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GENERAL PURPOSE STANDING COMMITTEE No. 3

Tuesday 15 September 2009

Examination of proposed expenditure for the portfolio areas

ATTORNEY GENERAL, INDUSTRIAL RELATIONS

The Committee met at 2.00 p.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. D. J. Clarke
The Hon. G. J. Donnelly
The Hon. M. A. Ficarra
Dr J. Kaye
The Hon. R. A. Smith
The Hon. H. M. Westwood

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PRESENT

The Hon. J. Hatzistergos, *Attorney General, and Minister for Industrial Relations*

Attorney General's Department
Mr L. Glanfield, *Director General*
Mr A. Kirkland, *Chief Executive Officer, Legal Aid Commission of New South Wales*

Office of Industrial Relations
Mr D. Jones, *Executive Director, Office of Industrial Relations*

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CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000

CHAIR: I declare this hearing for the inquiry into budget estimates 2009-10 open to the public. I welcome Minister Hatzistergos and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio areas of Attorney General and Industrial Relations. Before we commence I will make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members or witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photos. In reporting the proceedings of this Committee, media representatives must take responsibility for what they publish, or what interpretation they place on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door. Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or Committee clerks. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers while at the table. I remind everyone please to turn off their mobile phones.

The Committee has agreed to the following format for the hearing. We will examine the portfolios concurrently. We will divide the time available equally, starting in 20-minute blocks with crossbench, Opposition and Government members. There will be no break for afternoon tea. The House has resolved that answers to questions on notice must be provided within 21 days from when the Committee secretariat sends the questions to you. If there are any journalism students present they are allowed to film the proceedings but they should see the Committee clerks before they start. Transcripts of the hearing will be available on the website from tomorrow morning. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

LAURIE GLANFIELD, Director General, New South Wales Department of Justice and Attorney General, sworn and examined:

ALAN KIRKLAND, Chief Executive Officer, Legal Aid Commission of New South Wales, and

DON JONES, Executive Director, Office of Industrial Relations, affirmed and examined:

CHAIR: As there is no provision at this round of budget estimates for a Minister to make an opening statement before the Committee commences questioning, we will begin with questions from the crossbench. I declare the proposed expenditure for the portfolio areas of Attorney General and Industrial Relations open for examination. We will start with questions from the crossbench.

The Hon. ROY SMITH: Minister, my question is in relation to the Environmental Defender's Office. It is my understanding that a number of departments provide financial assistance to that office. Will you please advise the Committee of the amount of financial assistance that is being provided to the Environmental Defender's Office from the Public Purpose Fund of the Law Society of New South Wales and the Legal Aid Commission of New South Wales in the last financial year?

The Hon. JOHN HATZISTERGOS: I am advised that the funding that is provided is overwhelmingly from the Public Purpose Fund, which is $1.158 million; the State funding is $0.175 million; the Commonwealth funding is $0.9 million; plus some minor grants I am told in aid of out-of-pocket expenses.

The Hon. ROY SMITH: Are you able to tell the Committee how many cases the Environmental Defender's Office has brought against the New South Wales State Government, or its agencies, in the last 12 months, and how much did it cost the Government to defend those actions?

The Hon. JOHN HATZISTERGOS: First of all, I do not have that information because the Environmental Defender's Office would report upon that in its annual report, so there would be information that is publicly available on that. In relation to the cost of defending, that cost would be borne by the agencies that were the subject of the action.

Dr JOHN KAYE: Minister, how many preventative detention orders were made under terrorism legislation in the last 12 months?

The Hon. JOHN HATZISTERGOS: I will have to take that on notice. There is a report that we provide on that.

Dr JOHN KAYE: I was unaware of that report.

The Hon. JOHN HATZISTERGOS: I will get some information for you.

Dr JOHN KAYE: It is a substantial number, is it not?

The Hon. JOHN HATZISTERGOS: No. I think it is not very many at all.

Dr JOHN KAYE: Is it any at all?

The Hon. JOHN HATZISTERGOS: I will have to take that on notice. I will see if we can get some answers for you shortly.

Dr JOHN KAYE: Can you also get us the details of the circumstances of those incidents? Also, subsequent to those preventative detention orders being made were complaints lodged against those individuals held under the orders?

The Hon. JOHN HATZISTERGOS: Yes.

Dr JOHN KAYE: Yes, they were lodged?

The Hon. JOHN HATZISTERGOS: No, to the extent that it is not available publicly I will get you that information.

Dr JOHN KAYE: I appreciate your cooperation. I understand that the Terrorism Legislation Amendment (Warrants) Bill 2005 introduced covert search warrant powers.

The Hon. JOHN HATZISTERGOS: That would be very recent. The new laws that were passed?

Dr JOHN KAYE: Yes, the new laws that have been passed. In the past year how many of these warrants have been issued and executed in New South Wales since the new powers were introduced?

The Hon. JOHN HATZISTERGOS: Again, that is a matter that would be the subject of reporting. We produce an annual report in relation to those issues. I do not imagine there would be very many, if any, but that would be a matter of public reporting.

Dr JOHN KAYE: Does that reporting include how many of those warrants led to subsequent criminal prosecutions?

The Hon. JOHN HATZISTERGOS: It includes the reporting that Parliament has directed is required. That sort of information in relation to the utility is generally available to the judge, the judicial officer who issues the order, and, I think, is potentially also available to the Ombudsman.

Dr JOHN KAYE: Extended powers were inserted into the Terrorism (Police Powers) Act 2002. Have those powers been used in the past—

The Hon. JOHN HATZISTERGOS: Again, I do not have those details. We do provide an annual report in relation to those issues. Although I am supposed to be notified in relation to these matters, I have delegated my powers to the Solicitor General. So I do not get notice of them myself.

Dr JOHN KAYE: You are unaware on a day-to-day basis?

The Hon. JOHN HATZISTERGOS: On a day-to-day basis the Solicitor General gets that.

Dr JOHN KAYE: You are only aware when the report comes out?

The Hon. JOHN HATZISTERGOS: When the annual report comes to me.

Dr JOHN KAYE: What was your thinking behind delegating those powers to the Solicitor General?

The Hon. JOHN HATZISTERGOS: I think it has been a practice that the Attorney General delegates that power to the Solicitor General, and I have continued the practice. I do not know that I need to be aware of every application that is made for a search warrant. I have obligations to the Commonwealth Attorney-General in relation to some of those investigatory tools that involve Commonwealth laws. I have to report to him in relation to those. We have asked for amendments to avoid the need to do that, but at this stage that has not been agreed to. On a day-to-day basis these are matters that the Solicitor General would get notification of.

Dr JOHN KAYE: The New South Wales Ombudsman's review of parts 2A and 3 of the Terrorism (Police Powers) Act was tabled in Parliament in October 2008, but your department did not inform the Ombudsman about the tabling of this report. I understand that is a break from tradition or usual practice.

The Hon. JOHN HATZISTERGOS: Do you say we did not inform the Ombudsman?

Dr JOHN KAYE: I understand you did not inform the Ombudsman that the report was tabled, is that correct?

The Hon. JOHN HATZISTERGOS: Once you table something, it is available to everyone.

Dr JOHN KAYE: Is it not normal practice before you table such a document that you would inform the Ombudsman that you are about to do so?

The Hon. JOHN HATZISTERGOS: No.

Dr JOHN KAYE: It is not normal practice?

The Hon. JOHN HATZISTERGOS: No, not necessarily. The report you are talking about was made public on the website.

Dr JOHN KAYE: Did you inform the Ombudsman when it went public on the website?

The Hon. JOHN HATZISTERGOS: I cannot answer that question. It may be that the Ombudsman was not informed that it had been tabled. You might be correct.

Dr JOHN KAYE: Do you accept the perception that created? There was no public comment when the report was published. Generally the Ombudsman would be available for media comment or would put out a media release and those types of reports would be distributed to members of Parliament. None of that happened in this particular case.

The Hon. JOHN HATZISTERGOS: I am not aware of any particular complaint by the Ombudsman in relation to the matter. If it is the practice that the Ombudsman should be informed—and I can see the reasons why that might be the case—and that was not attended to, I am sure that would have been an administrative error. I am happy to ensure that the Ombudsman is notified before his reports are tabled, if that is the practice.

Dr JOHN KAYE: We understand that is the practice.

The Hon. JOHN HATZISTERGOS: I am happy to do that. If I am correct—and I am just thinking aloud—there was a report that we were not aware had been tabled. I am not sure if this was the one. I think this was an issue that was raised in the House earlier this year about that report. I have some information. Can I take this on notice and I will come back to you with the detail?

Dr JOHN KAYE: Yes, thank you. You might recall that the report states:

> The powers subject to this review are extraordinary and raise serious questions about the departure from a long established legal practice, Australia's obligation under international law, the impact on innocent parties and whether a proper balance has been struck between protecting national security and civil liberties. Consequently, this is a significant report.

Do you agree that the report is significant and that the issues raised by the Ombudsman are worthy of public consideration and, indeed, consideration by the Government?

The Hon. JOHN HATZISTERGOS: I give all reports that I receive from statutory officers appropriate consideration. That report is not one that I would exclude from consideration.

Dr JOHN KAYE: You have given that report consideration. How, therefore, do you respond to the suggestion within the report that the "powers subject to this review are extraordinary and raise serious questions"?

The Hon. JOHN HATZISTERGOS: You are asking me to make a comment. I am not sure that that is an appropriate use of this process. We give appropriate consideration to all reports that come forward and, where appropriate, make adjustments to laws. Where not appropriate, we do not. These reports are available for you to make whatever criticisms you believe are appropriate. This matter has been the subject of, I think, significant discussion. I know that there are a number of people, including people in your party, who have divergent views from others in relation to the appropriateness or otherwise of these laws. The point that I have made consistently in relation to these issues is that when you have extraordinary powers it is important to ensure that you have robust systems of oversight. There is a balance that has to be struck between the interests of law enforcement and the interests of civil liberties. It is important to ensure that the oversight is rigorous, as I believe it is in the case of these particular powers.

Dr JOHN KAYE: Is the Regional Solicitor Program still running?

The Hon. JOHN HATZISTERGOS: I think that was an issue you raised last year as well, or your colleague did, and the answer to that is yes.

Dr JOHN KAYE: How much of the public purpose fund has been spent on the Regional Solicitor Program?

The Hon. JOHN HATZISTERGOS: It is $688,572.

Dr JOHN KAYE: What assessment has been made as to how the program benefits people in regional areas and their ability to access legal services?

The Hon. JOHN HATZISTERGOS: Alan Kirkland might be able to give you comments on that.

Mr KIRKLAND: An interim evaluation that was completed by a firm called Urbis late last year has been published on our website. The final evaluation is currently underway.

Dr JOHN KAYE: When will that be available?

Mr KIRKLAND: I would expect by the end of this calendar year.

Dr JOHN KAYE: What did the initial evaluation say?

Mr KIRKLAND: I do not have the report with me, but it did find that there were a number of benefits, including improving access to legal assistance in regional, rural and remote areas in which there is no legal aid office.

Dr JOHN KAYE: The number of mediation sessions in the Community Justice Centres [CJCs] has decreased from 2,691 in 2005-06 to 2,166.

The Hon. JOHN HATZISTERGOS: What is this?

Dr JOHN KAYE: This is the number of mediation sessions held within the Community Justice Centres.

The Hon. JOHN HATZISTERGOS: I think this again was a question you raised last year and an explanation was given. There are now a lot more alternative forms of mediation available. I think that was the answer that we provided you with last year. I can advise that the number of mediations now is back on the increase. In fact, in the last quarter, which was April to June 2009—the last quarter of the financial year—there were 432 mediation sessions held, and that is the highest number of all the last four quarters, which averaged 393 per quarter.

Dr JOHN KAYE: That is still substantially down on the 2006-07 figure.

The Hon. JOHN HATZISTERGOS: In 2008-09 there were 1,612 matters that were the subject of community justice centre mediation. The Victorian Dispute Settlement Centre, which is the equivalent in that jurisdiction, mediated less than 700. So it continues to play an important role. But historically I think you have got to recognise that there is now a lot more different types of mediation, and particularly in the Local Court. Mediation is an integral part of the Local Court's Small Claims Division. There was once a time when matters in the Local Court being mediated were sent off to community justice centres. The Local Court now has its own mediation service. Every defended case is listed for a pre-trial review conducted by a registrar, or in some instances by an assessor or a magistrate. The review is an informal conference that encourages parties to attend and make a genuine effort to try to resolve the matter before a final hearing.

In 2008 there were some 7,700 matters that were set down for pre-trial review, and the vast majority of these were resolved and did not need to proceed to a hearing. There is an agreement between the Local Courts and the community justice centres where mediators attend larger courts on list days to assist parties to settle disputes. That is in operation at the Downing Centre, which is the busiest civil court. Community justice centre mediated civil matters have a very high success rate of about 80 per cent.

The other issue the director general just drew my attention to is that, as you would be aware, the Land and Environment Court has a tree jurisdiction, which is relatively recent. Tree disputes used to invariably go to community justice centres. We now have a tree jurisdiction in the Land and Environment Court, and it is very inexpensive for parties to be able to resolve matters relating to trees. Those disputes also have mediation available through the Land and Environment Court.

Dr JOHN KAYE: That is a lower cost than the community justice centres?

The Hon. JOHN HATZISTERGOS: I am not sure what the filing fee is—it is pretty low. It does not involve legal representatives; it can involve mediation but it can also involve a decision by a commissioner. If it involves a decision by a commissioner, it is basically done on-site: the parties turn up with a commissioner and the commissioner hears the parties on site and makes a decision. So it is very low-cost.

Dr JOHN KAYE: This is in respect of a dispute between an individual and a council or between neighbours?

The Hon. JOHN HATZISTERGOS: Between neighbours. The trees legislation, however, is the subject of a review as we speak. It does not look at views, it mainly looks at other tree disputes—intrusion of trees into neighbouring properties and raising surface levels and that sort of stuff; it does not actually look at whether a tree needs to be cut down to protect someone's view.

Dr JOHN KAYE: Can I change topic for a second and can we talk about the total expenses for legal aid in New South Wales? They are estimated for 2009-10 to be $199 million. That is only an increase of 3 per cent above the 2008-09 budget. So that is possibly in line with or slightly behind the inflation rate for that period. Why is it that that has not increased more?

The Hon. JOHN HATZISTERGOS: Mr Kirkland will give you some advice on that. There are some issues in relation to the Commonwealth that they are still negotiating. I am not sure if we are going to have any success there. As you would be aware, there are three main sources of funding for legal aid: the State Government, the Federal Government and also the Public Purpose Fund.

Mr KIRKLAND: That is correct. One of the factors that affects our budgeted income and expenditure from year to year is the level of one-off funding provided by the Commonwealth Government. We have not budgeted for any one-off funding in the 2009-10 year because there is never any certainty about that. In addition, since the budget papers were finalised, the Public Purpose Fund approved an additional amount of money for legal aid, so we expect our total expenditure to be greater than was estimated at the time of the State budget.

Dr JOHN KAYE: How much was that?

Mr KIRKLAND: I will take that on notice. It is in the order of $3 million.

Dr JOHN KAYE: It is only a 1.5 per cent increase?

Mr KIRKLAND: As I said, there are a range of factors including one-off payments from the Commonwealth that may not be repeated from year to year. That is probably the most significant factor impacting on our income.

The Hon. JOHN HATZISTERGOS: We still have not got a commitment, I do not think, from the Commonwealth.

Mr KIRKLAND: That is correct, we do not have a commitment.

The Hon. JOHN HATZISTERGOS: They did provide some one-off funding earlier this year to assist with the demand for services, and that was in addition to the $6 million that they provided last year.

Dr JOHN KAYE: Are those years you are talking about calendar years or financial years?

The Hon. JOHN HATZISTERGOS: The funding of $6 million that was provided was in 2007-08; the $4.4 million in one-off funding was for 2008-09.

Dr JOHN KAYE: What determines that one-off funding?

The Hon. JOHN HATZISTERGOS: We are still going through this exercise. The new Federal Government has certainly been a lot more sympathetic. Certainly the Commonwealth Attorney General has been a lot more sympathetic to the plight of legal aid and the demands that are being placed on it. The previous Government had a view that it was only going to fund things that were Commonwealth, and even then it kept pulling back on what it defined as "Commonwealth". One of the most appalling decisions to have been was when they withdrew funding for appeals by veterans to the Administrative Decisions Tribunal over their pensions. As I said, I think the new Federal Government is a little bit more understanding of the situation, but we still have not got an ongoing commitment, which is what we would like, in relation to legal aid funding from the Commonwealth. There was a funding agreement that has been extended until the end of this year. That was last year's funding agreement. That has gone over until the end of this year.

Dr JOHN KAYE: It is a Commonwealth funding agreement?

The Hon. JOHN HATZISTERGOS: A Commonwealth legal aid funding agreement with the State. That was due to expire at the end of last year—31 December 2008. It has been extended for 12 months.

Dr JOHN KAYE: Just a very last quick question to finish off this round. In general, Commonwealth funding is of the order of 5 per cent or 10 per cent of your total funding, is that right?

Mr KIRKLAND: No, that is not correct, it is much more than that.

The Hon. DAVID CLARKE: What are you doing about the crisis caused in public housing at Ryde involving the notorious paedophile Dennis Ferguson?

The Hon. JOHN HATZISTERGOS: I understand the Minister for Housing has responded to those issues.

The Hon. DAVID CLARKE: You do not see a part for you to play in assisting here?

The Hon. JOHN HATZISTERGOS: What is proposed that I should do?

The Hon. DAVID CLARKE: In particular are you intending to use the Crimes (Serious Sex Offenders) Act 2006, an Act your Government introduced to seek an extended supervision order on the sex offender Ferguson?

The Hon. JOHN HATZISTERGOS: That would require a request for me to consider from the Commissioner of Corrective Services, assuming any case was deemed suitable for such an application to be

made. I do not just choose people; it requires an assessment committee and then legal advice to be obtained before an order can be activated.

The Hon. DAVID CLARKE: Do you think the circumstances surrounding this particular person might suggest to you that this is something that you do touch base with the Minister for Corrective Services on?

The Hon. JOHN HATZISTERGOS: I am not in a position to comment about what you have just suggested. The process has already been activated on a number of occasions. There are obligations under the law that must be met before such an application, if it were appropriate, could be granted. Every application received is the subject of scrutiny by a risk assessment committee. I should also make the point, in case you are not already aware of it, that an application cannot be made under the Crimes (Serious Sex Offender) Act unless a person is serving the last six months of his sentence. There must be a current sentence on foot, and I am not aware that there is. If not, there is no capacity to bring an application under the Act

The Hon. DAVID CLARKE: That being the situation—

The Hon. JOHN HATZISTERGOS: I am not commenting on the situation; I am simply advising you what the legislation provides.

The Hon. DAVID CLARKE: I understand that. Do you believe that the Crimes (Serious Sex Offenders) Act should apply to interstate former prisoners in that situation? You said that it does not apply in that situation at the moment.

The Hon. JOHN HATZISTERGOS: The issues with the Crimes (Serious Sex Offenders) Act were the subject of an extensive review undertaken by the Sentencing Council and its report has been made public. Two further reports are being prepared for me on sex offenders generally. I have yet to receive those reports, but when I do I will consider them and any recommendations. One is being chaired by Justice Fullerton and the other by Judge Peter Berman of the District Court. They relate to sentencing generally and one deals specifically with child pornography.

Sex offender legislation is not uniform across the country. The New South Wales Act is probably the most rigorous. Victoria has a supervision order provision but not a detention order provision. Queensland has legislation, but there is no provision for reciprocity. The way the regimes operate in the different jurisdictions varies. If we were going to move down that track—and I am not averse to that occurring—I believe we would also need to consider including some Federal crimes. I refer in particular to sex crimes committed overseas, which at the moment are not included in the legislation.

The Hon. DAVID CLARKE: Are you prepared to proceed down the path of reciprocity based on the New South Wales legislation?

The Hon. JOHN HATZISTERGOS: I am always anxious to achieve reciprocity, but it is difficult because there are different philosophies and views in different jurisdictions. However, I do not think that that should hold me back from doing what I can in New South Wales, and it has not. If I had to wait for other jurisdictions to do what I believe should be done, we would probably have a more diluted version of the Crimes (Serious Sex Offenders) Act in New South Wales.

The legislation has worked reasonably well. It was the subject of severe criticism when the Government introduced it, but much of it was alarmist nonsense spread by a few people who frankly should have known better. The systems in place are appropriate. The Department of Corrective Services has a process by which to vet applications to ensure that there is timely consideration of every person's case. Moreover, I am encouraged by the fact that a large number of prisoners who would previously have served their full sentence and then been released now realise that the prospect of such an application being made, either for their detention or supervision, would preclude them from being released without any conditions attached to their release. Those persons are now undertaking courses that they previously would have been disinclined to undertake. For a variety of reasons, I believe the legislation has worked effectively.

The report of a statutory review of the legislation requested by the Parliament is required to be tabled in the Parliament, if memory serves me correctly, by April next year. That will be done, and any further issues that need to be addressed will be addressed. An unsuccessful constitutional challenge was mounted and I understand

that others are being contemplated. We will deal with them. If they involve interstate schemes, we will intervene because we believe that the legislation is important and that its foundations are sound.

The Hon. MARIE FICARRA: In your role as Attorney General have you ever had occasion to meet with the late Mr Michael McGurk?

The Hon. JOHN HATZISTERGOS: No. These are like McCarthyist inquisitions with members asking, "Have you ever breathed the same air?" or "Have you ever seen him, spoken to him or been in the same company?" The answer is no. To the best of my knowledge I have never met, known or breathed the same air as Mr McGurk. Nor have I dined or wined with him.

The Hon. MARIE FICARRA: Have you spoken to him?

The Hon. JOHN HATZISTERGOS: I did not know who he was, unless it was completely coincidental. Even if it were, I would not recall it.

The Hon. MARIE FICARRA: I direct my question to Mr Glanfield. Under your department's code governing the use of electronic devices such as computers, the Internet and other communication tools, can those resources be used for political purposes?

Mr GLANFIELD: No.

The Hon. MARIE FICARRA: Is it correct that the Department of Premier and Cabinet's policy and guidelines for the use of employer communication devices state that "using employer communication devices for activities that might be questionable, controversial or offensive is forbidden and may lead to disciplinary action being taken against the employee concerned"?

The Hon. JOHN HATZISTERGOS: I know what these questions are about. They relate to a press release that is apparently on the Lawlink website in which I address criticisms made by the shadow Attorney General and the Leader of the Opposition.

The Hon. MARIE FICARRA: My question is directed to your director general.

The Hon. JOHN HATZISTERGOS: You can ask him, but I will tell you my thoughts. I have an obligation to defend the integrity of the judiciary. That is an obligation on any person occupying this office. I am not ashamed to do so and I have done it on a number of occasions. If members of the Opposition want to use public resources—which is what they do—to level those criticisms, then they should not feel in the slightest offended if someone stands up for those who otherwise cannot defend themselves. I do not regard that as political; it is part of my duty as the senior law officer of New South Wales. I would expect whoever occupies this office to take a similar position to that which I have taken.

The Hon. MARIE FICARRA: Many members of Parliament disagree with that.

The Hon. JOHN HATZISTERGOS: If they want to attack the judiciary, that is their decision. However, I have an obligation that I take very seriously, as should anyone who occupies this position.

The Hon. MARIE FICARRA: I will continue my questioning of the director general. In view of both the code and the guidelines, why did you or one of your staff allow the use of the Attorney General's Department website—

The Hon. GREG DONNELLY: Point of order: I request some guidance and direction about the answering of the question. I understand that questions are directed in the first instance to a Minister

The Hon. MARIE FICARRA: No, it was directed to the director general.

The Hon. GREG DONNELLY: In the first instance, questions are directed to a Minister and it is up to the Minister to decide how the questions are answered. Indeed, I understand that the question has been answered. I do not believe that the member has an absolute right to direct her questions to a ministerial staff member and to obtain an answer.

The Hon. MARIE FICARRA: To the point of order: I believe it is our right to ask questions of directors general of departments and to obtain answers from them.

The Hon. JOHN HATZISTERGOS: It is a simple answer to that.

CHAIR: I will rule on the point of order to clarify the further proceedings of the Committee. There is no set requirement for all questions to be directed through Ministers. Questions can be directed to public servants. However, if they decline to answer those questions Ministers may answer them. Questions cannot be directed to public servants on matters of government policy. Also, all questions should be related to proposed expenditure in the budget estimates. On that basis the member may proceed with her question.

The Hon. MARIE FICARRA: My question is to the director general. Why did you authorise or allow one of your staff members to authorise the use of the Attorney General's website for political purposes on 11 August 2009 for the publishing of a politically motivated attack on the shadow Attorney General entitled, "Plagiarism passes for Opposition policy"?

Mr GLANFIELD: The question as it relates to the action of my employee was that the employee was following the Premier's memorandum that says that as far as possible a department is to publish all press releases issued by Ministers on the relevant website in the community interest. The officer who did that would have been following that instruction.

The Hon. MARIE FICARRA: Were you aware of it at the time?

Mr GLANFIELD: No.

The Hon. MARIE FICARRA: What do you propose to do to address this abuse of public resources?

The Hon. JOHN HATZISTERGOS: These are highly argumentative questions.

The Hon. MARIE FICARRA: He is the director general. It is your responsibility as director general to be responsible for this and your employee's actions?

Mr GLANFIELD: I accept responsibility for my employee's actions, and the employee was placing on the website a press release issued by a Minister of the Crown. We are under a general instruction to try to ensure those are brought to the attention of the public. That officer was doing it, and I stand by the officer who did it.

The Hon. MARIE FICARRA: So you agree that the usage of those public resources for political purposes was—

The Hon. GREG DONNELLY: Point of order: That is asking for an expression of an opinion, which is clearly outside the framework of this budget estimates hearing.

CHAIR: Where there is not a specific reference in the budget estimates manual for the estimates 2009-10, generally the procedures relating to the rules of the House would apply, and seeking opinions from public servants would not be within the guidelines.

The Hon. MARIE FICARRA: I will rephrase the question. Will you give an undertaking that taxpayer-funded resources will not be used for political purposes in future? Are you prepared to give that undertaking as director general of your department?

Mr GLANFIELD: I refer to the Minister's answer earlier. Press releases are put out by Ministers and shadow Ministers using public resources. It is not for me to make a judgement call about what press releases someone may have a problem with.

The Hon. MARIE FICARRA: In other words, your answer is you are willing to do nothing?

CHAIR: Order! It is not appropriate to rephrase answers to questions you have asked of witnesses and then try to have them read into the record as their answers when clearly they are not.

The Hon. DAVID CLARKE: Minister, is it true that due to budget restrictions certain officers of the Attorney Generals Department are being encouraged to accept voluntary redundancies?

The Hon. JOHN HATZISTERGOS: The director general can answer those questions.

Mr GLANFIELD: As a general principle, no. We are, though, in some areas of the department reviewing staffing levels to make sure—and I covered this in answer to a question last year at estimates—that where workloads have shifted or there has been a change in workload we have the appropriate level of staffing. As a result of that, at the moment in the Local Court we have something in the order of about 60 officers who are sitting in unfunded positions and there are about 60 staff in positions that are unfunded. We endeavour to try to match people to those positions. If someone expresses a wish for a voluntary redundancy rather than take up a position elsewhere in the organisation I would be open to considering that, but there is no policy and there is certainly no push to force people to take redundancies. I prefer to keep all our staff.

The Hon. DAVID CLARKE: Do I take it that you are saying generally the answer is no but in specific situations the answer is yes?

Mr GLANFIELD: Generally the answer is no. Last year we offered two voluntary redundancies. This year so far I have offered one voluntary redundancy. That is only done by consent. It is only where there is a request from the person. As far as I am concerned, any changes we are making to the department will not see anybody lose their job. All my staff will continue to retain their jobs within the department.

The Hon. DAVID CLARKE: So in the last financial year two positions were made redundant?

Mr GLANFIELD: Yes.

The Hon. DAVID CLARKE: What is the total amount of money paid in redundancies for the last financial year?

Mr GLANFIELD: This includes a payment for accrued recreation leave and long service leave. You have to bear in mind that the vast bulk of the payments made in voluntary redundancy are entitlements that are paid in any event. The total for those two officers was $178,000.

The Hon. DAVID CLARKE: Were former assistant directors general Tim McGrath and John Fennelly given redundancy or did their contracts expire?

Mr GLANFIELD: Their contracts expired. They were not paid redundancies.

The Hon. DAVID CLARKE: How many senior executive officer positions did you abolish following the Premier's directive in this matter?

Mr GLANFIELD: I would have to take that on notice but there was a 20 per cent requirement and we were required to reduce that number of positions.

The Hon. DAVID CLARKE: Would you also take on notice what positions were abolished as well as how many?

Mr GLANFIELD: Yes.

The Hon. DAVID CLARKE: With regard to the Director of Public Prosecutions, were there approximately 650 full-time equivalent positions in 2006?

The Hon. JOHN HATZISTERGOS: The details of the positions would be in the annual report. I do not have the annual report before me but an annual report is produced by the Director of Public Prosecutions every year which has a breakdown of staff numbers.

The Hon. DAVID CLARKE: Just finishing the question, will this fall to 570 this financial year?

The Hon. JOHN HATZISTERGOS: The details would be in the annual report. When you are talking about this financial year, you are talking about 2009-10?

The Hon. DAVID CLARKE: Yes.

The Hon. JOHN HATZISTERGOS: That will be in the report of the Director of Public Prosecutions that is produced next year.

The Hon. DAVID CLARKE: Assuming that these figures are correct—

The Hon. JOHN HATZISTERGOS: I am not assuming anything. What is the question?

The Hon. DAVID CLARKE: I am asking you: Are these figures correct?

The Hon. JOHN HATZISTERGOS: I cannot answer that question. Firstly, the financial year has not concluded and will not be concluded until 30 June next year. When it is concluded the Director of Public Prosecutions will produce an annual report to Parliament as is required. What specifically is it you are asking?

The Hon. DAVID CLARKE: Minister, how do you anticipate the Director of Public Prosecutions being able to cope with the lower number of staff? I think you or the director general mentioned you are talking about a cut of 20 per cent. Was that a directive from the Premier's Department?

Mr GLANFIELD: In the senior executive service positions, but that was not applied equally to every organisation.

The Hon. JOHN HATZISTERGOS: The budget of the Director of Public Prosecutions has increased.

The Hon. DAVID CLARKE: I am talking about the number of staff rather than the budget

The Hon. JOHN HATZISTERGOS: The Director of Public Prosecutions has to operate within a budget. What is it you are seeking to ascertain?

The Hon. DAVID CLARKE: What I am seeking to obtain is how the Director of Public Prosecutions is going to be able to cope with the lower number of staff?

The Hon. JOHN HATZISTERGOS: This year the budget for the Office of the Director of Public Prosecutions is $99.7 million, which is $3.1 million more than the previous year. I make the point that that includes $1.4 million in supplementary funding that was given to the Director of Public Prosecutions last year, as a result of the mini-budget, for 14 lawyers. In addition, you will see from the budget papers that we are providing the Office of the Director of Public Prosecutions this year with $8.6 million so it can relocate to a single location. That is not money that came out of their existing capital; it was money that was given to them on top of that, and it was following a business case that was bought by the Director of Public Prosecutions that if they move from the current three tenancies that they occupied into a single tenancy that would mean they would be able to create a lot of efficiencies within their structure to lower their costs effectively.

That was the argument they put and that was a business case the Director of Public Prosecutions argued. It said if it operated in groups—which they could only do in teams—and which was what the Auditor-General recommended, they would be able to have a cradle to grave approach. That would mean you would not have the current configuration processes that they argued reduce their efficiency and increase their cost. The Auditor-General said this in his report:

> The ODPP has many skilful and committed staff who work very hard but the ODPP could not provide sufficient evidence for us to reach a conclusion about its efficiency.

The executive director and the DPP have committed to implementing the recommendations of the Auditor-General's report, specifically the cradle-to-grave approach, which is basically having a team of lawyers working on cases rather than having a case go through, effectively, a production line.

The Hon. DAVID CLARKE: Is the director general saying that the DPP is coping with the same number of duties being handled by a smaller number of staff?

The Hon. JOHN HATZISTERGOS: No—well, it depends on how you look at it. Its caseload has actually declined. The Auditor-General's report of last year showed there was a 40 per cent increase in funding

at the same time as they had a 30 per cent reduction in cases. If you look at the caseload figures—and I can give them to you—you can see that the numbers of matters have actually declined quite significantly. According to the reviews, in the last 10 years District Court figures show there have been 40.7 per cent fewer trials, 40.6 per cent fewer finalised trials, 22.9 per cent fewer trials registered in Sydney, 25.3 per cent fewer trials finalised in Sydney, 18 per cent fewer sitting weeks in Sydney west, 2.7 per cent fewer sitting weeks in country and other venues, 6.4 per cent more sitting weeks in Sydney—overall, 1.4 per cent fewer sitting weeks statewide.

In terms of the length of trials, which is the argument that is sometimes raised, it has been suggested that the length of trials has gone up. In fact, one news article I read suggested that it had doubled over that period. That is just not correct. Again, relying on the figures we have, which are in the District Court annual reviews, there has in fact been a minor increase statewide from 6.4 days in the average length of trial to 7.25 for 2003-07 but there has been a 0.5 day decrease from 8.7 days in 2003 to 8.13 in 2007. In fact, in 2007 the District Court listed 21 per cent fewer trials than in 2005.

The important thing that is often raised by the DPP is that caseload has fallen—and the figures are the same, by the way: appeals to the Court of Criminal Appeal have dropped and High Court appeals have dropped. The Auditor-General makes that comment. The DPP says that caseload has gone down but workload has gone up because of changes that have occurred. The Government funded the DPP—Mr Smith was the deputy at the time—to introduce activity-based costing. That has been around for almost 10 years and it still has not been implemented. I understand from the response of the DPP to the Public Accounts Committee that it proposes to have that implemented by the third quarter of this year. That would be very useful because it would enable us to do what the Auditor-General said he could not do when he was doing his review, and that was to measure the effectiveness and the workload. He said this:

> The ODDP has advised that fall in case and trial loads was offset by increases in the work required in each matter … Without better supporting evidence we cannot refute or support this.

That is an important part of what the DPP has to be able to do in order to be able to substantiate what claims it may have in relation to workload offsetting the significant reductions in caseload that have been identified in the reports that I referred to.

CHAIR: We will now go to Government members for questions.

The Hon. HELEN WESTWOOD: What is the Government doing to ensure transparency when it comes to judicial appointments?

The Hon. JOHN HATZISTERGOS: This is an important question. I answered a similar question last year and I am pleased to be able to give the Committee some information that updates my answer. The Government is committed to transparency and diversity in appointments to the judiciary and senior officers in the justice system. As you would be aware, I have instituted a process whereby District Court, magistrate, tribunal, public defender, and Crown prosecutor vacancies are advertised. A list of personal and professional criteria has been developed in consultation with the profession and the judiciary. These criteria are considered in selecting candidates for all offices in New South Wales, including the Supreme Court, which is currently not the subject of that process.

The professional qualities include proficiency in the law and its underlying principles, a high level of professional expertise and ability in areas of professional specialisation, applied experience, intellectual and analytical ability, ability to discharge duties promptly, capacity to work under pressure, effective oral, written and interpersonal communication skills with peers and members of the public, integrity, independence and impartiality, and good character. The process is an open and fair one. Anyone with relevant experience can apply.

For the vacancies that are advertised, the applicants come before a selection panel independent of institutional or political bias. The head of the jurisdictional authority, a retired judicial officer, a prominent community member and a leading member of the profession go toward constituting the panel, as appropriate. This body assesses the applicant and makes recommendations. The procedure is in line with best practice. The procedure was put in place after consultation and is available on the Attorney General's website at www.lawlink.nsw.gov.au. The Chief Magistrate, Graeme Henson, said this recently in relation to the selection process, "It has my total support." The President of the Law Society said, "All candidates are carefully vetted and appointments are not taken lightly". That was in a media statement of 27 August.

I make the point that some appointments are not subject to the process of advertising and interview. They mainly cover heads of jurisdiction, Supreme Court and some of the sub-jurisdictional heads, such as the Chief Judge in Equity and the State Coroner, basically because they are internal appointments. In many instances for these important positions qualified candidates do not apply; they need in fact to be encouraged to take up the positions. That certainly has been the experience with the more senior positions. In many instances a cut in salary required. Many of them have thriving, successful careers at the private Bar.

Nevertheless, I am pleased to be able to advise that, as Attorney General, I have appointed 16 new judges and 16 new magistrates, and 18.75 per cent and 37.5 per cent of the appointments respectively are of females. This is an increase from when the Opposition was last in power, when between 1998 and 1995 only 10.9 per cent of judicial appointments were of women. Indeed, of all the statutory appointments we have made, so far the numbers are 50:50—50 per cent males, 50 per cent females. They come from a diverse range of backgrounds and, I might add, from both sides of politics. I do not inquire about the politics because I do not believe that is relevant. However, in some cases they identify themselves because of their prior involvement.

A former Minister for the Environment from 1988 to 1992 is the senior commissioner for the Land and Environment Court. A former Deputy Director of Public Prosecutions has been appointed to the District Court. A distinguished solicitor, the youngest partner ever appointed to a major law firm, was the first female solicitor appointed to the Supreme Court direct, without having previously been at the Bar. Comments have been made about a recent appointment I recommended, that of Magistrate Ellen Skinner. I am pleased that appointment has been supported by the Chief Magistrate and by the Law Society in response to some criticisms that were levelled about her, principally on the basis of her age.

I should make the point that she was recommended by the selection committee as being highly suitable. The committee that interviewed her included the Chief Magistrate, the former head of the Law Society, Hugh Macken, Mrs Renata Kaldor, and the Director General of the Department of Justice and Attorney General. That report described Mrs Skinner as an extremely bright young lawyer who displayed mature commonsense and a mature, practical approach to issues.

An issue was raised about the fact that Mrs Skinner was aged 33. That is an issue which the Opposition made some public commentary on. Coincidentally, I note that there was no adverse commentary made when I appointed a 34-year-old male 12 months earlier. The Government does not discriminate on the basis of age when it comes to making appointments to the bench; we appoint people based on their ability. It was disappointing that criticism was made in relation to what I believe was an appointment which otherwise was very welcome in the community. I say that not only on the part of the stakeholders but also on the part of those who rang talkback radio to engage in the debate and who thought it was refreshing that a very able person of that age was prepared to come forward and obtain appointment to that position.

Some criticisms have been made about political commentary on a website. I just want to remind people about what that criticism was. The shadow Attorney General's paper that he produced on judicial appointments quoted a few lines taken from the *Melbourne Law Journal*. This is what it said: "While there is no definitive empirical evidence on whether such commissions have increased the quality of judicial appointments, it is significant that they have been perceived as having this effect." Those same words appear in the Melbourne University Law Review: "While there is no definitive empirical evidence on whether such commissions have increased the quality of judicial appointments, it is significant that they have been perceived as having that effect."

The model that I understand the Opposition are enthusiastic about appears to be something similar to what occurs in the United Kingdom. Their last annual report shows that it took up to 22 months to fill a spot on the bench. Over the last two years British taxpayers have paid about $15 million for their commission. I do not think we need that. They could not even see a children's magistrate for some time in the United Kingdom because of the delay it took to make the appointment.

Some criticisms have been made that somehow I have got my tentacles over this process because the Director General of the Department of Justice and Attorney General sits as a member of the committee. First of all, the recommendations that come to me are unanimous. Whilst they come in various categories, the ones that are reported are those identified as highly suitable. The committee has worked extremely well at that process. But I simply make the point that if I wanted to have my tentacles over this process I would not have bothered setting it up. What is the point of having a process which enables anyone to apply, to be considered, to be interviewed, and then to be reported on, if all I wanted was to create a smokescreen for my own decision

making? I think, frankly, it is insulting—not only to the director general but also to the other people who have voluntarily, without payment, agreed to participate in the process—to suggest that it was somehow other than genuine.

I have had only positive feedback in relation to the people who have been recommended and who have been appointed. Again, I take exception to the criticisms. I do not take delight in making these matters a political controversy, but if that is the way it is going to be, if people are going to say those sorts of things, then I have a right, I believe, to defend those appointments, to defend the integrity of the process that I have established, and to, in particular, articulate what that process is and the selections that have been made under that process. Coincidentally, I note that the shadow Attorney General made the point that he objected to the fact that I had somehow, to use his words, "taken over the process for the selection of Crown Prosecutors". He said this on 2GB on 27 August:

> Crown Prosecutors now are not appointed by a committee formed by the Director as they have been historically … [the Attorney] has taken that over … I believe that has been used to an extent to support people who he wants to appoint.

Who are these people? Can someone please identify who these people are whom I wanted to appoint as Crown Prosecutors? It is an absurd statement. Every recommendation that has been made for the appointment to those positions has come from a panel which included the Senior Crown Prosecutor, the Director of Public Prosecutions, an external person, and usually two judges. In one case I think we had Irene Moss sitting on the panel. To suggest that this is a process that I have used to support people whom I want to appoint is insulting to each and every one of those persons who participated in that process. This is a process which, I believe, has worked well. The guidelines for appointment to those positions are available. Anyone who wants to see them can do so.

I have not appointed anyone other than those persons who have been recommended to me. As I said, if the view is taken that they have been appointed inappropriately to the bench or to the Office of the Director of Public Prosecutions I would invite that complaint to be made to the appropriate authorities, because I can assure you I take these issues extremely seriously. I might add, just as the Director of Public Prosecutions sits on an appointment panel for those who are going to be Crown Prosecutors in his agency or deputy director of prosecutions, I see nothing wrong with having the head of jurisdiction and the head of the Attorney General's Department sitting on those appointment bodies. As I have said on a number of occasions, if they do not see eye to eye on every appointment that is a good thing because it identifies to me that there might be an issue that I should take into account in not making that appointment—an issue that might have been missed had I had a bunch of people who are just going to sign off and agree with each other for the sake of agreeing.

I am very pleased with the process. I think those persons who have participated have done extraordinarily well. I will defend their integrity. I believe they have done an outstanding job. As I said, it is one of those innovations which I believe we have tried. There was a resistance to it at the time in various quarters, as you would expect when we have a new process, but it is one that I believe has not only served the public interest but has served the community's interest as well.

The Hon. GREG DONNELLY: What is the Government doing to ensure its departments seek to settle their disputes through conciliation rather than litigation?

The Hon. JOHN HATZISTERGOS: At the New South Wales Government Solicitors Conference this morning I released a report setting out a number of recommendations that will promote the use of alternative dispute resolution—known as ADR—by government agencies. Alternative dispute resolution refers to a range of techniques to settle civil disputes without having to go to court. This report, called "ADR In Government", follows on from the alternative dispute resolution blueprint that I released for consultation in May. This two-pronged approach aims to promote the use of alternative dispute resolution in both the government and the private sector. The advantage of using alternative resolution in resolving disputes is that it avoids costly and often lengthy court battles that are unnecessarily adversarial. Alternative dispute resolution, on the other hand, brings parties together to find a mutually acceptable solution.

The alternative dispute resolution blueprint that I released in May contained 19 draft proposals to increase and better integrate alternative dispute resolution across the civil justice system. The wide-ranging proposals in the blueprint include: establishing the Alternative Dispute Resolution Directorate in my department; changing court procedures to focus on resolving disputes rather than just on preparing for a hearing; improving consumer access to information about alternative dispute resolution; and establishing a Sydney International Arbitration Centre. The Department of Justice and Attorney General has now reviewed and

analysed all the stakeholder submissions made in response to the blueprint. In response to the feedback, some of the blueprint's recommendations have been refined accordingly. Today's report focused on those dealing with alternative dispute resolution and government. The Government and its agencies, when conducting legal matters, are required to comply with the "Model Litigant Policy for Civil Litigation". That is, they must adhere to certain guidelines requiring them to act with complete propriety, fairness, and in accordance with the highest professional standards. The policy requires that agencies must endeavour to avoid litigation wherever possible.

The report I released today recommends that the model litigant policy for government departments emphasises the requirement that they use alternative dispute resolution whenever possible. The report recommends that the model litigant policy clarify that alternative dispute resolution should be used not merely to avoid litigation but also to resolve disputes once litigation has commenced. The report also notes that we need more information on how often, or how successfully, the Government uses alternative dispute resolution. It recommends, therefore, that government agencies be required to respond to an annual survey of their use of alternative dispute resolution to resolve legal proceedings and other disputes. The results of the survey would be made publicly available.

When I released the report this morning one of the points I made to government solicitors was that there is a culture of litigation that has become entrenched among some lawyers. I reminded them that there was an obligation to resolve disputes as quickly and cost-effectively as possible, and of the importance of alternative dispute resolution to this obligation. It is also vital that their agency think about past decisions that may have contributed to litigation being brought against it. This is true whether the agency was successful in defending the claim or not. Even where, for example, the complainant did not have a good legal cause of action, the agency should consider whether the original complaint could have been resolved painlessly.

One of the most important ways in which an agency can reduce the risk of litigation is to improve the effectiveness of its complaint-handling system. In order to assist the Government in managing disputes and using alternative dispute resolution the report released today recommends that an interagency dispute-resolution working group be established. The working group would provide a forum to share ideas on dispute management and avoidance, and to promote the development of alternative dispute resolution across the New South Wales Government. I also envisage that the working group would develop best-practice guidelines and other resources to assist agencies in using alternative dispute resolution, and to encourage and promote high-quality alternative dispute resolution programs within government agencies.

My department and the New South Wales Treasury, as part of a review of legal expenditure by the Better Services and Value Taskforce of the Government, will also examine the use by government agencies of alternative dispute resolution in legal proceedings. The task force will examine the operation of the model litigant policy. In particular, it will look at whether any additional measures are needed to ensure the policy is complied with. I expect that the review will lead to further recommendations for reform. I believe that there is enormous untapped potential for the use of alternative dispute resolution by government, and I have made it a priority to pursue reforms in this area. The report released today is the start of that process.

The Hon. HELEN WESTWOOD: What is the latest information on moves toward greater regulation of surrogacy in New South Wales?

The Hon. JOHN HATZISTERGOS: A child is the greatest gift a parent can ever receive but, sadly, not all parents are able to conceive and they must look for alternative means to bring a child into the world. One such way is through the use of a surrogate mother. In New South Wales it is illegal to pay a woman to carry your baby, but altruistic surrogacy is legal. However, it is important that the law keeps pace with medical and other advances in this area. The rights of children born to a surrogate mother, and the duties and relationships between the commissioning parents and the birth parents, is a complex and rapidly developing area of law. Because of this, last year I referred the issue of surrogacy to the Standing Committee on Law and Justice of the Legislative Council. That committee published its report entitled "Legislation On Altruistic Surrogacy in New South Wales" on 27 May 2009.

It is important that reform take place at a national level, not only in New South Wales law. With different regimes operating in different jurisdictions, parents are being forced to forum shop. This creates a situation where the birth mother and the commissioning parents have to move States in order to have their child under a favourable legislative regime. Because of this, the Standing Committee of Attorneys-General has initiated a national review of the way that surrogacy laws work across jurisdictions, with the aim of achieving a consistent national approach. Unfortunately, under the Howard Government, the former Federal Attorney-

General obstructed the process of reform by insisting that surrogacy laws were simply a matter for the States and Territories to agree on and that there was no responsibility for legislative change on the part of the Commonwealth. The current Federal Government, I am pleased to say, does not share those views and has reviewed its legislation in anticipation of any forthcoming agreement between the States on surrogacy laws.

This change in attitude has assisted the standing committee in doing its work, and earlier this year it released a discussion paper on a proposal to harmonise the regulation of surrogacy. The discussion paper says that commercial surrogacy would remain illegal and non-commercial surrogacy arrangements would be lawful but, importantly, the birth mother would retain the right to change her mind. In other words, a commissioning parent cannot approach a court to force a birth mother to relinquish a child. It is important that we reform the law in this area because laws in some jurisdictions make it difficult for parents to obtain a passport or a school enrolment for a child born through surrogacy.

The issue of allowing couples who have children through surrogacy to seek a parentage order through the courts will also be addressed at the national level. Courts may be empowered to grant a parentage order to a couple if it was in the best interests of the child and the surrogate mother had given her informed consent, with the possibility that there be a condition of the parentage order that all parties had undertaken specialist counselling before the conception of the child. As I have said, commercial surrogacy would remain illegal but there could be provision for surrogate mothers to be reimbursed for losses and medical expenses incurred during pregnancy. Submissions have been received in response to that paper from stakeholders around the country, and the standing committee is currently working on its final report on the proposal. The issue has been elevated to the National Justice Chief Executive Officers Group to ensure that it is dealt with as a priority.

While changes at a national level are ongoing, we are also progressing reform at the State level with the Government's response to the Legislative Council's standing committee report to be finalised by November. The major issue at the State level is the lengthy amount of time it takes for the commissioning parents to be able to adopt their child, which is up to five years. The standing committee made several recommendations in regard to that and other issues, which the Government is considering. These include ensuring that the birth parents and commissioning parents get independent legal advice; appointing an expert panel to oversee surrogacy arrangements; establishing a transferral of parentage mechanism, which maintains the presumption of parentage for the birth mother but allows the commissioning parents to apply to the Supreme Court six weeks after birth for the transfer of parentage if it is in the best interests of the child; and that birth certificates record the names of all parties to the surrogacy arrangement. The Government looks forward to addressing these and other issues it its response to the standing committee's report.

CHAIR: We will now go to the crossbench for questions. As we have half an hour left, we will have ten minutes each.

The Hon. JOHN HATZISTERGOS: Are there Industrial Relations questions?

The Hon. GREG DONNELLY: We have some.

Dr JOHN KAYE: I will endeavour to ask an Industrial Relations question, but first I want to ask you, Minister, whether you can give us data on the increase in the number of juveniles on remand from the period 2005-06 to 2007-08.

The Hon. JOHN HATZISTERGOS: I will try to get that information for you.

Dr JOHN KAYE: Are you aware that it is about a 40 per cent increase?

The Hon. JOHN HATZISTERGOS: I am not aware of the precise numbers. There certainly has been an increase.

Dr JOHN KAYE: You are aware that there has been a substantial increase and you will get back to us with that information.

The Hon. JOHN HATZISTERGOS: We will get you that information.

Dr JOHN KAYE: Are you concerned about that increase?

The Hon. JOHN HATZISTERGOS: We have already responded to the Bureau of Crime Statistics and Research report that came out. Late last year the Government established a working party of chief executives to look at the increase and the factors behind it. That resulted in a request made to the Bureau of Crime Statistics and Research to examine it. The Bureau of Crime Statistics and Research published some information, which you may or may not be across, which identified the factors that were leading to the increase.

Dr JOHN KAYE: Was one of those factors changes to the Bail Act?

The Hon. JOHN HATZISTERGOS: There were two factors. One of them was police compliance in relation to bail, the checks being done on persons for violations of conditions. The other factor was the practice of lawyers representing young people following changes to the Bail Act. What I mean by that is, the Act indicated that you could not make a further application for bail if it had been refused unless there were new facts and circumstances. What was identified was that some lawyers were delaying making applications for bail until such time as they believed they were in possession of all the facts and circumstances because they were concerned that if their application was unsuccessful they would be unable to persuade the court that any new information was in fact new information under the legislation. The Government has indicated that we propose to introduce legislation shortly that will clarify that.

Dr JOHN KAYE: In what way will it clarify it?

The Hon. JOHN HATZISTERGOS: It will make clear, or clearer, the question of new facts and circumstances and the obligations that lawyers have, in particular, in making those applications. We have been consulting about those changes.

Dr JOHN KAYE: Do you think it was reasonable to extend those changes to the Bail Act to juveniles?

The Hon. JOHN HATZISTERGOS: Yes.

Dr JOHN KAYE: You do not think it was a little harsh?

The Hon. JOHN HATZISTERGOS: I have just been reminded that the Bureau of Crime Statistics and Research [BOCSAR] did not specifically make that finding in relation to lawyers. There was a delay in making the applications and that has been attributed to the factors I have identified.

Dr JOHN KAYE: I have not read the BOCSAR report—

The Hon. JOHN HATZISTERGOS: I have just been advised that it did not specifically make a finding about lawyers. But there was a short period of remand. The analysis that was undertaken of the reasons why there was a short period of remand was because the applications were not being made at the earlier point in time. That was information that we obtained from, I think, discussions we had with Legal Aid.

Dr JOHN KAYE: That was your interpretation of the BOCSAR report?

The Hon. JOHN HATZISTERGOS: That was the advice we received.

Dr JOHN KAYE: The BOCSAR report firmly puts the increase of juveniles on remand at the foot of the legislative changes to the Bail Act.

The Hon. JOHN HATZISTERGOS: If that were the case then there would have been a need for a judicial interpretation of what constitutes "new facts and circumstances". There was not. What the BOCSAR study found is that a large number of young people were receiving short periods of remand and then ultimately being released. That could occur only if those persons did not make the application at the earliest opportunity but made their application at a later opportunity and got bail. When we interrogated further, the concern was that some of them were disinclined to make their bail applications early because they were concerned that if they were unsuccessful that would preclude them from making a further application based on new facts and circumstances. I think that is the advice we received from Legal Aid. You asked me another question.

Dr JOHN KAYE: You answered it. I asked you whether you thought it was harsh.

The Hon. JOHN HATZISTERGOS: I am quite happy to give you a rationale. The aim of the law, as debated in Parliament, was to do this: to prevent magistrate shopping, to preclude wastage of court time and to prevent the distress to victims caused by application being made repeatedly. There was a well-celebrated case of someone who did just that. There were no new facts and circumstances. Every time the matter would come up before the court bail applications were being made. The victim was very distressed and had to travel to hear them. We wanted to avoid those consequences. That is what happened; that was practice. The law itself was never taken on appeal, which would have been useful because then we would have had a clarified decision. There was one case taken in Western Australia that certainly did not indicate that it was in any way restrictive of persons' rights. It went to the Supreme Court. However, there was reluctance on the part of lawyers even to take it on appeal. What they did was just delay making their applications. In the cases I am referring to they got their bail when they had all their information. Therefore, there was no reason to appeal it.

Dr JOHN KAYE: I want to ask you an Industrial Relations question, which relates to the November 2006 New South Wales Government procurement policy on industrial relations requirements. I understand that policy requires contractors to ensure that workers receive overall remuneration that results in no net detriment with respect to New South Wales awards. Can you tell me where that policy is up to at this stage? Has it been implemented?

The Hon. JOHN HATZISTERGOS: I can give you some information. This is actually a Commerce matter more than an Industrial Relations matter. The Executive Director can give you some information.

Mr JONES: As part of the policy, the Office of Industrial Relations is requested to inspect approximately 500 suppliers to New South Wales agencies. Since 2006 the office has been undertaking those workplace inspections with particular focus on transport, manufacturing, particularly in the area of clothing suppliers, cleaning and security industries. As at 30 June 2009, 552 investigations had commenced and 509 had been completed. The inspectors are identifying fair levels of compliance and contractors are overwhelmingly displaying a willingness to cooperate with the audits and resolve any deficiencies. While most of the contractors are actually corporations, that is the reason why they need to cooperate because the office cannot use its ordinary statutory powers to force production of employment records, for instance. It is by way of invitation.

The completed investigations as at 30 June had covered the employment of 12,175 workers, including just over 11,000 employees. The investigations identified 340 significant breaches of New South Wales industrial relations legislation or Commonwealth legislation because in some cases that would be applied in those workplaces. There were about 242 workplaces in which those breaches were identified, including 35 employers underpaying their workers. As a result of those underpayments, the office has now supervised the direct repayment of $293,280 in remuneration to employees affected by those underpayments. In general terms, the pilot arrangements appear to operate well across most industries. The results in terms of the level of compliance are reflective of the officers' wider investigation areas for those particular industries. The other aspect of this pilot process is to provide information in relation to those contracts through the department's website. That has been undertaken on a progressive basis so that contractors can see the level of compliance across each of those particular contracts or contract areas where there are a number of contracts provided.

CHAIR: We will now go to the Opposition for questions.

The Hon. MARIE FICARRA: Attorney General, what action have you taken to ensure that employees within your department who have a criminal record and have not disclosed it and/or have changed their name are identified?

The Hon. JOHN HATZISTERGOS: I understand the Director General can clarify that.

Mr GLANFIELD: In relation to all employees of our department, because it is the justice and legal system, we do criminal checks on all of them at the time of employment. If there is a problem, obviously we deal with it at that time.

The Hon. MARIE FICARRA: Can you assure this Committee that your department is entirely free of such people?

Mr GLANFIELD: What "such people"?

The Hon. MARIE FICARRA: People who may have had criminal records and have changed their names.

Mr GLANFIELD: I am sure I have people who have changed their names and there are probably some people with criminal records. Having a criminal record does not preclude someone from employment. It depends on the circumstances of the offence. It may be a relatively trivial offence that someone has committed. That would not necessarily preclude them from employment. It may be an aged conviction of a very minor nature. If it were something more serious and involved dishonesty or a significant penalty, then we would have a concern.

The Hon. MARIE FICARRA: Have you done these checks or ascertained this with your current staff?

Mr GLANFIELD: We regularly check in relation to criminal records, as I said earlier. Certainly if something came to my notice, I would act upon it immediately.

The Hon. MARIE FICARRA: Can you assure this Committee that your department has satisfactorily provided assistance to other departments to enable them to deal properly with employees of this nature?

Mr GLANFIELD: We do not provide that service. We deal with police and we do our checks with the criminal records section of police. It is up to each agency as to what it does in relation to employment. We just feel in relation to our department that it is essential that we do criminal checks for all employees.

The Hon. MARIE FICARRA: No advice is given to other departments on this issue.

Mr GLANFIELD: It is not sought.

The Hon. JOHN HATZISTERGOS: It would be a matter for the Public Sector Office.

Mr GLANFIELD: Yes, it would be a matter for the Department of Premier and Cabinet.

The Hon. JOHN HATZISTERGOS: The Hon. David Clarke asked me some questions earlier about Dennis Ferguson. I have some information that might be of interest. Ferguson was released in Queensland in January 2003 and it was, in part, in response to his release that Queensland passed its version of the New South Wales serious sex offender legislation, which came into effect in that jurisdiction in June 2003. Ferguson was imprisoned in New South Wales for a breach of the child protection register but went back to Queensland in 2005. He was arrested and charged there for further sex offences allegedly committed in November 2005 and he was given a permanent stay in 2007. Queensland appealed and a judge-only trial was ordered. But in March 2009 he was acquitted. He has never been in custody serving a sentence at a time when sex offender legislation could have been used to get an order against him. If he was imprisoned now for a breach of reporting conditions under the register then, subject to various processes, there is a possibility that the serious sex offender legislation could be activated.

The Hon. MARIE FICARRA: Director General or Attorney General, I note that the Attorney General's office employed a woman for four years who had a criminal record. What checks did you have concerning this staffer?

Mr GLANFIELD: Ministerial staff are not employees of my department; that is looked after by the Department of Premier and Cabinet.

The Hon. MARIE FICARRA: Did she have access to records within the Attorney General's Department?

The Hon. JOHN HATZISTERGOS: She was a receptionist.

The Hon. MARIE FICARRA: Did she have access to records as a receptionist?

The Hon. JOHN HATZISTERGOS: There has been an audit done in relation to that matter. I am advised that she did not have access to any sensitive material.

The Hon. MARIE FICARRA: Could I ask what supervision she was placed under? What form of supervision was there?

The Hon. JOHN HATZISTERGOS: What do you mean?

The Hon. MARIE FICARRA: In her employment as a receptionist.

The Hon. JOHN HATZISTERGOS: She was a receptionist/administrative assistant.

The Hon. MARIE FICARRA: Did she answer phones as a receptionist?

The Hon. JOHN HATZISTERGOS: She would have answered phones, yes.

The Hon. MARIE FICARRA: Did she open correspondence as a receptionist?

The Hon. JOHN HATZISTERGOS: This was done whilst I was on leave. I am told there was an internal audit conducted. The audit confirmed that the individual did not have access to highly sensitive material. She was hired in 2005 through a recruitment agency. She had apparently changed her name in 2002.

The Hon. MARIE FICARRA: Did she have an email address at the Attorney General's office?

The Hon. JOHN HATZISTERGOS: I would have to take all that information on notice.

The Hon. MARIE FICARRA: Did she have access to your Attorney General's email address and those of other staff in the Attorney General's Department? If you do not know you can take that on notice.

The Hon. JOHN HATZISTERGOS: I cannot answer that question. She would not have had access to mine.

Mr GLANFIELD: She would not have had access to anyone's emails in the Attorney General's Department.

The Hon. MARIE FICARRA: Moving on to questions about permanent Crown prosecutors versus trial advocates, do you have a preferment that the Director of Public Prosecutions employ more trial advocates rather than replacing Crown prosecutors?

The Hon. JOHN HATZISTERGOS: This is an issue which the Auditor-General commented on in his report. It is noteworthy if you have a look at it. With regard to Crown prosecutors in particular, in his report "Efficiency of the Office of the Director of Public Prosecutions" the Auditor-General stated, "The ODPP could not show that it had the right number of prosecutors at the right level. It was not able to provide an objective, documented rationale for the current number and mix", and it suggested that a report be done in relation to that issue. I understand that has been undertaken by the executive director.

The Hon. MARIE FICARRA: Do you personally as Attorney General have a preference for trial advocates rather than more Crown prosecutors?

The Hon. JOHN HATZISTERGOS: In what way?

The Hon. MARIE FICARRA: In terms of employment status within the Office of the Director of Public Prosecutions, do you have any preference?

The Hon. JOHN HATZISTERGOS: It is not a question of me having a personal choice between the two; it is a question of what is the appropriate mix of people at a different level. Contrary to the suggestion that is currently being made, the District Court chief judge and I speak from time to time, and he believes that the trial advocates have an extraordinary ability. Some people seem to think that Crown prosecutors are more able than them. It is not a matter for me to have a preferment about it; the Auditor-General has made a report about the correct mix. If the case mix of work is changing in the Office of the Director of Public Prosecutions then that issue has to be considered in terms of the appropriate balance. It is not just a question of advocates and Crown prosecutors—the way you put it. There is also an issue about using the private Bar. The Crown years ago used to use the private Bar quite significantly. It does not do so as much nowadays. The Commonwealth, on the other

hand, uses the private Bar quite significantly. So there are all sorts of different configurations you can have to deliver services.

The Hon. MARIE FICARRA: Do you agree that it is in the public interest to have the most experienced person available to conduct criminal trials and, if you do, what is being done to ensure that this happens?

The Hon. JOHN HATZISTERGOS: I think you need to have the right experience for the right trial. I do not think it necessarily follows that simply because a person becomes a Crown all of a sudden that person is endowed with ability that is not necessarily available elsewhere, either in the private Bar or in the trial advocates type of work. I understand the analysis that has been undertaken. There is a lot of work being done at the moment in Sydney west and in the country areas by trial advocates that in Sydney, for example, is being undertaken by Crown prosecutors. The Director of Public Prosecutions will concede that himself. No-one is suggesting that the work that is being done by trial advocates is being incompetently handled—indeed, I get feedback from the judges that they are very happy with them. They have been around for some time, by the way. They have been around since when you were in government.

The Hon. MARIE FICARRA: Do you understand that part of the incentive for able lawyers to apply for trial advocate positions is ultimately to apply for appointment as Crown prosecutors?

The Hon. JOHN HATZISTERGOS: That is the point you are making. The people who become Crown prosecutors are trial advocates. They become trial advocates and then the next day they might become a Crown prosecutor. It does not mean that they necessarily change and become more experienced simply because they are labelled as "Crown prosecutors".

The Hon. MARIE FICARRA: But the incentives are being lost.

The Hon. JOHN HATZISTERGOS: What the Auditor-General recommended was an intermediate grade. That is something that exists in Victoria; it does not exist in New South Wales at the moment. The Director of Public Prosecutions has indicated that they accept that there might be a benefit in having an intermediate grade. But I have not had a report yet from the executive director in terms of how they propose to implement that. It would mean that you would have someone between a trial advocate and a Crown prosecutor, bearing in mind that there is a significant difference in salary.

CHAIR: We will now go to the Government for questions for the balance of time to 3.45 p.m.

The Hon. HELEN WESTWOOD: Minister, what role will the Industrial Relations Commission have under the fair work laws recently passed by the Commonwealth Parliament?

The Hon. JOHN HATZISTERGOS: The Industrial Relations Commission of New South Wales is set to play a significant role in the administration of fair work legislation recently passed by the Commonwealth Parliament. The passage of the legislation was the culmination of a campaign that engaged the national consciousness—a campaign to rid Australia of the insidious WorkChoices laws. The development of fair work legislation is not merely distinguished from the WorkChoices legislation in its content; it is also distinguished by the cooperative process adopted by the Commonwealth in the development of the legislation.

High levels of cooperation and consultation between the Commonwealth and New South Wales are continuing in relation to our discussions about the possible referral of powers to the Commonwealth in relation to the unincorporated private sector. Whilst these discussions are ongoing, it is clear that the Industrial Relations Commission of New South Wales would have a significant role under the fair work laws. The commission plays an important role in the enforcement of State laws, including contract determinations, public sector industrial disputes, and occupational health and safety laws. It provides a simple, cost-effective means for resolving industrial disputes in this State as well as a superior court of record that addresses significant employment law matters.

The Industrial Relations Commission will play two key roles in administering the Fair Work Act: First, as a dispute resolution body for parties in the national system; and, secondly, as an eligible State or Territory court. For well over a century the Industrial Relations Commission has been conciliating and arbitrating industrial disputes in New South Wales. This process has served our community well. It has promoted industrial

harmony, curbing what was described by Henry Bourne Higgins as "the barbarous practices of the strike and the lockout".

Despite the efforts of the previous Federal Government, the New South Wales Government was able to continue to make conciliation and arbitration available to employers and employees in the Federal system through sections 146A and 146B of the Industrial Relations Act. These sections provide that the commission may exercise dispute resolution functions pursuant to an agreement or Federal workplace agreement. As at 11 September 2009, 259 employers within the Federal system had entered into agreements availing themselves of the dispute resolution services of the commission. The terms of the Fair Work Act expressly provide for dispute resolution in relation to a Federal enterprise agreement. The judicial arm of the Industrial Relations Commission, the Industrial Court of New South Wales, will be able to exercise specific powers under the Fair Work Act.

Pursuant to Part 1-2, division 2 of the Fair Work Regulations, the Industrial Court has been listed as an eligible State or Territory court for the purposes of the Fair Work Act. This enables the Industrial Court to hear a range of matters including alleged contraventions of the National Employment Standards, modern awards, enterprise agreements, bargaining orders and workplace determinations. The Industrial Court may also hear matters concerning the payment of remuneration, guarantees of annual earnings, employer records and payslips, extended parental leave provisions and unlawful termination. The jurisdiction includes claims for unpaid entitlements, civil compliance and civil penalties. Thus a considerable proportion of the provisions of the Fair Work Act may be enforced in the Industrial Court.

I have no doubt that parties will elect to use the Industrial Court in relation to such matters. New South Wales courts have already attracted work in the Federal industrial jurisdiction. Of the 14 prosecutions pursued in New South Wales by the Workplace Ombudsman in the 2007-08 financial year, six were pursued in the Chief Industrial Magistrates Court or the industrial jurisdiction of the Local Court—jurisdictions that are set to merge into the Industrial Court. Between 2006 and 2008 there was an average of 330 civil recovery claims per year pursued in the Chief Industrial Magistrates Court. Advice from the Office of Industrial Relations indicates that approximately 80 per cent of these matters would have concerned employees and employers in the Federal system.

There is no doubt that parties under the Fair Work system will look to take advantage of the benefits offered by the Industrial Court. One distinct advantage is access to the court in regional New South Wales. The Industrial Relations Commission, whether it sits as a tribunal or as the Industrial Court, seeks to hear matters at a location close to the issues at hand thereby minimising the costs and inconvenience to the parties. The commission has a permanent presence in Newcastle and Wollongong and often sits in other locations in regional New South Wales. The commission can use the facilities of the 127 courthouses in regional New South Wales.

The utilisation of the Industrial Relations Commission by parties in the Federal industrial relations system is part of what has been described as the development of the commission as a one-stop shop. The intention is to provide one jurisdiction to all parties in employment matters. The incorporation of the Industrial Magistrates Court into the Industrial Court is one part of this. I am committed to the occupational health and safety jurisdiction remaining with the commission with the imminent development of the national model occupational health and safety laws. I will also be looking at what other matters may be brought within the jurisdiction of the commission. Regardless of such possible developments, it is clear that the Industrial Relations Commission has a substantial role to play in administering the Fair Work laws. It is clear that the commission can be a one-stop shop in relation to both Federal and New South Wales industrial dispute resolution.

The Hon. GREG DONNELLY: In light of Malcolm Turnbull's comments over the weekend about individual contracts being the best thing since sliced bread, perhaps we should revisit that answer next year. What are the main functions of the Office of Industrial Relations?

The Hon. JOHN HATZISTERGOS: The two major roles undertaken by the Office of Industrial Relations are policy development and the provision of expert advice on industrial relations policy and advisory, education and compliance activities. The past year has seen significant developments in employment law in Australia. The Commonwealth, in consultation with New South Wales and other States, developed and passed the Fair Work Act—the legislative goal of Labor's Forward with Fairness policy.

The Fair Work Act was not produced in a vacuum. Unlike the former Federal Government, the Rudd Labor Government consulted widely with States and Territories in the development of the legislation. Officers

from the Office of Industrial Relations contributed to the legislative development through the Higher Level Officers Group—a group of experts who met frequently during the development of the various bills that became the Fair Work Act. Since the passage of that legislation in its entirety, officers from the Office of Industrial Relations have engaged in numerous discussions with their Commonwealth counterparts about the possible involvement of New South Wales in the national system.

The Office of Industrial Relations has developed New South Wales Government submissions on various matters including: submissions to the Australian Industrial Relations Commission as part of the award modernisation process; submissions to the New South Wales State wage case; submissions to the Australian Fair Pay Commission; submissions to the Productivity Commission Inquiry into Paid Parental Leave; and submissions to Senate inquiries into the Fair Work Bill, the Building and Construction Industry (Restoring Workplace Rights) Bill 2008 and the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2009.

The office has been involved in a range of policy matters apart from Forward with Fairness. The New South Wales Government recently commissioned Professor Joellen Riley to conduct a review of public holidays and that review is being coordinated by the Office of Industrial Relations. An options paper was released on 17 August and written submissions closed on 11 September. The office has also led the development of the Shop Trading Amendment Bill, which was recently introduced into Parliament to further reform retail trading regulation in New South Wales.

The efforts of the Office of Industrial Relations are equally impressive in respect of its advisory, education and compliance activities. This financial year its efforts have already resulted in almost $850,000 in wages and entitlements being paid back to workers. Last financial year, the office returned more than $4 million in wages to New South Wales workers and their families as part of its inspections and compliance campaign program. The $4 million in back pay included $645,000 in Western Sydney, $313,000 in the Illawarra, $451,000 in the Hunter and $173,000 on the Central Coast. This could not have been achieved without the targeted compliance program undertaken by the Office of Industrial Relations.

The target compliance campaign will see 13,000 New South Wales workplaces visited this year. More than 50,000 workers should benefit directly from this campaign, not to mention the office's education and advisory services. Some 354 workshops and presentations were conducted for businesses in New South Wales in the 2008-09 financial year informing businesses about their obligations in the workplace. Additionally, there were more than 2.7 million visits to the Office of Industrial Relations website. These figures are evidence of the most comprehensive education and compliance program in the country.

Unfortunately, the excellent work undertaken by the Office of Industrial Relations appears to be lost on the Opposition. The shadow Minister appears to have no idea about what is involved in the Industrial Relations portfolio. On 1 April this year the Hon. Greg Pearce stated in the House:

> the Minister for Industrial Relations … seems to have some responsibilities for the minor part of the portfolio … but the actual industrial relations policy is located in and run by the Department of Commerce, for which another Minister is responsible

That is wrong. What the Hon. Greg Pearce does not seem to grasp is that one government department can be responsible to more than one Minister, as is the case on this occasion. He again demonstrated his ignorance on 3 June when he asked in the House:

> … is it the case that in his capacity as Minister for Industrial Relations he does not have any responsibility for the Office of Industrial Relations?"

On 4 March he asked:

> What is the extent of your role as Minister for Industrial Relations?

The Hon. Greg Pearce also appears to be under the misapprehension that the Industrial Relations portfolio is also responsible for occupational health and safety. He is again wrong. However, that did not stop him from asking during question time on 4 September:

> What is the current status of development of the uniform model Occupational Health and Safety Act?

On another occasion he asked:

> Is the reason the Minister has deflected a number of questions put to him concerning matters of public administration for which he is responsible, including his membership of the Workplace Relations Ministerial Council, which is considering a uniform national model occupational health and safety Act, because he has been sidelined in that process by Minister Tripodi?

The shadow spokesman should look at the allocation of the administration of Acts, which is available at *www.legislation.nsw.gov.au*. That will provide him with information with which he is apparently yet to familiarise himself.

CHAIR: Thank you Attorney General for your attendance at the hearing today. I also thank Mr Jones, Mr Glanfield and Mr Kirkland.

(The witnesses withdrew)

The Committee proceeded to deliberate.