offenders so that they can be tracked through the system. Offenders are receiving multiple notices and simply ignoring them. This Labor Government has effectively decriminalised some serious offences, such as car theft and fraud, through the CIN scheme. The public is concerned and unhappy and is holding the Government accountable.

I refer now to tasers. The Labor Government has failed to deliver on its promise to release the report by the New South Wales Police Force on the use of taser technology by front-line officers. In December 2008, Minister Kelly asked the Commissioner of Police to urgently report on the matter by January 2009. Since that time it would appear that that report, so urgent at the time, has gone missing in action, just like the Minister when it comes to the subject of giving our police officers the necessary protection they need to patrol our streets. The New South Wales Coalition supports the Police Association in its call to have all operational police trained and equipped with tasers. Police need all the resources possible to keep our streets safe, to protect themselves and others from injury, and to stop unnecessary deaths and injuries from the use of firearms. Tasers, when used appropriately and with the right training, are a less than lethal alternative to firearms for our police officers. The Chief Executive Officer of the Police Federation of Australia, Mark Burgess, delivered a salient message for this Labor Government in a recent edition of *Police News*. He said:

> … the Queensland Coroner, Michael Barnes, found in March 2008 that the deaths of four men, shot by Police in separate standoffs, could have all been prevented had Tasers been available.

The message to Minister Kelly is to get on and protect our community and our police officers, as that is his responsibility. There is one area where the Government has done the right thing, but only with thanks to Commissioner Scipione, and that is the decision to adopt the Coalition's highway patrol policy and create a dedicated Highway Patrol Command under the direct authority of an assistant commissioner; in this case, the Traffic Commander, John Hartley. It is to be hoped that the Government's diversion of highway patrol officers to other duties—a real and growing concern for many officers and the public—will be addressed. Due to the shortage of general police officers, there has been an increasing trend of diverting highway patrol officers responsible for road safety to duties such as prisoner escorts, wide load escorts and other general duties.

In New South Wales there are approximately 1,018 highway patrol officers. That figure is 70 positions below authorised strength. I am afraid that the public will have to wait until the Coalition gets into government to receive the proper allocation of highway patrol officers to make up the current deficiency. The rise in the New South Wales road toll, while highway patrol officers are assigned to other tasks, shows that the New South Wales Police Force is under-resourced. Highway patrol officers are being diverted from their core duties to support other police operations, such as Strike Force Raptor in the crackdown on bikie gangs. As a result, Operation Taipan, which targets antisocial drinking and street racing, has been effectively disbanded. Why is it that this Labor Government cannot handle bikie gangs and street racing at the same time? Why shuffle police officers from one strike force to another? They should be all properly and effectively equipped! If they were properly resourced all of these strike forces could be effective 24 hours a day.

The public are constantly on talkback radio with their concerns of a diminished police presence on our roads and highways. This Government would do well to heed their concerns and increase the highway patrol deterrence for potentially offending motorists so that road safety in New South Wales can be improved. It is the role of the State Labor Government to provide adequate resourcing to allow the Police Force and its commissioner to cover multiple crime management and crime prevention areas that arise at any given time. This State Labor Government should adopt the Coalition's highway patrol policy as soon as possible.

I refer to a media release from the Hon. Mike Gallacher on 28 April. It is very authoritative because police officers have a direct line to the Hon. Mike Gallacher. They trust him; he is one of theirs. They do not trust this Government. It hurts members opposite that there is someone in a shadow portfolio who knows what he is talking about and is trusted absolutely. The police officers of New South Wales long for the day when he becomes their Minister. It is farcical for this Government to congratulate itself. The people of New South Wales will judge its performance on 26 March 2011, not just on policing but on all the other portfolios that this Government has mismanaged. The Coalition looks forward to that day of judgement with vigour and passion.

The Hon. LYNDA VOLTZ [4.12 p.m.]: I find it hypocritical of the member that she waves pieces of paper in our faces relating to pay for New South Wales police but provides no answers when asked what is the Coalition's policy and the amount involved. Why does she not put some figures on the table? She should give us

that information if she wants to talk about this matter, rather than wave a piece of paper and say, "Oh look, I have signed it. Aren't I fantastic?" I will tell members opposite what the Government has done. Since 1995 the Labor Government has given a 91.4 per cent pay increase to members of the police force. In 2005 the New South Wales Government signed an agreement under which police got a 17 per cent pay increase over four years. What is the Opposition's figure in relation to that? Put your money on the table and tell us how much it is going to cost.

The Hon. Marie Ficarra: We will be.

The Hon. LYNDA VOLTZ: Do it now. Do something constructive and put forward some policies instead of waving a piece of paper in front of us. The New South Wales Government understands that front-line resources and high visibility policing are important tools in crime prevention. On 1 January 2009, the New South Wales Police Force's authorised strength was increased by 70 officers, taking its numbers to 15,306 police officers dedicated to protecting the people of New South Wales. Since this Labor Government was elected the authorised strength has increased by 2,399 officers, or more than 18.6 per cent. By December 2011, a further 650 police officers will be brought on line, bringing the authorised strength to an unprecedented 15,956 officers and maintaining our position as the fourth largest police force in the Western world.

Having more police on the streets patrolling our communities serves as an effective deterrent to individuals involved in crime and criminal activity. It sends an effective message to criminals: do the wrong thing and you will be caught. New South Wales police are responding to crime and being proactive in preventing it as well. Effective policing often relies on good information and intelligence. The Government understands the important role the community can play in crime prevention. Our communities, both as groups of people and individuals, can assist police by acting as their eyes and ears. If people see something suspicious or untoward they should report it to the police.

Sometimes police have difficulties in breaking down barriers and getting people to offer information. Thus the New South Wales police understand that they too have a role to play in cultivating relationships with the public. In any community police are seen as leaders. More and more we see local police getting involved with their communities, effectively strengthening ties and building up levels of mutual trust. The Government, the New South Wales Police and the public are all partners when it comes to crime prevention. My colleagues have already spoken at length about crime prevention partnerships in certain areas of New South Wales and also the community safety precinct committees that operate statewide.

Another approach being taken by the New South Wales Government and the Police Force is the introduction of covert search warrants. Legislation passed through the House earlier this week allows police to enter premises and conduct searches without informing the owners. Police are able to search and gather evidence without tipping off criminals that their activities are being investigated. Pertinent evidence can now be preserved that otherwise may have been destroyed prior to a criminal committing an offence, such as plans for a shooting or an armed robbery.

These warrants will be made available to gather evidence and investigate a range of serious indictable offences that are punishable by seven years imprisonment. They include the supply, manufacture or cultivation of drugs; possession, manufacture or sale of firearms; money laundering; car or boat rebirthing; unauthorised access or modification of computer data/electronic communications; theft, if carried out on an organised basis; violence causing grievous bodily harm or wounding; possession, manufacture or supply of false instruments; corruption; destruction of property; homicide; and kidnapping.

As members can see, our police are interested in dealing with crime before it happens, as prevention is better than the cure. These warrants are available to the New South Wales Police Force, the New South Wales Crime Commission and the Police Integrity Commission. The crime prevention initiatives being taken by the New South Wales Government and its whole-of-government approach should be applauded.

The Hon. AMANDA FAZIO [4.16 p.m.]: At the outset I would like to say that when we talk about issues relating to crime we really need to be aware of what is going on in New South Wales. We need to be aware that not just in New South Wales but also across Australia and in the United States and other Western countries the public does not have a true picture of what is happening in relation to crime. Opinion polls consistently reveal two popular misconceptions about crime: firstly, the public overestimates the number of crimes, especially violent crimes; and, secondly, public understanding of the extent and nature of crime reflects media reporting not the reality of crime recorded in police statistics or by victimisation surveys.

We need to be aware of that fact when we talk about the measures the New South Wales Government has put in place to prevent crime in local communities across the State. It is very unfortunate that these misconceptions are the sorts of things that Opposition members play on so often to try to scare members of the public and detract from the good work being done by the Police Force and the Government of New South Wales in relation to crime prevention in local communities.

The Rees Government is providing the New South Wales Police Force with the appropriate infrastructure and resources to effectively prevent and fight crime. In the past six months, four new police stations have been opened by my colleague the Hon. Tony Kelly, Minister for Police, in Fairfield, Lismore, Dubbo and my duty electorate of Orange. I must say that the new police station in Orange is a wonderful facility. It replaces a dilapidated old facility that was well past its use-by date.

The Hon. Duncan Gay: A good local member there.

The Hon. AMANDA FAZIO: I can only assume that the comments of the Hon. Duncan Gay that obtaining a new police station in Orange was the work of a good local member, which I do not believe is the case—

[*Interruption*]

If the Hon. Duncan Gay seriously believes that he should be saying the same about the new police station in Dubbo, but I am sure he would choke before he said that. This Government has also committed over $40 million this financial year to current works in progress for police properties including Burwood, Granville, Kempsey, Lake Illawarra, Raymond Terrace, The Rocks, Wagga Wagga, Windsor, Wyong, Bowral, Camden, Leichhardt, and levels five and six of the Sydney Police Centre.

I am pleased that Burwood police station is being rebuilt because that facility was probably in a worse condition than the facility in Orange. Police in Burwood will be appreciative of that new facility. Over the past 20 years I have had to go to Burwood police station on a number of occasions to make statements or whatever, and in doing so I established that the working facilities available to police officers were not satisfactory. I am sure they will be as pleased with their new facilities, as were the police in Ashfield when they got their new police station. This financial year planning and scoping work will commence on two new police stations—the Lake Macquarie Local Area Command at Glendale, and Riverstone police station.

Refurbishments to police stations at Gunnedah, Revesby, Five Dock and Kiama have already been completed, and a $490,000 extension to Cronulla police station has recently been completed. It is my understanding that my colleague Barry Collier—the member for Miranda in the other place—was instrumental in lobbying for this important resource to help in crime prevention and crime fighting in the Sutherland shire. I thank him and acknowledge his tireless efforts for the people of the shire. The New South Wales Police Force future building program includes police stations at Coffs Harbour, Deniliquin, Tenterfield, Liverpool, Manly, Moree, Tweed Heads, Parkes and Walgett.

This Olympic-style infrastructure program shows that the Government is committed to creating jobs and providing appropriate infrastructure and resources. The Rees Government understands that a strong and modern police force that will be effective in preventing crime must be adequately trained and educated. Last year we saw the opening of the New South Wales Police Force education and training command in Hurstville. The Minister for Police joined Commissioner Scipione to officially open the New South Wales Police Force leadership centre at the Hawkesbury campus of the University of Western Sydney. All members should acknowledge that great effort.

This Government is all about action; it is about building stations, opening stations and developing training centres. We not only have record numbers of police in New South Wales; we also have better facilities in which those police can work and better training programs for them to undertake. The leadership centre to which I just referred will operate important programs from both the education and training command as well as from the human resources command. New South Wales has long been at the forefront of the professionalisation of policing in Australia. The training and development of our officers is a key in developing a modern and professional police force.

In this day and age we recognise that policing is an increasingly sophisticated profession, though not to the extent that might be believed by many people who watch too many episodes of *Crime Scene Investigation*. It

has specialist areas that are constantly evolving, and the level of skills and knowledge of all our officers is also growing—they have to if we want to take the next step against crime and prevent it. Government members understand that crime is not just about the response; it is also about preventing crime in the first place. If our society is to meet the challenges posed by criminal organisations and individuals it must have law enforcement officers with the capacity and drive to keep the community safe.

This move towards professionalisation is best reflected in the high calibre of officers currently serving in the New South Wales Police Force, and the high calibre of those currently in training to join their peers. Christine Nixon recently retired as Commissioner of Police in Victoria. Before Christine Nixon was approached by Victoria to take up her position she was a rising star in the New South Wales Police Force. Our officers are not only good when they work in New South Wales; they can also take on leadership roles in other States. That is because of the resourcing allocated by this Government for the training of police.

The skills and techniques taught at the new leadership centre will assist senior officers in their day-to-day activities. The powers and procedures, and even the equipment that police use, are more complex than ever. Providing our senior officers with all the skills required to deal with this ever-changing environment is paramount to keeping our streets safe. This centre is the embodiment of the ever-growing maturity of our police force. It is now recognised that, by developing and empowering our senior officers, in turn we develop and empower all officers. Senior officers who complete training courses at this new centre will be well prepared to respond to policing situations that arise and also to pass on their skills to their colleagues and future generations of police aspiring to senior rank.

The Rees Government and members on this side of the Chamber have their priorities correct when it comes to spending money on infrastructure to assist in preventing crime. Over the past few days members in this Chamber have been debating this motion. I wish to respond to some of the issues raised by the Hon. Sylvia Hale. It is clear from comments that she made yesterday that the Greens have formed some sort of unholy alliance with the Coalition to soften the tough stance adopted by this Government in dealing with violent offenders. Yesterday's debate was the first example in the history of this Parliament that saw the Greens' legal affairs spokesperson applaud the weak policy position of the New South Wales Opposition.

The New South Wales Government makes no apology for being tough on crime. The tightening up of sentencing legislation and the continued use of intelligent policing strategies and more officers on the beat targeting repeat offenders will mean that those who do the crime in New South Wales will do the time. We will not resile from the stance of ensuring that people who break the law in New South Wales pay appropriate penalties. The New South Wales Judicial Commission stated that for offenders sentenced in Australia in 2006-07, New South Wales has the highest imprisonment rate for offences of sexual assault, robbery, more serious robbery offences, break and enter, and burglary offences.

I draw the attention of members to crime prevention in our local communities. When we catch these offenders they receive strict sentences from the legal system in New South Wales. However, we have gone a lot further than other States in facilitating victims to give their evidence. We want to make it as easy as possible for victims to give evidence about serious crimes. The laws that have been put in place assist victims of sexual assault to give evidence before the courts. This Government has gone a lot further than many other States. The more we encourage victims to come forward and cooperate with authorities the more likely it is that we will be able to impose severe punishments on those who have victimised them. However, once those people have been convicted, the education and rehabilitation of offenders are key objectives of the Department of Corrective Services.

Sometimes I am annoyed when I hear that our recidivism rate is supposedly lagging behind the recidivism rates in other States. New South Wales is doing excellent things to reduce its recidivism rates. We have the third highest percentage of inmates enrolled in secondary school courses compared with other jurisdictions; we have a range of therapeutic programs to target the causes of criminal behaviour; and we have work programs that employ over 5,500 inmates every day. In the main, offenders have poor education and overwhelmingly over 80 per cent of offenders are likely to be males. Up to 96 per cent of those who are incarcerated are males. Often they come from disadvantaged and deprived backgrounds, they do not have a steady history of employment, they do not have a stable family background and they do not have an education.

We have good indicators for offenders who are serving time and we are doing a lot to try to ensure that they will not revert to criminal behaviour when they get out of jail—another important crime prevention strategy. Crime rates in all but one major offence category are either falling or are stable. We have also taken

serious steps to stop reoffending by implementing a number of innovative new court-based programs to make repeat offenders turn away from a life of crime. These include the Drug Court, with proven results in reducing rates of reoffending and reforms to the fine system, including flexible payment options and new work development orders to stop vulnerable people getting caught up in a cycle of secondary offending. If they are caught for committing an offence and they are fined and cannot pay the fine, they might be caught a second time for not paying the fine.

It is important to do these innovative things to reduce the rate of reoffending and to prevent crime. The programs also include forum sentencing where offenders are made to face up to their crimes by being forced to confront their victims, and the Magistrate's Early Referral into Treatment program, or MERIT, which allows magistrates to refer offenders with drug problems into treatment prior to sentencing. Until recently, a MERIT program was operating just around the corner from where I lived and I could notice the difference once offenders had been going there for while. It was a good program in that it helped those people to straighten themselves out.

The Department of Corrective Services has implemented a broad range of programs aimed specifically at inmates who are deemed to be at medium or high risk of reoffending. These include the Two Ways Together program, which assists Aboriginal offenders to reintegrate into their local Aboriginal community; the Sober Driver program, which has successfully reduced reoffending by repeat adult drink-drive offenders by nearly 50 per cent; and the Pathways to Employment, Education and Training [PEET] program, which helps medium- and high-risk offenders to successfully complete vocational education courses at NSW TAFE. The Orange TAFE institute, which I visited recently to open a new facility, does good work with offenders in helping them to obtain forklift and heavy vehicle licences so that they can get jobs in earthmoving and in the mines. That is another example of two arms of government working together to reduce crime.

Such programs highlight the commitment of the Government to giving offenders the opportunity to contribute positively to the community after they have completed their sentence. We have brand-new initiatives also coming online this year, including youth conduct orders, which will require young people and their families to confront the causes of their offending behaviour, and a new court supervision program called Court Referral of Eligible Defendants into Treatment, or CREDIT—I do not know who makes up these natty little acronyms. These initiatives, backed by a tough criminal justice system with deterrence at its core, will help us to keep driving down rates of crime. However, one thing we must always remember is the point with which I commenced my contribution: the huge public misconception of crime. People overestimate the amount of crime in society, especially violent crimes. People's understanding of the extent and nature of crime reflects media reporting and not the reality of crime recorded in police statistics or by victimisation surveys.

When all those points are added together it is appropriate that the Hon. Tony Catanzariti moved this motion congratulating the Government on its continued efforts to prevent crime in local communities across New South Wales and commending the Government for its leadership in bringing together government agencies, local communities and other stakeholders to work to reduce crime. It is not just the role of the Police Force to help reduce crime; a number of other government agencies, along with the Department of Corrective Services, have a valuable role to play in this area. Rather than simply criticising what the Government is doing, it is about time the Opposition put forward a few decent policies of its own, because to date it has sent nothing but mixed messages.

Greg Smith, the member for Epping, called for no law and order auction in the lead-up to the next State election. Yet other Coalition spokespersons call not only for a law and order auction but a bigger and better one than has ever been held in New South Wales. It is time we all took a deep breath and recognised that New South Wales is making major strides in crime prevention. Rather than acting crazily like a bunch of chickens with their heads cut off, Opposition members would do better to use effectively the groundwork that has been put in place and support the measures undertaken by the police, the Department of Corrective Services and all the other community groups and government agencies interested in crime prevention and in ensuring the safety of local communities. I call on Opposition members to support the motion.

The Hon. DON HARWIN [4.33 p.m.]: These sorts of self-congratulatory motions from Government members during the consideration of private members' business are a bit of a joke—particularly considering the contents of this motion. Paragraph (b) states:

> (b) commends the Government for its leadership in bringing together government agencies, local communities and other stakeholders …

What planet are these people on? That is what the people of New South Wales ask constantly, and we are entitled to ask that question again today. Government members talk about bringing together stakeholders, yet the police website—the website of one of the key stakeholders—states:

> The Association's campaign website declares it is time for the State Government to stand up and make community safety a priority.

Our own police—a key stakeholder in the administration of justice in this State—also think this sort of motion is a joke. We can draw that inference directly from their statement. The views of our State's rank and file police officers are among the compelling reasons that this motion should be opposed. Their views are an astonishing indictment of this Government's neglect of our Police Force. More than three-quarters of New South Wales police officers say they will consider leaving the force unless they get better working conditions. Eighty per cent of our police officers believe that policing is more dangerous now and 95 per cent say they are doing more with fewer resources.

Such astonishing survey results are hardly surprising when, as the Police Association states, "Many police stations across the State are already chronically understaffed." The message from the Police Association is loud and clear: our officers simply are not getting the resources they need to carry out their duties effectively. Without the support they need and deserve from the State Government, police are becoming increasingly overworked and many are looking to transfer to another State or to find employment outside the Police Force.

The Hon. Duncan Gay: Like Christine Nixon.

The Hon. DON HARWIN: The Deputy Leader of the Opposition has hit the nail on the head; he makes an obvious point. According to the association's figures, more than 1,400 officers have left the force since the last State election in March 2007. The State Government should be increasing resources for our officers and taking the steps necessary to retain experienced officers and those with specialised skills. Instead, the Government is cutting funding and support for New South Wales police. How can we even consider congratulating the Government on crime prevention measures when it is cutting funding and support for our police? I have signed the Keep our Cops petition, but it has been interesting listening to this debate. The Leader of the Opposition in his remarks during debate said that he was looking forward to hearing which Government members had signed the petition—which Government members supported the police. A conga line of Government members have come into this place and spoken to the motion but not one has said they signed the petition. That is certainly interesting.

When the Treasurer handed down the disastrous mini-budget last year the Police Force was hit with an annual funding cut of $22 million. At that time the Minister for Police claimed that the Government had quarantined front-line police resources from the impact of those savings measures. However, in March it was revealed that the cuts have translated into the loss of 72 front-line support roles in each of the next three years. The Leader of the Opposition understands that 56 positions have gone already and that front-line police officers are being taken off the streets in order to pick up the slack. We are not losing fat cat bureaucrat positions or anything like that; we are losing the kinds of support staff upon whom the police rely to photograph crime scenes, administer their payroll and make sure that their information technology infrastructure is working.

The recent loss of support staff due to the Government's deliberate funding cuts is compounding the loss of experienced officers and staff with specialised skills. It has been happening gradually for several years. Data obtained by the *Daily Telegraph* through freedom of information requests reveals that the number of detectives in the Police Force has declined dramatically and is now at its lowest level in more than a decade. Over the past seven years designated detective numbers have declined by a third, from 2,370 to 1,596. That decline includes a net loss of 13 detectives from the elite State Crime Command over the past two years. Senior detectives have bemoaned the loss of criminal investigative experience and the high proportion of rookie investigators who are now in specialist units. Others have complained about the politically motivated creation of some high-profile task forces to combat problems that are receiving media attention.

The Government has a habit of announcing task forces and introducing legislation that grants special powers to police whenever law and order issues grab headlines. Operation Raptor and the new bikie gang laws are only the most recent examples. Of course, the benefit of such additional powers is partly negated if front-line police offices do not have the support and resources they need, and if task forces do not contain enough experienced officers with specialised skills. The Government has made a great show of bolstering overall police numbers with waves of new recruits, but the truth is that it has been unable to prevent the loss of talent, experience and specialised skills over a considerable time.

The creation of special-response task forces also takes officers away from other duties, further compounding the pervasive problem of overworked and under-resourced front-line officers. Due to the loss of support staff, many highway patrol officers have been called to secondary duties, while others have been seconded to task forces, such as Raptor and the Middle Eastern Crime Squad. As a consequence the State Labor Government has failed to appropriately resource and allocate highway patrol officers. When they should be on our roads enforcing road rules and keeping drivers safe, many highway patrol officers are escorting wide-load vehicles, working on special task forces or sitting behind desks. Tragically, the State road toll is 27 per cent higher than it was a year ago. Reductions in the number of highway patrol officers can be seen in official figures for many local area commands. One reason that is often given for why the police station in Five Dock is regularly unmanned and closed is that the traffic and highway patrol officers who are allocated to that station are out on the streets rather than manning the station. However, figures reveal that the number of highway patrol officers assigned to the Burwood Local Area Command has been cut from 15 as at 1 July 2005 to just 11 as at 2 July 2008.

The strain on our hardworking police is also evident in the response times included in the New South Wales Police Force annual report for the year 2007-2008. The report reveals that the time taken to respond to the majority of calls for police assistance of a non-urgent nature has increased, continuing an annual pattern evident since 2003. One in five people now waits in excess of an hour for police to arrive in response to a non-urgent call. The annual report states that 80 per cent of non-urgent calls were responded to within 68 minutes. This represents a four-minute increase over the same benchmark indicator in the previous year. By comparison, in 2002-03, 80 per cent of non-urgent calls were responded to within 50 minutes. These response times demonstrate that the Government is failing to give police the resources they need to respond quickly and effectively to everyday crimes in their local communities. While Government spin trumpets record police numbers, statistics continue to show the reality of under-resourced police stuck behind desks or taking stress leave due to unacceptable working conditions. Increased police numbers ought to translate to decreased response times. The fact that the opposite is occurring reveals a great deal about the lack of support and resources that are being provided to our State's Police Force.

Another area in which the lack of adequate resources for our hardworking police is clearly evident is in the fight against illicit drug use. While this motion seeks to congratulate the Government on reducing crime in local communities, quarterly reports from the Bureau of Crime Statistics and Research reveal significant increases in drug offences and drug use in many local communities. There have been sharp increases in the use or possession of cocaine, cannabis, ecstasy and other drugs. The Government has failed to resource police adequately to cut off the supply of drugs at the source. Furthermore, it has been unable to create a working environment in which senior and skilled officers can be retained.

In the two years to December 2008, bureau figures reveal an alarming increase in the rate of possession and/or use in numerous categories of illicit drugs such as ecstasy, which is up 66 per cent; cocaine, up 58 per cent; and cannabis, up 17 per cent. In the Canada Bay local government area there was a record number of instances of individuals caught dealing in amphetamines in 2008 while the number of people found in possession of amphetamines also reached a record level. Amphetamine possession in 2008 was nearly triple that in the previous year and was seven times the level in 2003, when a record number of police officers were assigned to the area. Meanwhile, the number of people caught in possession of cannabis in the Canada Bay local government area doubled in 2008, compared with 2003, when police numbers were at their peak.

In the Randwick local government area, the number of offences relating to dealing in amphetamines doubled over the five-year period from 2003 to 2008 while there was a 15-fold increase in instances of dealing in ecstasy. There have also been dramatic and concerning increases in the number of people caught in possession of illicit drugs in the area. The number of people found with amphetamines has doubled, as has the number of those caught in possession of cocaine. Meanwhile, the number of people found with ecstasy has increased more than 20-fold from just four in 2003 to a record 83 in 2008. The number of people found with ecstasy more than doubled between 2007 and 2008 alone. Such increases are not confined to the inner west and the eastern suburbs of Sydney. In the five years from 2003 to 2008, the Shoalhaven local government area experienced a 35 per cent increase in cases of amphetamine possession, a 52 per cent increase in cases of cannabis possession, and a 42 per cent increase in cases of ecstasy possession.

Another aspect of this motion refers to the Government's leadership in bringing stakeholders together to reduce crime. But the truth is that not only is the State Labor Government failing to resource our police officers properly, but it is also failing to fund adequately community drug-use prevention schemes. The latest official figures available from the Australian Health and Welfare Institute reveal that on a per capita basis New South

Wales spends less on the prevention of hazardous and harmful drug use than does any other State or Territory. In fact, the State Government provides less than half the funding that is available per person in most other States. According to the institute's figures, New South Wales spends just $4.64 per person on hazardous and harmful drug-use prevention. This compares with $6.88 per person in Victoria, $10.10 in the Australian Capital Territory, $10.19 in Queensland, $13.30 in South Australia, $13.98 in Western Australia, and $14.65 in Tasmania. So much for the so-called leadership that this motion seeks to endorse!

Before there can be any suggestion of the House congratulating the Government on its crime prevention measures, the Labor Government needs to increase dramatically its level of investment in comprehensive public programs that are aimed at preventing the use of illicit drugs. In 2008 the Waverley local government area was ranked as the worst in the whole of New South Wales for theft from a person, reflecting the massive problem of bag snatching in Bondi Junction. This is the fourth year in row that Waverley has been ranked as either the worst or second-worst local government area in the State in this category. The number of actual instances of theft from a person in Waverley in 2008 was 14 per cent higher than in 2004.

There is a similar story with regard to stealing from retail stores in Waverley. In 2008 Waverley was the second-ranked local government area in the category—the fourth year in a row that it had been placed second or third with regard to retail store theft. In 2008 there were a record 618 instances, representing an increase of more than 20 per cent on the 514 instances in the previous year. Back in 2004 there were less than half that number—just 287. That year the local government area was ranked at number 10. According to the latest available figures, there has been no net increase in the number of officers allocated to the Eastern Suburbs Local Area Command since the start of 2004. The local area command currently is five officers below its authorised strength.

The story in the electorate of Drummoyne is also a matter of grave concern, as I have stated on previous occasions in this House. In 2003, the Burwood Local Area Command had 178 police officers. Despite major new residential developments at Breakfast Point, Rhodes and Cabarita swelling significantly the population of the Canada Bay local government area in the six years since then, the Labor Government has actually cut the number of officers serving in the area. The most recent figures show the Burwood local area command with just 135 officers, which means that there are 43 fewer police officers serving Drummoyne now than there were in 2003. As I said, the number of highway patrol officers allocated to the Burwood Local Area Command has been cut from 15 to 11 over the three years to July 2008.

This reduction in the number of police officers in the inner west is emblematic of the Labor Government's neglect of police resources and its poor record on crime prevention. For years the Government has repeatedly claimed that the Five Dock police station is a fully manned 24-hour-a-day, seven-day-a-week station. In truth, there are long periods during which the station is unmanned and the building is closed. When people ring the buzzer at the front door on such occasions they are answered via intercom by an officer in the Burwood police station some 15 minutes drive away. The story is the same throughout other communities in the State. The latest statistics from the Bureau of Crime Statistics and Research reveal that the number of assaults unrelated to domestic violence has increased in the Canada Bay local government area to a record level. There were nearly 200 such offences recorded last year, up 42 per cent on the previous year and significantly higher than in 2003, when a record number of police were assigned to the area.

The number of reports of theft from retail stores in 2008 was also at an all-time high, up 29 per cent on the previous year and significantly higher than during the period of peak police numbers in 2003. Incidents of malicious damage to property are 24 per cent higher than five years earlier and the level of theft from motor vehicles, which pushed Canada Bay to the top of the local government area ranking in that category last year, remains 12 per cent higher than in 2003. The Government's poor crime prevention track record is also evident in the latest police figures relating to Strathfield railway station. There were 69 criminal incidents and 26 assaults at Strathfield train station in the 12 months from December 2007 to November 2008. These statistics make Strathfield the fourth most dangerous railway station on the Sydney metropolitan network. An Independent Transport Safety and Reliability Regulator survey of CityRail customers in 2008 found that 36 per cent of passengers were worried about their safety on trains in the evening and 30 per cent of train users felt threatened while on a train or at a station, reflecting the impact on passengers of recent increases in the level of antisocial behaviour. The Government clearly needs to do more to prevent crime on our public transport system.

The State Labor Government ought to be condemned rather than congratulated on the issue of crime prevention. Its funding of drug-use prevention is well behind the rest of the nation and its police funding cuts in the mini-budget are hurting front-line operations. The loss of experienced officers and officers with specialised

skills, combined with the number of officers on stress leave, means that the Government's much-heralded record number of police is just spin designed to hide the concerning reality of overworked and under-resourced officers struggling to combat rising levels of drug crime and deteriorating response times. Our local communities deserve to be protected and crime prevention needs to be made a priority in this State. Our hardworking police deserve more support, increased resources and better working conditions. Given its track record, that seems unlikely to be achieved under Labor in New South Wales. The motion should be opposed.

The Hon. HELEN WESTWOOD [4.53 p.m.]: I am pleased to support the motion of the Hon. Tony Catanzariti. The Rees Labor Government is delivering on the State Plan and keeping our State and its communities safe. This has largely been achieved through a multipronged strategy, instigating stronger penalties for offenders, providing more visible policing on the streets, funding local community projects, and developing proactive strategies to address the underlying causes of crime to stop reoffenders. I note that the Hon. Don Harwin was critical of the Hon. Tony Catanzariti's motion, particularly when he referred to the Government's leadership in bringing together government agencies, local communities and other stakeholders to work to reduce crime. The Hon. Don Harwin does not seem to understand that there are stakeholders other than the police. All we have heard from members opposite is that police have a role in crime prevention. There was no mention of any other stakeholders who are key to preventing crime in our communities.

I was astounded that, according to the Hon. Don Harwin, the Police Association seems to be the only union supported by the Coalition. All we hear in this Chamber from members opposite is derision of all other unions. Unions are criticised, dismissed as not credible, seen as Government lackeys or seen to have disproportionate power over the Government. But the Liberal Party and The Nationals have finally discovered the value of trade unionism in the bosom of the New South Wales Police Association. What can we make of this? Clearly, the only workers the Opposition thinks are worthy of support are the police. They do not care about the rest of the workers in this State.

The Government must be congratulated on the results it is achieving. It is an indisputable fact that crime rates in New South Wales have fallen consistently for many years under a Labor Government. Members opposite do not like to hear that, but it is a fact. It is of value to the Opposition to create fear and to give the impression that we have a crime wave. However, the opposite is the case. People living and working in Sydney and people living in the suburbs and in other parts of the State know that it is safe to walk around. We can go about our daily activities and lives without fearing crime. But that does not suit the Opposition's agenda.

The latest data from the Bureau of Crime Statistics and Research [BOCSAR] shows that the Labor Government's positive action and planning is having a significant impact on crime across New South Wales, with most major offence categories falling or remaining stable. The Rees Government has taken a responsible approach to fighting crime. Our police are well resourced, trained and equipped to do their job. But just as important, we have also given our police officers the unyielding support they need to drive down crime. The Government's approach is working, and it is evidenced in the fact that recorded crime statistics for New South Wales show that, in the 24-month period to September 2008, 16 of the 17 major offence categories fell or remained stable. More importantly in the longer term, over the past five years 15 of the 17 major categories of crime have been falling or have remained stable.

This is great news for our communities—news that the Opposition does not want to acknowledge or hear. It is important to highlight these statistics. Many statistics have already been cited but it is important to repeat and reinforce them. As I said, recorded crime statistics for New South Wales show that, in the 24-month period to September 2008, 16 of the 17 major offence categories were stable or falling. They show that trends in domestic violence related assaults are down by 8 per cent; robbery with a firearm, down by 26 per cent; robbery with a weapon which is not a firearm, down by 19.2 per cent; break and enter in a dwelling, down by 4.1 per cent; break and enter in a non-dwelling, down by 4.9 per cent; motor vehicle theft, down by 6.4 per cent; stealing from a dwelling, down by 7.8 per cent; and stealing from person, down by 9.6 per cent.

Trends for the following eight major offence categories remained stable: murder, non-domestic violence related assault, sexual assault, indecent assault, acts of indecency and other sexual offences, robbery without a weapon, steal from motor vehicle, steal from retail store, and malicious damage to property. Again, I know that is not the image the Opposition or, for that matter, the media want to portray but it is a fact. The latest data from the Bureau of Crime Statistics and Research shows that the work of our police is having a significant impact on crime across New South Wales, with most major offence categories remaining stable or falling.

These figures demonstrate that, overall, communities across this State are the safest they have ever been. It is inconceivable that the coalition would not support the Government's measurers to reduce crime. If they do not, they are failing the very communities they purport to represent, and there is only one word for that: shame! A successful community does more than protect its citizens. Thriving communities also create an atmosphere of harmony and trust. This Government's agenda is squarely aimed at community safety, to increase the ability of people to go about daily life with little fear for their own safety or the safety of others. It is important to acknowledge that when people create an atmosphere of fear it impacts on the daily lives of people and leads to some people not going out and socialising. I think as responsible leaders in our community we should consider that before we go about trying to create an atmosphere of fear to suit our political agenda.

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

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Michael Veitch agreed:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 142 outside the Order of Precedence, relating to the bushfires in Victoria, be called on forthwith.

Order of Business

Motion by the Hon. Michael Veitch agreed to:

That Private Members' Business item No. 142 outside the Order of Precedence be called on forthwith.

VICTORIAN BUSHFIRES

Debate resumed from 31 March 2009.

The Hon. CHRISTINE ROBERTSON [5.02 p.m.]: The Victorian bushfire disaster we witnessed in February was a national tragedy and one that has drawn a national response. This motion notes the devastation that has been caused to lives, livelihoods, families, communities, property and the environment. Along with other members of this House I extend my condolences to the people in Victoria who have been so profoundly affected. The inspiration that can be drawn from this shocking fire season is in the resilience of people to recover from tragedies like this. The process of grieving is very important and will continue for many years for those who have lost family members. We must continue to respect that in our haste to find out what happened, how things might have been prevented and how well people are recovering, despite some having lost every possession. But humans are resilient, just like the Australian bush, where the green shoots will sprout soon enough and the grasses will break through the carpet of ash. They already have, and a bit of rain down south would help.

The other great source of inspiration in this tragedy has been the people who have worked hard to preserve or improve lives. So many have contributed to this effort, but the absolute frontline has been our firefighters in New South Wales and Victoria, both metropolitan and rural, professional and volunteer. I will share some responses to the crisis from my local area around Tamworth and the surrounding communities as an example of what actually happened in this regard across our State and indeed our nation. Tamworth airport was the launching pad for dozens of firefighters from the New England and north-west. Many of those men and women worked three-day shifts in fire-affected areas of Victoria before returning home. One plane load returned with 114 of the regions Rural Fire Service volunteers from areas including Tamworth, Scone, Merriwa, Armidale, Gunnedah, Narrabri, Moree, Wee Waa, Kootingal, Guyra and Uralla. Those volunteers had lent their hands helping to fight fires and clean up the badly affecter region around Healesville in Victoria.

The *Northern Daily Leader*, our local newspaper, reported that the final contingent of Rural Fire Service volunteers returned from Victoria after the crisis had been declared over, but only after people experienced several weeks of a crowded local airport as they travelled between working at home and providing assistance in Victoria. Importantly, genuine efforts have been made to make sure the volunteers debrief properly and think through what they saw in Victoria and what they may have missed at home while they were away.

This was Australia's worst natural disaster, and the trauma has rippled through whole communities that have been affected both directly and indirectly. For some it worked out best, but others, before they had the chance to return home, were required to go immediately out to Bendemeer to fight a scrub fire.

Of course, an enormous contribution of the Tamworth community was made not just by our firefighters. Local communities held countless fundraisers and food and clothes collections. Donations and other goods were sent literally by the truckload. Armidale Dumaresq Council, among others, prepared hay bales to truck down to Victoria as vital donations to feed livestock. Young girls and boys in Gunnedah helped out by cooking muffins to sell to raise funds. Just down the road from my house in Duri, Werris Creek reportedly held its first Ute and Bike show with all proceeds going to Victorian bushfire charities. Unfortunately I did not get the chance to attend that show, but it was a good example of the many different ways that the community found to support Victorians in need. Around the State, towns and local suburban communities put in a great effort to help out those so badly affected by the worst bushfires that we have ever seen.

The Hon. CHARLIE LYNN [5.06 p.m.]: I extend my condolences to the families who lost loved ones in the devastating Black Saturday fires in Victoria. I congratulate the Hon. Mick Veitch on presenting the condolence motion to the House. Black Saturday was our greatest peacetime tragedy with more than 200 of our fellow Victorians burnt to death under the most horrific of circumstances. The loss of family, relatives and friends is devastating for survivors and their local communities. The loss of irreplaceable family memorabilia will add much pain to their grief. They will bear the emotional scars of this tragedy until the day they die. I hope they find some comfort in the knowledge that Australians everywhere share their grief and will do whatever they can do to help them rebuild their lives, their homes, and their communities.

The world was stunned at the ferocity of the fires that engulfed Victoria on a day that will be seared into our collective memory forever. World leaders expressed their heartfelt sympathy to the victims of the fires and were generous in their offers of aid to help. The Australian community rallied to the cause and dug deep to fill the coffers of the bushfire appeal. Ethnic communities generously donated large sums of money. I am proud to say that students of Port Moresby Grammar School in Papua New Guinea conducted a very successful fundraising campaign for victims. It is indeed a truism that adversity brings out the best in people. In speaking to the motion I pay tribute to members of the emergency services who responded selflessly and heroically to fight against the fires. Men and women, professional and volunteers, young and old, standing side by side in the face of the worst fires in our history, generated enormous pride in our firefighters, police, paramedics, ambulance drivers, doctors, nurses, Salvos and all of our community organisations.

I pay particular tribute to my brother Rod, who is a professional firefighter with the Victorian Department of Sustainability and Conservation. Over the years Rod has been in a number of life-threatening situations where he has been isolated on his dozer as fires raged around him. He has required counselling to alleviate the stress caused by those incidents. He, along with his workmates, worked throughout the Victorian fires and many were beginning to feel the strain well before the fires were extinguished. Their work, much of it unsung and unheralded, will continue long after the fires are extinguished. The words "courage", "mateship", "sacrifice" and "endurance" are engraved on four granite pillars at the Isurava battle site on the Kokoda Trail. Those same words could be engraved on similar granite pillars at Healsville, Kinglake, Churchill and other towns ravaged by the fires.

Now, as we comb through the ashes of the fires we have to begin the task of review. There is no doubt that such a catastrophic event deserves nothing less than a royal commission, and I congratulate the Victorian Government for acknowledging that fact. I hope that rural people with experience and local knowledge are not denied an opportunity to express their views without fear of retribution. Earlier in the debate my colleague the Hon. Richard Colless provided an analysis of the ingredients and conditions necessary for a bushfire to turn into a devastating crown fire. His knowledge is based on his review of scientific papers and his personal experience. His views are supported by Mr Phil Cheney, a CSIRO scientist and one of our foremost bushfire experts. In his submission to the Australian Capital Territory coronial inquiry into the 2003 bushfire crisis, he referred to Judge Stretton, who wrote in the report of the royal commission that inquired into the 1939 bushfires:

> There is one fundamental policy of fire prevention and of protection against fire. There is only one basis upon which that policy can safely rest, namely, the full recognition by each person or department who has dominion over the right to enter the forests of the paramount duty to safeguard the property and the rights of others. No person or department can be allowed to use the forest in such a way as to create a state of danger to others.
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> According to Cheney, if conformity to that rule cannot be brought about, the offender must be put out of the forest, or, in the case of a public department, its authority curtailed or enlarged so that the rule may be enforced, or voluntarily observed as the case may require.

According to Cheney, land management agencies actually include anyone who manages land, including private citizens, forestry companies, agricultural companies, catchment authorities, absentee landholders and government forestry and park authorities. Each has a core business and fire affects that business in different ways. Fire needs fuel, and fuel determines how far and how fast it will travel, how difficult it will be to round up and stop, and how much havoc and destruction will be wrought if the beast enters one's property. So it is not just the landholder on whose property the fire starts who is responsible for the damage; all landholders affected contribute to both the spread and damage by the way they manage the fuel on their land. The basic premise is simple enough: if you own the fuel you own the fire.

Another expert, David Packham, a researcher from Monash University's climatology group who has specialised in bushfires, said that governments had abandoned responsibility for the one control they had over wildfires—the state of the forests that fed the flames. Mr Packham further said:

> Due to terribly ill-informed and pretty well outrageous concepts of conservation, we have failed to manage our fuel and our forests. They have become unhealthy, and dangerous …
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> The politicians who willingly accept this rubbish use it to justify the perpetuation of the greatest threat to our forests, water supplies, homes and lives in order to secure a minority green vote. They continue to throw millions (and no doubt soon billions) at ineffective suppression toys, while the few foresters and bush people who know how to manage our public lands are starved of the resources they need to reduce fuel loads.
>
> It is hard for me to see this perversion of public policy and to accept that the folk of the bush have lost their battle to live a safe life in a cared-for rural and forest environment, all because of the environmental fantasies of outraged extremists and latte conservationists.

In a letter to his local paper, the *Weekly Times*, on 25 January 2009, Mr Packham predicted that Victorians were facing a very critical situation in which 1,000 to 2,000 homes could be lost in the Yarra catchment, the Otways and/or the Strezleckies, that 100 souls could be lost in a most horrible and violent way, and that there was even a threat to Melbourne's water supply, which could be rendered unusable by the ash and debris. Horrifically, much of this has come to pass—and it was not yet the end of the bushfire season at the time he wrote that article. It was a horrific prediction, but as we now know it erred on the side of caution. The reality of the disaster was actually much worse. Mr Packham's letter continued:

> In the face of this inferno, the perpetrators of this obscenity should have the decency to stand up and say they were wrong. Southeast Australia is the worst place in the world for bushfires, and we must not waste any time in getting down to the task of making our bush healthy and safe.

I believe that hell will freeze over before radical environmentalists in the green movement admit they are wrong in their opposition to fuel reduction in our forests. Despite the views of our scientific experts in bushfire management, governments around Australia continue to allow the views of quack scientists from those misguided ideologues to prevail. Liam Sheahan is a living example of one adversely affected by such irresponsible, misguided and discredited environmental and political quackery. He cleared 200 trees in close proximity to his house as a precaution against bushfire. For this he was prosecuted by his local council and spent more than $100,000 defending his right to protect his family and his property against the inevitable. When the inevitable happened his house was saved while others perished. Those councillors will have blood on their hands for the rest of their lives. They should issue a public apology to Mr Sheahan and provide him with full recompense for the cost of his defence against their misguided prosecution. None of them will, of course. They will go to ground and resurface on taxpayer-funded committees where they will continue to peddle their environmental quackery.

As the ashes cool, as the dead are laid to rest and the task of rebuilding lives and communities begins, we must ensure that dreadful loss of life and property is never forgotten. We must ensure that the royal commission does not become another set of carefully bound documents whose findings will eventually be gelded by bureaucratic inertia and ongoing sabotage by quack environmental scientists in the radical green movement. Before people say that could not possibly happen, let me place the following quote from Mr Phil Cheney of the CSIRO on the record. He said:

> The truth was hard to find. Accordingly, it was sometimes sought in other places as I am entitled to do. Much of the evidence was coloured. Much of it was quite false. Little of it was wholly truthful. Some people were afraid that if they gave evidence they would not be given future employment. Departmental officers were, in the main, youngish men of very good character who were afraid that if they were too outspoken, their future advancement in the departments employ would be endangered.

That is not an original quote from Mr Cheney. It was written by Judge Stretton in his report of the royal commission inquiring into the 1939 bushfires—65 years ago! It was quoted by Cheney in his capacity as an

expert witness to the Australian Capital Territory coronial inquiry into the 2003 bushfire crisis in the Australian Capital Territory. According to Cheney, the quote had a contemporary and decidedly unhealthy ring about it. Black Saturday has provided chilling evidence that governments in Australia are more concerned with pandering to zealous green environmentalists than they are about protecting people's lives from the ravages of bushfires. We must ensure it never happens again. I asked by brother Rod what he regarded as the most important action we could take to prevent it ever happening again. He believes that the State needs to appoint a chief fire officer who has the authority to override all other agencies in the planning and execution of a coordinated fuel reduction plan. We can only hope. I congratulate the Hon. Mick Veitch for bringing this notice of condolence before the House.

The Hon. DAVID CLARKE [5.16 p.m.]: It is with great sadness that I express my condolences in respect to the more than 200 persons who lost their lives in the recent Victorian bushfires. My heart goes out to those whose families have been torn apart through the loss of their loved ones and the loss of friends and relatives. I pay tribute to the Victorian Country Fire Authority, the Victorian Emergency Services, Victorian and New South Wales police and the many thousands of volunteers from around Australia who gave of their services, their humanity and their compassion, their comforting words and deeds, their courage, and their bravery. It was heartbreaking to watch as thousands of hectares of land turned black and towns were ravaged, including Marysville, Narbethong, Toolangi, Kinglake, Flowerdale, Strathewen, St Andrews, Humevale, Wandong, Heathcote Junction, Upper Plenty, Churchill, Callignee, Steel Creek and Yarra Glen.

The devastation has been of immense proportions. More than 200 people died and 4,500 square kilometres of Victoria's landscape was burnt out, including more than 2,000 homes and a number of wildlife reserves. Thousands of hectares of stored agricultural produce, thousands of livestock and several hundred hectares of orchards and crops have all perished. But it is the personal suffering, the tragic loss of loved ones, the many acts of bravery, the bereavement of so many, that so deeply moves us and has such a special significance. Our hearts go out to them.

We particularly recall the tragic loss of the Australian Capital Territory firefighter David Balfour, who travelled from Canberra to provide his expert assistance. David lost his life near Marysville in the course of fighting to save the lives of others. His wife, Celia, and his three children will be well proud of their husband and father, who gave his life in such a noble way. He was surely a man cast in a heroes mould. Currently, more than 7,000 people are registered with the Red Cross as displaced persons and it is wonderful to see the multitude of support agencies and groups who are there to assist in so many ways. People from all over the nation and from all walks of life have rallied behind those who are the victims of this terrible tragedy.

The outstanding efforts of so many church and community service organisations in bringing relief and support to those who have needed it are to be commended and admired. Many millions of dollars have been donated to the Victorian Bushfire Appeal fund. Thousands of schoolchildren, pensioners and many others who live in modest and frugal circumstances have readily donated. Corporate Australia has also come forward and responded with Tabcorp, Woolworths, the ANZ Bank, the Commonwealth Bank, the National Australia Bank, Westpac, the Bendigo and Adelaide Bank, Suncorp, Westfield, AMP, News Limited, Foster's, Santos, Myer, Wesfarmers, Coles, Bunnings, Kmart and others together donating large sums. The four largest national banks each donated $1 million.

The sporting community also has not been backward in giving its services through fundraising events organised by Cricket Australia, the Football Federation of Australia, the Australian Football League and V8 Supercars Australia, among many others. The television and radio industry has also been at the forefront in offering its services. For example, a telethon on the Nine network raised nearly $21 million.

As time passes we need to remember what happened in Victoria. At present we need to stay committed to pulling together to help victims of these devastating bushfires. Today during a condolence debate is not the time for me to go into what may have caused or exacerbated this tragedy or whether it could have been prevented or its impact lessened. I strongly suspect that conservation ideologues and greenies may have a lot to answer for. However, these are issues that we most certainly need to look at in the coming days, and I look forward to our doing that soon. We need to learn from Victoria's tragic experience with the aim of putting into place preventive measures in New South Wales. "Those who do not learn from history are doomed to repeat it" are often-quoted words, but in the light of Victoria's tragedy never were truer words spoken.

Australians will not forget the carnage that this fire unleashed and the sorrow and suffering that resulted from it. The many lives lost will remain in our memory. We as a nation have been and must continue to be united in support of the victims of this terrible tragedy. We extend our deepest sympathy to all those who have been affected by these fires and pray for each and every one of them in their time of loss and bereavement.

The Hon. AMANDA FAZIO [5.22 p.m.]: Like everyone else I was shocked as the extent of the bushfires in Victoria in February unfolded. Every news update brought more stories of communities devastated and the fires expanding out of control. We are now aware that the fires devastated 78 communities and 400,000 hectares of land. It is thought that 173 people lost their lives during the fires. A total of 2,029 homes were destroyed along with 61 business, five schools and kindergartens, three sporting clubs and numerous other buildings.

During the bushfires we witnessed some of the best aspects of Australian society—the willingness of people to volunteer and to donate to those who had been affected. We saw firefighters and police from other States travelling to Victoria to help out with the fighting of fires, the organisation of resources for victims and in the processing of what turned out to be in too many cases crime scenes.

Two weeks ago I caught up with a friend of mine, Danielle Green, who is a member of the Brumby Labor Government representing the seat of Yan Yean in the Victorian Legislative Assembly. Danielle is the Parliamentary Secretary for Emergency Services and is also a volunteer firefighter with the Country Fire Authority. I had not realised that Danielle's seat was the second worst affected by the bushfires. I could see the impact of the bushfires on Danielle when she spoke about the 40 friends she lost and the local communities and schools that had been totally destroyed. However, like most people affected by this tragedy, Danielle was positive that rebuilding would start to heal wounds in the local communities and that the new standards for buildings and the findings of the royal commission would ensure that the fury of nature in future would not affect communities so badly.

The debate on this motion is not and should not have been seen as an opportunity to cast blame along political lines well before there has been any formal inquiry into the bushfires. I believe that comments along those lines have cheapened and devalued the debate in this Chamber and have detracted from those members who have made a genuine contribution and who are sincere in expressing their condolences to the people of Victoria.

On 10 February 2009, the Commonwealth and Victorian governments established the Victorian Bushfire Reconstruction and Recovery Authority to oversee and coordinate the largest recovery and rebuilding program Victoria has ever faced. The authority is working with communities, businesses, charities, local councils and other government departments to help rebuild communities affected by the bushfires. Each affected community has different needs and the priority is to help regions, towns and individuals to rebuild and recover in a way that is safe, timely, efficient, cost effective and respectful of those different needs. Each and every community will be supported to help people recover and rebuild in the way they want. Community organisations and individuals that have been affected will have opportunities to have their voices heard. This is appropriate because we must recognise that all the communities affected had their own individual characteristics.

The expressions of sympathy from countries around the world and the presence of the Princess Royal, Princess Anne, at the commemoration service demonstrated the high level of support for the people of Victoria. I extend my condolences to the people affected by the fires and wish them well in facing up to and overcoming the tragedy that has befallen them and their local communities.

The Hon. CATHERINE CUSACK [5.25 p.m.]: I congratulate the Hon. Mick Veitch on this motion. I congratulate also my colleagues in this place who have expressed the depth of shock and horror that we all felt when we heard the news of what occurred in Victoria. They detailed very well the incredible scale of this disaster that has affected so many Victorians. The comments I add relate to our acknowledgement of the role played by the New South Wales National Parks and Wildlife Service, 350 of whose officers went to Victoria to provide their expertise in fighting the bushfires. I understand those officers worked more than 400 shifts; in excess of 25,000 hours of volunteer time were spent in fighting the fires.

I acknowledge the Minister for Climate Change and the Environment, Carmel Tebbutt, who held a function in this building earlier today to formally extend the thanks of the Government and the Parliament to representatives of those volunteers who went to Victoria.

Bushfires are of great significance to the New South Wales National Parks and Wildlife Service: a number of officers have been killed in back-burning operations, most recently in a tragic incident in Kempsey last year. I have met many National Parks and Wildlife Service officers throughout the months of this year that I have been representing the Opposition in the Climate Change and Environmental Sustainability portfolio and I have received some very interesting briefings on the approach to fire management in our national parks. They

are using very impressive mapping technology that makes information and fire planning accessible to all the different agencies and emergency services, which enables them to quickly comprehend often complex information and draw up strategies in difficult situations. I certainly applaud the direction they are taking. The point has been made to me on many occasions that most fires do not start in national parks; they move into national parks and devastate them. I note that the Victorian bushfire did not start in a national park.

Having said that, I understand there are issues relating to management of fuel in national parks, but more broadly on Crown land. National parks comprise only a very small part of publicly owned land in New South Wales and Victoria. I fear that sometimes generalisations are made that are perhaps not accurate in relation to management of our national parks. It is quite clear there are problems with fuel in Victoria and New South Wales, and many of those relate to adverse weather conditions. Recently in the New England area I spoke to a manager who is desperate to undertake some back-burning operations but he has not been able to do so, ironically because of rain in the region. When the rain stops it will still be a month and a half before the fuel dries out sufficiently and conditions are right for back-burning to commence.

On the other hand, some areas in the Blue Mountains have had no rain and distressed vegetation is dropping leaves and branches. In those areas, in the absence of wet weather the normal decomposition process does not occur and the build-up of fuel can be very rapid. The issues are quite complex. As the Hon. Amanda Fazio has said, an inquiry will be conducted into this tragedy, which, I am sure, will be a painful and difficult experience for many people in Victoria. As my colleagues have said, our hearts go out to them. We certainly will watch the inquiry's progress and all of us will seek to learn from it.

Anger is but one of a number of stages of grief. Finger-pointing is another stage that we all go through when we have lost a loved one, certainly in times of great disaster. I look forward to reading the report into the Victorian fires and learning from it. Our fellow Australians who pulled together so magnificently in this crisis should be used as an example for our political leaders. I will not repeat many of the comments that were made so eloquently by my colleagues about the scale and tragedy of this disaster. However, I thank the National Parks and Wildlife Service in New South Wales for the role that it played in Victoria when dangerous fires were wreaking havoc in southern New South Wales, which had similar weather conditions at that time.

The Hon. MICHAEL VEITCH [5.00 p.m.], in reply: I thank all members for their sincere and heartfelt contributions to this motion of condolence for the victims of the Black Saturday bushfires in Victoria. My colleague the Hon. Henry Tsang outlined to the House the extremely generous response of the Chinese-Australian community. The Hon. Henry Tsang informed the House that more than $1 million had been donated to the Australian Red Cross through Chinese community organisations.

A broad cross-section of the Chinese community has been involved, with more than 72 community organisations making contributions to fund-raising efforts. The Hon. Nathan Rees, Premier of New South Wales, acknowledged this enormous contribution of the Chinese community to the bushfire appeal at a reception he hosted on 16 February for the Chinese Community Service Awards. The Leader of the Opposition, the Hon. Michael Gallacher, moved an important amendment that reads as follows:

> That the motion be amended by inserting after paragraph (c):
>
> (d) in particular recognises the contribution made by the 300 New South Wales police who travelled to Victoria to assist in the investigation and provide support to their Victorian counterparts whose resources were severely tested, assisting victims as well as protecting life and property,

That amendment is accepted. I am sure we are all extremely proud of the way in which our police officers in New South Wales responded to the call for help from their Victorian counterparts. Disaster victim identification officers from the New South Wales Police Force initially provided assistance. Those officers have been undertaking the difficult and harrowing jobs of sifting through the remains of destroyed property and charred landscape to identify victims. The response from our police officers was typical of the determination of the wider community to lend a hand. I have been advised by the Minister for Police that more than 2,000 police officers responded to the call for assistance. Every one of those officers deserves our utmost admiration and heartfelt thanks. I am sure all members will join me in saying thank you and well done.

The Deputy Leader of the Opposition, the Hon. Duncan Gay, gave an example of the bipartisan manner in which all members of this Chamber worked to provide all possible support to the victims of this tragedy. The Deputy Leader of the Opposition said that in the days immediately following Black Saturday he was contacted by many farmers seeking to donate fodder to their Victorian counterparts—a remarkable display of generosity

considering the fact that New South Wales farmers are coping with tough dry times. The Deputy Leader of the Opposition explained that he had contacted the Hon. Ian Macdonald, the responsible Minister, who agreed to release a joint press release advising farmers on how and where they could donate fodder to the Victorian appeal.

It is important in times of great tragedy and supreme challenge that all parties and all members lay down their weapons and work together to alleviate suffering as expeditiously as possible. Reverend the Hon. Dr Gordon Moyes rightfully recognised the significant contribution made by Christian organisations, in particular, Wesley Mission, to disaster relief. Faith-based organisations are consistently in the front lines of battles to alleviate suffering and overcome disadvantage. Disaster relief efforts are but one small example of an overall commitment to care, for which faith-based organisations should be congratulated. My colleague the Hon. Tony Catanzariti made a particularly moving contribution to debate on this motion. He gave expression to the better angels of the Australian spirit and I know that all members of the House appreciate that sentiment.

He appealed to the practical courage of everyday Australians in his desire to see towns such as Kinglake and Narbethong rebuilt to thrive once more as a living monument to lost loved ones and never-forgotten friends. The Hon. Tony Catanzariti drew a wonderful analogy between fire readiness needs and surf life saving. Australia is a rugged and diverse landscape which presents many and varied challenges. He argued that young people in the bush can be trained to survive fires and fight fires early in life, in much the same way as coastal communities prepare young people for the dangers of the surf. Through the Nippers programs we prepare our young people for the dangers presented by the pounding waves on our shoreline. In the same way we can prepare the young people of the bush to survive and suppress flames on our parched lands.

All members appreciated that the Hon. Tony Catanzariti spoke from experience and I admire his practical declaration that everyone who elects to rebuild these communities must be trained, prepared and resourced to fight the next great fire that will come. I am sure that everyone agrees with the Hon. Tony Catanzariti's practical statement that the fight to defeat these fires begins before the first ember sparks. We must devote our energy to pre-emption and prevention. We must undertake more prescribed burning, we must improve firebreaks and fire trails, we must increase the number of strategic water reserves, and we must clear refuse, forests and towns. I was particularly moved by the following words of the Hon. Tony Catanzariti:

> I know of the great deeds of men and women who do things others insist cannot be done. I know of people who turn deserts into food bowls, who made civilisations in the shadows of volcanoes and I know that people in the mountains and forests of Victoria should and can rebuild their communities.

A number of members in this Chamber were moved by those words and inspired by the expression of the historical truth that Australians overcome and prosper despite the harshest of conditions and the direst of circumstances. I also thank the Hon. Helen Westwood, the Hon. Kayee Griffin, Mr Ian Cohen, Reverend the Hon. Fred Nile, the Hon. Christine Robertson, the Hon. Charlie Lynn, the Hon. David Clarke, the Hon. Amanda Fazio, the Hon. Catherine Cusack and the Hon. Rick Colless for their contributions to debate on this motion. The Victorian Black Saturday bushfires were an unprecedented tragedy for our nation. I am sure that all members join with me in expressing sincere condolences to those caught in the ferocious path of these fires.

We thank volunteers from the State Emergency Service, the Volunteer Rescue Association, the Royal Volunteer Coastal Patrol, along with personnel from the New South Wales Police Force, the New South Wales Rural Fire Service, the Department of Community Services and the National Parks and Wildlife Service. They have all done New South Wales proud. The people of New South Wales express their sincere condolences and stand ready to lend further assistance whenever and wherever it is needed. As the Hon. Charlie Lynn said in his contribution today, they are our unsung and unheralded heroes. I commend the condolence motion to the House.

Question—That the amendment of the Hon. Michael Gallacher be agreed to—put and resolved in the affirmative.

Amendment agreed to.

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

Motion as amended agreed to.

REAL PROPERTY AND CONVEYANCING LEGISLATION AMENDMENT BILL 2009

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.38 p.m.], on behalf of the Hon. Tony Kelly: I move:

That this bill be now read a second time.

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

Leave granted.

The Real Property and Conveyancing Legislation Amendment Bill 2009 makes a number of significant reforms in the area land law that will protect the Torrens Assurance Fund from unreasonable claims to combat identity fraud, streamline procedures for removal of abandoned easements and impose a duty on mortgagees when exercising a power of sale.

The amendments, which are the result of the Government's ongoing and continuous review of the Real Property Act and the Conveyancing Act, are aimed at ensuring the communities' continued confidence in the Torrens system of land title registration.

New South Wales has a world-class system of land title registration known as the Torrens system, which is embodied in the Real Property Act. Most privately owned land in New South Wales is held under the Torrens system the object of which is to provide certainty of title. This is achieved through provision of the Torrens Register, which records current title ownership and other interests affecting land.

All land recorded in the Register is guaranteed by the State Government as to its accuracy and completeness of title. A person who has an interest recorded in the Register can rest assured that subject to a few exceptions the interest cannot be defeated by another unregistered interest. Nor can the person's title be set aside because of some defect in the history of the title prior to the registration of the interest. This is known as the principle of indefeasibility and is the cornerstone of the Torrens system.

The Real Property Act like any other Act is subject to partial or total repeal by later legislation. Later legislation often quite unconnected to the Real Property Act can impose statutory exceptions onto a registered proprietor's otherwise indefeasible title. As a result the Register can be misleading for although the Real Property Act purports to make the Register conclusive the registered title may in fact be subject to interests that are not required to be disclosed on the Register.

In some instances this is inevitable. A person's interest in land is after all a private right that must defer to the public interest. There are occasions when certain statutory interests must take priority over private interests recorded on the Register. An example is land tax. Section 47 of the Land Tax Management Act 1956 imposes a statutory first charge on the land that has priority over all other encumbrances until the land tax is paid.

In an attempt to limit and clarify the extent of the statutory exceptions the Bill will amend s42 the "key" section of the Real Property Act which establishes the features if indefeasibility. The amendment provides that s42 is to prevail over any inconsistent provision of any other Act or law unless the inconsistent provision provides otherwise.

During preparation of the Bill the Department of Lands undertook a review of New South Wales legislation to identify any existing provisions that could potentially impact on the principle of indefeasibility. An amendment is to be made to those Acts that are intended to create unrecorded statutory interests in land to confirm that the provisions of the identified Act will override section 42 of the Real Property Act 1900. Around 20 Acts have been identified as requiring amendment. These Acts, which include the Land Tax Management Act and the Local Government Act, are set out in Schedule 3 to the Bill.

This amendment is necessary to protect the Torrens system of land title and the billions of dollars of land transactions that occur every year in reliance upon the security of the Torrens system.

I will now move on to the most significant amendment this Bill proposes to make to the Real Property Act and that is the section that deals with mortgages. As members of the House may be aware identity fraud is one of the fastest-growing crimes in Australia and costs the Australian community billions of dollars every year. Protecting the community from identity fraud is an important task that I take seriously.

The Department has been involved in an increasing number of claims for compensation relating to mortgage fraud involving what appears to be a lack of due diligence by some lenders in verifying the identity of borrowers.

While the Torrens Assurance Fund may be available to compensate innocent landowners who are the victims of a fraudulent mortgage it is preferable if the fraudulent mortgage can be avoided in the first place. The mortgagee who is dealing directly with the fraudster has the best opportunity to prevent a fraud. The amendments this Bill proposes are intended to encourage due diligence in mortgagees' loan approval practices.

The majority of cases of fraudulent mortgages in which the Registrar General has been involved are with those mortgages that are commonly known as "low-doc" loans. These loans are usually offered by lenders of "last resort" who lend at excessively high interest rates. Usually these type of loans are not covered by the consumer credit code and in many cases the lender has not performed due diligence. Disturbingly it appears that the value of the property to be used as security for the loan is usually the only qualifying requirement for a low-doc loan to be granted.

The nature of these loans I have described presents a perfect opportunity for a fraudster to perpetrate their crime and the Department has many examples of claims of compensation based on these types of loans.

For example a few years ago the Department was involved in a claim for compensation made by elderly property owners whose title was encumbered by registration of a mortgage they did not sign and knew nothing about. The property owner's son together with an accomplice obtained a loan of $750,000 at upwards of 12.5 per cent interest per month and pretending to be the owners of the property purported to give a mortgage over it as security for this loan. The lender appears to have done little or nothing to confirm that the borrowers were the persons recorded in the freehold land register as the owners of the then unencumbered property and to also verify that the borrowers were able to service the loan. It appeared that the value of the property alone (valued at over one million dollars) was enough to satisfy the grant of the loan. Soon the borrowers defaulted on the loan and it was only when the mortgagee came to exercise its power of sale that the true owners found out that there was a mortgage registered on their title. The fraudster was apprehended and was sent to jail but in the end the Torrens Assurance Fund had to compensate not only the owners but also other parties that were affected by the fraud. This included paying the lender's legal costs. This claim resulted in payment in excess of two million dollars from the Torrens Assurance Fund.

As this example indicates there is clearly potential for our State to be liable for payment of large amounts of compensation for fraud. Questionable lending practices or wilful disregard of matters which might raise doubts in a prudent person's mind unfortunately do not currently disentitle a lender from recovering its loss under the Real Property Act 1900.

This Bill proposes to amend the Real Property Act 1900 to require mortgagees that is the lenders to take reasonable steps to confirm the identity of the mortgagor that is the borrowers before presenting a mortgage for lodgement and registration. If the mortgagee fails to comply with the requirement to confirm the identity of the mortgagor and the execution of the mortgage involved fraud against the registered proprietor of the mortgaged land the Registrar General may cancel any recording in the Register with respect to the mortgage.

The reasonable standard required to be taken by mortgagees for identification under the proposed amendments will be established by the guideline to be known as the 'Registrar-General Directions'. In most cases the reasonable standard will at minimum be the equivalent to the '100 point check' that is common to financial institutions. The Registrar-General's Directions is intended to be available on the Department's website.

It will also be necessary for the mortgagee to keep a written record of the steps taken to comply with this requirement and a copy of any associated documents. The Registrar General may require the mortgagee to answer questions and produce documents in determining whether or not the mortgagee has complied with their obligation to verify the identity of the borrower. If a mortgagee refuses to comply with a request of this nature the Registrar General will have the power to either put a notation on the title to alert anyone dealing with the property that the mortgagee has not complied with the requirement to verify the identity of the borrower or if the mortgage has not yet been registered to refuse to accept the mortgage for lodgement.

Further the Registrar General will have the power to cancel any recording of a mortgage if the mortgagee has failed to comply with the Registrar Generals' request to answer questions or provide documentation and the Registrar General considers that the mortgage is fraudulent. The Registrar General will notify the mortgagee of its intended action before it cancels the recording and to anyone who the Registrar General thinks appropriate. A mortgagee whose mortgage has been cancelled under these provisions will not have any recourse to compensation from the Torrens Assurance Fund. In addition this Bill proposes to amend the Real Property Act 1900 to give power to the Registrar General to rectify the Register where a person has been deprived of an estate or interest in land as a result of fraud.

The principle of indefeasibility is the lynchpin of the Torrens System. These amendments will prevent unscrupulous lenders from relying on and benefiting from the very feature of the Torrens system, which is intended to provide security of title for people holding property interests in New South Wales. I assure the community that this amendment should have little or no impact on lenders who already undertake reasonable due diligence measures as part of their normal lending practice.

In order to further limit the opportunity for identity fraud to occur this Bill proposes to place stricter obligations on persons acting as a witness in signing documents relating to land. The attesting witness plays an important part in the prevention of fraud in property dealings and should take care in providing what is essentially a reference as to the identity of the party. A witness who falsely or negligently certifies the identity of a party to a dealing to the Registrar General may be held accountable both to the Registrar General and to the landowner where loss occurs as a result of a fraudulent or negligent certification.

In a recent case that the Registrar General was involved in a Justice of the Peace attested to both the mortgage and a statutory declaration by impostors posing as the landowners of a property. The witness neither knew the signatories nor made any effort to check their identity relying solely on an introduction at the time she was asked to attest their signatures. It turned out that the person who made the introduction was the perpetrator of the fraud and the persons introduced as the landowners were impostors. Unfortunately the true landowners who had no knowledge of the fraudulent transaction became victims of a property fraud, which resulted in a mortgage being recorded against their land.

The Court found that the witness had not given a false certificate under section 117 of the Act as she had no reason to suspect the introduction by a person whom she did know.

In order to limit the opportunities for identity fraud it is proposed to clarify the obligation on attesting witnesses to specifically provide that a person who witnesses an instrument executed by an individual must have either known the person for at least twelve months or taken reasonable steps to identify the person signing. The reasonable steps will be the same steps that mortgagees will require to identify mortgagors as I have previously explained.

The Registrar General may refuse to register any dealing that does not bear a certificate by the attesting witness or where in the circumstances it appears that the certificate is false.

This Bill also amends the Real Property Act 1900 to address the issue of excessively high interest rates that are applied to some of the low-doc loans that have subsequently been shown to be fraudulent. As I have mentioned previously the Department has noted some of the exorbitant interest rates some in the vicinity of 20 per cent and at time upwards of 60 per cent.

Cases of mortgage fraud usually result in default in payment since the fraudsters never have any intention of repaying the loan. At this time the lender who has now registered his mortgage wishes to exercise his right to sell the property to recover the money owing. However this money includes interest at rates well above the standard interest rate and since there has been no fraud by the mortgagee this interest is indefeasible. The usual consequence of this is that the Torrens Assurance Fund is liable to pay the principal and the interest.

In this regard this Bill proposes to amend the Real Property Act 1900 to limit the amount of compensation in particular the interest and costs component of a claim payable by the Torrens Assurance Fund in respect of a mortgage obtained by fraud. The limit will be 20 per cent above the interest rate charged on most loans by reputable lenders in Australia.

This amendment will benefit the landowner who is a victim of the fraud and who wants to retain ownership of the property in most cases because it is the family residence. The mortgagee will not be able to recover interest at exorbitant rates by exercising its power of sale and the landowner will be able to negotiate with the mortgagee to obtain a discharge of the mortgage in exchange for the amount of compensation to which he or she is entitled.

I briefly touched upon the Torrens Assurance Fund when explaining compensation. The Torrens Assurance Fund has always been an integral part of the Torrens system. The purpose of the Fund is to compensate persons who without any fault on their part have been deprived of their property. There are a number of amendments that this Bill makes to the Real Property Act 1900 in regards to the Torrens Assurance Fund by excluding certain claims. As you will see these amendments will strengthen the Fund and allow it to operate as it was intended.

The first of these amendments that the Bill makes to the Real Property Act 1900 is to provide that any claim for compensation is limited to the market value of the land plus any legal valuation or other professional costs. There have been instances where a claim for compensation by a developer included future economic loss, insurance costs and depreciation costs of cars. The amendments contained in this Bill will make it very clear that these types of claims are not claimable under the Torrens Assurance Fund.

In this regard the Bill also makes amendment to the Real Property Act 1900 to make it clear that compensation payable from the Torrens Assurance Fund does not extend to compensation for personal injury. There have been instances where a claimant has sought compensation for nervous shock and emotional stress against items that are not compensable under the Torrens Assurance Fund.

The Bill also proposes to amend the Real Property Act 1900 to make it clear that proceedings for compensation for loss or damage suffered as a result of the operation of the Real Property Act 1900 are to be commenced in the Supreme Court rather than any court of competent jurisdiction which is the case at the moment and such proceedings may only be taken against the person whose acts or omissions have given rise to the loss or damage claimed in the proceedings or the Registrar General. This amendment seeks to address the situation where a claimant sought to double its chances of recovering compensation against the State of New South Wales and perhaps to side step the many provisions of the Real Property Act that were not to its advantage by the additional claim against the State.

It also proposed to introduce amendments to the Real Property Act 1900 regarding information brokers. An information broker is a person who has entered into an agreement with the Registrar General to make information in the Register available to the public. Given that the State guarantees interests recorded in the Register any information from the Register that is inaccurate or false can entitle a person to a compensation claim if loss or damage occurs as a result of error in the Register. It is important that any information in the Register is reported accurately. To this end the Bill will add a provision to the Real Property Act 1900 to make it clear that compensation is not payable from the Torrens Assurance Fund in respect of loss or damage that is a consequence of any fraudulent, wilful or negligent act or omission by any information broker.

The Bill proposes to amend the Real Property Act 1900 to provide that compensation is not payable where the loss or damage arises from the execution of an instrument by an attorney (under a power of attorney) acting contrary to or outside of the authority conferred on him or her by the power of attorney. The Act already expressly excludes liability for acts by trustees and further to this the Bill adds a provision in the Real Property Act 1900 to the effect. This amendment is intended to protect the Torrens Assurance Fund from claims against victims of unscrupulous attorneys who abuse their position and act outside of their powers and of the best interest of the principal.

Compensation for loss or damage in land through the actions of an attorney should be taken in the appropriate manner that is provided for under the Powers of Attorney Act 2003 that is in either the Supreme Court or the Guardianship Tribunal.

The Bill also proposes to amend the Real Property Act 1900 to provide that no compensation is payable where the loss or damage arises from the recording of a Registrar General's caveat or the removal of such a caveat by the Registrar General. As the State guarantees recordings in the Register it is important that where there is a doubt raised concerning the validity or authenticity of any transaction with land or a genuine fear exists that land may be the subject of an unauthorised transaction that the Registrar General has a means of preserving the Register in its current form while any doubts are resolved.

The Bill also proposes amendments to the Real Property Act 1900 to provide that no compensation is payable where the loss or damage is the result of an easement not being recorded in the Register (except where the easement is not recorded in the Register due to an error of the Registrar General); no compensation is payable where the loss or damage arises from the improper exercise of a power of sale and where the loss or damage arises from the operation of section 129 of the Corporations Act 2001 of the Commonwealth.

In addition to the amendments designed to protect the Torrens Assurance Fund the Bill proposes to amend the Real Property Act 1900 in regards of the obligations of a person making a claim of compensation for loss or damage. Currently a claim for compensation may be made on an administrative basis and are intended to resolve claims without the need for the parties to go to

court saving time and costs. To better this object the claimant is required to cooperate fully with the Registrar General and provide sufficient information so as to allow the Registrar General to assess the validity of the claim and to make an informed offer of compensation.

In many cases the obligation placed on claimants by the Act has not been sufficient to ensure compliance to allow the claim to be dealt with expeditiously. Therefore the Bill proposes to amend the Real Property Act 1900 to provide that the person making a claim must provide information to the Registrar General which he may require to enable the assessment of all aspects of the claim. A person making a claim may be required by the Registrar General to verify any information he or she has given by way of statutory declaration. The Registrar General will have the power to refuse a persons claim of compensation if this requirement is not met after a period of notice being two months.

The Bill proposes to amend the Real Property Act 1900 to provide that penalties may be imposed by the Supreme Court on the claimant if court proceedings are commenced by the claimant following a refusal of the administrative claim by the Registrar General. This is designed to ensure compliance with the Registrar General's request to the person making a claim to provide information and not to sidestep the administrative claim process.

These same penalties will also apply in instances where a claimant fails to cooperate fully with the Registrar General where court proceedings are commenced by the claimant with the leave of the court or the consent of the Registrar General under section 132 (2).

The Bill also proposes to amend the Real Property Act 1900 to make it clear that court proceedings for the recovery of compensation from the Torrens Assurance Fund may only be commenced if the administrative proceedings have been commenced and determined or by leave of the court or with the consent of the Registrar General. If court proceedings are commenced following the determination of administrative proceedings the court proceedings must be commenced within three months of the date of the determination (rather than the current time period of 12 months).

The Bill proposes to make some amendments to the Real Property Act 1900 regarding the Registrar General's right of subrogation. It is proposed to amend the Act to make it clear that the Registrar General may also claim against any person against whom the compensated person would have a claim in relation to the loss and not just persons who caused or contributed to the fraud. This includes for example claims in negligence claims pursuant to any contractual indemnity and claims on insurance. This Bill will amend the Act to allow the Registrar General to recover any payment of compensation from a claimant who has received a further payment on account of the compensable loss from another source. This provision ensures that a person who has suffered loss does not double dip and receives only what he or she is entitled to.

The last of the amendments that this Bill makes to claims for compensation are claims relating to easements. In general terms an easement may be described as a right belonging to a parcel of land for the owner of that parcel to use a parcel of land owned by someone else. A common example of easements is for drainage sewerage and transmission lines.

I spoke previously about indefeasibility of title and that the interests recorded on a person's title is conclusive. There are exceptions however and easements are one of the exceptions to indefeasibility and always have been. As a result the Torrens Assurance Fund has been subject to claims for compensation for loss because the Register did not disclose the existence of an easement affecting a person's title.

The Bill proposes to amend the Real Property Act 1900 to provide that the Torrens Assurance Fund is not liable for easements that are not recorded in the Register unless the easement is not recorded due to an error caused by the Registrar General. The error of the Registrar General in not recording an easement in the Register however does not extend to a failure to make searches or inquiries as to the existence of any easement in relation to the creation of a qualified folio of the Register.

Finally the Bill proposes to amend the Real Property Act 1900 to bar any claims for compensation relating to abandoned easements in situations where the person making the claim had notice that the Registrar General intends to cancel a recording of the easement and did not lodge a caveat to prevent the easement from being cancelled. Under the Act an easement is considered to be abandoned where it has not been used for at least twenty years.

The amendments proposed by this Bill are not designed to make a claim of compensation on the Torrens Assurance Fund more difficult; on the contrary these new measures will ensure that the Torrens Assurance Fund is available to those persons who have legitimately through no fault of their own been deprived of land due to the workings of the Torrens system. The proposed amendments will protect and benefit landowners in New South Wales in the ways I have explained and will also minimise the State's exposure to claims for compensation that are not within the spirit of which the Fund was designed for.

Conveyancing Act 1919

I now move on to the amendments that this Bill makes to the Conveyancing Act 1919, another important piece of legislation affecting land in New South Wales. This Act deals with the general law of property and simplifies and improves the practice of conveyancing.

The first of these amendments that this Bill proposes to make to the Conveyancing Act 1919 is to clarify the standard of care owed by a mortgagee who exercises its power of sale over real estate.

When a borrower defaults under a mortgage the lender can step in and sell the mortgaged property in an effort to recover the money owed. There is a concern in the community that lenders do not always take steps to achieve the highest possible sale price. Rather the temptation exists for lenders to look after their own interests and sell the property at a price that merely ensures that their debt is covered but which may be below market price.

The Bill therefore proposes to impose a duty of care on mortgagees and chargees when exercising a power of sale in respect of mortgaged or charged land requiring the mortgagee to take all reasonable care to ensure that the property is sold for not less than

its market value at the time of the sale. The proposed amendment will be similar to a provision in the Commonwealth Corporations Act which requires that where property of a corporation is sold by a "controller" (defined to include a mortgagee) the controller must take all reasonable to care to sell the property for not less than the market price.

The Bill proposes to amend the section of the Conveyancing Act 1919 that deals with abandoned easements. As I have previously explained easements that have not been used for at least 20 years may be considered to be abandoned. Under section 49 of the Real Property Act 1900 a person may apply to have the easement be removed from the Register if it can be proven that the easement is abandoned. As it has proven almost impossible to establish abandonment according to the complex rules that apply at common law this provision provides a simplified statutory basis for abandonment of easements. As such the provision allows a practical means of removing from the register notifications of easements that are no longer relevant to the land.

However should someone dispute an application to the Registrar General for abandonment of easement then this issue is dealt with by the Supreme Court under section 89 of the Conveyancing Act 1919 and not section 49 of the Real Property Act 1900. In the small number of cases that have been litigated under section 89 of the Conveyancing Act 1919 it has become apparent that there is a conflict between section 49 of the Real Property Act and section 89 of the Conveyancing Act 1919.

In adjudicating on a disputed application for abandonment of easement the Supreme Court under section 89 of the Conveyancing Act 1919 applies the common law rules of abandonment that require an applicant to establish that the owner of the easement "intended" to abandon the easement. The difficulties in supplying such evidence to the Court make it almost impossible for an applicant seeking abandonment to succeed. This difficulty was part of the reason for the introduction of the objective test of 20 years non-use that is applied in section 49.

Accordingly it is also proposed to remove the inconsistency between the two sections by providing that the Court may apply the same criteria as that applied by the Registrar General under section 49 of the Real Property Act. This may be achieved by providing in section 89 of the Conveyancing Act 1900 that where an application is made to the Court for an order extinguishing an easement abandonment may be inferred if the Court is satisfied that the easement has not been used for at least 20 years.

Finally the Bill makes some amendments by way of statute law revision. It clarifies various points concerning the Torrens Assurance Fund and also replaces some outdated references to the Legal Profession Act 1987 and repeals the Land Agents Act 1927.

Although lengthy the Bill contains a variety of provisions that are long overdue and are designed to make land administration more effective and less expensive.

I commend the Bill to the House.

The Hon. GREG PEARCE [5.39 p.m.]: The Opposition will not oppose the Real Property and Conveyancing Legislation Amendment Bill 2009. The bill makes a number of changes to the State's property laws in order to reinforce and streamline some property principles, and also partially address the problem of fraudulent dealings with titles. A considerable number of amendments are designed to protect the Torrens Assurance Fund from these fraudulent claims. The bill also picks up the Coalition's 2001 initiative by the member for Ballina, Don Page, to legislate to further protect homeowners from unscrupulous mortgagees when exercising their power of sale. The majority of the State's first privately owned land is held under the Torrens Title system pursuant to the Real Property Act. This system is based upon registration of titles, which is effectively guaranteed by the State and is known as indefeasibility of title. In short, members of the public can rely upon the details of land ownership and encumbrances as recorded in the State-run Land Titles Register.

Over time attempts have been made to establish exceptions to the title system and the State Government has been one of the most regular transgressors by passing various legislation that overrides the Torrens system. The example used in the Minister's speech is the Land Tax Act, which creates a charge over land or unpaid land tax that does not appear on the register. The Government has identified about 20 Acts that have this effect and the bill sets up a new process that requires that if an Act is intended to override the Torrens system, it must state that it is doing precisely that. For some years fraud has been a growing problem through mortgages taken out over property when the owners, for various reasons, do not realise their property is being used in that manner. Typically, fraudsters either have had possession of a clear title, sometimes as an attorney or even the son or daughter of the real owner, or have obtained a replacement title claiming that the original has been lost and then have used the title to raise a mortgage.

Often the first knowledge innocent owners have of the fraud has been when the mortgagee exercises its power to sell the property. As part of the Torrens system the Torrens Assurance Fund has been used to compensate innocent landholders, some of whom are victims of fraudulent mortgages. This bill is well and truly overdue and attempts to address that problem by tightening up the requirements on mortgagees to actually verify the identity of the borrower, similar to the process followed by banks; giving the Registrar General increased powers to test the veracity of the documents lodged and to deal with suspected irregularities; and tightening up the requirements on witnesses to documents to actually know the person signing or to have conducted a proper check. The bill goes to some lengths also to tighten up the availability of compensation from the Torrens Assurance Fund and to permit the fund or the Registrar General to seek reimbursement from fraudsters.

The bill makes amendments also to the Conveyancing Act by codifying or making more certain those provisions dealing with abandoned easements, and by some further procedural amendments about the requirements for conversion of Crown land to Torrens Title. As I have indicated, the bill also picks up the political concern about the fairness and proper conduct of mortgagees in exercising their power of sale. This matter was raised in legislation introduced by the member for Ballina in 2000. The amendment in this bill requires that the mortgagee who exercises its power of sale over real estate takes all reasonable care to ensure that the property is sold for not less than its market value. This probably is not much of an enhancement over the common law and all sorts of issues arise as to how one actually establishes market value; however, it is a useful codification of the law and is well overdue.

The bill has been the subject of comment, particularly by the Law Society of New South Wales. I am grateful to the Law Society and its property law committee for examining the bill. Of course, its first concern was the lack of consultation. Some of these problems and issues have existed for a long time and it is hard to understand why the Government could not have engaged in sensible consultation with professional organisations and members of the public regarding some of these long overdue concerns. The key concerns expressed by the Law Society relate to the indefeasibility of title and the Torrens Assurance Fund. In particular, the society is concerned that amendments to the provisions dealing with the fund have been proposed by the Department of Lands through its land and property information division, which, in fact, is the division responsible for deciding on claims to the fund.

The society has suggested that the matter should be referred to an independent body for review before the legislative change is enacted. I shall not go through the lengthy submission of the Law Society as it has been forwarded to the Minister. However, in relation to indefeasibility of title the Law Society suggests that the Real Property Act should identify those provisions that override or impinge on indefeasibility—not a silly suggestion. My earlier comments about the Torrens Assurance Fund are similar to those of the Law Society. The Law Society asks whether the Government has considered harmonisation issues and gives examples from Victoria and Queensland. The Australian Property Institute also made submissions to the Minister. This professional association represents real estate valuers in New South Wales and its major concerns relate to establishing market value, which I mentioned earlier.

The institute is concerned also about amendments to the Conveyancing Act that require a mortgagee to take reasonable care to ensure that the land is sold for not less than market value. Given that the amendments apply also to agents appointed by a mortgagee, the institute's concern is that its members could be caught up and unwittingly assume responsibility for obligations of the mortgagee regarding the need to exercise that reasonable care. The Property Council also has concerns about the increasing costs that may be incurred in meeting some of the requirements of this legislation when it is passed. The Opposition will not oppose the bill. These issues have been around for a long time. It does not reflect well on the Government that it has taken such a long time to deal with them and has not undertaken a proper consultation process.

The Hon. JOHN AJAKA [5.46 p.m.]: I concur with the comments of my colleague the shadow Minister for Finance, the Hon. Greg Pearce. I shall focus my contribution to this debate on three key aspects of the Real Property and Conveyancing Legislation Amendment Bill 2009. First, the so-called reaffirmation of the principle of indefeasibility of title as contained in section 42 of the Real Property Act; second, the introduction of additional identification requirements to the Real Property Act in relation to mortgagees and witnesses; and, third, the requirement that a mortgagee or chargee, in exercising a power of sale in respect of mortgaged or charged land, take reasonable care to ensure that the land is sold for not less than its market value. At the outset I note that this bill received significant attention at the recent biennial Australasian Property Law Teachers' Conference, hosted by the University of New South Wales.

I extend my sincere thanks to Associate Professor Brendan Edgeworth, Head of School at the university's School of Law, and Dr Lyria Bennett Moses, Senior Lecturer at the university's School of Law, who have corresponded with my office and kindly lent their expertise to the debate on this bill by preparing a submission on the proposed reforms. Their insightful comments and overview of conference delegates set out the likely consequences of this bill, and their submission has been invaluable in my contribution to this debate. Turning first to the matter of the reaffirmation of the indefeasibility of title, new section 42 (3) states:

> This section prevails over any inconsistent provision of any other Act or law unless the inconsistent provision expressly provides that it is to have effect despite anything contained in this section.

In their submission, Associate Professor Edgeworth and Dr Bennett Moses question the effectiveness of this provision, first, in achieving its purpose of strengthening indefeasibility of title; second, in guiding statutory

interpretation of overriding statutes; and third, in restricting the purview of its operation to prevent unintended overreach. I found their analysis of great assistance in understanding the practical consequences of the provision in light of current trends of statutory interpretation. The submission first makes the point that parliamentary sovereignty itself frustrates the stated purpose of new section 42 (3), in the sense that "It will still be open to a later Legislature to repeal even impliedly this provision", applying the reasoning of the High Court in *South-Eastern Drainage Board (SA) v Savings Bank of South Australia*.

That case concerned on the one hand the contest between section 6 of the South Australian Real Property Act 1886, which is couched in similar terms to new section 42 (3), and certain sections of the South Australian Eastern Drainage Amendment Act 1900 and the South Australian South-Eastern Drainage Act 1926 on the other which contained no express override provisions, yet provided for first charges on the land for drainage construction costs incurred by the drainage board. The later Acts were held to be inconsistent with the earlier Real Property Act and the specified override formula required by section 6 of that Act was held not to be the sole determinant of whether the requisite intent to repeal the earlier Act had been sufficiently expressed in the later Acts. As the Edgeworth-Bennett Moses submission notes:

> The Acts were construed by the Court in broad terms, not simply by examining a small number of relevant provisions, but by looking at the overall character of the legislation, [which demonstrated a clear intention to apply to all land, including Torrens title].

The judgement of His Honour Justice Dixon is indicative of the approach that would likely be taken in interpreting the effect of new section 42 (3):

> … if the later enactment contains clear language from which it is plain that its provisions were intended to apply in a manner inconsistent with the Real Property Act, then they must operate according to their meaning. For the later enactment of the Legislature must be given effect at the expense of the former.

This reasoning has since been adopted in many cases, including, by way of illustration, *Pratten v Warringah Shire Council* and *Quach v Marrickville Council (No 2)*, which concerned a statute providing that title to land shown on the folio as a drainage reserve was vested in the local council. In Pratten, Justice Street concluded that the indefeasibility provisions of the Real Property Act had to give way to the clear terms of the later Act to the extent of the inconsistency. In Quach, Justice Young held that Quach's title to the land in question, which had been acquired by adverse possession, was subject to the rights of easement in respect of the council's drainage pipe. In so holding, his Honour stated that the overriding statutes represent "the weakest point in the Torrens system", in the sense that they are effective without being recorded in the title register and impose a significant burden on prospective purchasers.

On this point, I note that amendments have since been made to the New South Wales Conveyancing Act 1919 to require authorities resuming land to notify the Registrar General, to ensure that resumptions are recorded on the register. The clear consequence of this authority is that Torrens statutes can be repealed, in totality or in part, by later statutes that contain an express or implied intention to do so. It follows that a later statute can effect an implied repeal pro tanto of the indefeasibility provisions in the New South Wales Real Property Act 1900 without necessarily having to import the terms required by new section 42 (3). The Edgeworth-Bennett Moses submission further argues that new section 42 (3) is redundant in light of:

> The effect of a trio of decisions [of the New South Wales Court of Appeal *Kogarah Council v Golden Paradise; City of Canada Bay v Bonaccorso* and *Koompahtoo v KLALC13*—inspired by the earlier High Court decision in *Hillpalm v Heaven's Door*] [which] have given prominence to a principle of statutory interpretation that will make it much more difficult in future for legislation to override the Real Property Act. If a later provision is not expressed in terms that specifically provide that registration of prohibited transactions will have no effect on their status, it will not override. As the Court of Appeal in Bonaccorso emphasised, the authorities indicate that "a very high bar has been established for determining whether there had been an implied repeal". In particular, "[t]he authorities are clear that a court should read statutes together if it possibly can."

Bonaccorso concerned a conflict between section 45 (1) of the Local Government Act, which made community title inalienable by councils, and the Torrens indefeasibility provisions. The court read these statutes together by having each operate sequentially. That is, section 45 (1) operated until registration and the indefeasibility provisions prevailed thereafter. In *Kogarah Council v Golden Paradise*, the court read section 45 (1) narrowly so that the restrictions on the transfer of community land could be enforced against the council in personam, but could not be enforced against the transferee—an analysis that avoided any inconsistency between section 45 (1) and the Torrens indefeasibility provision.

This line of authority essentially means that where a rating statute imposes a charge on land but fails to provide expressly that that charge will endure beyond registration in favour of a non-fraudulent purchaser, it will

be enforceable against the present registered proprietor, but not the next. The statutes therefore can stand together and new section 42 (3) will play no role. I also note the possibility that unintended consequences may flow from the enactment of new section 42 (3). It may have the effect of repealing earlier Acts that the drafters intended to prevail over the Real Property Act to the extent of any inconsistency. As Associate Professor Edgeworth and Dr Bennett Moses have indicated, the impact of the proposed changes on the relationship between the Real Property Act and the Conveyancing Act is largely uncharted territory.

Turning now to the introduction of additional identification requirements to the Real Property Act, I point out that new section 56C requires mortgagees to take reasonable steps to confirm the identity of the mortgagor before presenting a mortgage for lodgement. The mortgagee must keep a written record of the steps taken to comply with this requirement. The Registrar General may require the mortgagee to answer questions and produce documents in monitoring compliance with the new section 56C requirements. If the mortgagee fails to comply with the requirement to confirm the identity of the mortgagor, and the execution of the mortgage involves fraud against the registered proprietor of the mortgaged land, the Registrar General may cancel any recording in the register with respect to the mortgage.

Actual or constructive notice that the mortgagor was not the same person as the person who was, or was about to become, the registered proprietor of the land in question is sufficient to engage the cancellation powers. These proposed new cancellation powers effectively will act as a de facto exception to indefeasibility of title upon registration to address complications arising from the current legislation. I am informed that there is generally strong support for this amendment in the hope that it will tighten up lending practices and afford a greater level of protection to honest homeowners, many of whom, in the past, have been fraudulently deprived of title to their property due to loose mortgage lodgement practices.

Turning finally to the reasonable care standard to be imposed on a mortgagee or chargee who is exercising a power of sale under the New South Wales Conveyancing Act 1919, I would like to acknowledge the commitment of the member for Ballina, Don Page, in his hard-fought struggle to provide landowners a greater level of protection from unscrupulous mortgagees—a struggle from which, it seems, new section 111A is ultimately derived. I also share the disappointment, expressed by many of my colleagues, that the Labor Government does not share his commitment to protecting the property rights of the people of New South Wales. That Don Page's proposals were shelved by the Labor Government over a period of some eight years, only to be rebirthed at a time deemed more politically opportune, is rather unfortunate though not at all surprising.

I note that members who have spoken during debate on this bill have expressed some uncertainty and concern over the practical operation of the reasonable care standard. In seeking to elaborate on the content of the new section 111A standard, it may be of some assistance to consider the standards at common law to which the courts have held mortgagees exercising their power of sale. I found the High Court jurisprudence to be particularly informative on this point. The joint judgement of their honours Chief Justice Griffith and Justices Barton and O'Connor in the case of *Barnes v Queensland National Bank Ltd* adopted Lord Herschell's good faith formulation in holding that:

> … if [the mortgagee] wilfully and recklessly deals with the property in such a manner that the interests of the mortgagor are sacrificed, we should say that he had not been exercising his power of sale in good faith.

Different standards appear to have been adopted in the separate judgements delivered in the case of *Pendlebury v Colonial Mutual Life Assurance Society Ltd.* For instance, a "reasonable steps" standard was adopted by Justice Barton, who held:

> [The mortgagee] is bound to sell fairly, and to take reasonable steps to obtain a proper price; but he may proceed to a forced sale for the purpose of paying the mortgage debt if in exercise of his power [the mortgagee] acts bona fide and takes reasonable precautions to obtain a proper price

By contrast, Chief Justice Griffith applied a good faith test, holding:

> … in the case of a sale by a mortgagee, if he omits to take obvious precautions to ensure a fair price, and the facts show that he was absolutely careless whether a fair price was obtained or not, his conduct is reckless and he does not act in good faith.

Justice Isaacs also applied a good faith test, emphasising that the mortgagee's power of sale is inherently adverse to the interests of the mortgagor, and noted:

> … to make [the mortgagee] answerable for mere carelessness in realisation, however anxious to act fairly by the mortgagor, is placing the standard too high, and would not only be cutting across principles, but would become a serious impediment to, and, by recoil, impose a heavy burden upon, needy borrowers.

The good faith formulation was also applied in the case of *Latec Investments Ltd v Hotel Terrigal Pty Ltd (in liq)* in which Justice Kitto stated:

> Good faith ... in the eyes of a court of equity is essential to the validity of a mortgagee's sale on the principles discussed in such cases as *Kennedy v De Trafford (1897) AC 180*; *Barns v Queensland National Bank Ltd (1906) 3 CLR 925* and *Pendlebury v Colonial Mutual Life Assurance Society Ltd (1912) 13 CLR 676.*

Further, Justice Menzies, in the case of *Forsyth v Blundell*, held:

> To take reasonable precautions to obtain a proper price is but a part of the duty to act in good faith. This duty to act in good faith falls far short of the Golden Rule and permits a mortgagee to sell mortgaged property on terms which, as a shrewd property owner, he would be likely to refuse if the property were his own.

The thrust of the authority therefore indicates that it may be the case that the standard imposed by new section 111A will be read in accordance with the broader duty to act in good faith. I again thank Associate Professor Edgeworth and Dr Bennett Moses for their assistance and valuable contribution to the debate on this bill. I trust that their submission will be given all due consideration by the Department of Lands. I again acknowledge the hard work of the member for Ballina, Don Page, and the many other stakeholders whose views the Labor Government has now claimed credit for under the guise of legislative review.

Reverend the Hon. FRED NILE [6.00 p.m.]: The Christian Democratic Party supports the Real Property and Conveyancing Legislation Amendment Bill 2009, which includes a number of reforms in the area of land law. The key points include changes to the Torrens Assurance Fund, which is maintained by the Registrar General and used to pay compensation to anyone who suffers loss through a fraudulent or erroneous registration in the Torrens Register. The fund is the guarantee that underpins the Torrens system and ensures public confidence in the register. A number of recent cases have highlighted some deficiencies in the legislation, which has led to spurious claims being made against the fund and excessive amounts being paid from the fund for interest and costs. Those problems have been rectified in the legislation.

I will focus on one important aspect of the bill, that is, responsibility for the mortgagee's power of sale. The bill will impose a duty on a mortgagee, when exercising a power of sale, to take all reasonable steps to sell the land for not less than the market value. In the current economic situation people cannot meet their payments so banks are repossessing their properties. Normally the bank forces the owner to leave the property forthwith. As a result, in Sydney and overseas, particularly in the United States of America, repossessed properties have been allowed to be vandalised; indeed, the gardens and other aspects of properties have not been maintained to a standard as high as that of the original owners.

This amendment is a step in the right direction. I urge the Government to consider—I understand that it will be possible in the regulations—providing a concession whereby an owner is allowed to remain in the property as long as they take reasonable steps to maintain the house in A-1 condition. Obviously if the owner remained in the house they would have to pay a commercial rent, but only on the basis that they agree to maintain the house and property in A-1 condition. What would be the value of that? First, the bank would get a better price for the property. Often banks are not concerned about getting a top price as long as they get back the value of the loan. However, I believe it is in the bank's interest, from a moral point of view, to get the best price for the property. Of course, if the proceeds from the sale more than cover the loan, the owner would receive a payment from the sale proceeds. Also, if steps were taken to maintain the property in A-1 condition, the property would achieve a higher price.

Only last week there was a documentary about the thousands of homes being repossessed in the United States of America because of the collapse of the housing market there. In one case a home was vandalised and then sold for $1. The bank wrote off the debt; it did not want to pay rates and other costs for the property, so it simply put a sign on the front of a house stating "For sale $1". The owner got nothing, particularly as the property had been vandalised. If the owner had been allowed to stay in the house they could have protected it from vandalism and maintained the property in good condition. Of course, if the owner remained in the house after the bank repossessed it, they would have to agree to leave when asked to do so. The bank may be afraid that the owner will not leave the home when the sale is finalised so it would have to be part of the agreement. I believe that would be a positive step to help consumers in this State, and I urge the Government to give serious consideration to it.

Ms SYLVIA HALE [6.05 p.m.]: The purpose of the Real Property and Conveyancing Legislation Amendment Bill 2009 is to reaffirm the principle of indefeasibility of title as contained in section 42 of the Real Property Act 1900; to facilitate the removal of abandoned easements; to introduce additional identification

requirements to the Real Property Act 1900 in relation to mortgagees and witnesses; to limit the amounts recoverable from the Torrens Assurance Fund [TAF] and the circumstances in which compensation will be available and make other miscellaneous amendments in respect of compensation, the Torrens Assurance Fund, the obligations placed on claimants and subrogation rights; to amend the Conveyancing Act 1919 to provide a further exception to the requirement that certain transactions refer to lots shown on a current plan to facilitate the conversion of Crown land to Torrens title as part of a Crown title conversion project; and, finally, to require a mortgagee or chargee, in exercising a power of sale in respect of mortgaged or charged land, to take reasonable care to ensure that the land is sold for not less than its market value.

The Greens acknowledge that the member for Ballina introduced similar bills on two previous occasions. On the first occasion, in 2000, Don Page's bill sought to protect those facing foreclosure from a situation where the bank or other lender sold the property for less than its market value. The prime interest of the mortgagee or lender always centres on recovering any outstanding loan amount. As such, it rarely coincides with the primary interest of the borrower, which centres on maximising the return from any forced sale. The then Minister, Kim Yeadon, acted on the suggestions of the member for Ballina and produced a discussion paper. Nearly all those who responded to the discussion paper, with the exception of the banks, approved the bill and thought it would provide more protection to mortgagors.

The bill then went before the Legislative Assembly and was passed with bipartisan support. Alas, it did not become law because Parliament was prorogued and the bill lapsed. Don Page introduced the same bill again in 2007. When it came to the vote, however, the Government did not support it. It seems that the Government had decided that as the bill was not its own it would not support it—a narrow-minded attitude with which the Greens are only too familiar. After rejecting the second bill introduced by the member for Ballina, the Government sat on its hands for two years and, at length, came up with the bill that is before us today. This bill incorporates the original wording from the bill introduced by the member for Ballina some eight years ago. To be fair, the bill also covers other matters. But that is no excuse for the Government's dog-in-the-manger refusal to pass the 2007 bill. Mortgage foreclosures cause considerable hardship to people. If the bill had been passed in 2007 or earlier, mortgagors in the unfortunate position of having their homes repossessed might have been spared the financial consequences of fire sales by lenders.

I turn to the detail of the bill. The Greens have no problem with the conveyancing aspects of this bill. However, I foreshadow that I will be moving to amend those new sections relating to claims on the Torrens Assurance Fund. I note that once again the Government has failed to consult with interest groups—in this case the Law Society of New South Wales. I quote from the Law Society's letter to the Minister for Lands, which states:

> The Committee—

that is the Law Society's Property Law Committee—

> has not, on behalf of the Law Society, nor has any other Law Society representative made any comment to date supporting the Bill despite suggestions in the Lower House that the Law Society has been consulted. That is simply not the case.

That observation should not surprise any member. Last night we heard the same story in relation to the Health Legislation Amendment Bill 2009. The Government's record of failing to consult all relevant interest groups or the community at large is appalling. Most of the provisions in the bill are welcomed by the Greens and are directed towards reducing fraud and protecting the interests of mortgagors. The provisions that require the mortgagee to confirm the identity of the mortgagor are overdue. It is astonishing that banks and other lenders have been able to lend to a person purporting to be the proprietor of premises offered as security for the loan without checking whether that was the case. The bill will require banks and other lenders to carry out proper identity checks of potential mortgagors to ensure that they are who they say they are. This will reduce opportunities for fraud. Sanctions, such as the imposition of a fine or loss of licence, will be imposed on mortgagees that fail to carry out identity checks.

Another aspect of the bill relates to the Torrens Assurance Fund. The fund exists to provide money for compensation claims when something has gone awry with a title. The Government has limited the amount of compensation payable by amending the section that deals with what is claimable. The Government says that this is necessary because spurious claims have been made on the fund. There was, however, a marked lack of detail in the Government's comments on this matter. The total compensation payable in relation to loss or damage suffered by a person as a result of the person being deprived of land or any estate or interest in land will be limited to the market value of the land at the date on which compensation is awarded to that person, plus any

legal, valuation or other professional costs reasonably incurred by the person in making the claim. They will no longer be able to claim for personal injury. The changes to section 129 (2) (e) to (i) will limit the ability to make a claim on the Torrens Assurance Fund in certain circumstances. The bill will replace the words "to the extent to which" with the word "where". This change will have the effect of removing proportionality in respect of compensation in relation to a number of situations. The Law Society commented:

> The amendment appears to have the effect that any conduct within the paragraphs (e) to (i) will entirely remove any claim on the TAF, even if that conduct was but one of the factors contributing to the loss. If that is its effect, the Committee strongly opposes the amendment.

I foreshadow that the Greens will move to amend new section 129 (2) in Committee. I will discuss the interpretation of the wording at that stage. The bill also amends section 129 (2) by inserting new and additional exemptions to compensation being payable under clauses (j) to (o). So compensation will be denied in six more circumstances. It seems unfair, for example, that when a lender has not complied with section 56C—Confirmation of identity of mortgagor—there will be no compensation available to anyone who suffers a loss because of the lender's failing to confirm the mortgagor's identity, or where there has been an improper exercise of a power of sale or power of attorney. The Law Society again makes comprehensive comment on all these exemptions in its letter to the Minister for Lands. The Greens will be seeking to amend this provision also. In regard to compensation in general, the Law Society's letter quoted Justice Bryson's judgement in the case of *Challenger Managed Investments Ltd v Direct Money Corporation Ltd* [2003], which states:

> Overall a regime is established in which loss or damage as a result of the operation of the Act is compensated for as part of the ordinary workings of the Torrens System. Compensation is not an extraordinary remedy, and is not reserved for faults, blunders or enormities.

We know that the Government, and the Department of Lands, is motivated by cost-cutting considerations, and I suggest it is not unreasonable to view the limiting of the claims on the Torrens Assurance Fund in this context. The Law Society points out that the bill actually reverses reforms brought to Parliament by Kim Yeadon in 2000. During the debate on the Real Property Amendment (Compensation) Bill 2000, he said:

> A person can currently be compensated for loss through a mistake in the Land Titles office or through an error, omission or misdescription in the register of titles.

That seems reasonable. If members of the public suffer loss through no fault of their own, they should be compensated. The time limit for the lodging of claims in a court has been shortened from 12 months to three months. That is unreasonable, especially given that the Registrar General has 12 months in which to make a decision before the Registrar General is deemed to have refused an application for compensation. No reason has been advanced for reducing the time limit for someone to apply to a court from 12 months to three months. I will be seeking to amend new section 131 (9) as a result. The Law Society takes issue with how this legislation has been drafted in respect of the overriding of indefeasibility, and argues:

> The statutory exemptions to indefeasibility of title should be set out in the *Real Property Act* 1900 itself (perhaps particularised in a Schedule to the Act), so that those relying on the integrity of the Register can identify all those provisions of other statutes which impinge on indefeasibility and make appropriate further inquiry.

The Law Society's letter goes into the provisions of other Acts in great detail and argues that further legislative changes may be required in those Acts. I ask the Minister when she replies to the debate to comment on the Law Society's contentions in relation to schedule 3, Amendment of other Acts. There may be perfectly acceptable reasons for the Government's approach, but everyone would benefit if those reasons were on the public record. In relation to the other major element of the bill, the provisions of new section 111A, I again note the contribution of the member for Ballina, whose original bill replicated this section. This provision deals with what happens in the event of mortgage default.

Currently, the mortgagee or lender repossesses the property and then sells it in order to recover the outstanding loan amount. In New South Wales there is no requirement for banks or other lenders to do their best to obtain market value. Their preoccupation is with the amount they are owed, not with what the property might be worth. This not uncommonly leaves the defaulting mortgagor out of pocket in an equity sense after the bank takes what is owed. Under the provisions in the bill, the mortgagee must take reasonable care to sell at market price. The Greens support this amendment, but note that it differs from the provisions in real property Acts in Victoria, South Australia, Western Australia, Tasmania and the Australian Capital Territory. I note the point made by members in the Legislative Assembly that the bill does not define "market value", unlike in other jurisdictions where comprehensive definitions are provided. The Government's reply to that observation was that the meaning of "market price" has been tested in the courts. Nevertheless the Opposition's point that some definition within this bill, or at least a reference to a definition in another Act, may have been advantageous is valid.

Reverend the Hon. Dr GORDON MOYES [6.18 p.m.]: I will make a brief contribution to the Real Property and Conveyancing Legislation Amendment Bill 2009, which amends the Real Property Act 1900 and other legislation to make further provision with respect to the indefeasibility of title, compensation, identification requirements and duties of mortgagees, and for other purposes. The bill deals with a number of issues relating to title and the mortgage of property in New South Wales. To limit and to clarify the extent of the statutory exceptions, the bill proposes to amend section 42—the main section—of the Real Property Act 1900, which establishes the features of indefeasibility.

The amendment provides that section 42 is to prevail over any inconsistent provision of any other Act or law unless the inconsistent provision provides otherwise. The Department of Lands undertook a review of New South Wales legislation to identify any existing provisions that could potentially impact on the principle of indefeasibility. An amendment is to be made to those Acts that are intended to create unrecorded statutory interests in land to confirm that the provisions of the identified Act will override section 42 of the Real Property Act 1900. About 20 Acts have been identified as requiring amendment. Those Acts, which include the Land Tax Management Act and the Local Government Act, are set out in schedule 3 to the bill.

The bill proposes to amend the Real Property Act 1900 to require mortgagees, the lenders, to take reasonable steps to confirm the identity of the mortgagors, the borrowers, before presenting a mortgage for lodgement and registration. That, of course, sounds very simple and the provision should have been in place a long time ago. In the agreement in principle speech, the Parliamentary Secretary said:

> The Real Property and Conveyancing Legislation Amendment Bill 2009 makes a number of significant reforms in the area of land law that will protect the Torrens Assurance Fund from unreasonable claims, combat identity fraud, streamline procedures for removal of abandoned easements and impose a duty on mortgagees when exercising a power of sale.

The most significant amendment that the bill proposes to make to the Real Property Act is in the section that deals with mortgages. The Department of Lands has been involved in an increasing number of claims for compensation relating to mortgage fraud concerning what appears to be a lack of due diligence by some lenders in verifying the identity of borrowers. Only yesterday I was talking to a gentleman who is a senior bank official and responsible for an area in south-west Sydney. He told me that his job was to track down how someone, without proper identification, was lent $2 million on a business property. In the past six months that borrower has failed to make any repayments whatsoever. The bank official's job is to work out who made the errors, why the fraud was able to be perpetrated and why, in the end, the bank loaned $2 million to someone who did not have any real identification. It is much more difficult for one to amass 100 identification points to obtain a passport or other travel documents than it is to take out a major mortgage on a property.

Although the Torrens Assurance Fund may be available to compensate innocent landowners who are the victims of a fraudulent mortgage, it is preferable to avoid the fraudulent mortgage in the first place. The mortgagee, who is dealing directly with the fraudster, has the best opportunity to prevent a fraud. This is really a no-brainer; it is so obvious one wonders why this provision has not been the practice since 1900. The amendments proposed in the bill are intended to encourage due diligence in mortgagees' loan approval practices. The majority of cases of fraudulent mortgages in which the Registrar General has been involved are those that are commonly know as low-doc loans. Usually lenders offer these loans at excessively high interest rates. These types of loans are usually not covered by the consumer credit code and the lender has not performed due diligence. The nature of these loans may present an opportunity for fraudsters to perpetrate a crime. Many claims for compensation are received by the Department of Lands based on these types of loans.

As a member mentioned earlier, a recent documentary referred to such loans being made in the United States of America and also to houses being sold for less than their real value—for just $1. That is a typical American practice that has been in existence for a long time. About five years ago, in connection with my lecturing requirements regarding downtown urban developments and growth in the United States, I interviewed the mayor of Detroit. Detroit is a major rust-bucket city. The city centre is a very desolate area, where many houses and factories have been totally blitzed. Acres of land are now open sites. I talked to the mayor about the Metropolitan Methodist Church, once the largest Methodist church in the world. As the church was considering renewing its ministry in that area, I outlined to the mayor my advice to the church on the renewal of its interests. The mayor told me quite simply, "I will sell from the heart of the city any two-storey or three-storey walk-up, solid-brick residence for $1 to any family who relocates to the heart of Detroit." When I reported that conversation to the Metropolitan Methodist Church it took up the offer immediately. The church wanted residences for staff and other people, and it purchased a number of formerly grand mansions in the heart of Detroit for $1 each.

Of particular relevance in the proposed amendments to the legislation is that a greater onus will be imposed on mortgagees to identify persons offering real property as security by introducing a statutory requirement to confirm the identity of the owner-mortgagor, with the threat that a mortgage may be refused registration or removed from the register in the case of non-compliance. Further, the bill will amend the requirement for witnesses to land dealings, and will create a statutory obligation in exercising the power of sale that a property should be sold for no less than its market value. I need say no more on that point, as other members have illustrated it quite eloquently.

The onus on mortgagees in relation to the identification of mortgagors is a very important amendment. The bill proposes the insertion of new section 56C into the Real Property Act 1900. The provision is in similar terms to that already operating in Queensland. The bill sets out a new requirement to identify mortgagors before a mortgage is presented for registration. Mortgagees must take reasonable steps to confirm that the person executing the mortgage as mortgagor is the same person as the registered proprietor of the land that secures the loan to which the mortgage relates. It is proposed that the regulations will prescribe what constitutes reasonable steps. Mortgagees who comply with the regulations will be taken to have discharged that obligation. However, mortgagees may elect to implement their own procedures for the identification of mortgagors. In addition to the obligation to identify mortgagors, the bill requires mortgagees to keep records of the steps taken to identify the mortgagor, and a copy of any document provided by the mortgagor to prove his or her identity. These records must be kept for seven years after the date the mortgage is registered, or for such other period as prescribed by the regulations, during which time the Registrar General may require mortgagees to produce the records and answer questions about the process undertaken to identify mortgagors.

Failure to comply with the new identification, record-keeping and reporting requirements will mean that a mortgagee runs the risk of having its security cancelled by the Registrar General in circumstances involving fraud or where the mortgagee had actual or constructive knowledge that the individual executing the mortgage was not the registered proprietor of the land. If a mortgagee fails to comply with the identification requirements, the Registrar General may refuse to register a mortgage that is lodged for registration or cancel the registration if the execution of the mortgage involved fraud against the registered proprietor of the mortgaged land. The Registrar General may also cancel the registration of a mortgage if the mortgagee has complied with the identification requirements but had actual or constructive notice that the mortgagor was not the same person as the owner of the land. Those particular steps should correct the anomalies that have existed.

Under the Real Property Act, compensation may be available to a party that loses the benefit of its interest in land because of fraud. The bill provides that compensation will not be available to any mortgagee who suffers loss or damage when the loss or damage is a consequence of its failure to comply with new section 56C. Mortgagees should be aware also that the bill prevents a mortgagee from claiming against the Torrens Assurance Fund when loss to a mortgagee arises from a failure to comply with the identification and record-keeping requirements, or from the improper exercise of a power of sale. I will not take the time to outline my thoughts on the duty of care when exercising powers of sale, or the issue of eligible witnesses. Those matters may be raised later in Committee. I note the concerns highlighted by the Legislation Review Committee but they were well canvassed by the previous speaker, Greens member Ms Sylvia Hale, so I will pass by that issue. I hope the Government will consider the important submissions made by the Law Society of New South Wales. I do not oppose the Real Property and Conveyancing Legislation Amendment Bill 2009, and I commend it to the House.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.30 p.m.], in reply: I thank members for their contributions. Most privately owned land in New South Wales is held under the Torrens system of land title. The central feature of this system is the conferral of title upon registration in the Torrens Register, which provides accurate ownership details and records all other interests that affect the land, such as mortgages, leases and rights of way. The accuracy of the register is backed by a State guarantee of the title, funded through the Torrens Assurance Fund.

The importance of the register cannot be overstated. It saves landowners and others wanting to deal with land from having to make extensive inquiries to discover matters that might affect the land but are not disclosed by a search. The Real Property and Conveyancing Legislation Amendment Bill 2009 makes a number of amendments aimed at ensuring the accuracy of the register and protecting the Torrens Assurance Fund from unreasonable and excessive claims.

One of the amendments designed to achieve this goal is the proposed amendment to section 42 of the Real Property Act, which will reinforce the importance of the principle of indefeasibility. The introduction of

new section 42 (3) is aimed at ensuring that landowners can rely on the register and not be ambushed by statutory interests that affect the land but that are not recorded on the register. This proposal has proved somewhat controversial. Concerns have been raised by a number of legal academics that the provision goes too far and may have the unintended consequences of overriding an existing statutory provision not identified by schedule 3.

Whilst these concerns are noted, it is not considered that the amendment will have such a dramatic effect. Numerous other Acts work alongside the Real Property Act to regulate matters relating to land. The amendment to section 42 is not intended to change that. The Government will continue to monitor those Acts that may infringe upon, or may be infringed by, the Real Property Act, and will move quickly to make any amendment should the need arise.

Whilst the Torrens Assurance Fund is available to compensate innocent landowners who are the victims of fraud, it is preferable if fraud can be avoided in the first place. To address this the bill proposes to tighten the obligation on mortgagees and witnesses. New section 56C will require the mortgagees to take reasonable steps to properly identify the borrower and to ensure that the borrower is the registered proprietor of the interest to be mortgaged. In addition, section 117 of the Act is to be amended to require that a witness to a land dealing must either have known the person signing the document for 12 months or have taken reasonable steps to verify the identity of the person. The reasonable steps that will be necessary to satisfy the requirements of both sections will be prescribed by regulations. This will remove any doubt as to the standard that will be required and the documents that must be sighted. It is intended that the standard will be similar to the 100-point check and will reflect the requirements of the Commonwealth Government's Anti-Money Laundering and Counter-Terrorism Financing Act 2006.

The Law Society of New South Wales has noted that the amendments requiring verification of identity will impact on the legal profession and has expressed concern that the society was not consulted in the drafting of the bill. The Government recognises the expertise of the Law Society on these issues and values the work it puts into pursuing law reform. The Law Society can be assured that it will be fully consulted before the regulations are prepared. The regulations will not be introduced until the Law Society has had the opportunity to consult its members on the proposed change of practice.

Another major feature of the bill is the amendments proposed to the Torrens Assurance Fund, which aim to streamline the claims process, clarify that compensation is limited to the value of the land and restrict the amount of interest payable on a fraudulent mortgage. The Greens have expressed opposition to any amendment that would erode the fund and reduce the circumstances in which the people of New South Wales can claim for the loss of an interest in land. The Government supports the Law Society's concern to maintain the integrity of the fund. To ensure continued confidence in the Torrens system it is important that access to the assurance fund is not overly restricted. Landowners need to be assured that compensation will be paid if required. However, this must be balanced against a need to restrict excessive and inappropriate claims.

The limits on claims proposed by the bill relate only to circumstances where alternative avenues of relief are more appropriate or where it would not be reasonable to expect the fund to pay. They set out in legislation a more comprehensive list of matters not currently compensated from the fund. By including these matters in the legislation, inappropriate claims will be avoided, saving time and money for all parties.

With this in mind, the bill proposes to prevent claims where loss arises from the execution of a land dealing by an attorney under a power of attorney acting contrary to the authority conferred by the power of attorney. If a person empowers another to deal with his or her property by appointing an attorney, it is not appropriate for the person to be able to claim from the Torrens Assurance Fund if the attorney breaches his or her duty to the donor. In such a case the donor should take action against the attorney as provided by the Powers of Attorney Act 2003. The Torrens Assurance Fund will however pay compensation where a landowner loses an interest in land by the fraudulent actions of a person acting under a power of attorney that is itself forged.

The bill proposes to preclude claims being made from the fund where a mortgagee improperly exercises a power of sale. In such a case the landowner should pursue the wrongdoing mortgagee. Similarly, no action will lie against the Registrar General where a loss arises from the inappropriate affixing of a company seal or where a land dealing appears to have been otherwise executed in accordance with section 127 of the Corporations Act 2001 of the Commonwealth. This will enable the Registrar General to rely on the assumptions provided by the Corporations Act in the same way as any other party who deals with a company.

I indicate that the Government will not support any of the amendments the Greens propose to move in Committee, and I will outline the reasons for that position now. The bill includes an amendment to section 129 (2) (e) to (i), which is considered to be a statute law revision. The amendment will delete the words "to the extent to which" and replace them with the word "where". It has been suggested by the Greens that this amendment will prohibit a claim outright and prevent a claim for contributory negligence. The heads of loss, however, are not ones where contributory blame can be allocated. For instance, section 129 (2) (e) currently prevents claims for loss arising through an error and miscalculation in the measurement of land. There can be no contributory blame in this case. There is either an error in the measurement of land or there is not. The amendment proposed by the bill does not reduce the incidence in which claims can be made against the fund.

The bill will limit the amount of compensation that can be paid from the fund to the market value of the land plus the reasonable legal, valuation or professional costs in making the claim. This has been done to confirm the purpose of the fund, which is to compensate for the loss of land, or an interest in land. It therefore follows that the amount of compensation paid from the fund should not be greater than the value of the land itself.

When it comes to fraudulent mortgages, the bill proposes to introduce a number of additional limits on compensation. The total compensation that will be paid to a mortgagee where the mortgage has been found not to be genuine will be limited to the value of the land inclusive of costs and interest. Furthermore, the amount of interest that will be paid will be capped to 2 per cent above the official cash rate. This is a prudential amendment designed to protect the fund from being squandered in payment of speculative interest rates, some in excess of 10 per cent per month. This provision should encourage lenders to be more prudent in their lending practices and make due inquiries as to the authenticity of the borrower.

In relation to the other Greens amendment about the reduction of the appeal period from 12 months to three months, the bill reduces the period within which an applicant can appeal an administrative decision made by the Registrar General on a Torrens Assurance Fund claim. Section 132 currently allows 12 months for an appeal, and it is proposed that that period be reduced to three months. Twelve months is an excessive amount of time and allows claims to linger on unnecessarily. The uniform civil procedure rules currently require appeals to be made from a decision of the Supreme Court in 28 days. The bill proposes a period of three months, which is more than ample. The applicant would have already been required to submit evidence to the Registrar General to support his or her administrative claim so therefore should have marshalled his or her case to enable proceedings to be commenced in the Supreme Court within three months.

There was also some discussion in the debate about claims for personal injury. Claims cannot now be made for personal injury. The purpose of the Torrens Assurance Fund is to compensate for loss of interest in land that occurs as an operation of the Act. It is not a general insurance scheme. It was never intended that personal injury be compensated. It is difficult to see how a personal injury could be caused by the loss of an interest in land.

The Hon. John Ajaka raised some concerns relating to the meaning of "reasonable care". "Reasonable care" is a phrase used regularly by the courts, of which I am sure he is aware. In *Commercial and General Acceptance v Nixon* (1981) 56 CLR 130, the High Court considered the meaning of section 85 of Queensland's Property Law Act, a section that is similar to the proposed section 111A. When looking at whether the mortgagee had discharged the duty imposed by the section, Mr Justice Gibbs said:

> I consider that the words of the section impose on a mortgagee exercising a power of sale a duty higher than merely to select a proper person to carry out the sale. The duty is to take reasonable care that the property is sold at the market value, and the mortgagee does not discharge that duty simply by delegating it to another, whether that other be an agent or an independent contractor.

The Hon. Greg Pearce referred earlier to comments that were made by the Property Institute. Section 111A (2) imposes an obligation on agents who sell on behalf of a mortgagee. This provision relates to sales by receivers and attorneys appointed by the mortgagee to sell the land on their behalf. It is not intended to apply to real estate agents who are merely responsible for the running of the sale process.

Finally, the bill will impose a statutory duty requiring a mortgagee who exercises a power of sale over land to take reasonable care to sell the land for not less than its market value. The provision will clarify the existing law and ensure consistency between State law and the Corporations Act. It will provide welcome relief to homeowners facing financial hardship in these difficult times. I thank everyone for their contributions and

note the assistance that I received from the Department of Lands in responding to issues raised in this debate. I commend the bill to the House and again note that the Government will not be supporting the Greens amendments.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Ms SYLVIA HALE [6.42 p.m.], by leave: I move Greens amendments Nos 1 to 3 in globo:

No. 1 Page 8, schedule 1 [13], lines 17-18. Omit all words on those lines.

No. 2 Pages 8-9, schedule 1 [14], line 22 on page 8 to line 7 on page 9. Omit all words on those lines. Insert instead:

(j) where the loss or damage is the result of an easement not being recorded in the Register (except where the easement is not recorded in the Register due to an error of the Registrar-General).

No. 3 Page 9, schedule 1 [15], line 10. Omit "subsection (2) (m)". Insert instead "subsection (2) (j)".

I moved these amendments in globo because they all relate to compensation and access to compensation. However, before I address those issues I note that the Parliamentary Secretary, in reply to debate on the second reading, suggested that the minds of members of the Law Society should be set at rest because the Government has undertaken to consult them before any regulations are introduced or gazetted. I would take those assurances with a grain of salt. I quote from the Law Society's letter of 4 May, which states:

> The Committee notes that the Bill was introduced in the Legislative Assembly on 24 March 2009. Although the Committee met with representatives from the Department of Lands at a scheduled quarterly liaison meeting on the day before the Bill was introduced, there was no notice given to the Committee of the Bill or its contents.

I suggest that that is somewhat typical of the Government's contempt for interest groups outside this Parliament.

The Hon. Christine Robertson: What nonsense! In the case of the HSA it was nonsense and this is also nonsense. The Law Society is continuously referred to.

Ms SYLVIA HALE: I acknowledge the Hon. Christine Robertson's interjection and express astonishment at how rude this Government is. A meeting was scheduled—a meeting that the Government knew was going to occur—with the Law Society. The Government had every opportunity to mention the bill, the details of which it must have known about because it was introduced in the lower House the very next day, yet it failed to mention that fact. That is a mark of rank discourtesy and rudeness, which is typical of some members of this Government in particular. Despite the assurances that have been given, I suggest that the Law Society treat those assurances with a grain of salt.

The first amendment would retain the status quo; it would retain the words "to the extent to which" rather than have those words replaced with the word "where" in the circumstances listed in the Act where compensation would or would not be payable. The amendment would delete that wording entirely and retain the status quo. The Law Society, when referring to this matter in its letter, said:

> The amendment appears to have the effect that any conduct within paragraphs (e) to (i) will entirely remove any claim on the Torrens Assurance Fund, even if that conduct was but one of the factors contributing to the loss. If that is its effect, the Committee strongly opposes the amendment.

As I have said, the amendment would maintain the status quo. I ask the Parliamentary Secretary to explain the reasoning behind the Government's amendment in this bill. I also note that the Law Society is clearly uncertain of the effect of the Government's amendment. The meeting that the Government had with the Law Society on the day before the bill was introduced might have been an ideal opportunity, had it known about the existence of the bill, to reassure the Law Society about those issues. Amendments 2 and 3 will remove the proposed exemptions in section 129 (2) but retain the exemption in paragraph (m).

Amendment 3 is contingent on the passage of amendment 2. Nine circumstances are already listed in the Act as it currently stands in which compensation is not payable. The Government proposes to increase that number to 16. Efforts to limit compensation undoubtedly will affect consumers. Why should there be an exemption where, for example, a bank fails to check the identity of a borrower and thereby leaves a legitimate owner with a debt against a property if mortgage fraud has been committed? Why should the titleholder not be able to seek compensation from the fund under those circumstances? What if loss or damage arises from the execution of an instrument by an attorney acting contrary to the owner's instructions? Is that the fault of the property owner?

The Law Society is unsure as to the specific mischief that this provision aims to address. That applies also to the provision relating to the power of sale. The Law Society believes that the meaning of this provision is unclear, as is the underlying rationale for that provision. The exemption relating to the operations of the Commonwealth Corporations Act 2001, which is concerned with persons being able to assume that a company acts in accordance with its constitutions and the office bearers are who they say they are, seems to exclude a situation where someone makes an assumption based in good faith. As I said earlier, the amendment will preserve paragraph (m). I again look forward to the Parliamentary Secretary's explanation as to why these further exemptions are necessary. The Law Society's letter about amendments to the Torrens Assurance Fund states:

> It is a fundamental tenet of the Torrens system that the State guarantees title and compensates persons incurring loss through the operation of this title system.
>
> The Committee has been given no background information on the impetus for the proposed changes, other than a statement in a briefing note from the Department of Lands sent after the Bill's introduction which states: "A number of recent cases have highlighted some deficiencies in the legislation which have led to spurious claims being made against the fund and excessive amounts being paid from interests and costs."

It then makes the following specific comments in relation to the compensation fund:

> The overall thrust of the amendments is to limit access to the Torrens Assurance Fund [TAF].
>
> The Committee considers the limiting of access in the way contemplated by the Bill is inconsistent with a fundamental objective of the [Torrens Assurance Fund], namely the provision of compensation to those who have suffered deprivation of an interest in land arising as a result of the operation of the *Real Property Act 1900* …
>
> The Committee believes the approach adopted in the Bill is contrary to the tenor of the recommendations of the Law Reform Commission Report number 96 (1996) …
>
> The Committee opposes any legislative amendment which could lead to a return to the pre-2000 approach "*in which the assurance fund was zealously defended and appeals were common, so that recourse to the assurance fund where the workings of the Torrens System imposed losses was not readily available"*

It then refers to *Challenger Managed Investments Ltd v Direct Money Corporation Ltd*. The proposed amendments constitute an unwarranted and unwelcome contraction of the rights of consumers. Basically, the Greens amendments attempt to accord with the concerns raised by the Law Society and seek to maintain the status quo, where relevant.

The Hon. GREG PEARCE [6.51 p.m.]: In my contribution to debate on the second reading of the bill I said that the Coalition's biggest concern is that the bill may limit proper claims on the Torrens Assurance Fund. The Opposition is pleased that the Law Society's committee has made such a detailed submission to the Minister. The issues are quite complicated. We certainly do not believe the legislation should be amended in any way to allow spurious claims, which were able to be made previously. The Law Society committee even suggests that the proposals put forward are arguable in their effect. The Opposition is concerned that this bill was introduced without appropriate consultation. I must agree with the Greens that the Government, unfortunately, has a bad track record in that regard. However, I do not believe our parliamentary system has reached the point where we cannot rely on an assurance given in debate by a Minister or Parliamentary Secretary that the matter will be the subject of proper consultation before the regulations are introduced. The Law Society committee will be able to argue its position properly with government representatives in that process. I say to the Greens that I hope we have not descended to such a level that we cannot rely on assurances given in debate by a Minister or Parliamentary Secretary. We will not support the amendments.

Ms SYLVIA HALE [6.53 p.m.]: The Hon. Greg Pearce has greater faith in the Government than I have. I concede that the Government may consult, but it will be consultation after the horse has bolted—that is, after the changes to the Act have been legislated, and that is a very unsatisfactory position from which to argue a particular case.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.53 p.m.]: I reiterate the Government's commitment to the Law Society to consult on the regulations. I assure the member that that consultation will be undertaken appropriately. In my reply to the second reading debate I went into detail about why the Government opposes these amendments. I do not intend to repeat that detail in Committee except to reiterate that with respect to replacing the words "to the extent which" with "where" it is simply the case that there is no contributory blame. Either there is an error in measurement of land or there is not. The amendment proposed does not reduce the incidence in which claims can be made against the fund. I reiterate also the view that the limits on claims proposed by the bill relate only to circumstances where alternative avenues for relief are more appropriate or it would not be reasonable to expect the fund to pay. A more comprehensive list of matters not currently compensated from the fund is set out in legislation. By including these matters in the legislation, inappropriate claims will be avoided, saving time and money for all parties, and that is the exact point of the bill.

Question—That Greens amendments 1 to 3 be agreed to—put and resolved in the negative.

Greens amendments 1 to 3 negatived.

Ms SYLVIA HALE [6.55 p.m.], by leave: I move Greens amendments Nos 4 to 6 in globo:

No. 4 Page 12, schedule 1 [21], line 4. Omit "3 months". Insert instead "12 months".

No. 5 Page 12, schedule 1 [22], line 8. Omit "12 months referred to in".

No. 6 Page 12, schedule 1 [22], line 9. Omit "3 months referred to in".

These amendments omit reference to a three-month period and restore the status quo—that is, an individual will have 12 months in which to appeal to the Supreme Court if he or she disagrees with a decision about compensation from the Torrens Assurance Fund. I concede that people may have marshalled their evidence and be in a position to proceed but, of course, going to court is an extraordinarily costly exercise. It could well be that someone who has already suffered the loss of their property or an impairment of their interest in a property may be in no financial position to proceed quickly and subject themselves to the possibility of even more extensive economic loss. I believe the 12-month period not only gives people the opportunity to assemble their case to argue against the decision, but it also gives them the opportunity to find the funds essential to prosecute their case before the courts. The Greens believe 12 months is a more reasonable limitation period. What possible harm can befall the Government if people are given 12 months rather than three months? It may be said that it is administratively untidy, but in the interests of justice people should be given additional time. I commend the Greens amendments to the Committee.

The Hon. GREG PEARCE [6.57 p.m.]: This amendment proposes an arguable point. I point out that these amendments were handed to us 10 minutes before this debate began. I note that the Greens were keen to consult widely on matters but in the circumstances the Coalition will not support these amendments.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.57 p.m.]: I do not believe this is as important an issue as the Greens have tried to establish. The current uniform civil procedure rules require appeals to be made within 28 days. The bill proposes a period of three months. It could be argued easily that 12 months is simply too long. It is a matter also of justice—people to have their matters dealt with as quickly as possible. The Government does not support these amendments.

Question—That Greens amendments 4 to 6 be agreed to—put and resolved in the negative.

Greens amendments 4 to 6 negatived.

Schedule 1 agreed to.

Schedules 2 and 3 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. PENNY SHARPE (Parliamentary Secretary) [7.00 p.m.]: I move:

That this House do now adjourn.

AMBULANCE SERVICE INQUIRY RECOMMENDATIONS

The Hon. ROBYN PARKER [7.00 p.m.]: This week the New South Wales Government released its response to the Inquiry into the Management and Operations of the New South Wales Ambulance Service. To say that that response is disappointing is an understatement. The Government has had six months to respond to this report, and its response is a couple of weeks late. Sadly, the language used in the response is defensive, and in some instances one could say offensive to ambulance officers who participated in the inquiry. Close to 300 submissions to the inquiry were received, and people are still suffering from issues relating to bullying and harassment within the Ambulance Service.

Would it not have been refreshing if the Government had approached the response correctly and presented a response in accordance with what was admitted during the hearings—that the morale in the Ambulance Service is at an all-time low? Perhaps the Government's response could have been, "We acknowledge that, and this is what we are going to do." Instead, the language used in the Government's response is evasive, ducking and weaving, and there is frequent use of weasel words to avoid facing facts and saying, "This has been going on too long. We have not done enough, and here is what we are going to do." The Government should have provided a proper response, timelines, and transparency in its responses.

The inquiry made 45 recommendations, and the Government failed to adopt all but one of those recommendations, which is that the review of the Government's progress against the recommendations will be undertaken later this year—in October, indeed. The Government's progress so far has been so little that when ambulance officers read the Government's response to the report, they will be just as disappointed as I am as Chair of the inquiry. The inquiry began as a result of complaints and concerns from officers regarding bullying and harassment, low staff morale, a lack of confidence in upper management, depression, suicide and lengthy grievance and complaints handling.

Given the amount of community interest in this issue, I would have expected a more positive response from the Government. Instead, the Government has made lots of comments such as "We are addressing it." There were dissenting reports of the committee of inquiry and, guess what, the dissenting reports came only from the three Government members, who must have felt obliged to do some of the Government's bidding. There certainly was great support for the inquiry from ambulance officers who are doing the hard yards, and they deserve all credit for what they do. Having said that, I must say that the Government finally has taken some action to instigate a tendering process for GPS systems in ambulance vehicles. I do not know why it has taken so long for that to happen and why there needed to be an inquiry before it did happen.

What concerns me is a lack of accountability and transparency in the current system. The Government has refused to provide the service with its own Act and for the service to report directly to the Minister and the Parliament. The Government says in its response that it is addressing issues, but provides no details of the action it is taking in many instances, or specific timetables for that action. In fact, the response is quite unlike any

I have seen since I have been a member of this Parliament. To me, the Government's response appears to be very defensive. For example, one of the recommendations relating to the area in which I live, the Hunter Valley, was the need for all on-duty crews to comprise two officers. One can imagine how difficult it must be for a single officer to pick up the patient, treat the patient, and drive the patient to a hospital on their own, particularly when many officers have to drive long distances in the Hunter region with no backup. A trial was conducted in which additional ambulance officers were provided, but no-one knows whether the practice will continue. By the Government's refusal to accept the committee's recommendation, it appears that will not be the case.

Other recommendations include both officers having portable radios because currently officers are using their own mobile phones. That recommendation was not accepted. Another recommendation was for a 24-hour ambulance station at Bundeena, but the Government also refused to accept that recommendation. What is needed is a massive cultural change within the New South Wales Ambulance Service. The inquiry found that the service is a nepotistic old boys club and that for a decade reports of bullying and harassment have been swept under the carpet. I do not see how officers or the public can be confident of any reviews of policies when the Government provides no details. We have heard it all before. I certainly hope the Government will do more than it says—and, more to the point, will do what it did not say. [*Time expired.*]

ELECTRICITY GENERATION

Dr JOHN KAYE [7.05 p.m.]: The Rees Government is condemning New South Wales to a coal-fired future of rising household bills and soaring greenhouse pollution. Last week, the Australian Energy Regulator approved a massive $16.5 billion capital works program for New South Wales electricity distributors. Households and small businesses in New South Wales will pay dearly. Instead of buying next-generation technologies that produce fewer emissions, the State will be left with the best that the 1960s could offer.

The regulator has approved a distribution price increase for New South Wales consumers of approximately $75 in the next financial year. However, that is not the end of the price hikes. The regulator has limited the cost recovery in the first year of the new arrangement, citing the global financial crisis. The sting will be felt in the subsequent four years, with increases in network components alone likely to result in an 85 percent increase, or greater, in household electricity bills. The details will be announced by the regulator later this month, but the impact will dwarf Kevin Rudd's emissions trading scheme. The Rees Government's privatisation plans will add a further burden as retail prices increase.

The decision taken by the regulator in New South Wales will have a dramatic impact not only on household and small business electricity bills, but also on the future of the electricity industry and the ability of Australia to reduce greenhouse gas emissions. By ignoring international moves to smart grids, better demand management, and embedded renewable and high-efficiency gas generation, the State's Minister for Energy, Ian Macdonald, is squandering opportunities to join the global push to slash greenhouse gas emissions and build a new, green economy. New South Wales is building the electrical equivalent of a superhighway—direct from polluting coal-fired power stations to household power points.

If Australia is to address the massive 34.4 percent of its greenhouse gas emissions coming from the production of electricity, there must be a substantial shift away from traditional generation and traditional distribution networks. Coal must be replaced by renewable and low-emission options, such as wind and solar energy as well as high-efficiency gas generation, and the distribution networks need to be redesigned to facilitate more efficient embedded generation options and incorporate smart load control systems. The lack of foresight by the Rees Government and the regulator is astonishing. A portion of this $16.5 billion spend could have been used to direct the purchase or encourage investment in next-generation technologies and would negate the need for unnecessary capital expenditure retaining an out-dated distribution network.

International best practice is in favour of high-efficiency gas-fired tri-generation systems that exploit the waste heat from the generation process to both heat and cool water. Whereas coal-fired power stations are only 20 to 25 percent efficient, with 75 to 80 percent of the energy produced in burning coal being lost in the generation process, tri-generation systems capture and use the lost heat, exploiting up to 90 percent of all the primary energy from burning gas. Tri-generation played a major role in reducing the carbon footprint in the town of Woking in the United Kingdom by 77 percent on 1990 levels by 2004. New South Wales is heading in the opposite direction, spending on the wrong type of network configurations to connect its embedded generation methods to consumers. By focusing on cementing stronger pathways from coal-fired power stations to homes and small businesses, New South Wales is shutting itself off from a green energy future.

A major driver for the expanded capital expenditure program is a perceived need to meet increasing demand for power for a few hours of peak consumption. Around the world progressive authorities are already building intelligent grids that interact with residential and business consumer appliances, such as air conditioners, to turn them off or cycle their use through times of peak demand. The people of New South Wales are being asked to pay billions of dollars to build a system that will be needed for only a few hours a year. Sydney has suffered three major supply interruptions in less than a month. While this might be a statistical anomaly, it highlights the vulnerability of the traditional distribution systems. Embedded generation and smart grids offer better opportunities to reduce the severity, extent and duration of blackouts.

In New South Wales the economic and political power of coal is set to trump the best interests of the community again. The only hope was for the regulator to inject reasoned and progressive thinking into the debate. This has not happened. Although the Australian Energy Regulator has given the plans regulatory approval, the Rees Government must think again. While the rest of Australia is debating the best way to reduce greenhouse gas emissions, the New South Wales Government is allowing its electricity distribution companies to lock households into a high-polluting and costly future that they do not want.

KARINYA HOUSE FOR MOTHERS AND BABIES

The Hon. GREG DONNELLY [7.10 p.m.]: If we are to make a judgement about how fair, just and decent a society is, surely a key measure is how we look after and care for the most vulnerable. These are our fellow citizens who, for reasons often beyond their own control, find themselves alone, isolated, with nowhere to live, no-one to care and support them, no money and, as a number of them often feel, no future. What we as a society do or do not do for these people must by definition reflect on us all but in particular on those responsible for policy development and government at all levels—local, State, Territory and Federal. I acknowledge that the call on public funds is never-ending and that governments do not farm plantations of money trees. However, it is incumbent on all of us to look to see what we are doing for those who need and deserve our support and care.

One particular group I will reflect on this evening are women who have often been exposed to abuse or domestic violence and who find themselves with an unexpected or unplanned pregnancy. Specifically, I inform honourable members about the first-class support and care provided to such women by Karinya House for Mothers and Babies in the Australian Capital Territory. Time this evening does not permit me to provide a detailed explanation about the history of Karinya House and the range of support and outreach services it offers women who find themselves in difficult circumstances. For those who want this detailed information, I invite them to visit Karinya's website, *www.karinyahouse.asn.au*, and review in particular the 2007-08 annual report.

Karinya House was established in 1997 and has grown steadily year after year to become what it is today. It is a dynamic and compassionate organisation that provides professional care and support for its clients around the clock, every day of the year. Karinya House provides supported accommodation for three women and their babies at any one time. In the 12 months to 30 June 2008 Karinya provided 55 women and their babies with residential support and 322 women and their families with outreach casework support. That represented a 14 per cent increase in client numbers on the previous year. A further 247 clients contacted Karinya House for information, referral, practical assistance and telephone support, and requested help to contact other organisations. Unfortunately, 244 women and their babies could not be accommodated over the 2007-08 period.

Erin House has been operational for over five years and is a sister facility that provides transitional accommodation for women and their babies. Over the 2007-08 period 26 mothers and 16 babies resided at Erin House. Many of these mothers moved into social housing following their residence at Erin House. Residents at Erin House have the best of both worlds. They have access to 24-hour support from Karinya House staff whilst maintaining a greater level of independence by living on their own. The long-term vision for Karinya House is a cluster housing facility that will provide more efficient and effective facilities for the provision of supported accommodation, transitional housing and outreach services.

Karinya's outreach work is a critical element of what it has to offer. The outreach work involves casework support, and it can be social, practical, emotional, physical, crisis or transitional. The number of outreach clients assisted over the 2007-08 period was up 14.5 per cent on the previous year. Karinya House is also committed to offering its clients a range of services that will foster a healthier future. Karinya offers a range of courses and programs that are tailored for each woman and seeks to help them achieve confidence and self-reliance, enabling them to maximise their participation in community life. Residents of both Karinya House and Erin House are provided with expert advice by trained professionals about how to manage their pregnancy

and look after their new babies. Information and advice is provided on a whole range of issues, including meal planning, budgeting, self-care, relationships, diet, hygiene, settling techniques, immunisation and feeding, to name just a few.

Karinya House is a community-based organisation and has developed a range of positive partnerships in its community. The contribution by volunteers to Karinya's operation is also vital. Over the 2007-08 period volunteers provided 6,348 hours at a nominal value of $253,932, which represents around 33 per cent of the financial budget. It should be noted with some appreciation that Karinya House continues to offer a great deal of support for women from outside the Australian Capital Territory. Every year Karinya House deals with a number of New South Wales referrals from organisations and agencies like St Vincent de Paul, Mission Australia, youth refuges, the Department of Community Services and various hospitals.

I have visited Karinya House and seen firsthand what it does and what it has to offer. It is very impressive. When honourable members next visit Canberra I suggest they visit Karinya House and see firsthand what good work it is doing. I take this opportunity to congratulate all involved with Karinya House—management, staff and volunteers—on the excellent work they are doing. To the small group who some years ago had the vision and drive: Congratulations! You must feel very proud. Without wanting to be seen to be picking out one individual for mention, I pay a special tribute to Marie-Louise Corkhill, the coordinator of Karinya House. Her enthusiasm and commitment to what Karinya House is doing and to those it is serving are an inspiring example for all of us. I congratulate Karinya House. [*Time expired.*]

PALERANG COUNCIL PLANNING

The Hon. MATTHEW MASON-COX [7.15 p.m.]: Palerang Council was proclaimed on 11 February 2004 following an Australian Capital Territory regional review of boundaries conducted by the Local Government Boundaries Commission. Palerang includes the towns of Braidwood, Bungendore and Captains Flat and the outlying villages of Araluen, Majors Creek and Nerriga. It also includes the areas of Wamboin, Burra, Bywong and Hoskinstown and parts of Sutton, Royalla and Carwoola. According to the 2006 census, 12,318 persons reside in the Palerang Local Government Area [LGA], which covers approximately 5,144 square kilometres. From the very start the local community was concerned that the creation of Palerang local government area would not be sustainable into the future. The boundaries commission received submissions to this effect, counselling against creating a local government area without the rating base to sustain itself over time. Yet that is exactly what subsequently occurred with the creation of Palerang.

The New South Wales Labor Government and the local Labor member for Monaro, Steve Whan, looked on and did nothing. Some would say they encouraged this result for their own political purposes. Predictably, what followed was a significant increase in rates, the gradual erosion of services and a steady lack of investment in critical local infrastructure, particularly local roads and community infrastructure. Over time the council has been squeezed and forced to increasingly rely on State Labor Government largesse in key areas. Indeed, budget pressures continue to grow, with local councillors doing their best to allocate shrinking resources to meet ever-increasing demands from the local community. As a new council, Palerang has also struggled to attract and retain staff particularly in the competitive and specialised planning area. Currently, a number of planning positions remain unfilled and scarce resources have been stretched to breaking point.

One area critical to the future of Palerang is the creation of a local environmental plan [LEP] and development control plan [DCP] to guide future development. Given that Braidwood is a heritage listed town with stringent limitations on its future development, the main prospects for residential development in Palerang are centred on the town of Bungendore. There is considerable scope for development in the existing Bungendore town area, as well as in immediately adjacent areas. Any such development should, among other things, be sensitive to the concerns of the local community and in keeping with the character of the town. Much of the available land suitable for residential development in Bungendore requires rezoning by council. The State Government has imposed an administrative requirement stopping any rezoning in the absence of a finalised local environmental plan for the local government area concerned. This also effectively applies to any application for spot rezoning under existing local environmental plans. Effectively, the result is development gridlock for those affected areas.

I understand that the State Government has provided Palerang Council with $140,000 to produce a local environmental plan. Two years on, this money has been expended with no result. Last year the council sought and received assistance from local developers to fund a consultant to assist in the production of a land use strategy and structure plan for Bungendore as a key input into the development of Palerang's local

environmental plan and development control plan. This land use strategy was recently produced and is the subject of council deliberations and public comment. The outsourcing of this process demonstrates the sad lack of resources and expertise in Palerang Council. Indeed, outsourcing was the only option to progress the matter. A further issue slowing consideration of the draft local environmental plan by Palerang councillors is the potential conflict of interest which arises when councillors are also landholders affected by the draft local environmental plan.

Palerang councillors have sought ministerial clearance to enable them to play their crucial community role in considering Palerang's draft local environmental plan. The exemption under the Act was sought in October last year, yet there has been no response from the Minister some six months later. I call on the Minister to provide the necessary exemption under the Act to the affected Palerang councillors forthwith so that Palerang Council can consider the local environmental plan. I also call on the Minister to provide adequate financial and technical resources to Palerang Council to enable the council to finalise its local environmental and development control plan in an orderly manner.

Indeed, these issues should not hamstring the future development of council areas like Palerang. In light of those problems, it is very timely that the Standing Committee on State Development will be visiting Queanbeyan on 19 May to hold a public hearing as part of its ongoing inquiry into the New South Wales planning system. I encourage residents in the area affected by planning decisions, or with ideas of how our planning system can be improved, to provide evidence directly to the committee at this time. The examples that I have explained to the House certainly demonstrate there is much to be improved.

DEMIAN DEVELOPMENTS LEWISHAM SITE APPLICATION

Ms SYLVIA HALE [7.20 p.m.]: I speak on the continuing abuses inflicted by part 3A of the Environmental Planning and Assessment Act, and in particular about an application by Demian Developments for a site at Old Canterbury Road and Longport Street, Lewisham which has been called in by the Minister for Planning. This application is yet another disturbing example of how business seems to be done in New South Wales. Showing its familiarity with the process, Demian Developments has donated more than $20,000 to the New South Wales branch of the Australian Labor Party since 2002. But it has not stopped there. Accessing the Labor old mates network, Demian has engaged the former Minister for many things, Carl Scully, to argue its case to his former colleagues.

What are the justifications for the Minister calling in this development? What is so significant about the proposal that it requires the intervention of the State Government? Actually, there is nothing that sets this development apart from many other development applications other than it overrides the draft subregional strategy process that Marrickville Council is currently undertaking at the behest of the New South Wales Department of Planning, and it will be a huge overdevelopment. Demian proposes a massive five-tower development, including two towers of 14 storeys and one of 12 storeys, 524 residential units and retail floor space of 9,000 square metres, incorporating a major supermarket, a liquor store and 15 speciality stores. In bypassing the council, the developer is seeking the Minister's connivance in overturning the Government's own planning processes and the views and wellbeing of the local community.

A report commissioned by Demian forecasts that the commercial development would capture one in every three dollars currently spent by residents of Lewisham, Petersham and Dulwich Hill. The report ignores the fact that people cross local government boundaries to shop, and omits any mention of the impact on the nearby Summer Hill village and Leichhardt Market Town, the shopping place of many Lewisham and Petersham residents. By undermining existing shopping strips the Government once again undermines effective provision of public transport and drives more people to private motor vehicle use. Traffic projections indicate that the intersection of Old Canterbury Road, Longport Street and Railway Terrace will be severely impacted.

The developer also attempts to justify its proposal by asserting that it is located next to the former freight rail line and has the potential to be serviced by an extension of the light rail from Lilyfield. The Greens are on record as supporting the extension of light rail to Dulwich Hill, but we do not support poor planning for the area surrounding that line. I call upon the Minister to refer this application back to Marrickville Council. There is no good reason why it should not be decided by the local council in accordance with local planning guidelines.

There is yet another worrying proposal in the Marrickville local government area, namely the proposed rezoning of the former Enmore School site. Since the Government first approached Marrickville Council with

an application to re-zone the site and convert the building to flats, local residents have demonstrated their continued opposition to the proposed sale of this school. Marrickville Council, or at least its Green councillors, have opposed the proposed sale from the beginning. Foremost among the reasons for that is the necessity to look to the future needs of education in the area. The 2007 Draft Regional Strategy paper of the Department of Planning anticipates that the population of the Marrickville local government area will grow by 5,000 people over the next 20 years.

The effect of that growth will be an increasing demand on existing infrastructure, including schools. Planning for future population increases is not simply a matter of looking at where people are going to live, but also at where they work, shop and enjoy relaxation and recreation and where their children will be educated. The Government has made this mistake before. In the mid 1980s, at precisely the time it was planning for significant population growth in Pyrmont and Ultimo, it closed inner city schools. The result is we now have overcrowded schools in those areas, a problem that will be greatly exacerbated if and when the Carlton and United Brewery site project at Chippendale ever proceeds.

Erskineville Public School is yet another example. In the 1980s the Government slated it for closure. Now the school is full, and it has been necessary to enforce a rigid application of boundaries so that children who live in the area are able to gain entry to their local school. It is a simple equation. More residents equals more children, equals a greater demand for educational facilities. The State Government has choices. Either it should stop advocating population growth, promote decentralisation, or build more schools. At the very least, it should stop selling off schools and preserve public assets in public hands.

WORKPLACE SAFETY

The Hon. LYNDA VOLTZ [7.25 p.m.]: Often in this House I have mourned the loss of our service men and women. Our Armed Forces perform their work in the most dangerous of circumstances and this loss of life is the greatest tragedy of war. However, the risk of death and serious injury at work extends beyond those people in the Armed Forces. Workers in construction, mining and other labour-intensive industries risk their health and their lives each day when they go to work. While this risk can be minimised with strong occupational health and safety laws, this does not let us escape the reality that between 2006 and 2007, 236 people were killed at work in Australia. Of the 236 people, 50 died working in the construction industry. Those figures, provided by the Australian Safety and Compensation Council, are alarmingly high. Worldwide, the International Labour Organisation reports that more than 2 million people die each year at work—one every 15 seconds. This is on top of 160 million people who fall victim to work-related illness.

Last Tuesday, 28 April, marked International Workers Memorial Day. The day is one of reflection and remembrance of those killed and injured in workplace accidents. In Sydney, a remembrance service was held at Reflection Park. Families of workers who had died on the job placed pictures of their loved ones at the memorial and it served as a timely reminder to everyone of the importance of vigilance in the workplace when it comes to health and safety. Workplace fatalities have a tremendous impact on the community. While employers, unions, co-workers and friends must also cope with the tragedy, no-one is more affected than the families, and it is on International Workers Memorial Day that we take the time to remember this.

Every workplace death and injury is preventable and for those people working in high-risk industries, and even for those who are not, we must ensure that the New South Wales Government retains what are the toughest occupational health and safety laws in the country, and indeed the world. However, International Workers Memorial Day is not only about remembering those killed and injured, it is also a reminder of the fight to ensure that people continue to be able to work in a safe environment. Construction workers in particular have been at the forefront of the struggle for better safety in Australia. The campaign for safe workplaces has been a long one.

In 1902, laws relating to the safety of scaffolding were introduced after years of campaigning by building workers. In 1956 lead paint was banned, and in the following year the symbol of the construction industry, the hard hat, became compulsory. In 1971, Sydney Opera House workers went on strike to demand full pay for injured workers, and during the 1980s asbestos was banned, and after pressure from building workers a fund was set up to compensate those whose lives were cut short. Despite those victories for safety in the workplace, the struggle continues. The Australian Building and Construction Commissioner still lingers over the construction industry and threatens to take action against workers who hold meetings to talk about safety. Further, governments across the country are currently working on the introduction of a single set of safety laws.

While this in itself is not cause for concern, what is alarming is the possibility that workers in New South Wales may lose some of the significant gains they have made if safety laws are watered down. At present if someone dies on the job in New South Wales the onus is on management to prove they did everything in their power to stop it. Under the proposed laws, it will be up to government inspectors to prove whether management was responsible. On top of this, unions will be prevented from launching prosecutions against employers who neglect safety in the workplace. Moves such as this would be an enormous step backwards for safety. We have to keep fighting to ensure that people can go to work in the knowledge that everything possible has been done to ensure workers' safety. The slogan for International Workers Memorial Day is "Remember the dead—Fight for the living".

On 28 April I attended the 2009 Construction Industry Safety dinner held at Le Montage. The dinner honours those who died at work and their families who have been left behind. It is also an opportunity to acknowledge the fine work of the Workplace Tragedy Support Group—a support group of those who have lost a member of their family at work. I thank the Construction, Forestry, Mining and Energy Union for its ongoing support of the Workplace Tragedy Support Group and its work in bringing together the industry, the MBA, and trade unionists to acknowledge the ongoing struggle to maintain safe workplaces.

Finally, I pay tribute to the Sydney Harbour Foreshore Authority for its assistance in the building of Reflection Park, which is situated in Darling Harbour opposite the Sydney Entertainment Centre. This memorial will serve as a lasting reminder not only of those men and women who have died at work but of the importance of maintaining strong occupational health and safety laws to ensure safe workplaces for all Australians.

[*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 7.30 p.m. until Thursday 7 May 2009 at 11.00 a.m.