

# LEGISLATIVE ASSEMBLY

Wednesday 17 June 2009

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**The Speaker (The Hon. George Richard Torbay)** took the chair at 10.00 a.m.

**The Speaker** read the Prayer and acknowledgement of country.

## BUSINESS OF THE HOUSE

### Notices of Motions

**General Business Notices of Motions (General Notices) given.**

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

**The SPEAKER:** Order! Members will not engage in debate during the giving of notices of motion.

## ELECTRICITY SUPPLY AMENDMENT (GGAS ABATEMENT CERTIFICATES) BILL 2009

### Agreement in Principle

**Debate resumed from 16 June 2009.**

**Ms LYLEA McMAHON** (Shellharbour—Parliamentary Secretary) [10.08 a.m.], in reply: Commencing on 1 January 2003 the New South Wales Greenhouse Gas Reduction Scheme [GGAS] was the world's first mandatory emissions trading scheme. GGAS is one of many measures this Government has implemented to address the growth in greenhouse gas emissions. The scheme was established under the Electricity Supply Act 1995. GGAS aims to reduce greenhouse gas emissions associated with the production and use of electricity. It achieves this by using project-based activities to offset the production of greenhouse gas emissions. When the New South Wales Greenhouse Gas Reduction Scheme [GGAS] commenced in 2003 it was the first of its type in the world, and New South Wales was the first jurisdiction to impose greenhouse targets on its electricity sector. GGAS has been very successful in providing incentives for abatement projects, with more than 91 million abatement certificates created since its commencement, each certificate representing one tonne of abatement of greenhouse gas. There is no doubt that the financial incentives provided by GGAS have led to changes in behaviour of a wide range of scheme participants.

In 2008 the Commonwealth announced a national emissions trading scheme, now to be known as the Carbon Pollution Reduction Scheme [CPRS]. The New South Wales Government strongly supports the introduction of a national emissions trading scheme to deliver the most cost-effective and equitable reduction of greenhouse gas emissions. The CPRS will achieve that outcome. In 2006 the New South Wales Government provided for the ending of GGAS on the commencement of a national emissions trading scheme. The bill before the House provides assistance for this transition. The bill proposes legislative amendments to the Electricity Supply Act 1995 that will allow for the reduction in the number of surplus GGAS certificates at the end of GGAS and the commencement of the Carbon Pollution Reduction Scheme.

There are two objectives of the amendment bill. The first objective is to reduce the number of surplus GGAS certificates by stopping any new applications for accreditation under GGAS from 1 July 2009, or another nominated date. This will signal the end of the New South Wales GGAS and will communicate to proponents of new projects that they should not expect that they will be entitled to any transitional arrangements, including compensation, and that they need to be developing projects that will fit within the new national arrangements of the Carbon Pollution Reduction Scheme. The second objective is to remove opportunities to create GGAS abatement certificates from generation projects that were commissioned prior to the commencement of GGAS, known as category A projects. This is intended to reduce the number of surplus GGAS abatement certificates by some eight million below what it would otherwise have been by the end of June 2011, that is, the start of the Carbon Pollution Reduction Scheme. I want to make it clear that compensation will not be payable to any accredited abatement certificate provider or benchmark participant as a consequence of the amendment bill.

These amendments will commence on 1 July or another date nominated by the Minister. The date of 1 July has been chosen in order to align with the proposed start date of the Carbon Pollution Reduction Scheme on 1 July 2011. However, until Federal Parliament successfully passes the CPRS legislation, there is no certainty that the CPRS will definitely commence on 1 July 2011. The Government, therefore, has allowed for flexibility with the start date for these amendments to ensure that any further changes to the commencement date of the CPRS can be taken into account. This flexibility is an important way of ensuring that GGAS continues to operate effectively prior to the commencement of the CPRS, and it will avoid the possibility that opportunities to create abatement certificates may be removed prematurely if the commencement of the CPRS is further delayed.

The removal of category A projects from the coverage of GGAS in no way will affect the commercial viability of these projects. These projects were commissioned prior to the commencement of GGAS and do not rely upon revenue from GGAS abatement certificates to remain commercially viable. Therefore, the removal of category A projects from GGAS will assist in reducing the number of surplus abatement certificates, while not impacting upon the commercial viability of the projects. The Opposition has noted that the removal of category A projects from GGAS will likely increase the cost of abatement certificates as GGAS winds up prior to the introduction of the CPRS. They also should note the significant drop in the value of certificates from around \$7 to \$3.50 in the past months was likely a result of market speculation about the nature of the end of the program. Prices have now returned to above \$7, as those concerned about the loss in value of certificates are more confident about the nature of the end of the program.

In summary, these changes are designed to facilitate the transition from New South Wales's world-leading GGAS to the national Carbon Pollution Reduction Scheme. The successful operation of GGAS and the carbon price it introduced into the market across the national electricity market has made the start of a national scheme, such as the CPRS, significantly easier. However, the New South Wales Government recognises that it is time to plan for the transition from GGAS to the CPRS and the amendments proposed in this bill are aimed at facilitating this transition. The bill before the House provides for amendments to the Electricity Supply Act 1995, which will reduce the number of GGAS abatement certificates that will be surplus at the end of GGAS. The proposals mean that fewer certificates will be created under GGAS than would have been if no changes had been made. It is important to minimise the transitional burden by reducing the number of surplus certificates at the end of GGAS.

Additionally, this will signal the end of New South Wales GGAS and will communicate to proponents of new projects that they should not expect that they will be entitled to any transitional arrangements, including compensation, and that they need to be developing projects that will fit within the new national arrangements of the Carbon Pollution Reduction Scheme. I thank all members for their contributions to the debate. New South Wales has led the world in implementing its greenhouse emissions trading scheme, GGAS, and leaves Australia better placed to implement a national emissions trading scheme than it otherwise would have been. The changes proposed in the bill are made in preparation of the transition to the national scheme. These changes commenced with the Government's decision to create the Energy Savings Scheme from the demand side abatement elements of GGAS. I commend the bill to the House.

**Question—That this bill be now agreed to in principle—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill agreed to in principle.**

#### **Passing of the Bill**

**Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.**

#### **PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL 2009**

#### **Agreement in Principle**

**Debate resumed from 16 June 2009.**

**Mr GREG SMITH** (Epping) [10.16 a.m.]: The purpose of the Personal Property Securities (Commonwealth Powers) Bill 2009 is to refer certain matters relating to security interests in personal property

to the Parliament of the Commonwealth for the purpose of section 51 (xxxvii) of the Constitution of the Commonwealth. That section allows the Commonwealth to make laws in relation to matters referred to the Parliament of the Commonwealth by the parliament or parliaments of any State or States so that the law shall extend only to States whose parliaments referred the matter or which afterwards adopt the law. I indicate that the Opposition does not oppose this legislation.

The same provision of the Constitution was used when the various States referred powers to the Commonwealth to allow the Commonwealth Parliament to enact the Corporations Act 2001 and associated legislation. Indeed, the Corporations Act has provisions relevant to the proposed Commonwealth legislation and as part of this bill has included the tabled text of the Commonwealth Personal Property Securities Bill 2009—which, I understand, will be debated next week, assuming this bill passes both Houses and is enacted. Chapter 2K of the Corporations Act relates to the registration of charges for corporate borrowers. Professor Paul Von Nessen in an article in the *Bond Law Review*, volume 14, issue 1, 2002, explained the current system:

Where a company creates a registrable charge, it is required within 45 days of its creation to notify the Australian Securities and Investments Commission, which maintains the register of charges. Registration of the charge protects the chargee's priority over later registrable charges. Registrable charges which are not registered may be invalidated in winding up.

Those charges which must be registered under the current scheme include the following:

- A floating charge;
- A charge on uncalled capital;
- A charge on shares made but unpaid;
- A charge on personal chattel either unascertained or to be acquired in the future;
- A charge on goodwill, a patent, a trademark, a copyright or a registered design;
- A charge on a book debt;
- A charge on a marketable security;
- A lien or charge on a crop, a lien on wool or a stock mortgage; and
- A charge on a negotiable instrument other than a marketable security.

He then listed the deficiencies:

The deficiencies of the current system have been catalogued and discussed on numerous occasions. One useful summary of these is found in Professor John Farrar's "Reform of the Law of Company Security Interests: Trans-Tasman Perspectives." He identified, at that time, the following deficiencies in the system operating under the Corporations Law (as it then was):

- The current system only covers charges and, therefore, fails to cover other forms of securities such as hire purchase, long term chattel leases, reservation of titles clauses, and absolute transfer of title without transfer of delivery;
- The current system excludes intangibles other than book debts and in certain instances negotiable instruments and "marketable securities;"
- Section 262(2)(d) excludes transfers in the ordinary course of business;
- Registration of the charge must occur within certain time limits; however, failure to register has consequences only against a liquidator or administrator;
- The priorities scheme does not deal with priorities between registrable and non-registrable security interests or as between interests which are not registrable. It also fails to deal with the effect of a restrictive clause in relation to non-registrable charges or absolute transfers of property;
- Execution creditors are not protected by non-registration of charges;
- The scheme permits the realisation of an unregistered charge before winding up;
- The effects of automatic and other forms of crystallisation of a floating charge are not dealt with;
- Uncertainty continues about the effect of the doctrine of constructive notice on non-registrable charges; and
- The scheme is imprecise in its treatment of restrictive clauses.

The proposal to cover Commonwealth legislation, like that of certain Canadian Provinces and New Zealand, is based on article 9 of the United States Uniform Commercial Code, the advantages of which were summarised by the Australian Law Reform Commission in Report No. 64, *Personal Securities*, at paragraph 320. The specific advantages of the article 9 approach are outlined by the Law Reform Commission:

The Art 9 approach, as applied with local variations in all the jurisdictions mentioned, is attractive in its simplicity and almost universal applicability.

- Its use of a functional definition – which looks to the substance of the transaction and not the form – overcomes the complicated and confusing rules which previously applied to different kinds of security interests.
- Ordinary securities and reverse securities which are similar in commercial or economic effect or purpose, but legally different, are treated alike.
- A single set of rules applies to all kinds of securities to determine when they are enforceable against third parties.
- Archaic common law priority rules are dispensed with in favour of a more streamlined set of priority rules.

- Registration is a voluntary act but there is incentive to register since priority as against third parties cannot be assured without registration or possession.
- A single regime overcomes the difficulties of choosing which register to file in and of searching many different registers within one jurisdiction.
- While the single register is open to public inspection, priorities depend not on notice (actual or constructive) but on the date of registration.

The overview of the Commonwealth bill explains what is intended to be covered by the bill, once enacted. That states:

This Act is a law about security interests in personal property.

A security interest is an interest in personal property provided for by a transaction that secures payment of the performance of an obligation. The form of the transaction and the identity of the person who has title to the property do not affect whether an interest is a security interest.

Personal property includes many kinds of tangible and intangible property, other than real property. Examples include motor vehicles, household goods, business inventory, intellectual property and company shares. Personal property is known as collateral if it is (or is anticipated to be) the subject of a security interest.

A security interest is enforceable against a grantor when it attaches to collateral. A security interest attaches to collateral when a person gives value for acquiring a security interest (or does something else to acquire it) and in return, the person gains rights in the collateral.

A simple example is the purchase of a car. Someone who lends money can take a bill of sale over the car. The overview also states:

A security interest is enforceable against third parties when it has attached to the collateral and either the secured party has possession or control of the collateral, or a security agreement covers the collateral.

If a security interest in collateral is perfected, it takes priority over another security interest that is unperfected when the security interest comes to be enforced.

I will leave it to the Government to describe what "perfection" means. The overview goes on to state:

A security interest is perfected if:

- it is attached to collateral; and
- certain extra steps (possession or control of the collateral, or registration on the Register of Personal Property Securities) have been taken to protect the interest, or the interest is perfected by the force of this Act.

Of course in this case the scheme will be a national register rather than umpteen dozen registers throughout the States and Territories. A foreign lender otherwise would have great difficulty checking all the registers to ensure that an item is not already encumbered. The overview goes on to state:

The secured party whose security interest has the highest priority is entitled to enforce that interest ahead of secured parties with security interests that have a lower priority.

Between perfected security interests, perfection by control has a higher priority than other forms of perfection.

Possession is nine-tenths of the law. The overview also states:

The next level of priority is given (subject to certain rules) to perfected purchase money security interests. If no other way of working out priority between perfected interests is provided, the highest priority is given to the security interest that has been continuously perfected for the longest period.

The Register of Personal Property Securities enables secured parties to give notice of actual or prospective security interests. Notice is given by the recording of data about secured parties, grantors and collateral. The register may be kept electronically, for example in a form that is interactive and accessible over the internet.

If the result is cheaper, faster, easier, simpler and safer, the referral of power will help to achieve a much more efficient way of registering interests in personal property. Professor Ralph Simmonds in a paper entitled "The PPSA Cometh to Australia? An Introduction to the Current State of Play", which is published in the *Murdoch University Electronic Journal of Law*, volume 9 No. 3 in September 2002, concluded his paper with optimism:

The case for reform that is likely to succeed will rest both in terms of significantly better rules and significantly lower transaction costs. The better rules will make it easier for lawyers to give reliable advice and for more straightforward secured transactions to be designed. At the same time, the reforms should make possible new sorts of secured transaction. From all of this, and from a national electronic register of security interests, should flow significantly reduced transaction costs for lenders and borrowers.

However, he goes on to state:

The reform should not be oversold. It will not easily solve all of the legal problems that might arise in this area. However, it would at least cover all our current chaotic system, one that is hard to understand and therefore is hard to work with. The reform would give us a better system, one that has been tested or is being tested in other common law jurisdictions, including our closest neighbour. This new system would much better than current law enable us to grapple with the problems we will face in the future in the important area of secured transactions.

As I have already stated, the Opposition will not oppose the legislation, which appears to be in the national interest.

**Mr DAVID CAMPBELL** (Keira—Minister for Transport, and Minister for the Illawarra) [10.29 a.m.], in reply: The Government notes that the Opposition does not oppose the Personal Property Securities (Commonwealth Powers) Bill 2009. The Government believes that this legislation is in the national interest. The referral of powers legislation before the House is a necessary step to enable the introduction of the Commonwealth Personal Property Securities Bill into the Federal Parliament. The new regulatory regime will provide for a set of nationally comprehensive rules governing security interests in personal property and a single national online register of personal property securities.

The proposed new arrangements will benefit both business and consumers by delivering more certain, consistent, less complex and cheaper arrangements applying in relation to personal property securities. They will promote lower transaction and compliance costs for all parties involved in personal property securities transactions and encourage more diverse financing options. Similar reforms have already been introduced successfully in overseas jurisdictions, including Canada, New Zealand and the United States of America. The bill draws upon the laws and experience of those and other jurisdictions. The New South Wales Government has supported the proposed personal property securities reforms from the outset and is pleased to take the initiative in introducing legislation that will allow the reforms to proceed nationally. I commend the bill to the House.

**Question—That this bill be now agreed to in principle—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill agreed to in principle.**

#### **Passing of the Bill**

**Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.**

#### **CORONERS BILL 2009**

##### **Agreement in Principle**

**Debate resumed from 16 June 2009.**

**Mr GREG SMITH** (Epping) [10.32 a.m.]: I lead for the Opposition on the Coroners Bill 2009. The Opposition does not oppose the bill. The stated purpose of the bill is to repeal the Coroners Act 1980; to re-enact the provisions of the Coroners Act 1980 with certain modifications, which I will mention, so as to improve the efficiency and effectiveness of the exercise of coronial jurisdiction in New South Wales; to enact provisions of a savings and transitional nature; and to make consequential amendments to certain other legislation. The bill makes the following modifications to the provisions of the Coroners Act 1980:

- (a) the existing legislation is rewritten in modern form,
- (b) all persons appointed as coroners under the proposed Act must be Australian lawyers and all persons appointed as assistant coroners must be members of staff of the Attorney General's Department.
- (c) coroners and assistant coroners may be appointed for a period,
- (d) the position of Senior Deputy State Coroner is abolished and the Minister is authorised instead to appoint an Acting State Coroner when the State Coroner is absent from duty,
- (e) the relationship between the State Coroner and the Chief Magistrate is clarified,

- (f) the restriction on the number of Deputy State Coroners (currently limited to 4) is removed,
- (g) the retirement age for appointed coroners is increased from 70 years of age to 72 years of age while the retirement age for assistant coroners is removed,
- (h) the proposed Act confirms that coronial jurisdiction arises regardless of whether or not a death, suspected death, fire or explosion is reported,
- (i) the current provisions relating to the reporting and investigation of deaths resulting from the use of anaesthetic are replaced with provisions relating to deaths that are not the reasonably expected outcomes of health procedures—

an example of that is the Vanessa Anderson case—

- (j) the current provisions that require a death to be reported (and that prohibit a death certificate being issued) if the deceased person was not attended by a medical practitioner in the 3 months preceding death are replaced with provisions that extend that period to 6 months,
- (k) the current provisions that require a death to be reported (and that prohibit a death certificate being issued) if the deceased person died within a year and a day of an accident to which the death is attributable are not re-enacted,
- (l) a medical practitioner is authorised to give a death certificate concerning a cause of death in respect of a deceased person aged 72 years old or older who died as a result of injuries from an accident even if the accident occurred in a hospital or nursing home—

that is an increase of seven years; it used to be 65 years—

- (m) a coroner is authorised to direct certain medical investigators to conduct (or arrange for the conduct of) a review of the medical records of a deceased person and report to the coroner on the cause of death based on such a review,
- (n) a person conducting a post-mortem examination will be required to endeavour to use the least invasive procedures that are appropriate in the circumstances—

I am conscious that people of the Jewish faith, for example, are very offended by the amount of invasive work sometimes carried out by forensic pathologists on bodies, and this new provision demonstrates sympathy for that view—

- (o) a coroner is expressly authorised to dispense with an inquest or post-mortem examination in cases where the coroner is satisfied that the deceased person died of natural causes and that the deceased person's family does not wish it to be conducted—

that has been a thorn in the side of many families and has been quite upsetting for them when they seek to finalise the burial and funeral of someone. It is a sensible change—

- (p) a coroner who has previously dispensed with the holding of an inquest or inquiry concerning a matter is expressly authorised to hold an inquest or inquiry concerning the matter in light of the discovery of new evidence or facts,
- (q) the authorisation to retain tissue obtained from a post-mortem examination will not extend to the retention of whole organs of a deceased person unless the coroner expressly makes an order to that effect—

again, that recognises religious and other sensitivities—

- (r) a senior next of kin of a deceased person may object to an order by a coroner authorising the retention of a whole organ of a deceased person,
- (s) a coroner conducting coronial proceedings in connection with the death or suspected death is authorised to give directions regarding the retention and disposal of tissue obtained from a deceased person before his or her death,
- (t) coroners conducting coronial proceedings are given additional powers in connection with case management (including powers to conduct hearings and obtain evidence before a formal inquest or inquiry is held under the proposed Act),
- (u) the State Coroner is given additional powers to give directions concerning the allocation and transfer of cases and is given power to issue practice notes and approve forms for use in coronial proceedings,
- (v) the Director-General of the Attorney General's Department and the Commissioner of Police are authorised to enter into a memorandum of understanding in relation to the regulation of costs associated with the carrying out of investigations by police officers pursuant to certain directions given by coroners,
- (w) the power of a coroner to make non-publication orders is extended to prohibiting or restricting publication by means of the Internet,
- (x) the current provisions that impose functions on the Minister to ensure that an inquest or inquiry is held if the Supreme Court orders it are imposed instead on the State Coroner,

- (y) the current additional special procedural provisions dealing with inquests concerning deaths in mines are not re-enacted,
- (z) the use of a jury in coronial proceedings is limited to the situation where the State Coroner directs it at an inquest or inquiry that is to be presided over by the State Coroner.

The current Coroners Act came into force in 1980 and has been the subject of numerous amendments over the past 29 years. The Attorney General's Department, in consultation with the State Coroner and the Chief Magistrate, undertook a review of the Act and, as a result, the current bill has been introduced. If this bill is enacted it will repeal the 1980 Act and introduces an entirely revised Coroners Act 2009. The reforms have been described as falling broadly into four areas of coronial law: first, the governance structure of the coronial jurisdiction; secondly, the categories of death that are within the jurisdiction of coroners; thirdly, the conduct of post-mortems; and, fourthly, the case management of coronial proceedings.

I list the more important changes. First, coroners will be required to be either magistrates or legally trained persons. It will no longer be possible for a coroner to be appointed without legal training. In the past people without legal training were used as coroners and served well in country areas, but we have come into a much more technical age. Just as lay magistrates used to conduct hearings and committals with assistance from a clerk, who was sometimes legally qualified, they did their best. That system has changed, and it is appropriate that the system here changes, too. Under this bill, those who are not legally trained will be reappointed as assistant coroners but they will not be able to hold an inquest or an inquiry. It is sensible that the restriction on the number of deputy State coroners that may be appointed has been removed. Workload will determine how many deputy State coroners are needed at any time.

The position of State Coroner has been changed to the status of Deputy Chief Magistrate. The requirement to report a death that occurs during or within 24 hours of the administration of an anaesthetic has been replaced with the more general category of health-related deaths. It is suggested that this will avoid confusion about reporting a death when a sedative is used rather than an anaesthetic. "Health-related procedure" has been defined to be consistent with legislation in Victoria, South Australia and the Australian Capital Territory. When the death has occurred during or within 24 hours of the administration of an anaesthetic there is no longer the requirement for a mandatory inquest where the Coroner determines that an inquest is not desirable. The period in which a medical practitioner last attended a deceased person has been extended from three months to six months, which seems to bring it into line with current medical practice.

Often prescriptions for people with certain continuing illnesses, such as diabetes, are given for a six-month period. The reason for extending that period is that those people simply do not have to see their doctors often if they are otherwise well and if the medication is keeping them going. The requirement to report a death to the Coroner within a year and a day has been deleted, consistent with section 17A of the Crimes Act. Someone might disappear and be buried somewhere, and the body is not found for years—there might be a missing person notice and so on—but it is thought that an inquest is unnecessary. It might have been thought that the person had gone overseas, and when the body is found and there is evidence that an inquest should be conducted, it is appropriate that the Coroner has jurisdiction to hold an inquest.

There is no requirement to report the death to a Coroner when it involves an elderly person of more than 72 years of age and death results from an accidental fall which is not attributed to another person. Post-mortems are not to be undertaken unless it is necessary to establish the identity, time of death or cause and manner of death. In the past beneficiaries, including occasionally medical practitioners, have been charged with accelerating the death of a person—basically, killing by giving drugs. When I was with the Office of the Director of Public Prosecutions I examined at least one of those cases. Some of these people are in a powerful position and can cover up evidence; and if there is suspicion there is still room to report these matters. Such cases are rare. There was a famous case in England in which a doctor, who stood to benefit from the death of his patient, gave too much morphine to the old lady. I think it was Justice Devlin who gave a leading judgment that has been followed throughout the world in such cases. We talked about unnecessary use of invasive procedures on many occasions.

The Coroner will have the discretion to dispense with a post-mortem if, after obtaining advice from police officers and medical practitioners, he is satisfied that the person died from natural causes and the senior next of kin indicates that the family does not wish to have a post-mortem. Under the old Act, a coroner was not able to hold a hearing in open court unless he had commenced an inquest or an inquiry. Clause 46 introduces the concept of coronial proceedings as part of a case management procedure. With the exception of clause 74 orders, where the Coroner is empowered to clear the court and to prevent the publication of evidence, such coronial proceedings are open to the public. This will permit the Coroner to determine preliminary issues such as jurisdiction and, more importantly, whether an inquest or an inquiry is necessary or desirable.

Relatives are probably allowed to attend coronial proceedings generally. However, there might be media interest in a particular case and it is appropriate that generally the media have access to the court proceedings so that they can report on them. Pre-inquest or pre-inquiry proceedings may enable coroners to ascertain whether information from a witness may or may not be available. A coroner may issue a certificate pursuant to clause 61 (7) to provide that evidence given may not be used against the person in other proceedings. A point has been raised with me about that provision, which is akin to the certificate provisions. Clause 61 (7) states:

In any proceedings in a NSW court within the meaning of the *Evidence Act 1995* or before any person or body authorised by a law of the State, or by consent of parties, to hear, receive and examine evidence:

- (a) evidence given by a person in respect of which a certificate under this section has been given, and
- (b) evidence of any information, document or thing obtained as a direct or indirect consequence of the person having given evidence,

cannot be used against the person. However, this does not apply to a criminal proceeding in respect of the falsity of the evidence.

Such a provision—it is section 128 or section 129 of the Evidence Act—allows the Crown to direct a witness to give evidence when the witness has taken the "fifth", to use the American colloquialism, and refuses to answer questions although he or she may have material evidence to give. That is a useful change to the law of evidence. In the old days one would have to get an indemnity or something similar, sometimes one had no idea that the witness intended to raise these issues, or issues might arise in cross-examination that would otherwise incriminate the person. One can get around that now by getting a certificate.

A problem has been raised with me relating to section 62, which is somewhat akin to this, and the refusal of a witness to be examined. This is where someone refuses to take the oath or affirmation, to be examined, to answer a question on the subject matter of proceedings or to produce a document or a thing. The maximum penalty is 10 penalty units. The comment was that that is a trivial penalty for someone who is acting in contempt. If someone is directed by a coroner to answer a question and refuses, that is probably a contempt of the inquest and Supreme Court proceedings could be taken, but that would happen rarely.

The Independent Commission Against Corruption legislation contains much heavier penalties for refusing to do these things—I think it is a jail sentence. Perhaps the Government could examine that issue. It is not much encouragement to cooperate if the maximum fine is \$1,100. If James McCartney Anderson were giving evidence against Abraham Gilbert Saffron—both of whom are now dead—even if he had been hit with an iron bar, shot at and wounded in the shoulder in his kitchen, I do not know whether that would be a reasonable excuse for not giving evidence. Perhaps that is an extreme case. There are other cases in which people might refuse to cooperate and all they will suffer is a fine. That would not deter anyone.

Juries will be used only where the State Coroner so directs and where a coroner presides over the proceedings. They are not used commonly. However, they have been used in very high-profile inquests. There are also provisions to cap costs and for the Attorney General's Department and the New South Wales Police Force to deal with who pays. Clause 82 deals with the power of the coroner or the jury to make recommendations considered necessary or desirable on matters such as public health and safety and whether a matter should be investigated or reviewed by a specified person or body.

That brings to mind the recent inquest involving a gentleman who had some Aboriginal blood and who hanged himself in his cell. The Aboriginal deaths in custody royal commission guidelines appeared not to have been implemented. It was said—and I think it was the coroner who said it—that it appeared that the report of investigator William Beale was held back or suppressed. I think the coroner recommended that the Attorney General further investigate that case. After the Vanessa Anderson inquest, changes were recommended to the acute care procedures in hospitals, which led to the Garling inquiry. That resulted in some very useful recommendations and new practices. Of course, not all of Mr Garling's recommendations have been implemented, but hopefully they will be. The Opposition has pursued the implementation of the recommendation that a paediatrician be made available whenever a person under the age of 18 is a patient in an adult ward. That does not appear to have been taken up yet, but it is worth doing.

To ensure that coronial recommendations are brought to the attention of the appropriate organisation or Minister, clause 82 requires the coroner to forward a copy of the recommendations as soon as reasonably practical to such relevant parties. This legislation will also ensure that coroner's investigating medical officers



are able to focus their attention on those cases where a person dies of unknown causes or in suspicious or violent circumstances. Accordingly, the amendments are timely and remove outdated requirements for inquests in circumstances where they are neither reasonable nor necessary.

It is also argued that it is an objective of this bill that post-mortems are not performed unless it is necessary to establish the identity, time of death, or cause and manner of death and that the dignity of the deceased person is to be respected. In addition, forensic pathologists will not be further over-burdened by the need to perform unnecessary post mortems. There needs to be more training opportunities for young doctors to become forensic pathologists. Sadly, private practice pathology is so lucrative that many of those who train in the area do not work in forensic pathology because the salary is not competitive.

Once this legislation is enacted post-mortems should be expedited and the new concept of an unexpected outcome of a health-related procedure will clarify what deaths are "reportable deaths". In addition, a health-related procedure will include the administration of an anaesthetic and other sedatives or drugs. The coronial proceedings open-court concept will provide for a more transparent environment in which decisions can be made. The powers of the coroner to make recommendations in connection with an inquest or inquiry have been clarified. Those recommendations are required to be forwarded to the relevant department or Minister as soon as reasonably practicable in an attempt to ensure that action is taken.

The Opposition has consulted various parties, including the Law Society, the Bar Association, the Director of Public Prosecutions, Legal Aid, the Victims of Crimes Assistance League, Enough is Enough, the Homicide Victims Support Group, the Homicide Survivors Association and the Royal College of Pathologists. The Law Society supports the changes. Ken Marslew from Enough is Enough has expressed no significant argument against the bill, and we are grateful for that. We are also thankful that the Royal College of Pathologists has responded and has indicated that it has no significant objection to the bill. The college has had the opportunity to negotiate with the Government on the terms of the bill and I think a suitable outcome was achieved in that negotiation. As I said, the Opposition does not oppose this legislation.

**Mr FRANK TERENCE** (Maitland) [10.58 a.m.]: I support the Coroners Bill 2009. It is pleasing to see such a step forward in legislation covering coronial inquiries and inquests. This bill is in plain English and has a more cohesive structure than the parent legislation. It is vital that the legislation supporting coronial jurisdictions is as clear, precise and easy to understand as possible. All members of Parliament are aware that the coronial jurisdiction is one of the more complicated and unusual jurisdictions in our legal system. Unlike most other judicial proceedings, which are adversarial in nature, coroners conduct inquisitorial proceedings in which they are responsible for direct medical and police investigations and, of course, for gathering evidence. Coronial proceedings can uncover evidence of criminal conduct and highlight deficiencies in practice, both private and public, and also make recommendations with regard to improving safety and health. It is a very important jurisdiction. Coroners can also assist grieving families by providing them with an understanding of the circumstances in which their loved one has died. It is therefore imperative that coroners are supported by legislation that clearly identifies their role and powers, as well as the procedures that they are required to follow in order to identify the cause of deaths and fires.

The Office of Coroner is one of the oldest known in English law and was established by statute in September 1194, in Article 20 of the Articles of Eyre. However, references to the office have been noted since 871 AD. It is important to go through this chronology so that we appreciate the history of the office. Under the Articles of Eyre, the role of coroners was to "keep the pleas of the Crown" or in Latin "custos placitorum coronas", from which the word "coroner" is derived. This role was qualified in Chapter 24 of the Magna Carta in 1215, which states: "No sheriff, constable, coroner or bailiff shall hold pleas of our Crown". Originally the King made appointments to the office, but later freeholders of the district elected the Coroner. County and borough

coroners continued to be elected into the nineteenth century. In early the days the Coroners' duties were largely administrative. They kept the King's records, particularly those relating to criminal trials. They collected and guarded what were termed the "chance" revenues falling to the King, in particular deodands, wrecks, royal fish—whale and sturgeon—treasure trove and the forfeited property of felons. Deodands were chattels that caused the death of a human being, such as swords, carts and oxen.

For more serious crimes, including rape, homicide, arson, burglary, mayhem and larceny, the lands and goods of the felon were forfeited to the King under the supervision of the Coroner. If a person was found dead, the Coroner was notified and a jury assembled. The body was laid upon a table and examined by the jury under the direction of the Coroner. Evidence was heard and the jury's verdict taken. If a verdict of murder or

manslaughter was returned, the accused, being present, was held for trial. Upon a subsequent conviction, the Coroner seized the offender's property for the King. If the named offender was absent when the Coroner's jury returned the finding, the local populace would set out in search of the person. The Coroner could declare such a person an outlaw, in which case his chattels were forfeited and his lands escheated to the Crown. I think they called those the good old days. The Coroner also inquired into allegations of arson, mortal wounding and rape.

Following a royal commission in the nineteenth century, the County Coroner Act 1860 and the Coroners Act 1887 codified coronial law and conferred sole jurisdiction over deaths to coroners. The enactments of 4 George IV c96 introduced the laws of England into New South Wales. Statutes relating to coronial matters were passed in New South Wales in 1861, 1876 and 1898. The major legislation in the twentieth century was the Coroners Act 1912, the Coroners Act 1960 and the Coroners Act 1980, which is the one under which I practised in the 1990s. As members can see, the coronial jurisdiction that has been incorporated into New South Wales law from English law and tradition is a very old one: it dates back to the Dark Ages. The jurisdiction and role of coroners has, however, evolved markedly. For example, coroners are no longer responsible for collecting and guarding chance revenues falling to the King, such as revenue from royal fish, including whale and sturgeon.

However, the fundamental duty of coroners remains unchanged—that is, to identify the manner and cause of a person's death. It therefore remains very important, notwithstanding its ancient origins, to make the law clear and to give full legislative support to this office. But with such a long history, it is inevitable that the level of complexity and antiquity would burden the office and the legislative scheme that supports it. That is why this important bill has been drafted and introduced in this House. By introducing a modern and cohesive structure to the Coroners Act, redrafting its provisions into plain English, and making several important changes to reflect advances in medical technology and community expectations about the treatment of the deceased, the bill will strengthen the office of Coroner, and ensure coroners continue to play a vital role in our judicial system well into the twenty-first century.

The provisions in the bill will condense and distil the law to allow coroners to use alternative procedures for conducting post-mortem examinations, to allow coroners to dispense with post-mortem investigations where satisfied a person has died from natural causes and the family does not object, and to remove the need to report certain unsuspicious deaths to coroners. They are aimed at reflecting the following key principles: the dignity of the deceased must be respected in coronial investigations; in appropriate circumstances, families should have a say in the conduct of coronial investigations; and coronial investigations should be focused on those cases where a person dies of unknown causes, or in suspicious or violent circumstances. That is the main thrust of this bill.

The approximately 6,000 reported cases of deaths per year, 95 per cent of which are deaths from natural causes, highlight the need to make the Coroners Bill 2009 clear and to take away those cumbersome, costly and time-consuming procedures. Most importantly, the provisions in the bill will ensure that the wishes of relatives are respected in these extremely difficult times and that the deceased is treated with the utmost dignity. They will enable coroners to focus on suspicious deaths or deaths that are obviously not as a result of natural causes. In keeping with the natural progression of the law and the history of the office of the Coroner, I welcome this bill that will not only save significant resources for the Government and the office of the Coroner but will also make the system less involved for relatives of the deceased and uphold the dignity of the deceased. For those reasons, I commend the bill to the House.

**Mr GEOFF PROVEST** (Tweed) [11.05 a.m.]: The Coroners Bill 2009 amends the Coroners Act 1980, which has been the subject of numerous amendments over the past 29 years. The previous speaker has gone further back in its history. The Attorney General's Department, in consultation with State coroners, undertook a review, as a result of which this bill has been introduced in this House. The shadow Attorney General, the member for Epping, touched on a number of major issues and I will refer to others. Under this bill coroners will be required to be either magistrates or legally qualified. It will no longer be possible for a Coroner to be appointed without having legal qualifications, which will in many ways expedite the system and will ensure that quality of service is delivered to the wider community.

The requirement to report a death that occurs during or within 24 hours of the administration of anaesthetic has been replaced with a more general category of health-related deaths. It is suggested that that will avoid confusion about reporting when a sedative rather than an anaesthetic is used. The bill also defines health-related procedures. The legislation brings this State into line with Queensland, South Australia and the Australian Capital Territory. In his reply will the Minister touch on how New South Wales law relates to Queensland law because of cross-border issues? As members know, I am 100 per cent for the Tweed.

**Mr Barry Collier:** Have you got a solicitor friend across the border on the other side of the Tweed?

**Mr GEOFF PROVEST:** I have many friends there, as the member for Miranda points out. Under this legislation there will be no requirement to report a death to the Coroner when it involves an elderly person of more than 72 years of age and the death results from an accidental fall, which is not attributable to another person. That is particularly relevant to the Tweed, where 27 per cent of the population is over the age of 65 years. The Tweed has more people over the age of 65 years than any of the other 93 electorates in the State. Obviously, reportable deaths place an extreme burden on the current legal system. Clause 25 provides that a Coroner may dispense with an inquest unless it is required under the Act. It also provides that the Coroner may dispense with an inquest in circumstances where the Coroner has not directed a post-mortem examination on a person who has died from natural causes—a very relevant provision—and obtains advice from the police, medical practitioner and the deceased's family.

We know that the death of a family member is traumatic; post-mortems and coroners' reports can place more stress on loved ones, friends and relatives. As the shadow Attorney General, the member for Epping, indicated, religious beliefs in the wider community also need to be respected. Clause 82 deals with the power of the Coroner or jury to make necessary or desirable recommendations on matters such as public health and safety and when a matter should be investigated or reviewed by a specific person or body. Clause 3 provides that the record of the findings must not indicate or suggest in any way that an offence had been committed by that person. I again refer to public health and safety, which is fairly relevant to my electorate. The southern half of the Coolangatta airport is in my electorate. A number of years ago there were concerns that international guests could be suffering from bird 'flu. Currently staff at the Coolangatta airport—or the Tweed-Gold Coast airport as I prefer to call it—is using thermal scanning to check passengers for swine 'flu.

**Mr Thomas George:** Erect a big sign at Mount Warning, too.

**Mr GEOFF PROVEST:** Absolutely. Mount Warning is in the electorate of the member for Lismore and is one of the icons of Australia. There have been a number of arguments in favour of the legislation. The amendments are timely and remove outdated requirements for inquests in circumstances when they are neither reasonable nor necessary. Forensic pathologists will no longer be overburdened to perform unnecessary post-mortems. I believe there was mention in this place yesterday when the budget was handed down of further DNA testing and its expedition. The more time we can give people to investigate real crimes and suspicious circumstances generally the more at ease the community will feel because they know they are in good hands for the future.

It has been argued that post-mortems will be expedited and that health-related procedures include administration of anaesthetics, sedatives or other drugs. Recommendations are required to be forwarded to the relevant department or Minister as soon as reasonably practicable in an attempt to ensure that action is taken on those recommendations. Over the past two years I have been approached by the families of two people who had met untimely death—in both cases it was their sons. They expressed a great deal of concern with the time taken to do post-mortems, and the anguish and uncertainty they experienced as a result. Anything that can be done to expedite the process would be a plus. I have seen what the families and friends of victims go through, but, like many members in this House, I also understand the community's expectations in terms of post-mortem results and coroners' reports. They are never pretty, but greater transparency and community involvement will pave a positive way forward. The bill is well overdue. My only criticism would be the time it has taken for the review to come through. Obviously there are wheels within government and bureaucracy that affect that process. I have no objection to the bill. Once again, I am 100 per cent for the Tweed.

**Ms JODI MCKAY** (Newcastle—Minister for Tourism, Minister for the Hunter, Minister for Science and Medical Research, and Minister Assisting the Minister for Health (Cancer)) [11.13 a.m.]: The Coroners Bill 2009 introduces a new Coroners Act for New South Wales and, for the most part, redrafts and modernises the language of the existing Coroners Act into a more cohesive and logical structure. However, the bill also contains some important reforms, which are built upon three key principles for the coronial jurisdiction in New South Wales. The first of these is the principle that the dignity of the deceased should be respected. The second is that, in appropriate circumstances, the families of the deceased should have the right to have a say in how coronial investigations are to be conducted. The third principle is that coronial investigations should focus as much as possible on those cases in which a person dies of unknown causes, or in suspicious or violent circumstances. For the first time, the bill will enshrine the principle in coronial law that the dignity of the deceased should be respected. Clause 88 of the bill provides that:

When a post-mortem examination or other examination or test is conducted on the remains of a deceased person under this Part, regard is to be had to the dignity of the deceased person.

The clause then goes on to introduce an obligation on medical officers carrying out post-mortem examinations to establish the cause and manner of death using the least invasive procedure appropriate in the circumstances. This new provision recognises the fact that autopsies can be quite invasive procedures. They can cause distress to family members and, in some instances, offend religious and cultural sensitivities. But, of course, that is not to say that autopsies should not occur in any case. Notwithstanding the distressing effects that such procedures can have, it is often necessary to undertake invasive post-mortem examinations to establish the cause and manner of a person's death and, in some instances, the circumstances surrounding that death, but this bill recognises that such investigations should only occur when they are essential.

Clause 88 of the bill therefore provides that coroners should consider whether it is possible to sufficiently establish the cause of death through non-invasive investigative means, such as arranging a review of medical records and consulting with treating doctors. On occasions, it will be sufficient to establish the cause of death through limited examinations, such as external examination, taking samples for toxicology, or partial internal examinations. Clause 88 of the bill expressly refers to these more limited examinations. I note that this provision has received the strong support of the New South Wales Funeral Directors Association, whose members deal directly with people coping with the loss of a loved one. Ken Chapman, the executive director of the association, said:

By authorising the coroner to direct certain medical investigators to conduct a review of the medical records of a deceased person and report to the coroner on the cause of death based on such a review will greatly shorten the time currently taken for the conduct of post-mortems. Presently, long delays occur and funeral directors are frustrated in their attempts to facilitate funerals to meet the requirements of the deceased's family.

The reasons for including these new provisions to respect the dignity of the deceased also extend to the second principle I mentioned earlier, and that is that, wherever possible, regard should be had to the wishes of the deceased's family. As I stated earlier, invasive post-mortem procedures can cause an understandable and significant amount of distress for the deceased's family. Relatives expect that tests and examinations will not be carried out unnecessarily on their loved one, such as where the death is due to unsuspicious natural causes. However, some families may wish to obtain information on how their relative died. The post-mortem can provide information on coexisting conditions, including inheritable conditions where early detection may be advantageous for the future treatment of family members. Families should therefore have a greater level of involvement in the decision whether to have a post-mortem examination when a relative dies of natural causes, and the only purpose of the post-mortem is to distinguish between more than one possible natural cause of death.

Clause 89 of the bill therefore introduces a new provision that allows the Coroner the discretion to dispense with a post-mortem if, after obtaining advice from police officers and medical practitioners, the Coroner is satisfied that the person died from natural causes and, most importantly, the family are consulted and indicate they do not wish a post-mortem examination to be conducted. The coronial process should not be a source of greater distress to the families of people who have died. Giving a greater role to families in the decision-making process in these circumstances will ensure that coroners can act in a manner that is sensitive to the needs of grieving families.

This new provision in clause 89 of the bill also reflects the third principle I outlined earlier, that is, the principle that coronial investigations should focus on cases where a person dies of unknown causes, or in suspicious or violent circumstances. Close to 95 per cent of all deaths in New South Wales are from natural causes. Every year, around 6,000 deaths are reported to coroners. Around half of these deaths are due to natural causes. Each year coroners in New South Wales order post-mortems to be conducted in approximately 5,000 cases. The caseloads of the Coroner have a direct impact on the workload of forensic pathologists, which in some cases can result in delays in finalising post-mortem reports. Coroners and medical investigators should be able to focus their attention on those cases in which a person dies of unknown causes, or in suspicious or violent circumstances. In most cases, there is little public benefit in engaging in lengthy investigations when the cause of death is apparent or most likely due to natural causes.

In addition to the new provision in clause 89 of the bill, which allows a coroner to dispense with a post-mortem examination if satisfied the person died from natural causes, the bill also includes changes to prevent unsuspicious and natural deaths from being unnecessarily reported to coroners. This includes extending the period in which a medical practitioner must have attended a deceased person before their death must be reported to a coroner from three to six months. The majority of prescriptions for chronic, managed conditions such as diabetes, cardiovascular disease and pulmonary disease are written for a six-month period, and a patient

may not need to consult their medical practitioner between prescriptions. Six months is therefore a more logical period of time in which a medical practitioner must have seen a deceased person prior to their death in order to issue a death certificate.

Furthermore, clause 88 of the bill, which enshrines the principle that the dignity of the deceased is to be respected, will also allow coroners and medical investigators to focus their attention and time on suspicious and sudden deaths by enabling the use of less labour-intensive alternatives to establish the manner and cause of death. The most notable cases that warrant specialist attention and investigation from coroners are those cases that may involve homicide. To this extent, I note that Martha Jabour from the Homicide Victims' Support Group has given her endorsement to the reforms contained in the bill. She has been reported as saying that the changes will ensure coroners can promptly focus on deaths that warrant specialist attention, noting that:

In many homicide cases, coronial investigations play a key role in uncovering key evidence which can lead to the charging and conviction of offenders.

I refer to a meeting I had this year with Mr Allan Charlesworth, one of my constituents, at one of my mobile offices in Stockton. Mr Charlesworth's mother, Joyce Charlesworth, passed away aged 86. The doctor had not seen Mrs Charlesworth in the three months prior to her passing and therefore could not sign her death certificate. This meant that Mrs Charlesworth was required to undergo an autopsy to determine the cause of death. This put Mr Charlesworth under undue and significant stress, as Mrs Charlesworth's funeral had to be delayed for more than a week to allow the autopsy to be performed.

I am pleased that these reforms will allow a coroner to dispense with an autopsy in circumstances in which a person has died as a result of unsuspecting natural causes and the senior next of kin does not desire an autopsy to identify the precise disease or complication that caused the death. I know that Mr Charlesworth will welcome the changes contained in this bill. I thank the Attorney General for taking on board the concerns put by Mr Charlesworth in representations that I made.

The Coroners Bill 2009 contains a number of important reforms that give effect to key principles that the Government believes should underline the coronial jurisdiction. Provisions in the bill allow coroners to use alternative procedures for conducting post-mortem examinations; allow coroners to dispense with post-mortem investigations when satisfied a person has died from natural causes and the family does not object; and remove the need to report certain unsuspecting deaths to the Coroner. All these provisions are aimed at reflecting the following key principles: That the dignity of the deceased must be respected in coronial investigations; that in appropriate circumstances families should have a say in the conduct of coronial investigations; and finally, that coronial investigations should be focused on those cases in which a person dies of unknown causes, or in suspicious or violent circumstances. I commend the bill to the House.

**Mrs JUDY HOPWOOD** (Hornsby) [11.23 a.m.]: I will make a few comments in relation to the Coroners Bill 2009, which will repeal the Coroners Act 1980 and re-enact the provisions of that Act with the modifications that I will refer to. It will also improve the efficiency and effectiveness of the exercise of coronial jurisdiction in this State. By coincidence I am currently reading a book called *The Coroner*, written by Derrick Hand and Janet Fife-Yeomans, which details the career of Derrick Hand as a State coroner and his roles prior to taking that position. As a nurse of 34 years experience and having represented a number of people in my electorate in matters that were coronial in part, I have the greatest respect for the work of the Coroner and the deputy coroners, and anybody who works in a coronial environment and in morgues around the world.

I pay extreme tribute to the people who do that work. It is difficult work and sometimes it must be unpleasant, but by far the majority of them carry out their duties well, and afford the utmost dignity to the deceased and show respect for the family, friends and significant others of the deceased. I imagine that no time is more stressful than when one has to deal with a coronial inquiry or be in touch with a morgue. Those in the morgue might be identifying a deceased who is known to them or they might be conducting an autopsy on a stillborn baby, a sudden infant death syndrome baby or a loved family member. I pay tribute to the work of the coroner and all the staff associated with coronial activities.

I refer now to the main changes in this bill. Coroners will be required to be either magistrates or legally qualified persons. It will no longer be possible for a coroner to be appointed without legal qualifications. Those coroners presently appointed who do not have legal qualifications will be reappointed as assistant coroners; however they will not be able to hold an inquest or an inquiry. The restriction on the number of deputy State coroners that may be appointed has been removed and the number will be determined by workload. The position of State Coroner has been elevated to the status of Deputy Chief Magistrate. The requirement to report a death

that occurs during or within 24 hours of the administration of an anaesthetic has been replaced with the more general category of health-related deaths. It is suggested this will avoid confusion about reporting when a sedative is used rather than an anaesthetic. Health-related procedure has been defined to be consistent with the jurisdictions of Victoria, South Australia and the Australian Capital Territory. When a death has occurred during or within 24 hours of the administration of an anaesthetic there is no longer the requirement for a mandatory inquest when the Coroner determines that an inquest is not desirable.

The period in which a medical practitioner last attended a deceased before being able to issue a death certificate has been extended from three months to six months, arguably bringing this period into line with current medical practice. The requirement to report a death to the Coroner within a year and a day has been deleted. There is no requirement to report a death to a coroner when it involves an elderly person of more than 72 years of age and death results from an accidental fall that is not attributable to another person. Consistent with the stated objective, post-mortems are not to be undertaken unless it is necessary to establish identity, time of death or cause and manner of death. There is an obligation on medical officers to use the least invasive procedure appropriate to establish the cause and manner of death. It is argued that this will reduce the workload placed upon forensic pathologists and will avoid unnecessary post-mortems.

Clause 25 provides that a coroner may dispense with an inquest unless it is required under the Act. It also provides that a coroner may dispense with an inquest in circumstances in which the Coroner has not directed a post-mortem examination on a person who has died from natural causes and when he or she has obtained advice from the police, medical practitioners and the deceased's family. A coroner will now have the discretion to dispense with a post-mortem if, after obtaining advice from police officers and medical practitioners, the Coroner is satisfied that the person died from natural causes and the senior next of kin indicates that the family does not wish to have a post-mortem. Normally the Coroners Act 1980 does not permit a coroner to hold a hearing in open court unless the Coroner has commenced an inquest or inquiry.

Clause 46 introduces the concept of coronial proceedings as part of a case management procedure with the exception of clause 74 orders where the Coroner is empowered to clear the court and prevent publication of evidence. Such coronial proceedings are to be open to the public. This will permit the coroner to determine preliminary issues such as jurisdiction and, more importantly, whether an inquest or inquiry is necessary or desirable. Pre-inquest or inquiry proceedings may enable coroners to ascertain whether information from a witness may or may not be valuable. A coroner may issue a certificate pursuant to clause 61 (7) to provide that evidence given may not be used against the person in other proceedings. A jury may be used in an inquest or inquiry only when the State Coroner directs it and presides at it. To cap costs, clause 51 allows the Director General of the Attorney General's Department to enter into a memorandum of understanding with the Commissioner of Police in relation to the regulation of costs associated with the preparation of a brief of evidence.

Clause 82 deals with the power of the Coroner or jury to make recommendations considered necessary or desirable on matters such as public health and safety and whether a matter should be investigated or reviewed by a specified person or body. Clause 3 provides that the record of findings made must not indicate or in any way suggest that a person has committed an offence. To ensure that coronial recommendations are brought to the attention of the appropriate organisation or Minister, clause 82 requires the Coroner to forward a copy of the recommendations as soon as reasonably practicable to such relevant parties. This fairly hefty piece of legislation will modernise and make more efficient the activities of coronial and other inquiries. It is important to maintain the dignity of those who have died, to involve their families and friends, and to provide support for their families and friends.

When I was a nurse educator at Manly hospital, student nurses in the second year of their hospital training had to attend Glebe Coroner's Court and they could choose to watch the conducting of an autopsy at the morgue. On one occasion I accompanied a group of second-year nurses to Glebe Coroner's Court and to the morgue. Nothing puts one more in touch with one's mortality than observing an autopsy. Watching an autopsy being performed is the best anatomy lesson anybody could ever have. Many professions undertake anatomy classes with the aim of understanding bodily processes and establishing what occurs when things go wrong. I have great respect for all those who perform autopsies, as it is a specific and very taxing role. An extreme amount of pressure has been placed on many organisations, as there are not enough forensic pathologists to cope with demand or people to perform the necessary autopsies. I hope that this piece of legislation goes a long way towards alleviating those problems.

Last year the family of a 28-year-old Hindu woman who died of anorexia nervosa approached me. I spent the next eight days assisting that family to resolve the horrendous delays relating to her autopsy. No

doctor was able to sign her death certificate and that proved frustrating for staff at Westmead hospital, which is where the woman's body was held. As the morgue was required to perform autopsies in accordance with a specified list, this woman's autopsy could not be carried out in the required time frame to enable her family to adhere to their religious beliefs, which proved catastrophic. Her family took a long time to recover from that horrific incident. It was bad enough losing a sister and a daughter at the age of 28 to anorexia nervosa without being informed that morgue personnel could not expedite her autopsy to enable family members to adhere to their religious beliefs. As I said earlier, I hope this bill goes a long way towards alleviating these problems.

After the death of Vanessa Anderson I attended the coronial inquiry and found the courtroom to be a very charged environment. In my role as a member of Parliament I attended court with Warren and Michele Anderson, their friends and their family supporters. I saw first-hand the support that they required and it was an honour for me to assist them. I pay tribute to the Coroner, to the staff at Westmead hospital and to the staff at Glebe Coroner's Court who took into account the needs and feelings of family and friends over those tortuous days. As a result of the coronial inquiry into the death of Vanessa Anderson the Coroner made certain recommendations and that resulted in the Garling report. Garling conducted an extensive investigation into our hospital system and into the provision of health care in New South Wales. I hope that all his recommendations are supported and adopted.

Coroners make many recommendations about the legislative changes that are required to prevent the occurrence of tragic events in this State. For example, following the tragic shooting of two police officers in New South Wales some time ago, coroners recommended replacing the Smith and Wesson guns that are carried by police with Glock pistols—a useful, valuable and essential recommendation to assist governments and others. In addition to averting delays in the carrying out of autopsies I hope that the Coroner's Bill 2009 averts delays in the testing of specimens.

Recently I assisted family members to resolve an important issue. The brain of a woman could not be buried with her because of delays occasioned in the testing of her brain. That caused the family great distress because they had to comply with their religious observances. The Opposition does not oppose this valuable piece of legislation. Many arguments have been put forward to explain the Government's reasons for introducing this bill. Everything we do in this place must have regard to the families of those who have died. It is important to respect the dignity of those who have died, to involve their families and friends, and to give them support.

**Ms KATRINA HODGKINSON** (Burrinjuck) [11.38 a.m.]: I do not oppose Coroners Bill 2009, which deals with a fairly morbid subject. As the old saying goes, two things are certain in New South Wales: death and taxes. During this interesting and wide-ranging debate one thing has become crystal clear: we need to amend the Coroner's Act 1980 to reflect the needs of our communities. One of the provisions in the Coroner's Bill 2009 relates to the removal of the restriction on the number of deputy State coroners, which is currently limited to four. Deputy coroners do an amazing job and they certainly get their share of publicity. I remind members of some of the events that occurred this year.

Members will remember Harriet Alexander's report in the *Sydney Morning Herald* on 13 June. She said that hospitals should be forced to ensure they have adequate supplies of blood for every woman about to give birth by caesarean section following the multiple organ failure of Rebecca Murray, who sadly died in June 2007 after delivering a healthy baby girl by emergency caesarean section at Bathurst Base Hospital. Many countrywomen need to deliver babies by caesarean section; certainly, it is hands up on this side. Many country caesarian deliveries have gone extremely well but, obviously, sometimes things just go wrong. Ms Murray suffered a severe post-partum haemorrhage. Generally that medical event is treatable, but in her case the recovery nurse was not trained to monitor the aftermath of that event and the hospital wasted valuable time, according to the article, checking her blood type before a transfusion could be administered.

Deputy State Coroner Carl Milovanovich, who conducted the inquest, found that Ms Murray's death could have been prevented if her blood count and type had been checked before the operation and if staff were better trained. Deputy coroners come into their own in these sorts of instances because they put forward policy recommendations after the event. Mr Milovanovich said that it was clear many regional hospitals had not implemented a policy he had recommended to the Minister for Health requiring all hospitals to check the blood group and supplies for all elective and emergency caesarean sections. It would seem like common sense, but Mr Milovanovich said:

Do we have to wait for another mother to die in similar circumstances before there is some change?

If the unexpected and avoidable death of a young mother at Bathurst justifies a change in policy at Bathurst Base Hospital, why should that policy not extend statewide?

I am sure that the member for Port Macquarie, other members from country areas and you, Mr Acting-Speaker, in Lismore, every day deal with cases in our hospital system where things have gone wrong. One sometimes wonders whether we have a two-class system of patient care in New South Wales. We want our population to grow and women have babies either by caesarean section or regular delivery; it should not be an obstacle in 2009. Patient care should be forthcoming and we should deal with births properly wherever they happen to be. Clearly, the deputy coroner will play an important role. I am sure the shadow Minister for Health, Jillian Skinner, will pay close attention and make sure that the Government is held to account over the case to which I have just referred.

Members will remember the missed opportunity of 000 operators in the David Iredale case. I refer to an Australian Associated Press report on 7 May 2009 that David Iredale became lost in the Blue Mountains. He made five 000 calls to the New South Wales Ambulance Service pleading for help. He told them roughly where he was. He said that he did not have any water, he had fainted and could not walk far. According to the Australian Associated Press report, the inquest into his death was told that David encountered sarcasm and a lack of empathy from the operators, who failed to pass on key information and properly log the calls. He is believed to have died a short time after his last call. Any parent would be aghast by this case and, once again, New South Wales Deputy State Coroner Carl Milovanovich handed down his findings recommending that all ambulance emergency operators have access to paramedical advice. Mr Milovanovich said:

[There was] a lost window of opportunity that could have resulted in a different outcome.

Among his other recommendations was a call for a widespread review of the training and protocols for ambulance 000 operators. Mr Milovanovich said that emergency services Minister Steve Whan should set up a working party of police, ambulance, fire brigades, National Parks and Wildlife Service and Telstra representatives to examine the issues. He said that he was astonished that at no time after the death of David Iredale did the New South Wales Ambulance Service conduct a review or analysis of its performance in this matter. He said:

It is astonishing that a person can ring the ambulance service on five occasions ... and no satisfactory review be undertaken.

I am sure many citizens around this State feel deeply for his parents and for what the family has gone through subsequent to his tragic and unnecessary death. A further recent news report from the New South Wales Deputy Coroner related to Sarah Rawson, who tragically fell from a cliff in the New South Wales Blue Mountains in 2006. Once again, it was Deputy State Coroner Carl Milovanovich who found that Sarah's death was a tragic accident. It can be seen by the findings of deputy coroners that they play an important role not only for the legal fraternity and cases arising from such tragic circumstances, but also to advise us—the public and legislators in this State—on what needs to happen as a result of their tragic findings. Although inquest results are not known for a year or two after the event, they then remind us of the incidents and that things need to change. They also keep us on our toes in this place; I am conscious of the need to continually bring the Government to account. Paragraph (j) of the objects of the bill states:

- (j) the current provisions that require a death to be reported (and that prohibit a death certificate being issued) if the deceased person was not attended by a medical practitioner in the 3 months preceding death are replaced with provisions that extend that period to 6 months,

The member for Newcastle informed the House about a discussion regarding one of her constituents, a lady of senior years, who had not seen her general practitioner in the three-month period before her death and the subsequent stress her husband experienced because of the existing law. This Opposition supports this bill but, obviously, its provisions will be extremely stressful for relatives in the sorts of cases to which I just referred. It adds incredible pressure also to general practitioners who must suffer an incredible feeling of guilt if they have missed the three-month window and their patient then passes away. I give the big tick to these legislative changes because post-mortems, as the member for Hornsby pointed out, are an eye-opener. Obviously they are not needed in every case because some people die from natural causes and would not necessarily have seen their general practitioner in the preceding three-month period. I agree that the extension to a six-month period is most acceptable.

The underlying principle of this new Act is that coroners and investigating medical officers should be able to focus their attention on those cases when a person dies of unknown causes or in suspicious or violent circumstances. Accordingly, these amendments are timely; they remove outdated requirements for inquests in circumstances where they are not reasonable or necessary. I trust that this legislation will improve the extended delays that so many relatives of deceased people experience. In the past we have read constantly in newspapers about delays family members experience due to post-mortems not being carried out in a timely manner. Another



objective of this bill is that post-mortems will not be undertaken unless necessary to establish the identity, time of death or cause or manner of death; and that the dignity of the deceased person must be respected. Forensic pathologists are in extremely short supply.

The future in forensic pathology is there for the taking by senior students considering career paths; it is a most interesting career. We need to ensure that post-mortems will be expedited but that forensic pathologists will not be further overburdened by performing unnecessary post-mortems. The new concept of an unexpected outcome of a health-related procedure will clarify what deaths are reportable. Health-related procedures include the administration of anaesthetic and sedatives or other drugs. Coronial proceedings of the open-court concept will provide for a more transparent environment in which decisions can be made. The powers of the coroner to make recommendations in connection with an inquest or inquiry have been clarified. Such recommendations are required to be forwarded to the relevant department or Minister as soon as reasonably practicable in an attempt to ensure that action is taken upon such recommendations.

I take this opportunity to give my heartfelt thanks to the Yass Coroner for his professional, timely and sensitive attention to the post-mortem of my father. My father died a couple of years ago now, but it was an extremely stressful time for my family. My father died an untimely death; he was only 66 years old. It was extraordinarily tough to go through the post-mortem examination with the related stress of his sudden death. I know how many people feel about that, and I can empathise with people who have been in that situation in the past. I pass on my compliments to the Yass Coroner, who was extremely sensitive and professional and whose decision was delivered in a timely manner. We know that many families have not received the same type of service. I trust that the Government has got it right on this occasion and that multiple changes to the legislation will be to the overall direct and net benefit of all families within New South Wales.

**Mr PETER BESSELING** (Port Macquarie) [11.50 a.m.]: I support the Coroners Bill 2009. The bill will replace the existing Coroners Act 1980 with a new Coroners Act 2009. It includes several new provisions that are designed to improve the efficiency and effectiveness of the coronial jurisdiction. The reforms have been developed in consultation with the Chief Magistrate, the State Coroner, older persons' services as well as health and legal agencies. They include reforms that are aimed at amending the requisite qualifications of coroners so that only magistrates and Australian lawyers will be appointed as coroners.

The bill will update provisions which require certain deaths to be reported to the Coroner to reflect advances and changes in medical technology and practice; respect the dignity of deceased persons and give their families a greater say in the conduct of coronial investigations; give families greater rights in relation to the retention of whole organs; give the State Coroner additional powers to give directions concerning the allocation and transfer of cases and to issue practice notes as well as approve forms for use in coronial proceedings; and allow the Coroner to conduct pre-inquest hearings in court to monitor the progress of investigations.

Earlier the member for Maitland spoke eloquently on days of yore characterised by oxen, carts, sturgeons, Latin terminology, kings and cries of, "Grab your torches and pitchforks and let's go and hang somebody." That may be all well and good, but we certainly have our own modern issues relating to coronial investigations and processes involving the Coroner. It is good that legislation has been introduced that will be supported by all members of the Chamber, particularly by the Opposition and me as an Independent, and that hopefully will address some of the issues.

Clause 25 of the bill deals with when inquests may be dispensed with. Clause 25 provides that a Coroner may dispense with holding an inquest concerning a death or suspected death unless an inquest is required to be held under the provisions of proposed part 3.2. Without limiting the general power to dispense with an inquest, the proposed clause gives an example of circumstances in which an inquest may be dispensed with. The example involves a situation in which a Coroner is satisfied, after obtaining relevant advice from police officers, medical practitioners and consulting with senior next of kin and any other person that the Coroner considers appropriate, that:

- (a) the deceased person died of natural causes (whether or not the precise cause of death is known), and
- (b) a senior next of kin of the deceased person has indicated to the coroner that it is not the wish of the deceased person's family that a post-mortem examination be conducted on the deceased to determine the precise cause of the deceased's death.

Owing to the nature of the Act that currently is in force, substantial delays have been experienced relating to coronial proceedings. I received a letter from a constituent of my electorate, Dr Neil Miles, who is the President

of the Port Macquarie Hastings Legacy Club Limited, concerning a lady whose husband tragically died. She received a letter from the Attorney General's Department about the length of time that it will take for a post-mortem report to be provided. That letter states:

I acknowledge receipt of your request for a copy of the postmortem report relating to ... [the deceased person].

Postmortem reports are prepared by the Department of Forensic Medicine (which forms part of the Department of Health). Unfortunately, at present we are experiencing a delay of up to 12 months after the autopsy has been performed before reports are received.

As soon as the report is received at this office a copy will be forwarded to you at the above address.

The letter concludes with an apology for any inconvenience that may have been caused. Dr Miles and the Port Macquarie Hastings Legacy Club Limited do fantastic work in the Port Macquarie area, as do all Legacy clubs. Dr Miles wrote:

Dear Peter

I am sorry to have trouble you again.

Enclosed is a copy of a letter received by one of our Legacy widows.

This lady is unable to proceed with a claim for a War Widows Pension from the Department of Veteran Affairs as they will not process this until they have the NSW Coroner's Report.

This 12 month delay is completely unacceptable and must affect many other people such as life insurance claimants.

We all became members of Parliament for the betterment of our local constituents and for the betterment of the State in general. It is totally unacceptable that there are 12-month delays in providing coronial reports. Although I commend the Government for introducing the bill, 12-month delays are unacceptable. Hopefully the new legislation will go some way towards improving the current situation with delays so that our constituents are not disadvantaged. Certainly war widows, whose husbands have fought for their country and have done the right thing by their communities, should not be disadvantaged.

I acknowledge the support of the Opposition for the legislation. Other members who preceded me in the debate provided examples of issues of the length of time that it has taken to receive coroners' reports. There is no point in having a coronial inquest unless we act on the recommendations made as a result of an inquest. I cite two clear examples. On the mid North Coast, the Clybucca bus tragedy was investigated by the Coroner, and an inquest was undertaken. A report was produced following the inquest and recommendations were made, but the recommendations have taken a very long time to be implemented. There also was an inquest into a death caused at Crowdy Head near Harrington when a boat sank. The Crowdy Head-Harrington Royal Volunteer Coastal Patrol continues to encounter issues in its attempt to act in the best interests of community safety, which is certainly very important to me and to communities all along the mid North Coast.

In general, I support the bill. Broad support for the legislation has been expressed by spokespersons for various organisations in the community, such as Martha Jabour from the Homicide Victims' Support Group and Phil Brookes, President of the New South Wales Funeral Directors Association. Mr Brookes commented that changes to the legislation will better enable grieving families to cope with the loss of a loved one. The President of the New South Wales Law Society has welcomed the new legislation. In conclusion, I express my hope and trust that this legislation will go some way towards relieving pressures on the coronial system and will facilitate faster production of autopsy reports as well as their communication to members of the community. If that does not eventuate, I foreshadow my support for further measures and moves towards reducing the time taken for the production of coronial reports. I commend the bill to the House.

**Mr BARRY COLLIER** (Miranda—Parliamentary Secretary) [11.58 a.m.], in reply: I thank the member for Epping, the member for Maitland, the member for Tweed, the Minister for Tourism and member for Newcastle, the member for Hornsby, the member for Burriajuck and the member for Port Macquarie for their contributions to the debate. I note the Opposition and the Independents do not oppose the Coroners Bill 2009. The member for Hornsby quite rightly described the bill as "a valuable piece of legislation". The member for Burriajuck, who experienced the operations of the coronial system through an unfortunate family tragedy, paid tribute to the Coroner at Yass and gave the legislation a big tick. The member for Epping brought his knowledge and experience to bear during his speech on the bill. As he quite rightly observed, the bill acknowledges religious and other sensitivities of certain groups within the community.

The member for Epping raised the issue of self-incrimination. Clause 61 deals with the power of the Coroner to deal with claims of self-incrimination. If a witness declines to give evidence based on a claim of privilege against self-incrimination, the Coroner may assess whether it is in the interests of justice that the evidence be given. If a person is compelled to give evidence, the Coroner shall provide a certificate indemnifying the use of that evidence in other proceedings. This new provision allows the Coroner to issue a certificate to protect against evidence given in a coronial proceeding being used in other proceedings. Clause 61 increases the scope of protection from the current Act. A certificate issued under section 33AA of the Coroners Act 1980 prohibits the use of evidence in proceedings before any other proceedings before a New South Wales court. Clause 61 of the bill extends the protection afforded by a certificate so that it prohibits the use of the evidence in proceedings before a New South Wales court, as well as any other proceedings where a person is empowered to take evidence.

The member for Epping referred to clauses 61 (7) and 62, and said that the Act proposed a penalty of only \$1,100 or 100 penalty units. He raised the issue of contempt where a person before the Coroner refuses to answer the question in any event. I am not quite sure whether that precludes separate contempt proceedings before the court, but the member suggested that the penalty in clause 62 may not be sufficient. This bill represents a major re-write of the Coroners Act in New South Wales. It outlines new procedures and introduces some significant reforms. As such, the Government will maintain—in answer to the member's concerns—a watching brief on the operation of the new legislation. If it becomes apparent that the proposed penalty under clause 62 is not sufficient, I have no doubt the Government will consider reviewing it.

The member for Epping also raised concern about the implementation of coronial recommendations. Indeed, a number of members, particularly the member for Burrinjuck, mentioned the importance of those recommendations in ongoing development of the law and of New South Wales as a State. This bill introduces changes, which will ensure that each coronial recommendation is forwarded to the State Coroner, the Minister responsible for the legislation or the agency subject to the recommendation, as well as the person or agencies at which the recommendation is directed. It is not necessary to legislate that Ministers respond to coronial recommendations; they are obliged to do so as a matter of ministerial responsibility. To ensure that Ministers meet this responsibility, the Premier has issued a memorandum to all Ministers and agencies which sets out a process for responding to and publicly reporting on coronial recommendations.

It should be noted that the Premier's memorandum is binding on all Ministers and, through them, their agencies. Under the memorandum, Ministers and agencies that receive recommendations are required to advise the Attorney General within six months on whether it will be adopted. Summaries of coroners' recommendations and responses from Ministers and public officials will then be posted on the website of the Attorney General's Department every six months. Posting this information on the Internet will ensure that the process for responding to coronial recommendations is open and transparent, and that such information is easily accessible by all members of the public. It should be noted that a number of other statutory bodies make recommendations to Government Ministers that do not require legislation mandating responses. By way of example, the Child Death Review Team publishes reports that regularly contain recommendations to government. The Child Death Review Team monitors those recommendations and provided updates on the responses to those recommendations in subsequent reports. There is no concern regarding the willingness of Government Ministers or agencies to respond to those recommendations.

The member for Tweed raised the interesting question of jurisdiction. Clearly, under the Australian Constitution of the Federation that was formed in 1901, we have six separate States and one Federal Government, which make laws under that constitution. It is quite well known that in many instances, in matters that are not under the exclusive jurisdiction of the Commonwealth or under its concurrent powers, each separate State makes its own laws in relation to a large number of matters, including coronial law and coronial practice. So we have six separate States with six separate laws relating to coronial laws and practice. However, I draw the attention of the member for Tweed to clause 18 of the bill, which relates to jurisdiction concerning a death that requires a connection with the State. The member for Tweed specifically asked what impact the bill will have on deaths that occur in or relate to Queensland. Clause 18 (1) clearly states:

A coroner does not have jurisdiction to hold an inquest concerning a death or suspected death unless it appears to the coroner that:

- (a) the remains of the person are in the State, or
- (b) the death or suspected death or the cause of the death or of the suspected death occurred in the State, or
- (c) the death or suspected death occurred outside the State but the person had a sufficient connection with the State, as referred to in subsection (2).

Frankly, whether the law of Queensland or the law of New South Wales applies will be well and truly determined by clause 18 (1). Clause 18 also defines whether a person has a sufficient connection with the State. For the benefit of the member for Tweed and other members who may have similar concerns, clause 18 (2) states:

A person had a sufficient connection with the State if the person:

- (a) was ordinarily resident in the State when the death or suspected death occurred, or
- (b) was, when the death or suspected death occurred, in the course of a journey to or from some place in the State, or
- (c) was last at some place in the State before the circumstances of his or her death or suspected death arose.

Clearly, a number of different circumstances may or may not satisfy the requirements in clause 18. So the connection with the Queensland law depends basically on the circumstances of each case. If circumstances arise, I encourage the member for Tweed to look at the Act and perhaps consult some of his friends in the legal profession on the other side of the border. I am sure they could give him relevant advice. Certainly, the Acts are separate and distinct, and it is a question of jurisdiction. The member for Tweed and the member for Port Macquarie raised issues about the number of post-mortems and what is being done to address the shortage of forensic pathologists.

**ACTING-SPEAKER (Mr Thomas George):** Order! There is too much audible conversation in the Chamber. The Parliamentary Secretary will be heard in silence.

**Mr BARRY COLLIER:** The Coroners Bill introduces a number of changes that will encourage coroners to consider options other than a post-mortem examination to determine the cause of death. These include requiring coroners to consider whether the cause of death can be established through non-invasive means, such as a review of medical records or consulting with treating doctors, and obliging medical officers to establish the manner and the cause of death using the least invasive procedure possible in the circumstances. The primary objective of these amendments is to ensure that coronial practice is consistent with maintaining the dignity of deceased persons by ensuring that invasive post-mortem examinations are only conducted where they are necessary and desirable.

To this extent, the bill mirrors similar provisions in the Australian Capital Territory Coroners Act that require the Coroner to have regard to the desirability of minimising the causing of distress or offence to people who might be distressed or offended by a direction to undertake a post-mortem. If there are ways to establish the cause of death other than by way of a post-mortem, then it is consistent with the expectations of family members that these options be considered. For example, the cause of death may be established by a review of medical records or by an external examination of the body and the taking of blood and tissue samples for toxicology.

These approaches will have the benefit of easing the work demands on forensic pathologists, allowing them to focus on serious cases such as homicides where criminal proceedings are pending post-mortem results. That is why these reforms have been welcomed by Martha Jabour of the Homicide Victims' Support Group. The changes will also mean that families will not be left waiting lengthy periods for the outcome of post-mortems, something that is backed by the Funerals Directors Association of New South Wales. I note that concern of the member for Port Macquarie. The executive secretary of the association, Mr Ken Chapman, states:

By authorising the coroner to direct certain medical investigators to conduct a review of the medical records of a deceased person and report to the coroner on the cause of death based on such a review will greatly shorten the time currently taken for the conduct of post-mortems. Presently long delays occur and funeral directors are frustrated in their attempts to facilitate funerals to meet the requirements of the deceased's family.

In a case reported to the Deputy State Coroner several years ago, a person died in a motorcycle accident and the family did not want an invasive post-mortem examination. The Deputy State Coroner sought advice from the police officer in charge of the case, who confirmed that no charges would arise from the accident as witnesses had confirmed the deceased had lost control of the motorcycle without the involvement of any other vehicle. The forensic pathologist conducted an external examination of the body and was able to confirm that the deceased sustained massive head injuries, sufficient to cause death. The Deputy State Coroner in that case concluded it was unnecessary to conduct an invasive post-mortem examination. The member for Port Macquarie raised the circumstance in which an inquest may be dispensed with and again that is relevant to the issue of delays in obtaining a post-mortem examination, or, in fact, in conducting one at all. Quite rightly, the member drew the attention of the House, and I do also, to clause 25 of the bill, which sets out circumstances in which the Coroner may dispense with an inquest.

The member for Hornsby expressed sincere thanks to all those involved in a coronial process following the unexpected death of a loved one in the State. I am sure all members join me and express our sincere thanks to all those involved in the very difficult and essential work done by police officers who attend the scene of an accident, medical practitioners, coroners and their staff, forensic pathologists and persons who provide comfort, support, guidance and counselling to those who have suffered the tragic, in some cases, loss of a loved one. The member for Burrinjuck referred to the way the Yass Coroner handled a matter concerning her family. Mention was made that when ordinary people come in contact with the coronial jurisdiction they are usually facing a very difficult time in their lives, coping often with the sudden loss of a loved one. Members may be aware that the Attorney General's Department employs a number of coronial support officers who work at the Coroner's Court in Glebe. Those hardworking people are tasked with the difficult job of providing intervention support to the families of the deceased person or persons. They are typically either trained or qualified psychologists and social workers who understand and perform their very difficult work with a high degree of professionalism and sensitivity to family members. I place in *Hansard* the appreciation of this Government and this Parliament for their work.

The member for Hornsby, the member for Burrinjuck and the member for Port Macquarie talked about addressing delays in the provision of post-mortem reports. The Coroner's Court has, in fact, faced some delays with post-mortem reports, mainly because of the global shortage of forensic pathologists. The State Coroner has been working closely with the Department of Health to develop strategies for reducing delays, including recruiting suitably qualified forensic pathologists from overseas. The Department of Health has now recruited several qualified overseas forensic pathologists to its Department of Forensic Medicine at Glebe. The Coroner's Court is also currently reviewing its case management practices and internal and external interaction with other government agencies such as the Department of Health and Police. The provisions in the Government's Coroners Bill 2009 will prevent routine deaths from being unnecessarily reported to coroners so they are able to carry out necessary investigations promptly and effectively.

Even without this new legislation, delays in the provision of post-mortem reports are improving. In January 2007 there were 3,940 cases pending coronial files at Glebe Coroner's Court. By January 2009 that figure had been reduced to 1,702 pending matters. Furthermore, in 2005 there were 830 overdue—older than two months—post-mortem reports and by January 2009 it had been reduced to some 754. The member for Hornsby also referred to concerns about delays in finalising investigations surrounding the retention and examination of whole organs. The member will be pleased to know that the Coroners Bill 2009 proposes inserting a new clause 90, which provides that the retention of organs may only occur following further authorisation by the Coroner. The bill also provides that the Coroner may only authorise the retention of whole organs after giving notice to the deceased person's family. The family is then entitled under clause 96 to make a formal objection.

The member for Epping and other members referred to removing the requirement to report a death that occurs within 24 hours of the administration of an anaesthetic to the Coroner. This bill replaces the requirement to report to the Coroner a death that occurs during, or within 24 hours of the administration of an anaesthetic, with a more general category of health-related procedure deaths. The New South Wales Regional Committee of the Australian and New Zealand College of Anaesthetists suggested this change due to concerns that the current reporting criteria causes confusion when a sedative is used instead of an anaesthetic, or when anaesthesia is not a contributing factor. The arbitrary time frame of 24 hours means the decision to report a death to the Coroner is often based on timing rather than concerns regarding the medical treatment provided.

The category of unanticipated outcome of a health procedure more accurately identifies deaths arising from medical misadventure. It is more familiar to medical practitioners and will reduce confusion surrounding the obligation to report deaths to the Coroner. The term "medical procedure" has been defined to mean a medical, surgical, dental or other health-related procedure, including the administration of anaesthetic, sedative or other drug. The category of health-procedure-related deaths is consistent with the approach taken in the coronial jurisdictions of Queensland, Victoria, South Australia and the Australian Capital Territory. The member for Epping and the member for Burrinjuck referred to the bill extending the time from three to six months within which a medical practitioner must have seen a person prior to their death in order to issue a death certificate. Currently a death certificate may only be issued by a medical practitioner if the cause of death is natural, and the practitioner has attended the person during the previous three months prior to death. New South Wales is currently one of only two jurisdictions that still mandates a Coroner referral where a medical practitioner has not attended the deceased in the three months prior to death.

The underlying principle of the Coroners Bill is that coroners and investigating medical officers should be able to focus their attention on those cases when a person dies of unknown causes or in suspicious or violent circumstances. The current restrictions means deaths are reported to the Coroner where the person died from known and unsuspicious natural causes. This provides no tangible benefit to the family of the deceased or to the

wider community. NSW Health has advised the majority of prescriptions for chronic managed conditions such as diabetes, cardiovascular disease and pulmonary disease are written for a six-month period and a patient may not need to consult their medical practitioner between prescriptions. Six months is therefore a more appropriate time. After proclamation, the provisions in the Coroners Bill are likely to commence sometime late in the second half of this year because a number of steps will be necessary to ensure the smooth transition of the new Act. A supporting regulation will also be made to deal with matters referred to in the bill.

The State Coroner will be required to draft several practice notes to give procedural guidance on changes to case management. The Coroners Court will also be required to make changes to forms and processes to reflect the changes in the bill. In addition, several months will be required to enable coroners, medical practitioners and police to become aware of the changes. The Office of the State Coroner will coordinate the provision of information to coroners and will assist other agencies in the provision of information. In addition, public information will be provided through the publication of a revised coroners brochure and information published on the Internet, and I note the Legislation Review Committee takes no issue with the Act commencing on proclamation.

I thank all members for their contribution to the debate. The office of the coroner dates back to the twelfth century and since that time coroners have continued to perform a unique and vital role within the legal system. They are responsible for ensuring that deaths arising in suspicious, violent, unnatural or unknown circumstances are properly investigated. They also have authority to investigate the cause and origin of fires and explosions. It is therefore vital that coroners are supported by an effective statutory structure. The Coroners Bill 2009 rewrites the Coroners Act and provides a modern and cohesive legislative framework. It also contains a number of reforms that will improve the efficiency and effectiveness of the coronial jurisdiction. These include provisions which will allow only magistrates and Australian lawyers to be appointed as coroners and allow coroners to conduct pre-inquest hearings in court to monitor the progress of investigations.

The bill will also introduce a number of new provisions to the Coroners Act that will give families a greater say in the conduct of coronial proceedings and post-mortem investigations, respect the dignity of deceased persons, and ensure that coroners and medical investigators are able to focus their time and effort on investigating those cases where a person dies of unknown causes or in suspicious or violent circumstances. Specifically, these include provisions that will allow coroners to dispense with a post-mortem if the deceased person died of natural causes and the family does not wish a post-mortem to be conducted; require coroners to consider whether the cause of death can be established through non-invasive means, such as a review of medical records or consulting with treating doctors; oblige medical practitioners to establish the manner and cause of death using the least invasive procedure appropriate in the circumstances; modernise the categories of death that must be reported to a coroner to reflect changes in medical technology and practices in other jurisdictions; and finally, give grieving families a greater say in whether certain deaths need to be reported to a Coroner in the first place. I thank all members for their contributions to the debate on this very important piece of legislation. I commend the bill to the House.

**Question—That this bill be now agreed to in principle—put and resolved in the affirmative.**

**Motion agreed to.**

**Bill agreed to in principle.**

#### **Passing of the Bill**

**Bill declared passed and returned to the Legislative Council without amendment.**

### **LAND ACQUISITION (JUST TERMS COMPENSATION) AMENDMENT BILL 2009**

#### **Agreement in Principle**

**Debate resumed from 15 May 2009.**

**Ms CARMEL TEBBUTT** (Marrickville—Deputy Premier, Minister for Climate Change and the Environment, and Minister for Commerce) [12.23 p.m.], in reply: I thank all members for their contributions to this important debate. The member for Terrigal has rightly noted that the power to acquire privately owned land should only be exercised by a public authority for the public good and in such a way as to ensure fair compensation to the owners of the private land. The Government agrees with this approach. The bill does not detract from the legislative principles that ensure fair compensation and that have operated successfully in New South Wales for many years. The bill does not, as the member suggested, go further than intended.

In responding to that criticism, the Government has carefully considered the legal advice endorsed by senior counsel that the member was good enough to provide to me. That advice makes a number of observations about the potential impact of the proposed amendments. The Government remains satisfied, however, that the concerns raised about the scope of the bill are not warranted. The bill will not, for example, allow councils to acquire their own land for the sole purpose of gaining access to neighbouring private land for resale to third parties. The Local Government Act is very clear. Councils can only acquire land for a purpose related to the exercise of a council function.

The member for Barwon also noted redevelopment should not be at the expense of private property rights or just and fair compensation. As the Government has emphasised, this is the underlying principle of the just terms land acquisition scheme in New South Wales and the bill does not seek to alter that policy position. If Parramatta council, for example, wishes to start a new acquisition process, it will be subject to the Local Government Act and the just terms compensation regime, as it was understood to apply prior to the High Court's decision. The outcome of that process may well be different. Any new acquisition process initiated by the council could not fail, for exactly the same reasons relied upon by the High Court, but the right to challenge the legality of such a process through the court remains.

The member for Pittwater suggested that councils may be pressured to use their compulsory acquisition powers in relation to their own land to facilitate development that has no clear public purpose. The member for Davidson made similar observations. However, the bill does not change the fact that councils must continue to demonstrate that any acquisition—including an acquisition of a public road—is for a purpose connected with the exercise of the functions of a council. The power of an authority to acquire its own land is a longstanding and important way that authorities ensure public land can be put to the best possible use for the local community. It is not a fictitious or backdoor means, as has been suggested, of gaining access to other privately owned land.

The bill is an important piece of legislation. To be clear, section 7B of the Act as it stands was intended only to extend the powers of all public authorities authorised by another law to acquire land. It was not intended, as the High Court has found, to be an independent source of power for authorities to acquire land by compulsory process. The bill will not make the power of councils to acquire land more extensive than was always understood to be the case prior to the Fazzolari appeal. The clarification of public authorities' power to acquire land as set out in the bill is important, no matter what opinion you may hold in relation to that particular Parramatta City Council proposed development.

In particular, the bill is vital to avoid the potential that native title considerations and rights are circumvented. As my colleague the member for Maitland said, not rectifying these threats is untenable. The compulsory acquisition of native title interests in land must be conducted in the same way as the acquisition of non-native title interests in land, such as freehold or leasehold interests. The bill clarifies the original policy intention of sections 7A and 7B so that acquisitions of native title interests must occur in the same way as other interests in land are acquired. Without these amendments there could be ongoing uncertainty about the status of land transactions involving public authorities in New South Wales. This is undesirable for all landowners and native titleholders in New South Wales. The bill remedies that undesirable situation in a transparent and proportionate way. I commend the bill to the House.

**Question—That this bill be now agreed to in principle—put.**

**The House divided.**

**Ayes, 47**

Mr Amery	Mr Furolo	Mr McLeay
Ms Andrews	Ms Gadiel	Ms McMahon
Mr Aquilina	Mr Gibson	Ms Megarrity
Ms Beamer	Mr Greene	Mr Morris
Mr Borger	Mr Harris	Mrs Paluzzano
Mr Brown	Ms Hay	Mr Pearce
Ms Burney	Mr Hickey	Mr Sartor
Ms Burton	Ms Hornery	Mr Shearan
Mr Campbell	Ms Judge	Mr Stewart
Mr Collier	Ms Keneally	Ms Tebbutt
Mr Coombs	Mr Khoshaba	Mr Terenzini
Mr Corrigan	Mr Koperberg	Mr Tripodi
Mr Costa	Mr Lynch	Mr Whan
Mr Daley	Mr McBride	<i>Tellers,</i>
Ms D'Amore	Dr McDonald	Mr Ashton
Ms Firth	Ms McKay	Mr Martin

**Noes, 38**

Mr Aplin	Mr Hartcher	Mr Roberts
Mr Baird	Mr Hazzard	Mrs Skinner
Mr Baumann	Ms Hodgkinson	Mr Smith
Ms Berejiklian	Mrs Hopwood	Mr Souris
Mr Besseling	Mr Humphries	Mr Stokes
Mr Cansdell	Mr Kerr	Mr Stoner
Mr Constance	Mr Merton	Mr J. H. Turner
Mr Debnam	Ms Moore	Mr R. W. Turner
Mr Draper	Mr O'Dea	Mr J. D. Williams
Mrs Fardell	Mr O'Farrell	Mr R. C. Williams
Mr Fraser	Mr Page	<i>Tellers,</i>
Ms Goward	Mr Piper	Mr George
Mrs Hancock	Mr Richardson	Mr Maguire

**Pairs**

Mr Lulich	Mr Dominello
Mr Rees	Mr Piccoli

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill agreed to in principle.**

**Passing of the Bill**

**Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.**

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

**Bill introduced on motion by Mr Michael Daley.**

**Agreement in Principle**

**Mr MICHAEL DALEY** (Maroubra—Minister for Roads) [12.36 p.m.]: I move:

That this bill be now agreed to in principle.

The main purpose of this bill is to amend the Road Transport (Safety and Traffic Management) Act 1999 to allow for the introduction of two new camera enforcement technologies for driving offences. The first of these, as I announced earlier this year, is point-to-point speed enforcement. Point-to-point enforcement will be used to target heavy vehicle speeding. The second is the introduction of digital red light cameras to replace the existing outdated wet-film red-light camera program. These important new road safety technologies are being introduced in support of the State Plan, Priority S7, to make our roads safer. It is important to understand the context in which these technologies are being considered and introduced.

We have seen a marked rise in the road toll in New South Wales; speed remains the most significant factor in the road toll. It contributes to about 36 per cent of fatal crashes. An average of 190 people die and around 4,400 people are injured each year in New South Wales alone due to speed-related crashes. As road safety is a priority of this Government, it is necessary to continue to explore new technologies that will help save lives on our roads. The new road safety technologies that will be introduced by this bill have been tried and proven in other jurisdictions, and will improve the safety of all New South Wales drivers.

I turn now to the first technology dealt with in this bill, the introduction of point-to-point enforcement technology targeting heavy vehicle speeding. The proposed legislation defines a heavy vehicle as a coach, motor vehicle or trailer with a gross vehicle mass greater than 4.5 tonnes. This definition is consistent with other New



South Wales legislation such as that which deals with fatigue in the heavy vehicle industry. Point-to-point technology will be targeted at heavy vehicles because they are over-represented in serious road crashes. Heavy vehicles make up 2.6 per cent of vehicle registrations in New South Wales and account for 7.4 per cent of kilometres travelled by all New South Wales vehicles but are involved in around 20 per cent of road fatalities.

Roads and Traffic Authority speed surveys on major freight routes have found that about half of all heavy vehicles travel above the speed limit. Research from the National Transport Council has suggested that if all heavy vehicles complied with speed limits there would be a 29 per cent reduction in heavy vehicle crashes. Point-to-point camera enforcement is a new technology that is particularly suited to addressing heavy vehicle speeding. While other types of speeding enforcement such as fixed-speed cameras are effective in specific locations, point-to-point technology will slow heavy vehicles down over long stretches of road. It is on these longer stretches that heavy vehicle speeding is of greatest concern. The lengths of road proposed for point-to-point enforcement will be on highways in rural areas that are not only known heavy vehicle routes but also have a history of high heavy vehicle speeding and crash rates.

**Ms Katrina Hodgkinson:** Name them!

**Mr MICHAEL DALEY:** I will name them. Roads and Traffic Authority crash analysis shows that 35 per cent of fatalities on these routes involve a heavy vehicle. Initially, 20 stretches of road of varying lengths will be covered by point-to-point on the following roads and highways: Mount Ousley, Great Western, Hume, Mid Western, Monaro, New England, Newell, Pacific, Federal, Mitchell, Golden, Gwydir and Oxley. I am happy to provide those details to anyone who is interested in them. This bill does not create new speeding offences. The amendments create new provisions within the Road Transport (Safety and Traffic Management) Act 1999 that allow the use of point-to-point technology to prove a speeding offence under existing road transport law. For the purposes of point-to-point enforcement, speeding offences are defined as both failing to obey a speed limit and speed-limiter offences.

Point-to-point enforcement works by using cameras to identify the time a vehicle passes detection points at the start and end of a point-to-point enforcement length. The time taken for the vehicle to travel between the two points is measured and used to calculate the average speed of the vehicle across the point-to-point length. If the average speed is greater than the speed limit on that length of road the driver will be infringed for speeding. This approach to point-to-point enforcement is consistent with the successful introduction of point-to-point enforcement in Victoria. Where there are multiple speed limits along a point-to-point enforcement length this bill provides for the calculation of an average speed limit. The average speed limit will be calculated from the part of the point-to-point length to which each speed limit applied. Drivers will be infringed if their average speed is above this average speed limit calculation.

Similar to any other camera-detected speed offence, the responsible person for a vehicle that is detected speeding by point-to-point technology will be deemed responsible for the offence. However, as already provided in the Act, if the responsible person was not driving at the time of the offence, he or she can nominate the person who was in charge of the vehicle at the time of the offence. It is not intended that point-to-point enforcement replace police enforcement on heavy vehicle routes. Police require the ability to enforce all offences on the road network and for the safety of road users it is necessary that this enforcement continues in point-to-point lengths. This bill allows for both point-to-point and police enforcement to operate within a point-to-point length. Speeding infringements and suspensions issued by police will continue to apply regardless of whether the driver also receives a speeding infringement from a point-to-point camera.

There may also be occasions when a fixed speed camera forms part of the detection devices at the start or end of a point-to-point length. Where this is the case, drivers will not be penalised by both fixed speed cameras and point-to-point, and will be issued only with the greater of the two offences. This approach is reasonable because the driver has not been stopped and made aware of his or her behaviour. Point-to-point speed enforcement is a tried and tested technology that has been used successfully in many countries in Europe including the United Kingdom, Italy, Norway, Sweden and Spain. There are also five point-to-point enforcement lengths on the Hume Highway in Victoria. Evaluations of point-to-point enforcement technology have shown it to be effective in reducing vehicle speeds, and consequently fatalities and injuries, along substantial lengths of road. In some locations point-to-point enforcement has reduced fatalities and injuries by half.

Speeding offences from point-to-point enforcement demonstrate that a driver had a clear intention to speed. Heavy vehicles in New South Wales are supposed to be speed limited to a maximum of 100 kilometres

an hour. But those of us who travel around the State at times see heavy vehicles flying past us at speeds sometimes well in excess of 100 kilometres an hour. The fact is that some truckies and operators switch off the speed limiters. Whilst most truckies do the right thing, there are cowboys in the heavy vehicle industry. It is the cowboys that we are seeking to target. Careful, responsible drivers have nothing to fear. This bill also proposes the creation of significant penalties for deliberate acts of avoiding detection at point-to-point camera sites. This is necessary to ensure that drivers do not drive on the wrong side of the road, swerve across lanes, tailgate, or turn off their lights at night to avoid detection by point-to-point cameras.

The introduction of point-to-point technology to detect speeding is not intended to raise revenue. I have said, and I reiterate here, that I would be the happiest Minister for Roads in Australia if revenues for traffic offences fell to zero. The cost to government and the community of traffic-related injuries and fatalities far outstrips any revenues raised from infringements. And that is just in dollar terms. If members want to see the human cost they should visit a place like the spinal unit at the Royal North Shore Hospital. International experience of point-to-point enforcement shows that on point-to-point enforcement lengths the vast majority of drivers comply with the speed limit. The introduction of point-to-point technology will be funded from the existing budget of the Roads and Traffic Authority. It is anticipated that the rollout of the 20 lengths will be completed in 2011.

I turn now to the second purpose of this bill, that is, to facilitate the introduction of digital red-light cameras. The purpose of red-light cameras is to reduce, and hopefully eliminate, the extremely dangerous practice of driving through or running red lights at signalised intersections. Red-light running is an extremely dangerous behaviour that often results in an unsuspecting driver being T-boned by the driver running the red light. This type of crash is especially severe. The victims do not have a chance to avoid this impact, and do not have the safety and structural protections such as crush zones and airbags that cars provide in front-on crashes. Further, and this weighs heavily on my mind, this type of impact is particularly dangerous for young children, who are more vulnerable to impacts than adults and whose heads can hit doors and windows, and who are injured by the flailing limbs of other passengers in these types of accidents.

Red-light cameras are used widely, both in Australia and internationally. Research indicates that red-light cameras reduce casualty crashes at intersections by about 30 per cent. Members may be aware that New South Wales currently has a wet-film red-light camera program. This outdated program has been in operation since 1988. While the current program continues to provide road safety benefits, the old wet-film technology that is used is obsolete. The current program involves the rotation of cameras between 183 sites, and no new sites have been added over the past eight years. The New South Wales Police Force and the Roads and Traffic Authority advise that occupational health and safety issues are associated with constantly rotating cameras at busy intersections. The current cameras also require manual collection and replacement of film. This is resource intensive and also poses further occupational health and safety risks to staff.

Digital technology will also reduce the overall burden of operating red-light cameras. Digital red-light cameras are safer to operate and can be placed in locations where they are needed most. The new digital red-light cameras also have the capacity to conduct speed enforcement. Accordingly, this bill introduces a new provision into the Act to allow for one road safety device to be approved for multiple functions, for example, red light and speed detection. The combination of red light and speed detection is used extensively in other Australian jurisdictions. Experience in South Australia has shown that where speed enforcement is added to existing red-light camera sites, casualties are further reduced. The Australian Capital Territory found that speeding and red light running offences reduced by two-thirds after 12 months of operation. The Victorian Government recently announced an upgrade of 30 of its remaining wet-film red-light cameras to dual function digital red-light cameras. This will increase the number of dual function digital red-light speed cameras in operation in Victoria to 112.

The Government will carefully consider the rollout of combined red-light/speed detection devices to particular sites. Combined red-light/speed detection devices will be used only at intersections where they will provide the greatest road safety benefit. This will be at locations where there is a red-light camera at an intersection that is situated on a length of road with a significant crash and car-hooning history. The combination of both red-light cameras and speed detection devices at these locations will further enhance the road safety benefits of the red-light camera program. It will protect innocent road users from reckless drivers running red lights, speeding at intersections and, more significantly, speeding through red lights. The amendments proposed in this bill do not result in any new offences. Drivers who are detected both disobeying a red light and speeding will be liable for both offences, including the fines and demerits applicable for each offence. This reflects the seriousness of these offences.

Speeding through a red light is extremely risky behaviour that shows little regard for other drivers. Any driver detected speeding through a red light deserves the full weight of both penalties. Following the acceptance of amendments contained in this bill, the Roads and Traffic Authority will roll out digital red-light cameras to 200 intersections. The first 50 cameras will be installed by June 2010. These locations will be a combination of existing and new intersections. New cameras will be placed at intersections where they will provide the greatest road safety benefit. To fund this infrastructure, revenue from offences will go towards the ongoing delivery of the program. This will ensure the ongoing operation of the red-light camera program and that red-light cameras continue to protect road users.

The amendments I have outlined today send a clear message to the community that road safety is a high priority for the Government. Extensive consultation has been undertaken on the proposals in this bill. The Roads and Traffic Authority has worked closely with the New South Wales Police Force, the Ministry for Police, the State Debt Recovery Office and the Attorney General's Department in the preparation of these amendments. The bill has the support of all of these agencies and some community agencies. In conclusion, the introduction of point-to-point speed enforcement will greatly improve the safety of all road users on lengths of road with a history of heavy vehicle crashes. The introduction of digital red-light cameras and, in some locations, dual function digital red-light speed cameras, will improve the safety of signalised intersections. It will help protect vulnerable people from reckless drivers running red lights and, more significantly, speeding through red lights. I trust members will lend their unreserved support to the Government's amendments. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.**

#### **STATE EMERGENCY SERVICE AMENDMENT BILL 2009**

**Bill introduced on motion by Mr Steve Whan.**

#### **Agreement in Principle**

**Mr STEVE WHAN** (Monaro—Minister for Emergency Services, and Minister for Small Business) [12.52 p.m.]: I move:

That this bill be now agreed to in principle.

The State Emergency Service Amendment Bill 2009 provides additional legislative recognition of the responsibilities of one of this State's most valuable emergency services and provides for its ongoing structural reform. All members would remember the chilling images that flashed around the world following the Boxing Day tsunami in 2004. We had not seen a disaster of that magnitude anywhere in the world in modern times. The toll of dead and missing is estimated at more than 200,000 people. Our thoughts and condolences go to the victims, their families and the countless others still suffering in its aftermath. This terrible event was a wake-up call for the international community. In Australia it gave a new impetus to the need for a national tsunami warning system.

The Joint Australian Tsunami Warning Centre, operated by Geoscience Australia and the Bureau of Meteorology, now provides around-the-clock seismic monitoring and tsunami detection specifically for Australia. In New South Wales the State Emergency Service was designated as the combat agency responsible for tsunami, in a logical extension of its expertise in flood planning and response. The service was responsible for the development of the New South Wales tsunami plan—a sub-plan of the New South Wales Disaster Plan—and has been a consistent and committed participant in the Australian Emergency Management Committee's Australian Tsunami Working Group. As a result of the organisation's efforts, tsunami planning in this State is now well advanced in comparison with many other jurisdictions.

The essence of the New South Wales tsunami plan—which was endorsed by the State Emergency Management Committee in late 2005—is to provide for the coordinated warning and, where necessary, evacuation of people in low-lying coastal areas of New South Wales and Lord Howe Island. It has since been updated to reflect the links between the State Emergency Service and the Joint Australian Tsunami Warning Centre. Under the plan the roles and responsibilities of the State Emergency Service in tsunami preparedness, response and recovery include leading the development of tsunami warning systems in New South Wales, providing safety advice to include in New South Wales tsunami warnings issued by the Bureau of Meteorology,

developing tsunami education programs, ensuring that State Emergency Service personnel are appropriately trained, controlling tsunami response operations, directing the dissemination of tsunami warnings and watches at regional and local levels, directing the evacuation of people or communities at risk of inundation, coordinating flood rescue operations and resupply to isolated communities, providing immediate welfare support to evacuees, and participating in recovery committees as required.

The April 2007 Solomon Islands tsunami, which, thankfully, had a negligible impact on our coastline, was the first opportunity to test this plan to any degree and showed the importance of being prepared. The State Emergency Service worked in concert with the Bureau of Meteorology to provide timely advice for maritime authorities and coastal communities. State Emergency Service volunteers in coastal regions were placed on high alert; the service worked closely with Surf Life Saving Australia and the maritime rescue agencies to ensure they had timely information and they were prepared to assist with any required response operation. The State Emergency Service continues to work with other government agencies and our community to increase tsunami awareness and preparedness.

Working with the Commonwealth Government, the State Emergency Service has provided a series of briefings to representatives of our other emergency services, government and non-government agencies, and local government over the past four years as part of the Australian Tsunami Warning System project. This included a series of eight briefings and planning exercises in March and April this year in conjunction with the bureau and the Department of Environment and Climate Change, updating similar events in 2007. The service continues also to test and exercise its capabilities in this area. As recently as this week, personnel have continued to refine their operations and procedures. The staff and volunteers of the State Emergency Service are well known for their hard work, dedication and commitment to the people of this State.

Their efforts will be crucial to the safety and wellbeing of New South Wales' coastal communities either under immediate threat of or actually impacted by a tsunami. It is clear that the service's role as the lead combat agency for tsunami planning and response should be detailed in legislation, along with its responsibilities in respect to floods, storms, and the protection of life and property. The bill amends the State Emergency Service Act to reflect this major combat responsibility. The second amendment contained in this bill is the move to bring the leadership of the State Emergency Service in line with our other emergency services by replacing the title of "Director General" with that of "Commissioner". This will also apply to the rank of "Deputy". This rank and title structure is aligned with our other emergency services, such as New South Wales Fire Brigades and the New South Wales Rural Fire Service.

It also echoes the changes introduced in amendments to the State Emergency Service Act in 2005 when the State Emergency Service operational divisions were renamed as regions, consistent with the organisational arrangements of other emergency services such as the New South Wales Police Force, the New South Wales Ambulance Service, New South Wales Fire Brigades and the New South Wales Rural Fire Service with the Australian Interagency Incident Management System—Incident Control System. This new title for the head of the organisation will provide similar consistency across our emergency services and make clear the equivalence and standing of the service.

The third amendment outlined in the bill is in relation to the role of State Emergency Service local and unit controllers or their deputies. Currently, no employment caveats are applied to these appointments. However, it is worth noting that the Rural Fires Act 1997 establishes a limitation under which elected local government councillors, as defined by the Local Government Act 1993, cannot be appointed as fire control officers; nor can their deputies be appointed to the level equivalent to State Emergency Service local and unit controllers and their deputies. This limitation is now to be applied in the State Emergency Service as well.

Local government is a strong and committed supporter of the State Emergency Service, with local councils responsible under the Act for the provision of accommodation and vehicles for their local State Emergency Service units. The new funding model for the State Emergency Service, as detailed in the State Revenue and Other Legislation Amendment (Budget Measures) Bill 2008, now means that local government contributes to the overall funding of the State Emergency Service, as it has to the funding of our fire services, along with the insurance industry and the State Government.

This change means that the service's relationship with councils requires a higher degree of transparency and separation of powers. As a result, elected councillors will not be eligible to be appointed as local controllers, unit controllers or their deputies. Any local or unit controller or deputy who is elected to a local council will

cease his or her role as a State Emergency Service controller or deputy on a date three months after their election takes effect. However, I should point that this will not affect existing controllers who currently are councillors. Only people appointed from this point onwards will be affected.

This amending bill will ensure that transparency and probity are addressed and, again, is consistent with the State's other major volunteer agency, the New South Wales Rural Fire Service. The bill introduces timely and relevant reforms for one of this State's most valued, reliable and efficient emergency services. Last night in this place some time was spent thanking State Emergency Service volunteers and highlighting the impact they have in helping out our community. This bill re-emphasises the importance of the State Emergency Service to New South Wales. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.**

### **CASINO CONTROL AMENDMENT BILL 2009**

**Bill introduced on motion by Mr Kevin Greene.**

#### **Agreement in Principle**

**Mr KEVIN GREENE** (Oatley—Minister for Gaming and Racing, and Minister for Sport and Recreation) [1.02 p.m.]: I move:

That this bill be now agreed to in principle.

The Casino Control Amendment Bill 2009 provides a range of straightforward amendments to the Casino Control Act 1992. The amendments seek to achieve a number of aims: to extend the casino licence review period from three years to five years; to extend the licence period for casino special employees from three years to five years; to implement better regulation principles to reduce the regulatory burden on Star City casino and the administrative burden on the Casino, Liquor and Gaming Control Authority, which is referred to as the authority, while ensuring that the effective regulation of Star City is maintained; and to remove barriers inhibiting the Casino, Liquor and Gaming Control Authority from implementing better and more efficient ways of achieving its objectives.

The bill represents the first of two tranches of reforms that the Government intends to implement regarding the regulation of the Sydney casino. The second tranche of reforms will be introduced later this year. It is not the Government's intent or desire to change the single casino arrangement that has been approved by the Parliament. Let me be clear also that it is the Government's aim that the Casino Control Act and its enforcement will continue to ensure that the casino remains free from criminal influence or exploitation, that gaming in the casino is conducted honestly, and that the potential of the casino to cause harm to the public interest and to individuals and families is contained.

New South Wales has had a legal, operational casino since September 1995. The legislative and related licence arrangements have been successful in achieving the aims of the Government. However, that does not mean the law does not have to be refined and updated from time to time. A thorough review of the Act, which was conducted jointly by the authority and the casino operator, has identified a range of amendments to the Act. These are needed to ensure New South Wales has current best practice for casino regulation that does not contain redundant administrative requirements. Members therefore should note that the changes to the Act contained in the bill before them are refinements to the law. They do not constitute a major new regulatory regime. The proposed changes will not have a significant impact on individuals, the community, or any specific sector of the community. They will not have a significant impact on business by imposing large compliance costs. In fact, it is intended that the proposals will result in a significant reduction in compliance costs. They will not impose any greater material restriction on competition. Finally, they will result in a significant reduction in cost to government, and therefore to taxpayers.

An important change introduced by this bill is to change the casino licence review period from every three years to a maximum of every five years. Under section 31 of the Act, the authority must investigate and form an opinion as to whether the casino operator is suitable to continue to give effect to the casino licence and the Act, and that it is in the public interest that the casino licence should continue in force. These statutory

investigations examine, inter alia, corporate structures, associates and financial resources. They also involve the conduct of extensive checks with various law enforcement agencies and external regulatory bodies, not only in New South Wales but interstate and internationally.

The last two such reviews conducted by the authority in 2003 and 2006 found that Star City Pty Ltd, which is the licensee, has operated in a responsible manner, consistent with the objectives of the Act. These statutory reviews are extremely thorough, but they are also extremely resource intensive for both the authority and the casino operator. Therefore, conducting reviews more often than necessary is an unjustifiable regulatory burden on both parties. Given the authority's long experience with these reviews and its continuous assessment of the casino's operations, the authority has advised the Government that extending the statutory licence review period from three to a maximum of every five years will not in any way compromise the objectives of the Act, or reduce the degree of oversight of the casino's operations.

The authority's inspectors maintain an on-site presence at the casino on a 24-hour, 7 days a week basis. They ensure that the authority has under constant review all matters connected with the casino. The licensing by the authority of special employees in the casino is another important facet of the casino's operational oversight. The special employees are identified under the Act as those who perform functions such as making decisions with respect to the casino's operations, or engage in activities related to the conduct of gaming. Special employees may be involved in the movement of money or chips, or the operation or maintenance of the casino's gaming equipment or security systems. This bill seeks to extend the special employee licence renewal period from three years to five years.

Again, the authority's long experience in licensing the casino's special employees indicates that any risk in extending the licence period is covered adequately by the mechanisms that are in place to monitor the ongoing suitability of licensed individuals. Such mechanisms include the requirement for the licensed employee to report specified changes in circumstance and to flag on the police database, in order to alert the authority, criminal charges that have been brought against any licensed casino special employee. The advantages of increasing the renewal period are: reducing the resources required for the processing of renewals; maintaining the ability to determine whether the licensee continues to meet suitability requirements, including financial stability; and continuing to enable the authority to state with some assurance that its objective of keeping the casino free from criminal influence is being met through the casino employee licensing process.

A five-year licence period for the casino's special employees, given the authority's experience, will still enable the authority to state with assurance that a licensee continues to meet the requirements of the Act. Members should note that the Act already provides for the automatic revocation of a licence when a special employee ceases to be employed by the casino, thereby providing systematic security and certainty for the licensing system. With respect to the licensing of special employees as it relates to the operation, maintenance, construction or repair of gaming equipment, the bill will see licensing focused on special employees' activities concerning approved gaming equipment. With this change, the casino operator will avoid having to license persons who repair non-critical gaming equipment, for example, gaming furniture, which does not have any relevance to gaming integrity—a considerable saving in time and effort for the employees affected, the casino operator and the authority.

Together, the proposed changes to the casino licence review and special employee licence period represent substantial reductions in administrative costs for both the casino operator and the authority without in any way reducing the already high standard of regulatory oversight of the casino. A goal of this bill is futureproofing the casino legislation, drafting it to accommodate unforeseen change and innovation in the commercial and technical environment. To this end, the Government is proposing a number of changes to the Act. The first of these is to re-define "chips"—the main currency on the gaming tables—so as to make it clear that it includes virtual chips or any other representation of chips, in addition to physical tokens, for the purpose of gaming. Looking at the future development of gaming, it is envisaged that players could buy an electronic or stored value card and so use virtual chips at any gaming point, whether it be at a table game or gaming machine or to purchase food. In this way, patrons could move their money around the casino without needing to keep changing back to physical cash.

This bill will futureproof the Act with regard to the advent of new technology. For example, new technology may make closed-circuit television obsolete. The proposed changes in the bill will allow this to happen without the need to amend the Act further. The bill proposes additional amendments to remove red tape and improve the efficiency and efficacy of the Casino Control Act. The casino's internal layout needs to change to accommodate gaming trends and changes in surveillance technology. It is therefore proposed to amend the

Act so as to simplify and clarify the approvals process by making minor amendments to section 65 of the Act. The bill contains amendments that will allow the authority to provide for more flexible layouts. Minor changes to the position of a table or machine will be able to occur without having to process the approval of a completely new layout. It will also bring certain requirements up to date—for example, catwalks are no longer a feature of modern casinos.

With respect to the approval of casino layouts, it is also proposed to remove a technical anomaly in the current legislation that prevents the casino operator from applying to change the casino's internal layout. Currently, a change can occur only with the approval—that is, the direction—of the authority. Clearly this is not sensible. As I indicated in my opening remarks, the bill removes some administrative anomalies and introduces efficiencies in relation to the regulation of the casino. The bill updates the method of changing the casino's boundary so as to be consistent with the process for changing a condition of the casino licence. The proposed amendment gives the casino operator the opportunity to make a submission before an adverse change is imposed by the authority. It is unfair and unreasonable to continue to allow a situation in which the authority may reduce or increase the size of the casino on its own accord, particularly given the capital investment required by the casino in extensions to the casino.

The bill also introduces amendments that bring the regulation of the casino into line with other jurisdictions with respect to banking procedures and facilities and internal accounting controls. Firstly, the bill removes the restriction on the casino operator using banking institutions outside New South Wales, thereby bringing New South Wales into line with Queensland. Having accounts with banks in other countries can be a competitive point of difference for international high rollers, and the Sydney casino needs to be able to compete on an equal footing. Furthermore, this will enable Star City's parent company, Tabcorp, to operate more effectively in managing its banking arrangements as it is based in Victoria. The second amendment changes the time frame for banking cheques where the drawee bank is located outside Australia from within 20 days to within 30 working days. It brings New South Wales into line with Queensland legislation.

An example of the impact of this change can be seen in relation to Tabcorp, which operates casinos in Queensland. Without making the proposed change, the premium players and junket groups that Tabcorp attracts to Australia are likely to be more attracted to the Queensland casinos than to Star City due to the greater flexibility in their banking requirements in place in Queensland. This change will also allow the New South Wales casino to remain competitive with Crown Casino in Victoria, as there is an extremely competitive market for international gaming business. It is also proposed to bring the regulation of the casino with respect to the advertising of gaming machines, and penalties for allowing access by minors and penalty notices generally, into line with the Gaming Machines Act and the Liquor Act respectively. This bill will allow the casino operator to use more contemporary means of providing information on games played at the casino to its patrons.

For example, the casino operator will be able to print out a document when requested or display the information at a computer terminal or an electronic kiosk. Amending the Act to increase penalties for offences concerning minors accessing the casino under sections 93 and 97 from 10 to 20 penalty units brings the laws governing the casino into line with the similar provisions under the Liquor Act 2007. Finally, this bill makes machinery amendments to the Act to clarify matters with respect to the functions of the authority. This minor amendment removes any blurring of the distinction between the authority's role in regulating the casino and the casino operator's role in managing it. This blurring of responsibilities has at times been problematic. In conclusion, there is strong evidence to suggest that the Casino Control Act is achieving its objectives. The review of the Act conducted by the authority, in conjunction with Star City casino, has identified ways in which the regulation of the casino can be made contemporary and more efficient and effective. The Government believes that this bill makes fundamental improvements to the regulation of the casino to the benefit of its operator, the Government and the wider community. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.**

## **OCCUPATIONAL LICENSING LEGISLATION AMENDMENT (REGULATORY REFORM) BILL 2009**

### **Agreement in Principle**

**Debate resumed from 4 June 2009.**

**Mr DONALD PAGE** (Ballina) [1.18 p.m.]: As the shadow Minister for Small Business and Regulatory Reform I lead for the Opposition on the Occupational Licensing Legislation Amendment

(Regulatory Reform) Bill 2009. The Coalition does not oppose the bill, but we have some concerns about the legislation. This bill is the New South Wales Government's attempt to comply with the reforms agreed to by the Council of Australian Governments in July 2008. The Council of Australian Governments identified a need to have a national trade licensing system that would remove inconsistencies across State borders and allow skilled tradespeople to work anywhere in Australia. The purpose of the bill is to amend various pieces of legislation to remove certain licences in New South Wales. The New South Wales Better Regulation Office conducted a review of occupations that need licences and found that in at least five cases licences were not necessary and did not achieve benefits in terms of consumer protection. The Government has determined that these licences represent an unnecessary cost to industry as well as consumers, and wishes to remove the licences from legislation.

The Government claims that businesses will save more than \$900,000 a year in compliance costs with no decrease in consumer protection. The bill amends the Home Building Act 2004 and will remove licences for floor finishers and coverers, kit home suppliers, lift mechanics and pre-purchase property inspectors. The bill also removes the licensing of optical dispensers by repealing the Optical Dispensers Act 1963 and amending the Health Care Complaints Act to ensure that those operating as optical dispensers continue to be subject to that Act. It is intended that the Act will be repealed in July 2010 to coincide with the establishment of a national registration scheme for health professionals.

Returning to the building aspects of this legislation, it amends the Act to clarify that kit home suppliers must continue to meet contractual and information disclosure requirements and that disputes concerning kit home suppliers may continue to be heard by the Home Building Division of the Consumer, Trader and Tenancy Tribunal. I have concerns about the lack of consultation by the Government with key stakeholders in the course of developing the amendments in this bill. Indeed, the Master Builders Association of New South Wales has indicated to me that it was not notified about the bill or provided with a copy of the bill when it was introduced by the Government. That is despite the Master Builders Association making a submission to the review of the licensing of selected occupations. As is often the case, the first time stakeholders heard of this legislation was when the Opposition sent it to them for their comments.

For many years, business operators in New South Wales have complained about over-regulation and red tape. This bill will remove unnecessary regulation, save compliance costs for businesses and consumers and, importantly, the Government claims it will not adversely affect consumer protection. Skilled people from interstate and overseas will find it easier to take on projects or set up businesses in New South Wales without the unnecessary cost of obtaining a licence. Consumers are being told by the Government that they can rest easy, knowing the bill does not take away the protections afforded to all consumers under fair trading and contract laws. But, as I said earlier, the Coalition and industry groups have some concerns about the new legislation.

The Master Builders Association of New South Wales says that the State Government promised a complete re-write of the legislation, not simply an amendment to the Home Building Act. The Master Builders Association believes the entire Act needs attention, saying it has been amended continually since it commenced in 1997. The association also has concerns about the removal of licences for builders carrying out property inspections for people before they purchase. The purchase of a property for most people will be their biggest outlay of money. They deserve to know that the people they contract to carry out pre-purchase property inspections are skilled and competent and are able to provide a credible, honest pre-purchase report. The Master Builders Association questions whether all builders will have the knowledge and expertise to provide reports on a wide range of building types, which will be expected of them.

Another concern of the Master Builders Association is that the removal of licensing for the licensed category of flooring, kit home suppliers and property inspections effectively removes data from the public register of the Office of Fair Trading, consequently removing information available to a consumer regarding any prosecutions, infringements, et cetera. Will the Minister or Parliamentary Secretary who replies to the debate address the issue of the loss of information on the public register of the Office of Fair Trading? In relation to kit home suppliers, the bill omits part of 16D of the Act but retains certain requirements for contracts, including a threshold on deposits. However, one benefit that currently exists with licensing is that it clearly identifies the licensee or licensed entity, which in turn must be recorded on the contract. The effect of the change will mean that an unscrupulous kit home supplier can use multiple variations of names, entities and trading names to the extent that it may be difficult to determine with whom the consumer has contracted. There are also concerns that the removal of licensing will provide an avenue for unscrupulous or previously removed contractors to re-enter the industry as kit home suppliers.



In relation to floor finishers and coverers, item [4] of schedule 3 inserts paragraphs (i) and (j) into clause 9 (1), which exclude the installation of all forms of flooring material from licensing requirements, with the exception of structural flooring. However, neither the Act nor the regulations provide a definition of "structural" or "structural flooring". The clause may have the unintended consequence of exempting other flooring applications such as ceramic floor tiles. Another point to consider is one raised by the Australasian Dispensing Opticians Association with regard to amendments to the Act. The association, in a submission to the Council of Australian Governments, stated:

... without this regulation there will be no responsibility for an unlicensed spectacle seller to accept responsibility for accuracy or visual comfort/health to the client and the prescriber.

The dispensing of optical appliances should be treated not as a trade but as a health service. The association has concerns that removing the licensing requirements could result in a proliferation of untrained practitioners and will impact negatively on optical health outcomes. In these tough economic times New South Wales needs to do all it can to retain existing businesses and encourage new entrepreneurs. Whilst I support the bill, the Government needs to undertake major reform rather than applauding itself for claiming to save businesses \$900,000. In my opinion, removing five licences, resulting in savings of \$900,000, is not a significant reduction in the regulatory burden.

The Government needs to initiate major changes that will cement the position of New South Wales as the number one place in Australia to do business. Notwithstanding those comments, as the shadow Minister for Regulatory Reform I am pleased that the Government is seeking to reduce the regulatory burden—however small the changes are. However, I urge the Government to consider the concerns of stakeholder groups that have been raised with me and with the shadow Minister for Fair Trading. I support the bill but remain concerned about some of the changes as outlined by the Master Builders Association of New South Wales and the New South Wales Optical Dispensers Licensing Board.

**Mr GREG APLIN** (Albury) [1.26 p.m.]: I want to say that the Occupational Licensing Legislation Amendment (Regulatory Reform) Bill 2009 is necessary and valuable, and will save taxpayers money. I want to say that the bill will cut through unnecessary red tape and all that bureaucratic interference we love to hate. I want to say that the bill will create jobs in New South Wales. But I must say instead, after much research and consultation with the affected industries, that the bill is deeply unpopular and tokenistic, and is arguably going to cost taxpayers more than it saves them. The Minister rightly points to the statistics—there have been few consumer complaints recorded against these industries. That indicates either that there are no consumer concerns or that licensing, compulsory education standards and the supervision of professional associations contribute, as a total scheme, to the prevention and resolution of disputes.

By removing those very licences—token sacrifices in the war against unnecessary bureaucracy—the Government claims that these businesses will save millions of dollars. No, it will save \$900,000 per annum. But at what cost? This is the great unknown in the equation. There is an old saying, "If it ain't broke, don't fix it." Clearly, something is going right with these modest licensing schemes. What do the consumers of New South Wales get out of them? They get a professional association to supervise each industry, at no cost to the taxpayer, and enforcement of standards through the requirement to hold the relevant licence. As part of gaining or maintaining a licence, the practitioner must attain the required standards of education and training. The professional associations have their own dispute-resolution procedures—again, run at no cost to the taxpayer.

Practitioners in these fields each pay a few hundred dollars or less in annual licence fees. This is not an economic barrier to entry in anyone's terms. This money helps to pay for the existence of supervisory boards or, when combined with membership fees, helps professional associations that are charged with the task of ensuring that there are training courses and facilities, keeping their members up to date on matters affecting them via newsletters and conferences, creating and maintaining websites so that members of the public can locate qualified tradespeople and learn about important issues, running dispute resolution, encouraging appropriate insurance, promoting safety in the workplace, and much more.

The public gets all this for little or no cost. But there is one more feature of the associations, which is put in real jeopardy by this bill. When parliamentarians are planning new laws, drafting them, working out who will benefit from all this effort, who is it that they turn to first? Who is it whose opinions they seek out? It is precisely these professional associations which are often the first port of call. Why? Because they live within their industry day in, day out. They know the problems and the benefits for the wider community. The removal of compulsory licensing regimes can be expected to impact on membership, as the interplay between mandatory licensing and development of a profession is fractured. Who can be expected to prepare the detailed submissions

to parliamentary inquiries? Effective democracy relies heavily upon the work of knowledgeable volunteers channelled through professional associations with dedicated staff. I rely upon their efforts and expertise and value their mighty contribution.

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

*[The Assistant-Speaker (Mr Grant McBride) left the chair at 1.30 p.m. The House resumed at 2.15 p.m.]*

### **DEATH OF MRS STEFANIJA LALICH**

**The SPEAKER:** It has come to my attention that the mother of the member for Cabramatta, Mrs Stefanija Lalich, passed away yesterday. Mrs Lalich was in her ninety-sixth year. I am sure the House joins with me in offering condolences to the member for Cabramatta, his son Paul and his daughter Kerry during this time.

*Members and officers of the House stood in their places as a mark of respect.*

### **ADMINISTRATION OF THE GOVERNMENT OF THE STATE**

**The SPEAKER:** I report the receipt of the following message from Her Excellency the Governor:

MARIE BASHIR  
Governor

Office of the Governor  
Sydney, 17 June 2009

Professor Marie Bashir, Governor of New South Wales has the honour to inform the Legislative Assembly that she re-assumed the administration of the Government of the State on 17 June 2009.

### **BUSINESS OF THE HOUSE**

#### **Notices of Motions**

**Government Business Notices of Motions (for Bills) given.**

### **REPRESENTATION OF MINISTER ABSENT DURING QUESTIONS**

**Mr NATHAN REES** (Toongabbie—Premier, and Minister for the Arts) [2.18 p.m.]: I inform the House that in the absence of the Minister for Juvenile Justice, Minister for Volunteering, Minister for Youth, and Minister Assisting the Premier on Veterans' Affairs due to an illness in the family, the Minister for Local Government, and Minister Assisting the Minister for Health (Mental Health) will answer questions on behalf of the Minister.

### **QUESTION TIME**

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*[Question time commenced at 2.20 p.m.]*

### **PROCUREMENT POLICY**

**Mr BARRY O'FARRELL:** My question is directed to the Premier. Given that Federal Trade Minister Simon Crean has again today criticised the Premier's procurement policy claiming it is misguided—

**The SPEAKER:** Order! Government members will cease interjecting. I call the Minister for Planning to order. I call the Minister for Finance to order.

**Mr BARRY O'FARRELL:** —and declaring that it will impose additional costs of up to 20 per cent on taxpayers and "will, in fact, cost jobs", why will the Premier not publicly release the economic modelling supporting the policy?

**The SPEAKER:** Order! The House will come to order. Government members will come to order. I call the member for Bathurst to order. The Premier has the call.

**Mr NATHAN REES:** Of course, tomorrow the Leader of the Opposition will get the opportunity in his budget reply to outline his procurement policy for New South Wales, in the unlikely event that he is able to reach agreement amongst his backbench. More than half a million small and medium businesses in New South Wales will be given preferred treatment by the Government under a new procurement policy announced in the budget called Local Jobs First.

**The SPEAKER:** Order! I call the member for Willoughby to order.

**Mr NATHAN REES:** We will require our agencies and our State-owned corporations to give preferential treatment to Australian-made goods under the new Local Jobs First plan. The Government is putting New South Wales jobs first every year.

**The SPEAKER:** Order! I call the Leader of the Opposition to order. The Leader of the Opposition has asked his question and he will allow the Premier to answer it.

**Mr NATHAN REES:** Every year government agencies spend billions of dollars buying the things they need to deliver services for the people of New South Wales. This plan tips the balance in favour of local businesses and builds on pre-existing principles. It provides local businesses with greater opportunities to expand and sell to Government. Under Local Jobs First, Government agencies and State-owned corporations will now be required to give preferential treatment to local manufacturers under a price preference mechanism. The price preference means locally made content is discounted by 20 per cent compared to overseas sourced material in tender evaluations. Local Jobs First will also require Government agencies and State-owned corporations to give preferential treatment—

**Ms Gladys Berejiklian:** Table the model.

**Mr NATHAN REES:** You will have your chance tomorrow.

**The SPEAKER:** Order! I call the member for Willoughby to order for the second time. Members will cease interjecting.

**Mr NATHAN REES:** Tomorrow you can table your "how long is a piece of string" model, Barry. Local Jobs First will require Government agencies and State-owned corporations to give preferential treatment to a number of industries located in country New South Wales. An additional 5 per cent discount may be given to a product using that preference. This plan makes it easier for more than half a million small- and medium-size businesses right across New South Wales to get more business from the Government, in turn supporting jobs. Previously price preference applied only to businesses with up to 200 workers. It has now been extended to businesses with up to 500 workers. Where no free trade agreement applies, the price preference will be applied to all businesses regardless of size. Every tender worth more than \$4 million will now also require an industry participation plan. That plan will outline the benefits of the tender for local jobs, local supplies and local industry.

**Mr Andrew Stoner:** Speaking of jobs, where is Tony Stewart?

**The SPEAKER:** Order! I call the Leader of the Nationals to order.

**Mr NATHAN REES:** Speaking of jobs, where is Melinda Pavey? The industry participation plan will be given a weighting of at least 6 per cent in the evaluation score. The Government will honour its commitments under the nation's free trade agreements but we also need to make sure that New South Wales businesses have every opportunity to get our business and the appropriate representations in the form of a letter have been made to the relevant Federal Ministers.

#### **BUDGET RESPONSE**

**Ms ALISON MEGARRITY:** My question is to the Premier. What has been the reaction from business and the community to the New South Wales budget released yesterday?

**The SPEAKER:** Order! The House will come to order. If members continue to interject I will not hesitate to have them removed from the Chamber. The Premier has the call.

**Mr NATHAN REES:** The first thing to say about this budget is its reception by the ratings agencies and that can be summed up in this way: triple-A. Standard and Poor's noted, "the Government's ability to make structural improvements to its financial position despite a cyclical deterioration". It went on to say:

The stable outlook reflects our opinion that the Government will remain committed to the structural improvement in its budgetary performance.

Moody's also commented—

**The SPEAKER:** Order! I call the member for Manly to order.

**Mr NATHAN REES:** I will get to the member for Manly shortly. Moody's also commented after the budget:

The outlook on New South Wales' triple-A rating is currently stable.

In one fell swoop the Opposition's entire budget reply strategy lies in tatters. It was looking for the triple-A rating to be downgraded. In the absence of its own fiscal strategy or any serious policy substance it was praying and begging for that to happen. It was a negative strategy and yesterday that negative strategy was taken away from it. Standard & Poor's reinforced the State's triple-A credit rating. We are one of very few jurisdictions in the world to have a triple-A credit rating.

**The SPEAKER:** Order! I call the member for Murray-Darling to order.

**Mr NATHAN REES:** In case anyone is tempted to underestimate the importance of the triple-A rating, here is some food for thought that I read from a commentator recently:

Those who have a triple-A rating can borrow money at the lowest possible cost. A poorer rating means higher interest and more money required to service existing debt diverted away from frontline services.

It would probably run into hundreds of millions over a forward estimate period.

Keeping the top rating also gives a rigour to financial management that would not otherwise exist.

Wise words, indeed. They may be eerily familiar. That commentator was none other than the member for Manly writing in the *Sydney Morning Herald* on Tuesday.

**The SPEAKER:** Order! Government members will come to order.

**Mr NATHAN REES:** I thank him for that ringing endorsement! The *Sydney Morning Herald* had the good grace to agree. In its editorial today, the *Herald* said, "this budget's general direction is right". That is good news from a newspaper that has supported Labor only once since 1891!

**The SPEAKER:** Order! Government members will come to order.

**Mr NATHAN REES:** Similar plaudits have come from right across the business community as well. Graham Wolfe, the Executive Director of the Housing Industry Association, said the budget "provides a much needed boost for the residential building industry". He said further:

The saving in stamp duty provides a window of opportunity for anyone looking to buy a new home, including growing families, second and third home buyers and investors.

In relation to our stamp duty measure, Steve Martin, the President of the Real Estate Institute of New South Wales, said:

This initiative will help investors and home buyers as well as creating new jobs in NSW through the construction of new properties ....

The decision to continue the \$3,000 first home owners' boost for another financial year is welcomed and will assist in creating more activity in this sector of the market.

The Sydney Chamber of Commerce had this to say:

The 50 per cent cut to stamp duty for newly-constructed housing will provide this critical industry a shot in the arm.

Importantly the budget pledges no new taxes, which sends a positive message during a period of economic uncertainty.

Kevin MacDonald, Chief Executive Officer of the New South Wales Business Chamber, said:

The decision of the government to expand its infrastructure program and go into deficit during these difficult economic times is the right one.

The Government is continuing to implement its payroll tax reduction plan—

**The SPEAKER:** Order! Members on both sides of the House will cease interjecting.

**Mr NATHAN REES:** As I was saying, Kevin MacDonald said:

The Government is continuing to implement its payroll tax reduction plan which will see the payroll tax rate fall to 5.5% by 2011. This is right decision given the expected contraction of the economy in the coming year.

Councillor Bruce Miller, President of the Local Government and Shires Associations, had this to say:

Today's budget has a strong focus on building and stimulating the economy, and we look forward to working with the government to help create jobs and maintain crucial infrastructure for our local communities.

**The SPEAKER:** Order! I call the member for Blacktown to order. The House will come to order.

**Mr NATHAN REES:** The Tourism Transport Forum said:

The TTF is very pleased that the Government's commitment to payroll tax cuts remains intact and that it's taken the sensible step of removing stamp duty on caravans and camper trailers, bringing NSW into line with other states.

Charmaine Crowe, Policy Coordinator of the Combined Pensioner and Superannuants Association, said:

The Combined Pensioner and Superannuants Association welcomes the scrapping—

**The SPEAKER:** Order! I call the member for Bega to order. I call the member for Bega to order for the second time.

**Mr NATHAN REES:** As I was saying, Charmaine Crowe said:

The Combined Pensioners and Superannuants Association welcomes the scrapping of the CountryLink booking fee.

**The SPEAKER:** Order! The member for Epping will come to order.

**Mr NATHAN REES:** The Police Association said:

It's great that the Premier has stepped up and done what's right for both police and the community.

It'll mean fewer families will lose loved ones and fewer police will have to live with the knowledge that they have taken a life.

That comment was made in relation to the Government's introduction of tasers. At the other end of the spectrum the Council of Social Service of New South Wales said:

NCOSS was [also] pleased to hear the announcement about Safe Start. It is an initiative which will give more women and their children more housing options. We look forward to seeing it rolled out.

That statement was made in relation to this Government's domestic violence program.

**Mr Brad Hazzard:** Point of order—

**The SPEAKER:** Order! The Premier will resume his seat. What is the member's point of order?

[*Interruption*]

**The SPEAKER:** Order! Government members will remain silent while I rule on the point of order. What is the member's point of order?

**Mr Brad Hazzard:** Standing Order 130 states that if the Premier wants—

**The SPEAKER:** Order! The member for Wakehurst will state his point of order.

**Mr Brad Hazzard:** Standing Order 130 states that if the Premier wants to debate this issue he should be talking about record spending. For us it is crumbs.

**The SPEAKER:** Order! The member for Wakehurst will resume his seat. I call the member for Wakehurst to order. I call the member for Wakehurst to order for the second time. I call the member for Wakehurst to order for the third time. He is on his final warning. The Premier has the call.

**Mr NATHAN REES:** People in New South Wales are faced with relentless negativity from those opposite. It is important for the people of New South Wales to hear that this budget has been welcomed across the spectrum. The New South Wales Farmers Association said:

Half a billion dollars for primary industries is a good move, with funds going to be spent on capital expenditure, infrastructure and employment.

This comment was made in relation to the Government's film funding boost:

It's hard to express just how good the Premier's announcement of an extra \$5 million for the NSW film industry is. It will be a morale booster to local film makers, and will give tangible support to attracting film production to NSW.

What about this statement from Cate Blanchett:

This is great news ... Today's announcement ... will enable the development of new Australian theatre and young artists.

This Government is consolidating its role as a creative powerhouse. Tom Uren, Chairman of the Parramatta Park Trust, said:

The Premier has a commitment to Western Sydney and a commitment to ordinary people, which is evident in decisions to support the work of Parramatta Park Trust—

**The SPEAKER:** Order! I call the member for Terrigal to order.

**Mr NATHAN REES:** Members would have noticed that there has just been a roll call.

**The SPEAKER:** Order! I call the member for Penrith to order.

**Mr NATHAN REES:** I will return to that in a moment. As I was saying, Tom Uren said:

The Premier has a commitment to Western Sydney and a commitment to ordinary people, which is evident in decisions to support the work of Parramatta Park Trust, to extend access to major cultural events and support the future of Parramatta Park as a major event venue for the people.

This morning when I was in Camden I was stunned when I was talking to construction workers and families—families that will benefit from our efforts to support jobs and stimulate the housing industry. Alicia and Nathan and baby Rhiannon are ready to buy a new home, assisted by up to \$11,000 in assistance which the day before yesterday they would not have been able to get. They are now in a position where they can buy a new home as a direct result of a carefully targeted stimulus package.

**The SPEAKER:** Order! The House will come to order.

**Mr NATHAN REES:** When I was in Camden talking to construction workers, and to Nathan and Alicia, I was staggered to hear that Opposition members in this place were voting down legislation that would create 9,000 jobs in Parramatta and reinvigorate Parramatta's Civic Place. Today Opposition members voted against jobs. There were plenty more positive comments that we edited out to avoid Opposition members further embarrassment. Every bit of good news about this budget is bad news for the Opposition. It undermines its one electoral tactic—that is, to talk down New South Wales. Given the reaction to our budget, that is one tactic that will not work, and it will not wash with the people of New South Wales. Our budget is a winner and it has been lauded as such across the board. Let us look at the reaction to the comments of the member for Wakehurst, who purported to be holding up a front page—

**The SPEAKER:** Order! Members will cease interjecting.

**Mr NATHAN REES:** What has been the reaction from suburban and country media? The *Blacktown Advocate* carried an article entitled "\$22 million fund boost for parklands".

**The SPEAKER:** Order! I call the member for North Shore to order. I call the member for Wagga Wagga to order.

**Mr NATHAN REES:** The *Inner West Courier* carried an article entitled, "Students to benefit from \$6.2 million upgrade". There was plenty of reaction from the media in the mighty Hunter region. Articles in the Newcastle *Herald* carried the following headlines, "Beacon of hope in road to recovery", "Stamp duty cut by half—home building boost", "Progress on police stations", "Boom's welcome windfall", and "Bright future for solar scheme". The *Maitland Mercury* carried the following headlines, "Maitland Hospital a budget winner", "Roads, health, housing are big budget winners", "Community projects to benefit from new funding", "Industry welcomes decision", and "Treasurer targets more jobs in budget". Outstanding! Across the border in the Australian Capital Territory, the *Canberra Times* proclaimed:

Roozendaal delivers his beacon of hope.

\$10 million for Kings Highway among Monaro projects.

The *Illawarra Mercury* had this to say:

Commuters to gain from \$100 million spree.

New state homes, upgrades also on track.

Project funding for escarpment.

The good news stretches right across the west. The *Western Advocate* had this to say:

\$11 million earmarked for capital west projects.

Schools hit jackpot.

Bathurst schools hit \$11 million jackpot.

What good news after we visited that area only last week! The *Daily Liberal* carries the following headline, "Dubbo shares in budget stimulus for NSW". What a terrific headline! Required reading for any New South Wales Premier is the *Barrier Daily Truth*, which had this to say:

Stamp duty halved in NSW's "beacon of hope" budget.

The good news continues northwards. The *Northern Daily Leader* states:

Schools win in budget.

The *Tweed Daily News* states:

Homes rebate welcomed.

**The SPEAKER:** Order! The House will come to order.

**Mr NATHAN REES:** I saved the best for our old friend the member for Lismore. Articles featured in the *Northern Star* reported:

Schools, kids, health big winners from red budget.

Foster carers applaud \$750 million funding boost.

Stamp duty cut saves up to \$11,245.

Government to pour in \$15 billion for school, TAFE upgrades.

Homebuyers budget joy.

**The SPEAKER:** Order! The member for Lismore will contain himself. I call the member for Lismore to order.

**Mr NATHAN REES:** By any definition this budget has been well received. It is a budget for the times—a budget that the Treasurer rightly called a beacon of hope. We are not in any way minimising the problems we face. We have a strong and detailed plan to deal with those problems, to get through them together and to come out stronger on the other side. That is why this is a budget of hope.

**The SPEAKER:** Order! There is too much audible conversation in the Chamber.

**Mr NATHAN REES:** It is a triple-A plan for jobs, recovery and growth endorsed by the ratings agencies, by business and by the regions. Let me conclude on this note. Earlier I was subjected to interjections about the procurement policy. I suggested that Mr O'Farrell would have his opportunity tomorrow in his budget reply to outline his response. I suggested that he may struggle to get agreement of purpose from his backbench—to wit, Greg Aplin, the member for Albury, who had this to say:

Borrowing Australian is good and it must be backed up with a government guarantee.

**The SPEAKER:** Order! The House will come to order.

### PUBLIC SECTOR JOBS

**Mr ANDREW STONER:** My question is directed to the Premier. Can the Premier explain his miraculous budget projection that employee expenses growth in 2012-13 will fall to 3.9 per cent when the only time Labor has managed to keep it less than 5 per cent was in 2006-07 when Michael Costa cut 5,000 jobs? Does the Premier have a secret plan to slash public service jobs if he somehow manages to win the next election?

**The SPEAKER:** Order! Government members will come to order. The Premier has the call.

**Mr NATHAN REES:** As distinct from the Opposition's overt plan to do it; Max the Axe remains. I repeatedly have asked Mr O'Farrell to withdraw his commission and he simply will not do it. The fact of the matter is that when the Coalition left office and the Labor Party came to power the State's debt was a whopping 7.1 per cent of its economy. The last State Coalition Government produced its sixth consecutive budget deficit, raised taxes by \$10 billion, lifted the payroll tax rate from 6 per cent to 8 per cent, doubled taxes on bank accounts, raised taxes on motor vehicles and introduced new taxes on petrol, car parks and car registration.

**The SPEAKER:** Order! Members will cease interjecting.

**Mr NATHAN REES:** That side of the House has a complete lack of fiscal discipline.

**Mr Andrew Stoner:** Point of order: My point of order relates to Standing Order 129. The Premier does not seem to appreciate that the question is about his budget, employee expenses growth and his plan to slash public service jobs.

**The SPEAKER:** Order! The question and answer are in order.

**Mr NATHAN REES:** Our plan printed and delivered yesterday is there for all to see and scrutinise. The ratings agencies said it is triple-A rated and is a return to a stable outlook. The clear point here is that the Opposition is split on fiscal discipline. On 12 November last year on the radio 2UE Mike Carlton and Sandy Aloisi program, commentator Mike Carlton asked Mr O'Farrell, "So we could borrow more and not affect the triple-A rating?" Mr O'Farrell replied, "Absolutely." Mike Carlton said, "You would go out and borrow a few extra million?" O'Farrell said, "We'd do that, Mike."

**The SPEAKER:** Order! I call the member for Coffs Harbour to order.

**Mr NATHAN REES:** On radio 2SM on 16 June the member for Manly said:

We are in a position that we can't afford to borrow any more money.

Either you want to borrow money or you do not want to borrow money. The Leader of the Opposition will have the chance tomorrow to clear all of this up. How long is a piece-of-string budget reply?



## ENVIRONMENTAL INITIATIVES

**Mr PAUL PEARCE:** My question is addressed to the Minister for the Environment. What action is the Government taking to secure a better future for the State's environment?

**Ms CARMEL TEBBUTT:** I thank the member for Coogee for his question and keen interest in the environment. He will welcome, as do others, the fact that the New South Wales Government's budget commits more than \$1 billion over the next financial year for the environment and climate change. This is a record commitment to make our State both clean and green. The budget delivers on our Government's commitment to work with households, business and local government to protect our environment. It delivers on our Government's commitment to practical action to help families combat climate change and reduce their water and energy bills. Most importantly, it delivers on our Government's commitment to protect and promote jobs. It will deliver hundreds of green jobs through funding for energy efficiency and water-saving measures.

The budget delivers some \$208 million to support New South Wales communities, schools and businesses in their fight to tackle climate change. Some \$32 million will be spent on rebates to help New South Wales residents make their homes more climate friendly through the Climate Change Fund. Most members in this House, if not all, could attest that our rebates have proved hugely popular. Already, more than 85,000 rebates have been claimed by the people of New South Wales who want to make their homes sustainable. We will be spending around \$9 million on water and energy-efficiency measures for our schools. This includes the provision of energy retrofits for some 40 schools. In addition, under the Energy Efficiency Strategy, \$15.3 million will be allocated to retrofit more than 50,000 low-income households to help them save money on their power bills. This allocation comes at a critical time when we know households are doing it tough; the Government can help ease that burden.

But this is not just about supporting families through these difficult times; it also is about jobs. It means jobs for those who will conduct the energy efficiency assessments, for the plumbers and electricians who have to install the various mechanisms and measures, and for those in a range of other areas, for example, in renewable energy. As part of the Climate Change Fund the Government will spend \$7.5 million on supporting renewable energy projects in our State's regions. These projects will help commercialise new and emerging technologies as well as promote new jobs in the regions that need it most. For example, in the Hunter and Illawarra already we are working with steering committees to help map out a path for these important regions of the State.

A \$3 million extension to the Hunter Advantage Fund will target the expansion of the emerging green and smart industries to assist the region's ongoing transformation. New South Wales is leading the charge to attract clean energy investment in this State. A recent report by McLennan Magasanik Associates examined the potential contribution of renewable energy to regional employment in Australia. The report covers all existing renewable energy projects and those already committed and planned. The report found that over \$31 billion will be invested in these new clean-energy projects. This will inject approximately \$10 billion into Australian regional economies and is expected to generate almost 5,000 renewable energy jobs in regional areas in New South Wales alone.

The New South Wales Government understands that it has an obligation and it is committed to helping secure these opportunities. Earlier this month the first stage of the biggest wind farm in Australia was approved. More than 800 construction and operational jobs will be created in Silverton because of this \$2.2 billion investment. The New South Wales Government recognises that it is possible to be clean and green and to also support responsible economic management and promote jobs. This seems to escape our colleagues on the other side of the House because we have seen that evidence with many other issues. Opposition members really like to talk out of both sides of their mouths when it comes to the environment and green jobs.

**The SPEAKER:** Order! The House will come to order.

**Ms CARMEL TEBBUTT:** As they do on financial management, so they do on environment and green jobs.

**The SPEAKER:** Order! The Leader of The Nationals will come to order.

**Ms CARMEL TEBBUTT:** When it suits Opposition members, they profess commitment to a range of soft environmental initiatives. They want to give themselves a sort of green tinge; they think it is appealing and

attractive in certain parts of the State. But the old adage is true: actions speak louder than words. The Opposition's actions do not match its words. Opposition members say they are concerned about climate change; we have heard that on many occasions. I accept that some members on that side of the House are seriously concerned about climate change. They claim to be concerned but do they support a carbon pollution reduction scheme? No, they do not. They claim to support renewable energy.

**The SPEAKER:** Order! Members will cease interjecting. I call the member for Lane Cove to order.

**Ms CARMEL TEBBUTT:** They claim to support renewable energy, but do we see them supporting our renewable energy precincts? No. Time and time again on the record The Nationals have been attacking our renewable energy precincts and the opportunity that those precincts provide to put our State in a position to grab renewable energy jobs. They claim to support conservation, but when the Government makes one of the most significant wilderness announcements, we hear the Leader of the Opposition criticise it by saying that the Government should focus on economic management. I have a message for the Leader of the Opposition: This Government can do both. We can be clean and green and focus on economic management. Our budget demonstrates that.

**The SPEAKER:** Order! The member for Terrigal will cease interjecting.

**Ms CARMEL TEBBUTT:** We are promoting clean green jobs while at the same time protecting our environment for future generations. On the Government side of the House, we can do both. On the Opposition side of the House, I am sure they cannot.

#### GOVERNMENT DEPARTMENT AMALGAMATIONS

**Mr MIKE BAIRD:** My question is directed to the Premier. How can he expect anyone to believe he has the ability to merge 160 government agencies—

**The SPEAKER:** Order! The Minister for Planning will cease interjecting. I call the Minister for Planning to order for the second time.

**Mr MIKE BAIRD:** How can the Premier expect anyone to believe he has the ability to merge 160 government agencies into 13 departments and bring the budget back to surplus when he did not even have the ability or authority to privatise two of the State's 31 prisons?

**Mr NATHAN REES:** I point out that while we are outsourcing management, the jails—

**The SPEAKER:** Order! Government members will come to order.

**Mr NATHAN REES:** The jails will stay in public ownership. We are outsourcing management of one of the jails. Our budget was printed yesterday, released, and circulated for scrutiny, and we stand by that budget. Tomorrow the Opposition will have its chance to reply. I take this opportunity to remind the House of the Opposition's proposals. Tomorrow I will be listening for references to them during the Opposition's budget reply. The Opposition opposed land tax measures that were delivered in our mini-budget. They opposed landholder duty measures, the nominal duties measure, the parking space levy measures, the mineral royalties measure, and the deferred abolition of the intergovernmental agreement [IGA] stamp duty measures within the mini-budget.

**The SPEAKER:** Order! I call the member for Lismore to order for the second time.

**Mr NATHAN REES:** The Opposition opposed petrol subsidy measures and green slips measures in the mini-budget. They recommended the introduction of a one-off 15 per cent payroll tax cut and recommended the introduction of a shared equity scheme. They also introduced a bill payment policy and changes to the land tax system. The estimated total cost of those measures, which the Opposition already has promised, is \$3.9 billion. In relation to roads, embedded in the utterances of the Leader of the Opposition today was his call for the Government to build now the M4 East extension, the M5 expansion the F3 to M2 link, and previously he called for the upgrading of the Spit Bridge, a tunnel from the Warringah Freeway to the northern beaches, the immediate construction of the Princes Highway link at Gerringong to Bomaderry, and the addition of lanes to the Iron Cove Bridge. The conservative estimate of the cost of those proposals is \$20 billion. But wait, there's more! The Opposition wants the Government to build the heavy rail to the north west right now, and they want the heavy rail to the south west built right now as well.

**The SPEAKER:** Order! Members will cease interjecting.

**Mr NATHAN REES:** The Opposition also wants an extension of rail from Newcastle to the Newcastle airport, reinstatement of the Casino to Murwillumbah rail link, the removal of the fully refundable E-Toll tag deposit, a rail line from Murwillumbah to the Gold Coast airport, an upgrade to the Wynyard interchange and removal of the time-of-day toll, and the Epping to Chatswood rail link to be fare-free. All up, that will cost \$16 billion.

**The SPEAKER:** Order! The House will come to order. I call the member for Coffs Harbour to order for the second time.

[Interruption]

**Mr NATHAN REES:** The Deputy Leader of the Opposition and member for North Shore resort to complaint in terms of relevance, but the so-called Opposition Health policy would cost in the order of \$300 million a year. On my reckoning, there is at least \$36 billion in unfunded Opposition promises, and we arrive back at the old equation: whether to borrow more, which apparently Mr O'Farrell does not want to do, or cut staff, which is still on the agenda, or raise taxes. Which is it?

### INFRASTRUCTURE INVESTMENT AND JOBS

**Ms NOREEN HAY:** My question is addressed to the Minister for Infrastructure and Minister for Ports and Waterways. What action is the Government taking to support jobs through investment in infrastructure and ports?

**Mr JOSEPH TRIPODI:** I had not realised how fanciful the whole Opposition dream is until the Premier summed it up so comprehensively just a minute ago. The Premier also might have reminded the House that all of the Opposition's dreams will be part of the fiscal framework that Mike Baird has identified as the Opposition's budget policy. Let me quote once again what Mike Baird said on 2SM on 25 March 2009, "...we would never deliver a State budget where expense growth grows faster than revenue growth ..." If that is the case, how on earth will the Opposition fund its \$16 billion dream? How will the Opposition deliver on that dream in those circumstances? How will the Opposition's dream achieve that? And what a dream it is!

**The SPEAKER:** Order! The House will come to order. I appreciate that the Minister has united the House!

**Mr JOSEPH TRIPODI:** How will the Opposition fund its dream within its fiscal framework? That is practically impossible. In the face of the worst economic downturn since the Great Depression, yesterday's budget delivered the biggest infrastructure program in the State's history with expenditure of \$62.9 billion over four years. That is an economic stimulus package, if ever there was one.

**The SPEAKER:** Order! The House will come to order. There is too much audible conversation in the Chamber.

**Mr JOSEPH TRIPODI:** The Government's plan is to secure thousands of jobs during these very tough times. The Government's program will support up to 160,000 jobs a year while maintaining the State's triple-A credit rating and generating confidence in the State's economy. Of course, the fiscal policy of the Opposition has not changed. As Mike Baird wrote in the *Sydney Morning Herald* on 9 June:

Report card day is looming in NSW. Budget day is June 16, when the people of NSW will be handed the report card on the State Government. It will show what Treasury thinks ... [about] the deficit ... but another important question will be: will the state retain its AAA credit rating?

That was the big question, the pivotal test. Of course the report card has come in, and the triple-A credit rating has been reaffirmed. Let me provide context to what has been achieved. In what has been the toughest economic time in 75 years, the Government has been able to improve the credit rating of the State. Let us put this into perspective. Practically every jurisdiction around the world is finding it hard to keep its credit rating, but New South Wales has managed to improve its credit rating in these very tough economic times.

**The SPEAKER:** Order! The member for Bega will cease interjecting.

**Mr JOSEPH TRIPODI:** I remind everybody present of who jeopardised the State's triple-A credit rating. It was the decision of the Opposition to oppose an energy reform package in the upper House that put the State on credit watch. The Opposition had one chance to prove itself—

**The SPEAKER:** Order! The House will come to order. All members previously called to order are now deemed to be on three calls to order. The Minister has the call.

**Mr JOSEPH TRIPODI:** The Opposition had one chance to prove itself and one chance to be part of a responsible deliberation about responsible reform, but chose not to exercise a vote in favour of the proposal. The Opposition placed political expediency ahead of good reform. Of course, the damage has been done. Michael Baird continues to adhere to his fiscal policy. As recently as 7 May, he wrote on his website:

It is the ultimate hypocrisy of ... [anyone] to ... criticise the Opposition for committing to keeping expenditure growth in line with revenue growth when that is what is needed to retain the credit rating.

It is conjecture by the Opposition that in tough economic times the Government cannot allow the budget to go into deficit. Of course, that is completely wrong. Not only is it completely wrong; the facts of yesterday and today prove that it is completely wrong. The Government needs to have a budget that reflects the economic cycle and helps lift the economy during tough times. That is not the Opposition's policy. A Coalition government would have kept a surplus and it would not have a budget policy that lifts the economy during tough times. We have been able to spend \$69.2 billion on infrastructure during tough times while keeping the State's triple-A credit rating. That absolutely trashes the Coalition's budget policy—the meagre, simple, unsophisticated and insensitive fiscal policy that has no compassion during tough times when unemployment is rising.

### TEACHING POSITIONS

**Mrs JUDY HOPWOOD:** My question is directed to the Premier. How can the Premier claim to be supporting front-line workers when the Teachers Federation is launching a campaign tomorrow to protest against the Government's plan to "abolish nearly 2,000 teaching positions which support students with special needs in regular schools"?

**The SPEAKER:** Order! I remind members that many of them are on three calls to order.

**Mr NATHAN REES:** One measure we took in the mini-budget back in November was, from memory, \$85 million for the employment of 200 special needs teachers. In the budget yesterday \$14.7 billion was for education in New South Wales schools and technical colleges—a record budget for education in New South Wales. That is building on our groundbreaking policy shift to raise the school leaving age as we go about ensuring that New South Wales has the best education system in Australia. Under national plans and national testing in year 3, year 5 and year 7, New South Wales students topped the nation for literacy and New South Wales students in year 9 are second. We have the most literate students in Australia.

The \$5,500 worth of software to be loaded on to every one of 150,000 computers will make New South Wales school students the most computer savvy of school students anywhere in the world. The school learning support coordinator initiative announced in last year's mini-budget was well received and, I understand, is proving popular with school communities. That is the program I referred to at the outset. I can assure the House that the initiative will be carefully monitored and evaluated to ensure that it is providing the best possible support for students with additional learning needs. The outcomes of that evaluation will be discussed in detail with all stakeholders, including the Teachers Federation, before any decisions are made about expansion of the scheme. The New South Wales Primary Principals Association had this to say about our budget yesterday:

The additional resources will be welcomed. The focus on key Asian languages recognises Australia's geographic, economic and cultural position in the 21st century—

incidentally, the Leader of The Nationals opposed that—

Teachers and principals recognise that learning in more than one language helps students in both languages and starting in the early years of school enables students to have the best chance of success in language learning.

The Secondary Principals Council had this to say:

... very pleased with the additional funding allocated to support the new school leaving age initiative. This funding will be most welcomed by secondary schools and principals.

The Government's support for schools is underpinned by the \$1.075 billion that we are spending on special education this financial year—\$133 million more than last year. In yesterday's budget we increased this commitment again to \$1.106 billion in 2009-2010—a further increase of \$51 million. The member for Hornsby should note that these are some of the education initiatives on their way to her electorate: \$350,000 for an upgrade of Hornsby South Public School as part of the Principals Priority Building Program, \$150,000 for improved roof drainage upgrades at Mount Colah Public School, \$100,000 for a roof upgrade at Normanhurst West Public School, and \$45,000 for a roof upgrade at Wideview Public School. I will back the Labor Government's longstanding support for public education against the Coalition's atrocious record any day of the week, anywhere, any time.

### ILLAWARRA INFRASTRUCTURE INVESTMENT AND JOBS

**Mr PAUL McLEAY:** My question is addressed to the Minister for Transport, and Minister for the Illawarra. What action is the Government taking to invest in a better future and support jobs in the Illawarra?

**Mr DAVID CAMPBELL:** The member for Heathcote will be pleased to see in the budget funding for the new intersection at the bottom of Bulli Pass where the Princes Highway meets Lawrence Hargrave Drive. This year's budget will build new roads, increase energy capacity, provide better health services, fund school upgrades, provide a new police station and deliver new transport infrastructure for our region. This investment will create jobs and stimulate our economy, and that is great news. Investment in our region includes \$42 million for new road projects, including the safety upgrade of Picton Road, and \$7.6 million towards the new Lake Illawarra police station—I know the member for Shellharbour welcomes that, as does the community she represents.

There is \$2.2 million towards the \$11.4 million upgrade of Unanderra railway station; \$7 million for a new tug berth for the outer harbour at Port Kembla, as well as \$840,000 for a new pilot boat—the member for Wollongong, who is a strong supporter of growth in trade through Port Kembla, will welcome that expenditure, unlike the Opposition which is totally opposed to growth in trade through Port Kembla. There is also \$1.7 million for additional acute hospital beds in the region. This is strong investment and a strong commitment for the Illawarra region. That is unlike the Leader of the Opposition and members opposite who simply make whistle-stop visits to the region and never bother to make a commitment about anything.

**The SPEAKER:** Order! I call the member for South Coast to order.

**Mr DAVID CAMPBELL:** Other key spending in this year's budget includes \$3.2 million for the expansion of Wollongong Hospital's emergency department, \$1.7 million to improve mental health facilities, and \$104.9 million towards ageing, disability and home care services across the region. The Rees Government has continued to invest in education in the Illawarra. We invested in a new gym at Kiama High School—the member for Kiama and I were talking about that project yesterday. In the electorate of Keira I am pleased to see funding for the new performing arts facility at Wollongong High School of Performing Arts. The Illawarra will continue to benefit from government investment in transport services.

**The SPEAKER:** Order! I call the member for South Coast to order for the second time.

**Mr DAVID CAMPBELL:** Along with the \$4 million investment for new buses, funding has been provided for new commuter car parks at Helensburgh, Waterfall, Woonona and Wollongong, and funding for additional outer suburban carriages for the South Coast line. I am pleased to advise the House that the hugely successful free Gong shuttle will continue, with the budget securing the future of this great service. Wollongong residents have warmly welcomed the Gong shuttle, with more than 7,000 people using it each weekday. I do not think the Leader of the Opposition is aware of the success of the Gong shuttle. When he was asked if he would keep the shuttle if ever he got on this side of the House, his answer was, "That's a question for another day". This sort of disregard from the Opposition is familiar to Illawarra residents.

Occasionally members opposite pop into the region. Usually it is for lunch. In February the Leader of the Opposition was at the golf club delivering a presentation that did not include a single policy for the Illawarra. Last week he returned to the Illawarra and told the Property Council that if the Coalition were in government it would—wait for it—"govern with a vision". That was the extent of it. I am sure the people of the Illawarra, and indeed people throughout New South Wales, would like some insight into that vision. Instead, no policies for the Illawarra were outlined and no plans were outlaid. However, I am told that the Leader of the

Opposition promised that we would see some Liberal candidates by the end of this year. We have heard all that before. About a week before nominations close the Liberals usually struggle to come up with candidates for the Illawarra. We will be watching that space closely.

The Illawarra has received a decent share of this year's State budget—a budget framed in difficult economic times that has secured the State's triple-A credit rating. That is an outcome the Illawarra business chamber had called for and should welcome. This strong investment delivers better services and significant investment in infrastructure that will create new jobs in the Illawarra region. I welcome this investment and look forward to seeing it make a difference in all of our Illawarra communities.

#### **AUSTRALIAN EQUINE AND LIVESTOCK EVENTS CENTRE, TAMWORTH**

**Mr PETER DRAPER:** My question is addressed to the Minister for Local Government. Will the Minister update the House on the application by Tamworth Regional Council to form a corporation to run the Australian livestock and equine centre?

**Mrs BARBARA PERRY:** I thank the member for Tamworth for his interest in this matter. I advise that the Local Government Act provides limited circumstances in which councils can apply or are able to form corporations. It is clear that councils must meet certain basic tests when they submit an application for my consideration. One of the key areas I need to consider under the Act is the arrangement that council has made for the employment of current and new staff under the proposed corporation. The Department of Local Government received an application from Tamworth Regional Council; however, it did not contain sufficient information in relation to staffing and related issues for it to be assessed. Accordingly, as the member would appreciate, the department sought additional information from council about its application, including details of the provisions that are to be made for the transfer of council staff and confirmation of any additional activities the council wishes the proposed corporation to carry out. The department has now received that information and a response to council about its application will be provided shortly.

#### **RURAL AND REGIONAL JOBS**

**Mr KERRY HICKEY:** My question is addressed to Minister for Regional Development. What action is the Government taking to support jobs in rural and regional New South Wales?

**Mr PHILLIP COSTA:** I thank the member for his strong representation on behalf of the people of Cessnock and country New South Wales. Not only was yesterday a Labor Budget from beginning to end but it was also a Country Labor Budget from beginning to end. I will provide some examples in my own portfolio of Regional Development: \$90.4 million in funding for rural and regional New South Wales that is focused on creating jobs from Ballina to Bourke, Broken Hill to Bega, Dubbo to Deniliquin, Pilliga to Picton, in the Hunter, in the engine room of western Sydney, in the Illawarra, on the Central Coast, and in Armidale. The list goes on.

**The SPEAKER:** Order! Members will cease interjecting.

**Mr PHILLIP COSTA:** A Rees Labor Budget has almost double regional development funding compared to budgets in previous years. It is a clear demonstration that the priority for, and actions of, this Government are towards the bush. On this side of the House we are supporting jobs and businesses across New South Wales. Two highlights of yesterday's Regional Development budget are: a new regional jobs fund of \$7 million over two years to help offset the cost for businesses who want to establish or expand in rural and regional areas, and a new western Sydney jobs fund of \$12 million over two years to support businesses in Sydney's west, the proud manufacturing muscle for our great city.

Those two new programs announced in yesterday's budget will be strongly supported by: top-ups to the Hunter and Illawarra Advantage Funds of \$25.5 million this financial year towards the \$85 million Building the Country package, which has been very well received across rural and regional New South Wales; \$12.6 million for existing regional development programs that attract business investment and support regional communities; and \$11.4 million to meet commitments under the Payroll Tax Incentive Scheme—in all due respects, a fine budget for the bush. Through its regional development programs the Government expects to directly assist 3,000 businesses this coming financial year, directly support 150 business investment projects, and create new job opportunities in more than 70 individual communities across regional and rural New South Wales.

**Mr Thomas George:** Name them.

**Mr PHILLIP COSTA:** There are many, including in your patch. This Labor Government will always support families in country New South Wales to come through tough times stronger and more prosperous. The Government's commitment to this value has never been more focused than here and now in the 2009-10 Budget. I look forward to working with my Country Labor colleagues on this side of the House to deliver, and with those on the other side who show the strength to break free from their bad habit of talking down country New South Wales and come along and work with me. The delivery of these programs across the State will improve job prospects for country families and build stronger and more resilient economies across rural and regional New South Wales.

**Question time concluded at 3.16 p.m.**

## **YOUNG HOSPITAL DIALYSIS**

### **Privilege**

**Ms KATRINA HODGKINSON** (Burrinjuck) [3.16 p.m.]: My matter of privilege relates to questions on the Questions and Answers paper and answers therein. I specifically refer to question 6116, which was about Young hospital dialysis. I asked a series of specific questions about five patients who have to access services in the Australian Capital Territory. My question was: What was the estimated cost to open on-site dialysis treatment in Young compared with the cost to travel to the Australian Capital Territory, which costs more than \$430,000? The answer in no way attempted to reflect the purpose of the question and was basically just a brush off. Far too often members are getting the brush off in questions on notice and we need—

**The SPEAKER:** Order! The member for Burrinjuck has made her point. That is not a matter of privilege.

## **STANDING ORDERS AND PROCEDURE COMMITTEE**

### **Report**

**The Speaker** tabled report No. 1 of 2009 entitled "Amendments to the Standing Orders", together with the minutes of the meetings of the committee on 25 March and 3 June 2009, and the draft minutes of the meeting of the committee on 17 June 2009.

**Report ordered to be printed.**

**The following motion was set down for consideration as business with precedence:**

That:

- (1) the amendments to the standing orders adopted by the Standing Orders and Procedure Committee on 17 June 2009 be approved by the House;
- (2) the amendments be forwarded by the Speaker to Her Excellency the Governor for approval; and
- (3) on and from 1 September 2009, the sessional orders adopted by the House on 6 December 2007 and on 10 April 2008, be rescinded and the new standing orders be effective.

## **PETITIONS**

### **National Parks Tourism Developments**

Petition opposing the construction of tourism developments in national parks, received from **Ms Clover Moore**.

### **Northern Rivers Area Health Service**

Petition opposing job cuts from the Northern Rivers Area Health Service, particularly Grafton and Maclean hospitals, received from **Mr Steve Cansdell**.

### **Maclean District Hospital**

Petition opposing the sale of land adjacent to Maclean District Hospital, received from **Mr Steve Cansdell**.

### **Isolated Patients Travel and Accommodation Assistance Scheme**

Petition asking for a review of the Isolated Patients Travel and Accommodation Assistance Scheme and indexation of payments to the cost of living, received from **Mr Steve Cansdell**.

### **Orange Ambulance Rescue Helicopter Service**

Petition requesting that the operational hours of the ambulance rescue helicopter service at Orange be increased and that the service be equipped with a winch, received from **Ms Katrina Hodgkinson**.

### **Tumut Hospital Anaesthetic Services**

Petition asking that anaesthetic services at Tumut Hospital be made available immediately, received from **Mr Daryl Maguire**.

### **Bellinger River District Hospital Maternity Unit**

Petition requesting that the Bellinger River District Hospital Maternity Unit be fully operational without delay, received from **Mr Andrew Stoner**.

### **Australian Services Union Log of Claims**

Petition requesting that the log of claims be endorsed in a new award for Australian Services Union members, received from **Mr Richard Torbay**.

### **Schofields Railway Station**

Petition praying that Schofields Railway Station remain on its current site, received from **Ms Gladys Berejikian**.

### **South Grafton and Grafton Bus Services**

Petition opposing changes to bus services in the Grafton and South Grafton area introduced by Busways Pty Ltd, received from **Mr Steve Cansdell**.

### **CountryLink Pensioner Booking Fee**

Petitions requesting the removal of booking fees charged to pensioners on CountryLink services, received from **Mrs Shelley Hancock** and **Ms Katrina Hodgkinson**.

### **South Coast Rail Line Staffing**

Petition opposing the relocation of and reduction in staff on the South Coast Illawarra rail line, received from **Mrs Shelley Hancock**.

### **South Coast Rail Services**

Petition opposing any reduction in rail services on the South Coast, received from **Mrs Shelley Hancock**.

### **Rural Rail Branch Lines**

Petition requesting that the proposed closure of rural rail branch lines be rescinded immediately, received from **Ms Katrina Hodgkinson**.

### **Hawkesbury River Railway Station Access**

Petition requesting improved access to Hawkesbury River railway station, received from **Mrs Judy Hopwood**.



**Bus Service 311**

Petition requesting improved services on bus route 311, received from **Ms Clover Moore**.

**TAFE Fees**

Petition asking that TAFE fees be frozen at the 2007 level until 2011, received from **Ms Katrina Hodgkinson**.

**Berowra Housing Density**

Petition requesting that Berowra and Berowra Heights remain low-density dwellings or that adequate infrastructure be provided for the proposed high-density dwellings, received from **Mrs Judy Hopwood**.

**Olstan Mine Proposal**

Petition opposing the Olstan mine proposal, received from **Mr Greg Piper**.

**Old Northern Road, Castle Hill, Vista Preservation**

Petition requesting that a heritage order be placed on Old Northern Road, Castle Hill, to preserve the vista of the Blue Mountains, received from **Mr Michael Richardson**.

**Gaden Trout Hatchery**

Petition opposing the closure of the Gaden Trout Hatchery, received from **Ms Katrina Hodgkinson**.

**Caged Birds Trade**

Petition requesting that legislation be introduced to stop the trade of caged birds, and ban trading and selling of Australian native birds, received from **Ms Clover Moore**.

**Pet Shops**

Petition opposing the sale of animals in pet shops, received from **Ms Clover Moore**.

**Sow Stalls**

Petition requesting a total ban on sow stalls, received from **Ms Clover Moore**.

**Shoalhaven Police Station**

Petition requesting funding for the establishment of a new police station in the central Shoalhaven area, received from **Mrs Shelley Hancock**.

**Culburra Policing**

Petition requesting increased police numbers in the Culburra area, received from **Mrs Shelley Hancock**.

**Cowra Policing**

Petition requesting that Cowra police station be staffed 24 hours a day, received from **Ms Katrina Hodgkinson**.

**Rural and Regional Police Resources**

Petition calling for allocation of more police resources to rural and regional communities throughout New South Wales, received from **Ms Katrina Hodgkinson**.

**Brooklyn Police Station**

Petition opposing the closure of Brooklyn Police Station and requesting an increase in the number of officers to man the station, received from **Mrs Judy Hopwood**.

**Shoalhaven Mental Health Services**

Petition requesting the establishment of a dedicated mental health service in the Shoalhaven, received from **Mrs Shelley Hancock**.

**Iron Cove Bridge Project**

Petition opposing the construction of an additional bridge over Iron Cove, received from **Ms Gladys Berejiklian**.

**Grafton Bridge**

Petition requesting the construction of a new bridge over the Clarence River at Grafton, received from **Mr Steve Cansdell**.

**Princes Highway Rest Areas**

Petition requesting adequate toilet facilities on the corner of the Princes Highway and Sussex Road, received from **Mrs Shelley Hancock**.

**Barton Highway**

Petition asking that priority be given to Federal AusLink funding for upgrading of the Barton Highway to dual carriageway, received from **Ms Katrina Hodgkinson**.

**BUSINESS OF THE HOUSE****Reordering of General Business**

**Mr BARRY O'FARRELL** (Ku-ring-gai—Leader of the Opposition) [3.20 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Rail and Road Projects] have precedence on Thursday 18 June 2009.

Today, for a change, we had some truth from the Premier in question time—a remarkable occurrence in this Chamber. We normally know when the Premier is telling untruths because his lips are moving. The Premier today admitted that he and I started our day in Camden, he to sell the benefits of his six-month stamp duty concession—which we support—and me to ask what is the point of supporting people to purchase a property in the Macarthur district if he is not prepared to back them with funding for road and rail infrastructure.

Under this State Government's planning policies, 250,000 people are destined to move into the Macarthur region over the next 20 years. That is a city the size of Canberra coming to Sydney's south-west. It is matched by what is happening in Sydney's north-west, where a similar size group of people are moving. We have seen Rouse Hill develop, preserved beneath it a space that was insisted upon for the north-west rail link. What links both of those growth centres? What links those parts of our State and city that were nominated by those opposite as growth regions is the fact that in both areas this State Government has cancelled infrastructure projects.

The Minister for Finance might like to say that they are about building this State and city, and putting together budgets that seek to protect jobs. Six months ago what Eric Roozendaal described as unnecessary spending meant that the north-west and south-west rail links were cut. What is the impact of that upon those families who are going to buy properties in the south-west and north-west? What is the impact upon those families that members in those regions represent currently? The fact is that people are spending up to an hour extra in traffic congestion on roads out of those areas as they try to get to work.

It means that all of the plans put together by Camden council, which centre around Leppington station, are for nought because there is not going to be a Leppington station because yesterday there was not a dollar set aside for it. It means the alternative that people currently have in Camden—the use of Camden Valley Way—is

going to offer no hope because it is still little more than a goat track coping with more and more traffic, including the 35,000 people who will come from the 11,000 lots released a year ago, 11,000 lots for which development applications are currently before Camden council and which the council is having to approve knowing that there is no transport.

This motion will give members opposite a chance to say whether they support improved transport infrastructure for families in south-west and north-west Sydney, whether or not they are prepared to honour the promises they made at past elections, promises that included the Macarthur faction—the member for Macquarie Fields, the member for Campbelltown, the member for Camden, and the member for Wollondilly—who at the last election promised faithfully to their constituents that the south-west rail link would be built. Within 18 months it had been cancelled because this Government regarded it as unnecessary spending.

I suppose that sums up what is wrong with this State—unnecessary spending on projects after an election win, but certainly necessary spending to make the promises ahead of elections to try to fool people. We need to know what the mob opposite thinks about the completion of the south-west rail link. Do they support it or not? We need to know whether they support the construction of the north-west rail link, whether they support the widening of the M5, whether they support the M5 East duplication, whether they support the M4 East extension, and whether they support a link between the F3 and M2, which also affects those people who live on the Central Coast.

We have seen it time and time again—a State government without a vision; a State government that refuses to match planning and infrastructure and as a result, for families, adds cost and frustration; a government that never matches its planning policies with its infrastructure policies; a government that in a piece of plagiarism in relation to departmental structures that it pinched from Queensland failed to do the one sensible thing this State needs, which is to put planning together with infrastructure. Time and time again we have had Labor governments planning residential settlements with catch-up planning. We need to see where Labor stands on these issues. We need to see whether those marginal seat members are prepared to stand up for their communities, communities who know this is crook and want us to debate it.

**Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [3.24 p.m.]: Rarely has the Leader of the Opposition shown such lack of conviction as shown here this afternoon. Clearly what he has put forward to the House today lacks conviction because it is an absolutely incredible proposal. Earlier today the Premier told us that the Opposition's promises amounted to \$16 billion. Let us look at what these promises amount to: the completion of the south-west rail link, \$1.36 billion; the north-west rail link, \$12 billion; construction of the M5 widening, \$400 million; the M5 East duplication, \$5 billion; the M4 East extension, \$9.1 billion; the F3-M2 link, \$4.1 billion—in total, \$31.96 billion!

**Mr Barry O'Farrell:** I seek permission to table his campaign brochure promising a north-west rail link.

**Leave not granted.**

**Mr JOHN AQUILINA:** There we hear the voice of desperation. There we see the credibility of the Opposition slipping through its fingers because these figures lack credibility.

**The SPEAKER:** Order! Members will cease interjecting.

**Mr JOHN AQUILINA:** These figures are for Opposition promises that lack the ability to be implemented. These figures threaten everything that New South Wales stands for, and particularly its triple-A rating, which is so important for the fiscal responsibility of the State. This is an Opposition that is clearly grasping at straws. What it is grasping at now is a whole lot of infrastructure models, which if implemented the way the Opposition wants them implemented would totally bankrupt this State.

The Leader of the Opposition also made a point of saying that the Government had no plans in relation to the issues he has outlined. Let me point out for the Leader of the Opposition precisely what the Government is doing. In relation to rail, \$186 million has been committed in this budget toward a south-west rail line; \$8.5 million towards a train-stabling facility west of Emu Plains; \$117 million towards the construction of 626 new air-conditioned CityRail carriages; \$201 million for rail maintenance in western Sydney; \$350 million allocated to the \$1.9 billion Clearways—

**The SPEAKER:** Order! Members will cease interjecting.

**Mr JOHN AQUILINA:** These are responsible programs. This is what the Government is allocating in the budget. This is what is happening in relation to resolving specifically the issues that the Leader of the Opposition spoke about, but doing so in a fiscally responsible way, something the Opposition is not doing. As the Treasurer told us yesterday, the budget allocates \$4.4 billion to Roads, and the Government is looking very closely at the proposed M4 extension, the M5 and M2 widening projects and also the proposed M5 East expansion. We are doing that, but what we are not doing is irresponsibly committing money that the State does not have towards projects that cannot be built at the moment.

As for the commitment to improving the roads network for families heading to the city, the widening of the M2 and the M5 are firmly on the Government's agenda. We will make sure that these projects are part of future planning to help keep Sydney moving. Negotiations on both of these projects are continuing. It has not gone unnoticed that the Opposition has again complained and whinged but offered no solution to the traffic challenges. They come up with furrphies knowing that they do not have the fiscal capacity to be able to implement them. They can come up with any plans they like because they know they do not have to spend the staggering \$32 billion that the Leader of the Opposition has spoken about today.

A few months ago the Opposition Roads spokesperson did not think the M4 extension was such a good idea. Now he is asking where is the money. Of course, we cannot do it all at once. We cannot do it in total, but what we will do is implement policy and implement a budget in a way that is fiscally responsible, in a way which will not threaten New South Wales' triple-A rating, in a way which will guarantee delivery of infrastructure to the people of New South Wales in an orderly way, despite the desperate rhetoric of the Leader of the Opposition that we have heard this afternoon.

**Question—That the motion be agreed to—put.**

**The House divided.**

**Ayes, 39**

Mr Aplin	Mr Hartcher	Mr Roberts
Mr Baird	Mr Hazzard	Mrs Skinner
Mr Baumann	Ms Hodgkinson	Mr Smith
Ms Berejiklian	Mrs Hopwood	Mr Souris
Mr Besseling	Mr Humphries	Mr Stokes
Mr Cansdell	Mr Kerr	Mr Stoner
Mr Constance	Mr Merton	Mr R. W. Turner
Mr Debnam	Ms Moore	Mr J. D. Williams
Mr Dominello	Mr O'Dea	Mr R. C. Williams
Mr Draper	Mr O'Farrell	
Mrs Fardell	Mr Page	
Mr Fraser	Mr Piper	<i>Tellers,</i>
Ms Goward	Mr Provest	Mr George
Mrs Hancock	Mr Richardson	Mr Maguire

**Noes, 48**

Mr Amery	Ms Gadiel	Ms Megarrity
Ms Andrews	Mr Gibson	Mr Morris
Mr Aquilina	Mr Greene	Mrs Paluzzano
Ms Beamer	Mr Harris	Mr Pearce
Mr Borger	Ms Hay	Mrs Perry
Mr Brown	Mr Hickey	Mr Sartor
Ms Burney	Ms Hornery	Mr Shearan
Ms Burton	Ms Judge	Mr Stewart
Mr Campbell	Ms Keneally	Ms Tebbutt
Mr Collier	Mr Khoshaba	Mr Terenzini
Mr Coombs	Mr Koperberg	Mr Tripodi
Mr Corrigan	Mr Lynch	Mr Whan
Mr Costa	Mr McBride	
Mr Daley	Dr McDonald	
Ms D'Amore	Ms McKay	<i>Tellers,</i>
Ms Firth	Mr McLeay	Mr Ashton
Mr Furolo	Ms McMahan	Mr Martin

**Pairs**

Mr Piccoli  
Mr J. H. Turner

Mr Lalich  
Mr West

**Question resolved in the negative.**

**Motion negatived.**

**CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY****Infrastructure Investment and Jobs**

**Mr FRANK TERENCEZINI** (Maitland) [3.36 p.m.]: My motion should be accorded priority because it is an excellent motion and one that every member should support, and for very good reasons. This motion supports an initiative by this Government to allocate between \$300,000 and \$400,000 to each electorate—that includes every member of this House, whether they be in Opposition, an Independent or in Government—to be spent on local infrastructure projects. That includes such things as upgrades to community halls, playgroup centres, senior citizens centres, charity facilities, local environment initiatives, community gardens, cycleways, walkways, boat ramps, skate parks, footbridges and similar good community facilities.

I expect members of the Opposition to discuss and support this motion. I expect the member for Lismore, the member for Terrigal and the member for Davidson to take this opportunity to tell their constituents what priority projects they have in their electorates. I see the member for Terrigal nodding, so I expect him to vote for this. The member for Epping is not nodding; he is shaking his head so he might not vote for this motion. Every member should vote for this because it is vitally important. It is the community groups in our electorates that keep our communities going. They are out of sight and out of mind, volunteering and devoting their time to get the work done. I refer to toilet blocks, roof replacements and all those sorts of things.

What a true Labor initiative this is. It is a grassroots initiative to assist all those small grassroots projects. It is a golden opportunity for all of us to put forward our priorities because this initiative will directly benefit every member in this House. After we go back to our electorates we will be able to put out media releases and contact our community groups and tell them to make their applications. I expect this motion to be fully supported by every member in this House. What better initiative is there than promoting local jobs in every electorate?

**ACTING-SPEAKER (Ms Diane Beamer):** Order! There is far too much audible conversation in the Chamber.

**Mr FRANK TERENCEZINI:** I will be disappointed if Opposition members call a division on this motion. I ask the Leader of the Opposition to lead his troops and to get them to vote in support of this important motion. Money has been allocated to the Ku-ring-gai, Burriajuck and Hawkesbury electorates and to every other electorate in this State. Everyone has money and everyone is a winner. This motion deserves to be given priority.

**Procurement Policy and Jobs**

**Mr ANDREW STONER** (Oxley—Leader of The Nationals) [3.40 p.m.]: My motion should be given priority. While Premier Nathan Rees and Treasurer Eric Roozendaal are gliding around town selling what they have described as a "beacon of hope budget", their Labor colleagues right around the country are yelling from the rafters that the plans of this incompetent mob will cost local jobs rather than save them. The budget papers devote a whole page to the importance of China, but newspaper headlines reveal that New South Wales effectively will be banning China. Today this is a priority issue because it has been revealed that the Federal Minister for Trade, Simon Crean, wrote to Premier Nathan Rees expressing his concern about the policy. I quote from reports that state:

It is a misguided policy from what I understand it to be—

He added that essentially it was putting a tariff of up to 25 per cent on government purchases. He continued:

It is also moving in the direction of protectionism and it will invite retaliatory action by our trading partners.

It's done, as I understand it in the name of protecting jobs. It will, in fact, have the exact opposite result.

That is what Simon Crean had to say. He also said that the European Union and the United States of America had already made queries about the meaning of the New South Wales policy. The Minister for Foreign Affairs, Stephen Smith, chipped in and added his criticism. He said:

This is not the time for Australia to retreat to protectionism.

What we can't do is focus in a discriminatory way on one particular nation, whoever that nation might be.

That is in the context of a budget that projects unemployment figures will increase to at least 8.5 per cent. This matter deserves to be fully debated today. When asked today by Alan Jones on radio 2GB whether the Government had done any modelling on the policy, Treasurer Mr Roozendaal could not answer the question. He said that media reports had taken a bit of poetic licence with the story. In question time today the Premier could not point to any economic modelling whatsoever. This incompetent and inexperienced pair is simply flying blind. I understand that they have been a bit smug about the budget. I will give them one concession: it is an improvement on last year's disastrous mini-budget. I am sure everyone in this Chamber and everyone in the community would agree that they are working from a very low base. This matter deserves to be given priority because even the Premier's Queensland colleagues are concerned about this decision. Queensland Treasurer Andrew Fraser labelled this policy as short-sighted.

**Mr Grant McBride:** Andrew Fraser?

**Mr ANDREW STONER:** Yes, there is another Andrew Fraser—another banana bender.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! Government members will cease interjecting.

**Mr ANDREW STONER:** Queensland Treasurer Andrew Fraser said:

Queensland's destiny, Australia's destiny, and I'd say to NSW their destiny too, relies on trade.

The sort of proposals that are being mooted by reports this morning aren't in the long-term interests of the nation.

Sometimes Premier Nathan Rees listens to the Queenslanders. It took the Queensland Government to provide the inspiration for the model of public sector reform that has been so embarrassingly exposed as a cut-and-paste job by a Government completely bereft of ideas. This motion must be debated because Labor's budget fantasy figures mean that front-line service jobs will also be axed. If the Premier somehow manages to win the next election he wants to limit employee expense growth to 3.9 per cent in 2012-13. Over the past 10 years the only time expense growth came in under 5 per cent was when Michael Costa cut 5,000 jobs. Premier Nathan Rees needs to tell us exactly which public sector workers are on the chopping block, and which of them will be joining the unemployment queues with other victims of the policies of this incompetent Government.

This motion deserves to be given priority. Whether it is private sector jobs or the jobs of public service workers, Premier Nathan Rees's budget is guaranteeing longer lines at Centrelink and more people out of work. Ultimately, it is an admission that people in New South Wales will struggle to pay their bills and make ends meet. This motion deserves to be given priority. At a time when the Rees Labor Government should be making decisions to save jobs it is doing the exact opposite. It wants to debate a policy that is all about the incumbent program—to prop up incumbents with little buckets for little local projects. That is what this policy is about. It is a sneaky attempt by this incompetent Premier to hold on to government.

**Question—That the motion of the member for Maitland be accorded priority—put.**

**The House divided.**

**Ayes, 48**

Mr Amery	Ms Gadiel	Ms Megarrity
Ms Andrews	Mr Gibson	Mr Morris
Mr Aquilina	Mr Greene	Mrs Paluzzano
Ms Beamer	Mr Harris	Mr Pearce
Mr Borger	Ms Hay	Mrs Perry
Mr Brown	Mr Hickey	Mr Sartor
Ms Burney	Ms Hornery	Mr Shearan
Ms Burton	Ms Judge	Mr Stewart
Mr Campbell	Ms Keneally	Ms Tebbutt
Mr Collier	Mr Khoshaba	Mr Terenzini
Mr Coombs	Mr Koperberg	Mr Tripodi
Mr Corrigan	Mr Lynch	Mr Whan
Mr Costa	Mr McBride	
Mr Daley	Dr McDonald	
Ms D'Amore	Ms McKay	<i>Tellers,</i>
Ms Firth	Mr McLeay	Mr Ashton
Mr Furolo	Ms McMahan	Mr Martin

**Noes, 38**

Mr Aplin	Mr Hartcher	Mr Richardson
Mr Baird	Mr Hazzard	Mr Roberts
Mr Baumann	Ms Hodgkinson	Mrs Skinner
Ms Berejikian	Mrs Hopwood	Mr Smith
Mr Besseling	Mr Humphries	Mr Souris
Mr Cansdell	Mr Kerr	Mr Stokes
Mr Constance	Mr Merton	Mr Stoner
Mr Debnam	Ms Moore	Mr R. W. Turner
Mr Dominello	Mr O'Dea	Mr J. D. Williams
Mrs Fardell	Mr O'Farrell	Mr R. C. Williams
Mr Fraser	Mr Page	<i>Tellers,</i>
Ms Goward	Mr Piper	Mr George
Mrs Hancock	Mr Provest	Mr Maguire

**Pairs**

Mr Lalich	Mr Piccoli
Mr West	Mr J. H. Turner

**Question resolved in the affirmative.**

**INFRASTRUCTURE INVESTMENT AND JOBS****Motion Accorded Priority**

**Mr FRANK TERENCEZINI** (Maitland) [3.53 p.m.]: I move:

That this House:

- (1) congratulates the Government on investing in jobs in local communities through the \$35 million Community Building Partnership;
- (2) notes that this will mean \$300,000 or \$400,000 injected directly into all electorates for building programs; and
- (3) calls on the Opposition to support this important local job-supporting measure by the Government.

Local members of Parliament are best placed to advocate for their local community's interests and needs. The New South Wales Government's \$35 million Community Building Partnership is aimed at supporting jobs in the tough times. This partnership is a big stimulus to the local economy and allows us to get on with building important local projects that support local jobs. The New South Wales Government is investing \$400,000 in my electorate of Maitland under the partnership, which was announced in the New South Wales budget. I am thrilled to hear that; it will be a great local initiative for my constituents and the constituents of other members in this House. This program is a direct investment in building the future of the local community and allows us to deliver projects the community wants. Under this partnership the New South Wales Government will contribute to the cost of building important community projects for community groups, not-for-profit organisations, non-government organisations and local councils.

For instance, under this partnership a community group that has started raising funds for the repair of a local hall roof will be able to apply for New South Wales Government funds to finish that project. To give members an idea of the types of projects we are talking about, there are upgrades to community halls, playgroup centres and senior citizens centres; charity facilities, art spaces and playgrounds; local environment initiatives like community gardens, cycleways and walkways; boat ramps, skate parks and footbridges; and community barbecue facilities, dog parks and swimming pools. This partnership will create job opportunities for local tradespeople in these tough economic times and will quickly deliver improved local facilities for communities. I will encourage all my community groups, whether they be sporting clubs or non-profit organisations, to make use of this facility and put in their applications as soon as possible—applications must be in by 10 August.

Community strength is visible in its community hall, local sporting facility, cycleway, pathway or bush trail that are in good condition for use by the public. Those grassroots facilities are for the community to enjoy. As members of Parliament, we know that the most important thing to each member of a local community is

what affects them in their everyday lives, whether that be their children attending a local sporting club and having the proper equipment or organising a function in the local hall—where the kitchen is up to scratch, the roof does not leak, and the steps and ramps are in good condition. These things mean everything to our local constituents because they use them regularly. This fantastic initiative will give every member of Parliament an involved say in where that money will go. But this initiative is more than that: it is a partnership. A community group or non-profit organisation that has raised money for projects that remain half finished or that cannot raise money to start a project can make use of this fund. It is a fantastic initiative.

I call on the Opposition to support the motion. I make no apologies for the motion congratulating the Government. This is a novel initiative and it is a true Labor initiative. It is a fantastic initiative we can use and benefit from. It provides an opportunity for us all to put forward what we want to achieve within our electorates. For example, in my suburb of Woodville money has been raised to repair the floor and the leaking roof in some community halls. In the scheme of the whole New South Wales economy that might not mean much to a journalist from the *Sydney Morning Herald* or the *Daily Telegraph*, but the people in my electorate in the suburbs of Woodville, Largs and East Maitland have children who use the local sporting facilities. This initiative means a lot to them. Year after year they put in many volunteer hours to make those facilities a reality. Now we have this golden opportunity to complete all the small community jobs that need to be done.

As the member for Maitland I am pleased to be blessed with so many community volunteers and workers but also to now have the opportunity to draw from a fund and catch up on all the jobs that have to be done. Every member of Parliament receives representations from community groups as part of their normal daily lives. Applications come through our electorate offices continuously from people who do great work in the community, and who want a bit of a fair go and a reward for all the work they have put into the local club, the local sporting club, the community school of arts, the organisation that helps disabled people, the association that provides respite care, the leukaemia fundraising committee, or the diabetes support group that wants a projector for guest speakers when they make presentations.

We will now be able to address all those requests. Every member of the House should be totally thrilled at the prospect of having the funds to be able to meet those needs. I expect every member of the House to support the motion. I would be disappointed if an amendment were moved for political purposes. I do not think this is an appropriate time for the Opposition to score political points. I urge the Opposition to show its support for the motion and this fantastic initiative.

**Mr Chris Hartcher:** Oh, yes, sure!

**Mr FRANK TERENCEZINI:** It would give the member for Terrigal a lot of credit if he once said, "This is a good idea and this is what I want done in my electorate." It would do his credibility a world of good. All I can think is that he is jealous that he did not come up with the initiative.

**Mr CHRIS HARTCHER** (Terrigal) [4.00 p.m.]: I move:

That the motion be amended by leaving out all words after "That" with a view to inserting instead:

this House:

- (1) notes the \$35 million Community Building Partnership announced in the 2009-10 Budget;
- (2) calls upon the Government to remove the requirement that councils contribute for schemes submitted by councils; and
- (3) notes that the completion date of the end of December 2010 for approved schemes is three months before the March 2011 State election.

The motion moved by the member for Maitland is all about pork-barrelling. All the schemes must be completed by December 2011 so that all Labor members can receive \$400,000 under the scheme and will be able to appear before the cameras when they turn the sod. These programs are shovel-ready, as Kevin Rudd likes to call it. They will probably be the only shovel-ready programs in New South Wales, given the extraordinary infrastructure decline under the current State Government. But there is more!

Some \$35 million is allocated to the scheme, but how much will be allocated for advertising the scheme with photographs of Mr Rees with local Labor members urging people to make submissions? I can see it all now: "Authorised by the NSW Government". There will be Mr Rees, urging people to come forward with their submissions, then there will be more conferences with Mr Rees and local members, and then there will be



Mr Rees announcing the winners, all to the roll of drums and much local excitement. There will be photographs of Mr Rees and local Labor members—endangered species, as most of them are—turning the sod. Then in 18 months time there will be Mr Rees and local Labor members cutting the ribbon. The photographs will be rolled through Labor's \$35 million bid to survive the tsunami that will hit its members on 26 March 2011.

It was appropriate that the member for Maitland moved the motion because he is one of the members for whom the tsunami looms. The waves are gathering out at sea now, and members of the Opposition are ticking off the days. The member for The Entrance will not be here then. The tsunami does not threaten the member for The Entrance because someone else who bears the McBride name may be bravely but vainly waving the flag on 25 March 2011, but then will be making a concession speech on 26 March 2011. There is much excitement at The Entrance. The beauty of the budget is finding what is in it for The Entrance. Where is the money for The Entrance? I struggled to find anything in the budget for The Entrance electorate. People will struggle to find anything in the budget for the Maitland electorate. People will struggle to find anything in the budget for electorate after electorate because nothing in the budget improves the lot of people who reside in Labor electorates in New South Wales.

Nothing in the budget increases employment opportunities, which is why we have a variation worth approximately \$400,000 supporting a pork-barrelling program. It is a desperate attempt to show people who have the misfortune to live in Labor-held electorates that the Labor Party will try to do something for them. The member for Maitland proposes to fix leaking roofs. If there is a leaking roof on a toilet block in a park, the member for Maitland will go out there with hammer and nails. If there is a photograph opportunity, he and Premier Nathan Rees will be there with hammer and nails while the rain is pouring down, and they will be photographed fixing the roof.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! The member for Maitland will come to order.

**Mr CHRIS HARTCHER:** It will be a first-class photograph opportunity, and it will be good practice for the member for Maitland as he prepares himself for high tide when the tsunami strikes on 26 March 2011. It will teach him to swim. The danger is always in the fine print. Under the scheme, councils that dare to submit a proposal will be required to contribute to the cost of the proposal. All councils are in desperate or dire financial straits. Their revenue scope is controlled by rate pegging, and they are required to develop 10-year plans that they do not have the money to fund. Now they are being told that if they want to submit applications, the Government will consider them, but the councils will have to pay for the proposal. That is the sting in the tail for councils. More importantly, there has been no mention of the advertising budget that the New South Wales Labor Party, in the guise of the New South Wales Government, will waste on trying to publicise the scheme that provides only \$35 million to look after projects in electorates.

There will be a huge advertising campaign and a huge amount of oomph to try to get the programs underway, but very little of the money will find its way to electorates. I would not be surprised if the advertising expenditure comes out of the \$35 million budget allocation. If the Government says it is providing approximately \$300,000 for a project, \$200,000 will be for the project and \$100,000 will be for advertising, cutting the ribbon and organising the morning tea. Who will be invited to the morning tea? Letters will be sent to everybody inviting them to come along. Grant McBride, the member for The Entrance, will be having a morning tea at the soccer park where he fixed the leaky roof of the toilet block. It will be a lovely morning tea for everybody after lots of letters have been sent out. That will be what Labor will do for the people.

After 15 years of Labor government in New South Wales, all that the member for Maitland can offer is that a few leaking roofs will be fixed. This is what happens when New South Wales Labor comes to government. This is what people get after 15 years of the most incompetent, inept and corrupt Government the State has seen since the Rum Corps.

**Ms ALISON MEGARRITY (Menai) [4.07 p.m.]:** I support the motion moved by the member for Maitland and I reject wholeheartedly the amendment moved by the member for Terrigal because the New South Wales budget will deliver many outcomes that are highly desired by the people of my electorate. There are a number of very big and exciting local projects that I will seek to discuss in detail in the House at another more appropriate opportunity. To cover everything, I would certainly require more time than has been allocated for my contribution to this debate.

My community will welcome the fiscal certainty and job generation provided by the budget in these very uncertain economic times. The swift response by credit agencies to endorse New South Wales with a

triple-A credit rating is in stark contrast to the tortured fairytale analogy that is the response offered by the Opposition. One would think that some things would be above a knee-jerk, politically motivated response that is intended to talk down this nation's premier State. Let us hope that today the Opposition will turn over a new leaf and support the motion relating to opportunities provided by the New South Wales Government's Community Building Partnership program, which was announced yesterday.

I expect that all members of this House, no matter what their party political allegiance, are well aware of any number of community groups, not-for-profit organisations, non-government organisations and local councils that have started raising funds for worthwhile projects, only to fall short of the total amount needed to see the project completed. It is great news that under this partnership program the New South Wales Government will be investing \$300,000 into the Menai electorate and into every other electoral district. Even more funding will be allocated in areas with higher unemployment levels.

This level of investment will provide a stimulus to our local economy and support local jobs. It will also help deliver new and improved facilities to be used by our communities. I am sure all members are familiar with the practical and grassroots success of the Sport and Recreation capital assistance program; the Government provides up to 50 per cent of the net project cost to ensure that sporting upgrades can go ahead. One recent example in my electorate is the Aquinas and Holy Family Colts Junior Rugby League Football Club, which received \$30,000 from the New South Wales Government for new spectator seating at Blaxland Oval. It is a great model for what can be achieved in this community partnership program.

This tiered concrete platform with permanent seating for approximately 220 people will be not only used by the Aquinas and Holy Family Colts Junior Rugby League Football Club; it will also assist Menai touch football players who use the oval in the evenings, the daily sporting activities of Menai High School and local primary school students, and the annual sporting carnivals in the area. Imagine what the community partnership program, worth \$35 million, can achieve across the State! All of our electorates have wonderful and hardworking community groups. One difficulty they sometimes face is finding the right grants program with which they can comply. I encourage everyone to apply for this program, and I will wholeheartedly support their applications.

**Mr RUSSELL TURNER** (Orange) [4.10 p.m.]: In speaking on this important matter, I support the amendment because of the concerns I have. The member for Maitland should understand that the Government has put a squeeze on local government. The condition that councils must contribute 50 per cent of the funding is most unfair. If the Government was fair dinkum it would contribute all of the money. Many local government areas will not be able to afford to support the program. Many of them have crumbling roads in their areas. They do not have \$300,000 or \$400,000 to match the Government funds. The partnership sounds good on the surface. I have already discussed the program with Orange City Council; it may apply for funding for a couple of projects. What about small councils out west and other councils that cannot afford to provide funding? It has been acknowledged in the media that about 26 councils in New South Wales are in dire financial straits and may collapse.

**Ms Marie Andrews:** Point of order: The member for Orange is leading the House astray. The funding has been made available not only for councils but also for charitable organisations and not-for-profit groups.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! There is no point of order.

**Mr RUSSELL TURNER:** That may be the case, but I am sure that most applications will come through local government. The Government will embarrass local councils into accepting applications from charities, sporting groups and other organisations, although many councils will not be able to provide funding. The Government will make it difficult for councils to knock back applications from local sporting groups, churches or charities.

**Mr Frank Terenzini:** You've got it wrong.

**Mr RUSSELL TURNER:** Time will tell whether I have got it wrong, but that is the concern I have. The program sounds great on the surface. However, if the Government is adamant about proceeding with the program, is adamant that the budget is balanced and it has money to spend, it should give that money to the general public without imposing a condition that local government and others must contribute as well. The Government will take all the credit. As the member for Terrigal said, Government members will be out there

with their shovels and hold morning teas and take all the credit. If the Government provided all of the funding we would give it credit for doing so. It should not make councils and other groups responsible for contributing as well.

**Mr GRANT McBRIDE** (The Entrance) [4.13 p.m.]: The Rees 2009 budget is a true Labor budget. It reflects the true values of the Labor Party. The Labor Party is dedicated to increasing the wealth and quality of life of working men and women and their families while maintaining the financial integrity of this State. When faced with the worst global economic crisis in 75 years, the Rees Government has made the welfare of our community its first priority. The Rees Government is about building infrastructure, creating new jobs and supporting existing jobs. The community building partnership program is one of many examples in the Rees 2009 budget that tackles these objectives. The Government is investing some \$400,000 in The Entrance electorate under the partnership announced in the budget. The partnership is a big stimulus to the local economy and allows us to get on with building important local projects which support local jobs. This program is a direct investment in building the future of the local community and allows us to deliver projects the community wants.

The New South Wales Government will contribute to the cost of building important community projects. The program is open to community groups, not-for-profit organisations, non-government organisations and local councils. Local projects that could be eligible for funding include upgrades to community halls, play group centres, senior citizens centres, charity facilities, art spaces and playgrounds. For example, the Saltwater Creek playground at Long Jetty is a fantastic investment driven by the local community, with funds raised by the local community. Also, funding was provided by the State Government, local government and other non-government organisations to cover the total cost of that project. That is an example of what can be done with this money. The member for Orange used the lame argument that the program is available only to local government and that local councils must contribute 50 per cent of the funding. Members should remember that sports capital works grants have been provided in the same format for as long as I have been a member of Parliament.

Indeed, not once has the Opposition complained that a contribution of 50 per cent of the funding is required, be it from a sports organisation or any other organisation. Although this is a much better deal for the community, the Opposition is opposing it. Members opposite are complaining about a more thoughtful, considered approach to distributing these funds. They are simply talking down a good proposal. I say this to members opposite: If you do not want that money for your community, the Central Coast will take it. If the member for Terrigal does not want his money in Gosford, send it to the Wyong council area and we will spend that money. In November last year the Federal Government made a similar arrangement with local councils, which required a contribution of 50 per cent of funding. Wyong on the Central Coast received \$250,000 and council jumped over hurdles to get that money, as will councils in the electorates of members opposite.

**Mr FRANK TERENCEZINI** (Maitland) [4.16 p.m.], in reply: I thank the member for Orange, the member for The Entrance and the member for Menai for their contributions to this debate. What a dismal performance by the member for Terrigal! Talk about a bygone era and the deadwood of the Liberal Party. The member for Terrigal, an experienced member of Parliament, made a joke about a leaking roof and mocked community groups and volunteers in all of our electorates. What kind of imbecilic nature of this man possessed him to make a joke about people in our electorates who put in hours of volunteer work to fix the very things, such as leaking roofs, that he joked about? He mocked the very thing that keeps our community together.

**Mr Daryl Maguire:** Point of order: The member for Maitland is misleading the House. The member for Terrigal did not mock communities; he mocked the member for Maitland.

**ACTING-SPEAKER (Ms Diane Beamer):** Order! There is no point of order. The member for Maitland has the call.

**Mr FRANK TERENCEZINI:** I specifically remember the member for Terrigal saying that all I could offer was the repair of a leaking roof, which is exactly what this fund offers. How many important community groups in the Wagga Wagga electorate would make use of this money? Does the member for Wagga Wagga want to give the money back? If so, he can send it to Maitland. I could use the money in my electorate. Will the member for Wagga Wagga knock back the funding? Once again members opposite have made this discussion political. They would not say this is a great idea and they could use the money. The member for Orange gave it away when he said, "On the surface it is great, fantastic."

Local councils are not obliged to do anything. They can make an application like anybody else and if they have a project they want to contribute to, like sports grounds, they can do it. The Opposition should read

the policy initiative. The Opposition should not go off half-cocked as usual and say, "Yes, this is okay", but then make political points. Let us make this interesting. Let us get the deadwood out of the Liberal Party. Let us get some talent from the back bench coming to the front bench putting forward some new ideas. In my time in this House I have always heard the same old thing, the same old cheap and nasty political comments. The tired old members of the Liberal Party always say the same old things. The member for Terrigal, an experienced member of Parliament, has made allegations of corruption and said wild and wonderful things, which is a disgrace for an experienced member of Parliament. Liberal members talk about a vision—what a blurry vision it is!

**Question—That the words stand—put.**

**The House divided.**

**Ayes, 52**

Mr Amery	Mr Furolo	Ms Megarrity
Ms Andrews	Ms Gadiel	Ms Moore
Mr Aquilina	Mr Gibson	Mr Morris
Ms Beamer	Mr Greene	Mrs Paluzzano
Mr Besseling	Mr Harris	Mr Pearce
Mr Borger	Ms Hay	Mrs Perry
Mr Brown	Mr Hickey	Mr Piper
Ms Burney	Ms Hornery	Mr Sartor
Ms Burton	Ms Judge	Mr Shearan
Mr Campbell	Ms Keneally	Mr Stewart
Mr Collier	Mr Khoshaba	Ms Tebbutt
Mr Coombs	Mr Koperberg	Mr Terenzini
Mr Corrigan	Mr Lynch	Mr Tripodi
Mr Costa	Mr McBride	Mr Whan
Mr Daley	Dr McDonald	
Ms D'Amore	Ms McKay	<i>Tellers,</i>
Mrs Fardell	Mr McLeay	Mr Ashton
Ms Firth	Ms McMahan	Mr Martin

**Noes, 34**

Mr Aplin	Mr Hazzard	Mr Smith
Mr Baird	Ms Hodgkinson	Mr Souris
Mr Baumann	Mrs Hopwood	Mr Stokes
Ms Berejiklian	Mr Humphries	Mr Stoner
Mr Cansdell	Mr Kerr	Mr J. H. Turner
Mr Constance	Mr Merton	Mr R. W. Turner
Mr Debnam	Mr O'Dea	Mr J. D. Williams
Mr Dominello	Mr Page	Mr R. C. Williams
Mr Fraser	Mr Provest	
Ms Goward	Mr Richardson	<i>Tellers,</i>
Mrs Hancock	Mr Roberts	Mr George
Mr Hartcher	Mrs Skinner	Mr Maguire

**Pairs**

Mr Lulich	Mr O'Farrell
Mr West	Mr Piccoli

**Question resolved in the affirmative.**

**Amendment negatived.**

**Motion agreed to.**

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

**Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [4.29 p.m.]: I move:

That standing and sessional orders be suspended at this sitting to:

- (1) not call on private members' statements;
- (2) vary the routine of business, after the completion of the motion accorded priority, to provide for the consideration of:
  - (a) Government business; and
  - (b) the matter of public importance; and
- (3) permit the House to adjourn on motion.

I have moved this motion reluctantly, as I have done on every occasion. However, Government legislation needs to be given priority and needs to be debated over the next day or so. Tomorrow the House has very little time for Government business, as members would be aware. Tomorrow the Leader of the Opposition and the Leader of The Nationals will respond to the budget. The alternative—dealing with Government business tomorrow—would require us to interfere with the general business, notices of motions and orders of the day, not being bills, the motion accorded priority and so on. The Government is reluctant to take time away from the Opposition in relation to these matters. I admit that if this motion is passed the House will not consider private members' statements this afternoon. However, I guarantee that on Friday the House will have the opportunity to debate the private members' statements it will miss this afternoon in addition to the private members' statements it would ordinarily debate on Friday. The Government would be very happy to provide extra time for private members' statements on Friday. However, today the Government needs to deal with Government business and get it out of the way.

There has been a considerable amount of negotiation between the Government and the Opposition in relation to various matters of Government business, which has delayed some matters being brought into this Chamber. However, it is now timely and appropriate to bring this business forward because the Government and Opposition have agreed to agree or to disagree on various matters. The only way to resolve those matters is in this Chamber, and we can only do it by way of proper parliamentary debate today. I have moved my motion reluctantly; we managed to get through a great deal of business last night and I had hoped I would not have to move such a motion today. I thank all members for their cooperation last night. Unfortunately, the situation has arisen and the Government needs to deal with legislation today rather than disrupt the routine of business tomorrow as far as private members business and general notices of motions are concerned.

**Mr BRAD HAZZARD** (Wakehurst) [4.32 p.m.]: Well, haven't we heard this before? We have heard this for 15 years. Every time we get towards the end of a session the same Labor Government is utterly incompetent and utterly incapable of managing its business. It does not matter which incarnation of Premier we have—it is the same level of incompetence.

**Mr Gerard Martin:** You cannot use props!

**Mr BRAD HAZZARD:** There are a whole lot of props on the Government benches: all dummies—left, right and centre. I am going to quote from today's *Daily Telegraph*. Mr Speaker, I am not going to use the photos. I do not need the one that looks like Reba Meagher—she has gone, so I will not worry about that.

**The SPEAKER:** Order! The House will come to order.

**Mr BRAD HAZZARD:** Today's *Daily Telegraph* talks about the contrast between Sydney and Melbourne. On the front page of today's *Daily Telegraph* there is a story about gangs, hit jobs and criminal actions—that is the story about Sydney; that is the story about this Government and its incapacity to manage New South Wales; that is the story about the factions. The Government simply cannot manage this State. The Opposition is ready to debate any legislation that will be for the betterment of the people of New South Wales. However, we recognise that Opposition members have the right to raise various important issues on behalf of their constituents. Whether they are members of the crossbench, members of The Nationals or members of the Liberal Party, they have the right—by the arrangement that the Government established—to come into this

place and raise those issues on behalf of their constituents. So it is quite unacceptable for the Government to announce that it is going to arbitrarily cease the arrangements and kill private members' statements this afternoon.

As we have seen in today's *Daily Telegraph*, what did the Government call the budget? It called it a beacon of hope. Well, I say it is a budget from a dope! He is still here: Nathan Rees, the Darth Vader of the New South Wales Parliament. We have a Premier who has failed his members. Today the *Illawarra Mercury* noted that the Illawarra has received less than 2 per cent of the State budget. It goes on to state that the people of the Illawarra are fed up with the lack of interest from this Government.

**The SPEAKER:** Order! I call the member for Bathurst to order.

**Mr BRAD HAZZARD:** We have members of Parliament for the Hunter saying that they are not getting enough. Quite simply, if they are not getting their share of the resources of this State it is because the resources are not being managed.

**Ms Kristina Keneally:** Point of order: If we are going to quote from the *Daily Telegraph*, what about what it said yesterday? It said, "The Harbour City has been voted tops for its cleanliness, aesthetic qualities"—

**The SPEAKER:** Order! The Minister for Planning will resume her seat. I call the Minister for Planning to order. The member for Wakehurst will continue his speech in a calm fashion.

**Mr BRAD HAZZARD:** Quite simply, is that the best we have? Frank Sartor wants the job, Kristina Keneally wants the job, and Nathan Rees knows he will not have the job for much longer—it is just a question of who will get it. But Kristina, on that performance, you have not got a hope—so forget it! The bottom line is the Government delivered a fantasyland budget. Members on this side would like the opportunity to raise their concerns as members of Parliament about this failed budget—the budget from a dope. Tonight they want to stand up and talk about their electorates. As private members they want to say just what the member for Cessnock wants to be able to say, what he has said quite regularly, and that is that this is a useless Government. Last night the member for Blacktown said there does not seem to be much money for Blacktown hospital. Every Government member would like to join the Coalition and say that this is an atrocious Government. The Opposition wants to see the House run by the rules. We want to see the State run by the rules. We want to see fairness and justice. We will not support this hillbilly motion.

**Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [4.36 p.m.], in reply: Despite the member for Wakehurst speaking for five minutes, ably assisted and extended by the point of order of the Minister for Planning, there was only one matter of substance that I could discern in his argument, and that was in relation to the claim that private members' rights will be done away with because we are not going to have private members' statements this afternoon. I addressed this issue when I moved the motion and I will reinforce it: The private members' statements that are taken away today as a result of this motion will be added to the private members' statements on Friday. There will not be any loss of private members' statements for the week. They will not be abolished; they will just be deferred until Friday.

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

**Motion agreed to.**

## **BUSINESS OF THE HOUSE**

### **Suspension of Standing and Sessional Orders: Appropriation Bill 2009 and Cognate Bills**

**Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [4.37 p.m.]: I move:

That on Thursday 18 June 2009 standing and sessional orders be suspended to permit:

- (1) following the speeches of the Leader of the Opposition and the Leader of The Nationals on the Appropriation Bill and cognate bills, the passage of the bills through all remaining stages, with the question "That these bills be agreed to in principle" being put forthwith, without consideration in detail of the bills;
- (2) a member, immediately following the passage of the Appropriation Bill and cognate bills, to move the motion "That this House take note of the Budget Estimates and related papers for 2009-2010"; and

- (3) after the member has moved "That this House take note of the Budget Estimates and related papers for 2009-2010", the debate is to be adjourned without motion moved, and the resumption of the debate set down as an order of the day for a later time.

I move this motion, as I have done in previous years, so the House can pass the budget bills and get on with the process of providing the finance for the State. However, this process will allow members appropriate time in which to take note of the budget. Government and Opposition members will be able to emphasise the issues relating to the budget in an orderly manner. We need to get on with the process of providing the finances for the State but we also understand that we need to give members of Parliament the opportunity to be able to address issues related to the budget and raised in the budget. It is for this reason that I have moved this motion. No-one's rights will be infringed in any way. Everyone will have as much opportunity to speak on the budget as they want.

**Mr BRAD HAZZARD** (Wakehurst) [4.40 p.m.]: I am not going to say anything other than to remind the House, particularly members on the Labor side who are fairly new in many cases, that when the Coalition Government was in office there was a full opportunity—

*[Interruption]*

The member for Heffron was still in kindergarten. Just settle down.

*[Interruption]*

You should have been in kindergarten. You failed kindergarten.

**The SPEAKER:** Order! The member for Wakehurst will come to order.

**Mr BRAD HAZZARD:** When the Opposition was in Government there was a full opportunity for all members to speak on the budget and for the estimates to proceed in an orderly fashion, and that is what should happen. Having said that, I point out that Government members will only be on that side for another 20-odd months.

**The SPEAKER:** Order! The House will come to order, including the Minister for Planning.

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

**Motion agreed to.**

#### **GOVERNMENT INFORMATION (PUBLIC ACCESS) BILL 2009**

#### **GOVERNMENT INFORMATION (INFORMATION COMMISSIONER) BILL 2009**

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

**Bills introduced on motion by Mr Nathan Rees.**

#### **Agreement in Principle**

**Mr NATHAN REES** (Toongabbie—Premier, and Minister for the Arts) [4.42 p.m.]: I move:

That these bills be now agreed to in principle.

It is my privilege to introduce the Government Information (Public Access) Bill, the Government Information (Information Commissioner) Bill and the Government Information (Public Access) (Consequential Amendments and Repeal) Bill, legislation that will vastly improve the transparency and integrity of Government in New South Wales. In October 2008, I addressed this House on the issue of the transparency and accountability of Government and made clear my view that the old culture of Government secrecy has to end and that the public's right to know should be respected. Members of the public should be able to have access to the widest possible range of information to give them confidence in Government decision making. And that

means a total revamp of the system. I gave a commitment that I would introduce new legislation to reform freedom of information [FOI] in the first half of this year, once the outcomes of the Ombudsman's review of the Act were known. And today we are delivering on that commitment.

These bills together represent the first comprehensive overhaul of the freedom of information regime in 20 years. These bills do just what we undertook to do. They turn the freedom of information regime on its head. The bills establish a framework to actively promote the release of Government information and they offer the opportunity for a fresh start. The new legislation shifts the focus toward proactive disclosure. The legislation requires that certain "open access information" must be published. This includes details of an agency's structure and functions, its policy documents, and its register of significant private sector contracts. In addition, agencies are authorised to release other information unless it is sensitive personal information or there is some other overriding public interest reason why it cannot be disclosed. There is a significant amount of information that can and should be released without the need for a formal application.

The Government Information (Information Commissioner) Bill creates a new, independent champion of open Government. The Information Commissioner will have robust investigative powers, including the inquiry powers of a royal commission. The Information Commissioner's roles will include: reviewing decisions of agencies in relation to access applications; receiving and investigating complaints about agencies in relation to their information disclosure obligations; promoting open Government, and promoting public awareness and understanding of the legislation; providing information, advice, assistance and training to agencies and the public; and reporting and recommending proposals for future legislative and administrative changes to further the object of open Government.

The Information Commissioner will be a fully independent office. The commissioner will report directly to Parliament and will be subject to oversight by a joint parliamentary committee. Appointments will be subject to veto by a joint parliamentary committee. The commissioner will only be eligible to be reappointed once. The Commissioner will only be able to be removed from office following a resolution of both Houses of Parliament. The Ombudsman recommended that the Information Commissioner be established in his office. The Government has decided instead to establish the new commissioner as a separate Government agency. Although there may be some marginal cost savings associated with the Ombudsman's proposal, the Government considers that these reforms are too important to be driven by cost considerations alone. Establishing a new independent office will give greater prominence and emphasis to the role of the commissioner. It will also give the commissioner greater scope to act as a true champion of open Government.

I note that the establishment of a separate Office of Information Commissioner has the strong support of the New South Wales Law Reform Commission, the Privacy Commissioner and the New South Wales Law Society. Importantly, the commissioner's office will be adequately resourced to ensure that it can deliver on these functions. A final budget for the Information Commissioner will be developed once the Information Commissioner is appointed. Given the independence of the office, it is important that the commissioner be involved in planning decisions around the structure and staffing. I can however advise the House today that the Government has provided a level of funding to ensure the Information Commissioner can operate effectively. The Information Commissioner will receive at least \$3 million for 2009-2010 and \$4 million a year thereafter, a guaranteed minimum commitment. This is well in excess of the current funding for FOI functions performed by the Ombudsman, estimated to be less than \$500,000.

This new funding commitment therefore represents a significant increase. It recognises that the new Information Commissioner's role is to extend far beyond mere complaints handling, underlining the Government's commitment to genuine reform in this area. As well as the focus on proactive disclosure, the bills enhance the rights of the public to apply for particular information under formal application processes. The new legislation makes clear that an agency should release the requested information unless there is an overriding public interest against disclosure. This is supported by an explicit presumption in favour of disclosure. Of course, the legislation recognises that the public interest in favour of disclosure may, in some cases, be outweighed by particular public interest considerations against disclosure.

The bills continue to ensure that the confidentiality required in respect of Cabinet information, law enforcement and safety information, sensitive commercial information and private information will be adequately protected. The new legislation specifies some information for which it is conclusively presumed that there is an overriding public interest against disclosure. Apart from these prescribed cases, agencies will be required to apply a public interest test on a case-by-case basis. The requirement to apply a public interest test applies even in respect of information that is prohibited from release under some other Act.



Currently, there are secrecy provisions in over 100 different Acts. Under the current Freedom of Information Act, if a document is subject to one of these secrecy provisions then it is automatically exempt. Under the new legislation, there is a list of around 20 secrecy provisions, which conclusively establish an overriding public interest against disclosure. These include the obvious things such as details of witnesses under witness protection legislation, the identity of jurors, details on the child protection offenders register and so on. However, information that is subject to any other secrecy provision will now need to be subject to the public interest test on a case-by-case basis. The fact that a secrecy provision applies will be a relevant consideration but it will no longer of itself be conclusive. If the agency decides that the information can be released the Government Information (Public Access) Bill will override all other legislation and ensure that the information can be released under the protection of the law.

The new Act makes it clear that decisions by agencies are to be made independently of political considerations. Among other things, the legislation expressly prohibits decision makers from taking into account any possible embarrassment to the Government that might arise if information is released. And for the first time, the legislation also makes clear that public servants are not subject to ministerial direction and control in dealing with an application to access government information. The new legislation also creates offences for public officials who deliberately make decisions they know to be in contravention of the legislation. It will also be an offence to destroy, conceal or alter a record in order to prevent the disclosure of government information. And it will be an offence for any person knowingly to direct or influence a public official to make an unlawful decision—a landmark change to public policy. The new legislation will not increase fees or charges.

Responding to freedom of information applications is costly for Government, as the fees currently levied go nowhere near recovering the full cost. The Ombudsman recommended that applicants continue to be required to make at least some contribution to those actual costs incurred by agencies in dealing with applications. However, in the spirit of these new bills, the Government will not increase freedom of information application fees and the current discounts for those on low incomes will continue to apply. The fees and charges under the current Freedom of Information Act have not increased for 20 years, and they are not about to increase now.

In fact, the new bill expressly prescribes the fees and charges in the legislation itself. This means that no future government can increase those fees and charges without the approval of Parliament. The new legislation implements the Ombudsman's recommendations to provide short and realistic turnaround times for freedom of information applications, namely, that the time frames for dealing with access applications should be 20 working days for an application and 15 working days for an internal review. There is also clear guidance to agencies and applicants as to when time periods can be suspended or extended, including allowing for extension with the agreement of the applicant. All extensions will be required to be notified formally to the applicant. The legislation provides that the failure of an agency to decide an application within the required time frame will be taken to be a refusal which will, in turn, trigger the applicant's review rights. The applicant will also be entitled to a full refund of the application fee and any advance deposit already paid.

It is currently the case that around two-thirds of all applications for information under the Freedom of Information Act concern personal information. Various government agencies routinely collect and hold private information about individuals such as medical records and vehicle registration details. The public's right to know and the public's right to privacy are complex and intimately related. The intersection between them is a delicate balance. The New South Wales Law Reform Commission is currently involved in a comprehensive review of existing privacy statutes. The Attorney General recently asked the commission to extend its work to consider explicitly how privacy laws interact with public access laws. The outcome of this work will inevitably lead to further reforms in this area. However, the Government does not consider that these reforms to freedom of information should be delayed while the Law Reform Commission continues to do its work.

There is a general consensus that the Freedom of Information Act is broken and needs to be fixed. I agree. The new legislation will therefore put in place a framework based around the principles of proactive disclosure, a presumption in favour of public interest disclosure, and oversight by an independent champion of open government in the form of a new Information Commissioner. Just as importantly, the new legislation ensures that—pending future reforms to privacy legislation—the right of an individual's privacy will continue to be protected. New South Wales already has an independent Privacy Commissioner to monitor and promote issues concerning personal and information privacy. The current commissioner, the Hon. Ken Taylor, has done an excellent job working with government departments to ensure that they adequately protect the private information they hold. The Government is committed to the maintenance of that role.

As part of the future reform of privacy legislation, the Government intends to bring the Privacy Commissioner and the Information Commissioner together within a single office. The two roles will remain functionally independent within a combined office. It makes sense to have a single body overseeing both the key issues relating to government information—privacy and public access. The Law Reform Commission has already signalled its support for bringing privacy and information access functions together within the same office. It was also something that was flagged by the Ombudsman in his report. Both Queensland and the Commonwealth are also proposing a similar approach. The precise details of the merger will be developed once the Law Reform Commission has finalised its review and made its formal recommendations.

Landmark legislation like the bills I am introducing today cannot occur without extensive consideration and discussion. The Ombudsman's report, which was received in February, has been carefully considered. In preparing that report, the Ombudsman undertook a thorough public consultation process. The Ombudsman's recommendations have taken on the views of many individuals and organisations. The Government has also undertaken a further public consultation process in developing these bills via draft exposure bills, which I tabled on 6 May earlier this year. The Government received over 50 submissions in response, and the overwhelming majority of them supported the general direction of the proposed reforms. We have carefully considered the submissions in drafting the legislation, and changes have been made to the exposure draft bills where appropriate.

One change is that we are going to fix the complex overlap of disclosure provisions applying to local councils. This was recommended by the Ombudsman and has been supported in the submissions. Under the new legislation, all applications for council information will be brought under the umbrella of the new legislation. In so doing, we will minimise any reduction in the availability of information, or any increase in costs. We have also listened to submissions and included new provisions in the bills relating to information held by private sector bodies that perform functions under contract for government agencies.

The bills provide that agencies that engage private sector contractors to provide public services on their behalf must ensure that they, and therefore the public, have a right to access relevant information about the delivery of those services. In addition, the bills provide that public sector bodies who perform what may be described as government functions can be declared to be agencies in their own right. This approach has already been applied in respect to private managers of correctional facilities, who have been brought within the scope of the Freedom of Information Act. As well as listening to the Ombudsman and stakeholders in New South Wales, we also considered the reforms that are being proposed in Queensland and the Commonwealth. These are historic reforms, and we want to get them right.

These bills constitute a fundamental freedom of information revolution. With these bills New South Wales will gain the nation's best freedom of information laws. The public's right to know must come first. As well as comprehensively responding to the Ombudsman's report, they pick up reforms arising from the Solomon review in Queensland and recently proposed changes to Commonwealth legislation. The bills mark a paradigm shift. Our public sector must embrace openness and transparency and governments must forever relinquish their habitual instinct to control information. This is generational change and reform that is long overdue. I commend these bills to the House and to the people whose interests they will so effectively serve.

**Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.**

## **NSW LOTTERIES (AUTHORISED TRANSACTION) BILL 2009**

### **Agreement in Principle**

**Debate resumed from 3 June 2009.**

**Mr GEORGE SOURIS** (Upper Hunter) [4.58 p.m.]: I have the privilege of leading on behalf of the Liberal-Nationals Coalition in debate on the NSW Lotteries (Authorised Transaction) Bill 2009. I state at the outset that the Opposition will be opposing this bill. I will highlight a number of items now and I will then speak to them in a little more depth. I refer, in particular, to legislation that the Government is producing, which does not reflect a level of protection for small businesses, most of which are family-owned small businesses and many of which are newsagents, small family-owned supermarkets, pharmacies, and those sorts of businesses that as agents carry the products in which NSW Lotteries deals. The protection to which I refer relates not only to small business proprietors and their level of self-employment but also to employees of those small businesses.

Whilst the bill carries a level of protection for the employees of NSW Lotteries, which the Opposition supports, it does not carry any level of protection for the employees and proprietors of the small businesses that interface with the public for these products. That is the predominant issue the Opposition has with the bill.

Of course, the other matter is simply the question of timing and expected proceeds. I shall return to that in due course. The sale of NSW Lotteries was a Coalition policy in the lead-up to the 2007 election. The intention of that policy was to offer a level of protection for small businesses. The media release of the then Leader of the Opposition, Peter Debnam, on 11 December 2006 stated that the Opposition intended to consult widely on the process of the sale and the attached licensing conditions and that the return to punters would be protected, as would the newsagents who sell most of the lottery tickets. Lotteries would continue to pay annual lottery duties et cetera. Beyond that point there are elements of similarity with this bill. Obviously, newsagents form the backbone of the agency business of NSW Lotteries, but they are by no means the only type of business agent of NSW Lotteries.

The Opposition adheres to its policy as a matter of principle. In other words, the Opposition does not oppose the sale of NSW Lotteries in principle and has no philosophical objection to the sale. NSW Lotteries is not a monopoly utility, such as water, electricity or rail. I believe that NSW Lotteries does not have particular social obligations that a private sector operator is not willing to undertake. That is best explained by reference to workers compensation insurance, which at one time nobody in the private sector was willing to provide. As that protection was regarded as a social obligation, the government of the day created the Government Insurance Office to provide a class of workers compensation insurance. However, as the years passed, the GIO found that it was not the only provider of that type of insurance, but it operated in an open competitive environment in which other companies offered rival products. Essentially, GIO had outlived its original social obligation.

NSW Lotteries does not have an ongoing need to perform functions otherwise known as social obligations. As I said, the Opposition has no philosophical objection to the privatisation of NSW Lotteries. Of course, the Opposition objects considerably, first, to the lack of protection to small business agents and, second, to the impossible timing that this Government has embarked on. In 2006, in a very different credit and economic environment worldwide, NSW Lotteries was conservatively estimated to be valued in the order of \$800 million, a proposition that was accepted widely. It comes as quite a surprise that the Government is not prepared to debate with the many commentators, mostly in the media, who have noted that NSW Lotteries is now worth between \$500 million and \$600 million. That lower value reflects the current severe economic conditions that the Premier and Treasurer, as well as media commentators and economic analysts, have predicted—on a number of occasions in the past 24 hours—will ease over the next 12 months. Clearly, now is not the best time to offer this product in the marketplace.

Generally speaking, credit is very tight and not readily available, but the financial marketplace is being provided with a strong supply of product. Financial institutions such as Lehman Brothers and Babcock and Brown are divesting themselves of assets by placing them on the market. It is not the best time for a government to place on the market additional product that would require finance, credit availability, potential bidders and so on. The Government's panic in placing this product on the market will cost New South Wales taxpayers conservatively \$200 million—perhaps \$300 million—in lost profits or opportunity. The Government's panic intensified recently when it had to endure the humiliation of backing down on other proposals, such as privatising prisons. I offer no comment on whether prisons should be privatised, but merely state that the Government has latched on to privatisation almost as a panacea to solve its budgetary mismanagement over the past decade or, more likely, 15 years. The Government's panic has propelled it into what can only be described as a desperate move to place this State asset on the market and take the money.

The Government has said it will place the proceeds of the sale into consolidated revenue to help fund the many programs that are normally funded from that source. That is not asset reinvestment, it does not provide infrastructure, and it does not quarantine or hypothecate the sale proceeds in any way. It simply places the proceeds into general consolidated revenue, where they will be subject to the traditional process of budget bidding. No doubt in subsequent years these capital proceeds will become recurrent expenditure. In other words, the Government is going to sell the farm to pay operating costs. We have seen the way the budget has operated in the past few years. The predicted budget outcome bears almost no resemblance to actual operations that transpire subsequently. Two years ago the budget surplus was predicted at \$290 million; that turned into a significant deficit.

Last year, an even larger budget surplus was predicted, but in the next few weeks that will become a deficit. This year a budget deficit is predicted, and one can only imagine what the deficit will blow out to be in

the next 12 months. The reality is that there have been three straight budget deficits, two of which began well before Labor's grand excuse of the world economic recession and the global financial crisis causing the budget malaise was invented. The impending deficit is a result of the gross fiscal mismanagement by the Government over the past three years—well before the economic recession commenced. That is ample demonstration of the ineptitude and mismanagement of the budget, budgetary processes and the fiscal resources of the State by the Government. The money that belongs to the people of New South Wales has been completely and utterly mismanaged.

It is a matter of particular pain for members of the Coalition to know that in less than 20 months time they will inherit a financial disaster. I am reminded of exactly the disaster that was inherited from the profligate Wran and Unsworth years that led to the profligate years of Carr, Iemma, Rees and X. Undoubtedly the Opposition will encounter a financial disaster when the time comes for a change of government at the March 2011 election. That leads me to address the particular predicament of small business. It is a matter of disappointment to me that the Government has decided not to take into consideration the position in which small businesses throughout the State will find themselves.

Many hundreds of family-owned small businesses act as agents for the products of New South Wales Lotteries, and in many respects it is small business that is the backbone of NSW Lotteries. The lifeblood of NSW Lotteries is not the head office but, rather, the interface provided by a small business in every country town, every metropolitan suburban area and in every provincial urban area. In every community, there is a small business that to some extent, and in some cases to some considerable extent, depends on the turnover provided through lottery products and the flowthrough of customers that are attracted by those products and from whom carry-on sales may eventuate.

It is conservatively estimated that approximately 16 per cent of newsagents' turnover is from lottery products, but other members who also will contribute to this debate will cite higher percentages that they have derived from actual examples. It should not surprise anybody that the lottery line of business is crucial to the continuation of small businesses and their ability to employ at least one person. An average size small business depends on commissions and flow-on business derived from NSW Lotteries products to be able to afford to employ one staff member.

There has been conjecture about the type of protection that ought to be afforded to small businesses. While a few of the recently negotiated licences belonging to agents have most of their licence period yet to run—periods of three years or longer—it is equally true that some agencies have only a very short period for their licence to run. Agencies whose licences are about to expire are being left without any form of protection or guaranteed continuation of their agency beyond the cold hard conclusion of the current licence, and that may occur in only a few years. A short period of licence will not be enough to enable agencies to survive. The Coalition believes that the licence period should be 10 years. At the beginning of a five-year licence period there should at least be an option of renewal by issuing another five-year licence. The easiest example I can cite is a licence that begins today, day one, and is renewable after five years for a further period of five years, making a licence period of 10 years altogether. For licences that expire today, a renewal licence period of five years would create a guaranteed minimum of five years continuous business.

What is it that small business agents are worried about? They are worried about rationalisation and that rival agencies could begin to appear in new outlets. Existing agencies in hotels and clubs are commonplace, but rival agencies may commence operations in shopping centres or major supermarket chains. That is the view that small business people have, and those fears certainly strike a chord among members of the Liberal Party and The Nationals, particularly those who have small business agents operating in their electorates. I presume that would pretty well be every member of the House. Agents' fears of being overridden have very much dictated the Opposition's thinking on protection for small businesses.

In 1996 when a Labor Government privatised the TAB, we know that \$1 billion was taken from mums and dads in the share float. But in the subsequent period, the Government made no effort to protect the exclusive franchises when the time arrived for renewal. There may well be very little value left in those businesses because the Government has not protected the exclusivity that was part of the franchise in the beginning. We have all witnessed the general demise of TAB agencies in every town. TAB shopfront agencies that operated and employed people right throughout the State subsequently disappeared at a very fast rate, and the agencies more or less transferred to licensed premises, such as hotels and clubs. That may or may not be a good thing—it is a different issue from the one we are debating—but what was highly observable was the demise of shopfront agency businesses throughout the State. The Opposition does not want that to be repeated.

The Opposition does not want privatisation to result in the loss of shopfront retail outlets that presently underpin small businesses, because they form a vital part of our community. The Opposition does not want to see those businesses disappear completely into licensed premises because that would be an altogether bad approach as well as a bad outcome from this legislation. For all the reasons I have stated, I reiterate the importance of the Government considering the need for protection of small businesses. If the Government is prepared to consider that and amend the legislation appropriately to provide legislative protection for small businesses for a decent period, the objection that the Liberal Party and The Nationals have to the legislation in large part would dissipate. I seriously urge the Minister and the Government to consider that.

The Opposition is aware from media reports that there is a level of concern among some local Labor members of Parliament, which is understandable. Labor members as well as Liberal Party members and The Nationals serve suburban and country communities that include small business people, such as newsagents and pharmacists, and the level of concern expressed by small business people in Labor electorates would be similar to the level of concern expressed in Opposition electorates. I know that a number of Labor members are concerned about the implications of the legislation and also would be considering affording a level of protection to small business operators.

I do not think I am asking for a lot. Protection for small businesses will not devalue the asset in privatisation, but it would show good faith to many decent, hardworking small business owners and employees and it would show that the Government cares about them. I reiterate that the Opposition will oppose the legislation for the reasons I have stated. The Opposition does not oppose the legislation on philosophical grounds or matters of principle relating to privatisation, but on the very important grounds of a lack of protection for small businesses and the very bad timing of the legislation by the Government.

**Mr MATT BROWN** (Kiama) [5.19 p.m.]: I support the NSW Lotteries (Authorised Transaction) Bill 2009. It is important for the House to note that the bill includes comprehensive measures to protect problem gamblers. The Government takes this issue seriously, and it has been a key consideration in the development of a regulatory framework for a privately operated NSW Lotteries. As many members would understand, problem gamblers can wreak havoc on themselves, their families, their loved ones and the community in general. One of the Government's key objectives for the NSW Lotteries transaction is the adoption of a regulatory regime that ensures the continued responsible and orderly conduct of public lotteries in this State. An important feature of this regulatory regime is the continuation of appropriate and effective harm-minimisation measures detailed in the Public Lotteries Act and the regulations under that Act. These measures formed part of a consultation paper, which was released for public comment prior to this bill being introduced.

The Government is proposing to maintain all current prohibitions and obligations applicable to the operator and product licences regulating marketing and harm minimisation. According to a Productivity Commission inquiry into Australia's gambling industries, current harm-minimisation obligations operate well and appear to be appropriate in the context of the less serious impact of lotteries on problem gamblers. Nevertheless, the Government is committed to extending current harm-minimisation measures to ensure that they are technology neutral, to keep pace with future innovations and technological developments. This means that these important measures will apply to all technologies for the distribution of lottery products in New South Wales. The regulatory changes proposed by the Government recognise the risks of problem gambling and seek to ameliorate their impact on the community.

For the benefit of the House, I will outline what harm-minimisation obligations currently exist and will continue to apply to a new operator. In relation to advertising, the Public Lotteries Act sets out several prohibitions, in particular, that licensed lotteries operators cannot publish advertising that is misleading, deceptive or in contravention of any requirement in the regulations. Agents are prohibited from selling lottery tickets to minors; indeed, advertising cannot depict children. Nor can advertising suggest that winning will be a definite outcome of participation. At every step of the way purchasers of lottery products are provided with information on Gambling Help, which is a telephone helpline offering crisis counselling for problem gamblers and their families. This information must be contained in all advertising material and on lottery game entry forms, tickets and any written material explaining how to enter the lottery game, with the exception of instant lottery tickets.

In addition, information pamphlets that outline the chances of winning must be made available, and agents must display these pamphlets in a manner that purchasers will notice them. As I have already mentioned, it is the Government's intention that these measures will apply to new technologies for the distribution of lottery

products. The measures outlined in this bill provide a balance between offering the people of New South Wales the opportunity to participate in lottery games in a responsible way, while at the same time providing problem gamblers with information and support. I commend this bill to the House.

**Mr PETER DEBNAM** (Vaucluse) [5.23 p.m.]: I am delighted to say a few words about the NSW Lotteries (Authorised Transaction) Bill 2009. I congratulate the shadow Minister on his rigorous analysis of the bill and his considered contribution. He put our point of view in a straightforward fashion. Yes, this was Coalition policy; we took it to the election. I suffered a lot of abuse from various Labor members of Parliament who are now lining up to adopt our policy. But it is our policy with a couple of exceptions, as outlined by the shadow Minister. The most glaring exception is that the Government is simply not protecting small business. It is no surprise that Labor is simply throwing small business to the wolves. To get bipartisan support for this legislation, I truly do not understand why the Government is not putting in place some form of protection for agencies involved in lotteries. The shadow Minister suggested an amendment, and I ask the Government to consider it.

As the shadow Minister said, another concern is the collapse in market value in the past few years. It is a shame that the Government did not move to sell NSW Lotteries on day one two years ago; if it had it would have realised a couple of hundred million dollars more in value at that time. Another difference between this policy and our policy at the time is that we clearly said what a Coalition government would do with the money. The sale of lotteries and waste services were part of drought proofing New South Wales. The money from the sale would have gone to a specific purpose. At that time the community had totally lost trust, and still does not trust, that the Government would use the money wisely. With any of these sales, it would be helpful if the Government said exactly what it would do with the funds.

The most glaring exception and the one that needs to be corrected in the interests of the community and small business is to amend the bill to provide that protection. As I said on election night—I have said this on a number of occasions since then—I will applaud the Government every time it adopts one of the policies we took to the people of New South Wales because we laid out a comprehensive policy framework that would fix the problems in New South Wales. The difficulty is that the Government tends to adopt the headlines and not much of the meat behind the policy. Certainly, part of that meat is protecting small business. I ask the Minister, in his reply, to give us an assurance that he will amend the bill to protect small business, to protect those agencies. I do not want to vote against the bill but I want to see those agents protected.

**Mr KEVIN HUMPHRIES** (Barwon) [5.26 p.m.]: It is a pleasure to speak to the NSW Lotteries (Authorised Transaction) Bill 2009. One analogy used in this debate was that of selling off the farm. I will use a different analogy: when one sells off a cow, no consideration is given to the ongoing milk supply. We have exactly the same situation with the sale of NSW Lotteries. As alluded to by the member for Upper Hunter and shadow Minister, this bill is about breaking the backbone of the whole lotteries transaction process. I will introduce the House to a number of lottery agents in my electorate, as I believe they are indicative of lottery agents throughout rural New South Wales.

Six years ago Archie and Rhonda Karam invested a serious amount of money in buying a newsagency in Moree. As the member for Upper Hunter said, the average turnover of lotteries in most newsagents is between 16 per cent and 20 per cent. The turnover for the Karams is more than 50 per cent. They are lottery specialists, in a sense. Archie and Rhonda do not see lotteries as simply a product; they see lotteries as a service. It is part of the service they provide to our rural community in Moree and they are exceptionally good at what they do. When this matter was first mooted it was highlighted to me why newsagents are important and why small business is important as the backbone of the lottery network. When people buy a lottery ticket they do not want to wait; it is pretty much an instant thing, hence the instant scratchies.

People want quick, reliable service. They will not line up at a supermarket, a hotel or any other outlet that sells lottery products if this sale goes through. The Karams say that their business is based on service. The Government is putting thousands of jobs at risk. In a newsagent—the Karams are a good example of this—at least one person is dedicated to the lotteries counter for 10 or 12 hours every day to service people with lottery wagering. Any dilution of their business, any alternative provider, will be seen as rationalising this business. The member for Upper Hunter alluded to what happened with Tabcorp. Indeed, many areas across my electorate do not have a Tabcorp outlet.

Shopfronts closed down and TABs were gradually moved into liquor licensing outlets, many of which do not continue with TAB transactions today because the returns are not worthwhile. We know there will be a

dilution and rationalisation of products and services if the sale of NSW Lotteries goes ahead. Why does the Government not protect the backbone of the lottery network, that is, the agents or retailers who, in most cases, are newsagents? Why does the Government not want to protect an asset that pays \$300 million in duty and a dividend of \$50 million per year? If the Government wants the licence that will be sold off to be worth anything in 30 years time it should protect the backbone of the business that is earning that income—newsagencies and small business providers.

Victoria has two tiers of gaming or wagering with lotteries. Tattersall's runs the traditional products while a company called Intralot deals with second-tier products. Intralot has introduced its own version of instant scratchies, which have not been received well in the market. Victoria has a fractured market: it is in a mess. South Australia and Western Australia are waiting to see what happens in New South Wales; they do not want companies such as Tattersall's controlling lottery wagering on the east coast. It is not in anyone's interest to have a monopoly large-scale provider. I have talked with representatives of industry across this country, including the Australian Newsagents Federation, which believes that the transaction is advanced to the point that the Government knows how it wants to operate the transaction under a new regime. As previous speakers have said, the industry is not convinced on how it will operate. The Opposition will not support the bill in its current form because it contains no protection for small business.

What are the concerns of people such as Phillip Eather who has two newsagency outlets in Narrabri? Only two towns in my electorate, which covers nearly 30 per cent of the State, have more than one newsagency. To say that newsagents are the glue in many of our smaller communities is an understatement: not only do they provide an information-based service, of which we are all well aware, but also they conduct many other transactions, such as banking. To lose between 15 and 50 per cent of business turnover will not make their businesses unviable. As Phillip Eather told me today, he will scale staff back to the point where he will reduce his staff numbers by 1.5. That reduction in staffing will put more pressure on him and his family to man the businesses over a longer period, and that is not family friendly. Small businesses are under pressure as a result of the double whammy of lost jobs and lost employment. Families have to create more with less all the way through.

**Mr Peter Draper:** The Sullivans at Moree do, too.

**Mr KEVIN HUMPHRIES:** David Randall and the Randall family are intergenerational newsagents, so too are the Sullivans in Moree. David Randall runs the Bourke newsagency on the main street. There are not a lot of small businesses left these days. He says that any dilution of his turnover would automatically result in the loss of one full-time position, which is usually filled by three casuals. He says it will put more pressure on his family and it will make his business leaner. As I said, when the cow is sold the milk supply has to be maintained. If the Government cannot project how this business will operate under what will most likely be a large-scale provider, our small businesses will go to the wall. It is social vandalism in the extreme. We do not have many viable businesses left. Our newsagents are trusted and honest people who provide valuable services to our communities.

What is the industry collectively concerned about? As previous speakers for the Coalition have said, we are not philosophically opposed to privatisation but we are fundamentally concerned about the sale of this asset. We will represent and protect the interests of small businesses, which is something that the Government should consider seriously. The Australian Newsagents Federation is seriously concerned, as is the banking sector via its association, that the Government is not providing protection for small business and that it is creating uncertainty and therefore insecurity in the business. Not only is the association concerned about the financial viability of its members but also the banks are concerned. I am aware that the Government has been negotiating with a number of associations. Whilst there are potential bids from groups such as Tattersall's, through to consortia that may involve arrangements between newsagents and other entities and even negotiation for the Government to maintain a percentage, the negotiations do not provide assurance or protection to the backbone of the network, in particular, small business and newsagents.

We need to be mindful of how we protect the channel. We need to be mindful of how we protect our supply chain, which is why I join with the member for Upper Hunter and the shadow Minister in not supporting the bill in its current framework. I urge the Government to go back to the drawing board and to look at protecting small businesses to keep them secure in our communities. All members of this House have local newsagents. The Opposition is certainly aware of the concerns of constituents of government members who, in the past few days, have become aware that their businesses are vulnerable. This legislation affects all small businesses, but the group is over-exposed in country areas where they provide other services. The Opposition bitterly opposes any dilution of or threat to those businesses.

**Mr PETER DRAPER** (Tamworth) [5.36 p.m.]: I too oppose the NSW Lotteries (Authorised Transaction) Bill 2009 and believe that the Government is taking a dangerous gamble with its plan to sell off NSW Lotteries. Gaming analysts have warned that anything up to \$200 million can be lost by selling during a recession. This appears to be just another grab for money. To even suggest the sale during the current economic climate has to be questioned. Unfortunately, the lotteries that were set up in 1930 for all the right reasons have been used as a cash cow by successive governments ever since. Why were the lotteries first established? The NSW Lotteries corporate history website states:

In late 1930, the newly elected State Government, led by Jack Lang, decided the only course of action to solve the critical funding situation in the States Hospitals was to start a State Lottery.

This was during the Great Depression when money was as scarce as jobs. Unemployment was nearly 30 per cent and queues of jobless people outside soup kitchens were a common sight. Poverty was increasing the sickness rate and authorities feared that hospitals would not be able to cope if further outbreaks such as the 1919 'flu epidemic occurred.

Just as in 1930, today many people are questioning how the hospital system will cope with finances into the future. There are claims that by 2030 the entire New South Wales budget will be needed just to maintain health delivery at current levels, yet the Government is now looking to sell off the lotteries—which were designed to assist the health system—when the health system is screaming out for much-needed investment. The Treasurer said there is no public policy reason for the State to run lotteries, and money from the licence deal could be redirected into areas such as health and education. Hang on a minute! Why was the lottery set up in the first place in 1930, despite very strong opposition at the time? The NSW Lotteries introductory page further states:

The announcement of a State Lottery created a political storm and was denounced by the Churches and the Opposition. Condemnation of the Lottery included comments such as, "Lotteries are evil and degrading" and that "It is going to demoralise the youth of our State.

Premier Lang told the Council of churches that a State Lottery was no more appealing to him than it was to them but the reality was that unless money could be found some hospitals would have to close their doors.

It appears that since 1930 the lotteries have developed as a milch cow, or a cash cow, providing further opportunities for gamblers every time a new financial black hole appears. Yet the State has failed to stay on top of the original concept to fund the hospital system. It is time to go back to the original concept: a State-run lottery designed to fund essential public services, such as the health system. From the correspondence I have received that is what the public is expecting. I have had many constituents contact me about the proposed sale. I will quote one correspondent who sums up the sentiments of many. He says:

I want you to know I am in total opposition to the sell off of the New South Wales State Lotteries to any private sector company or individual. The Lotteries structure provides New South Wales with a continuing income that has far greater value than any "one off sale". With New South Wales Lotteries in Government control I receive the benefits of the 40 per cent profit, my grand children receive the benefit and I hope their children will fully benefit also. If State Lotteries are sold we may gain today and lose tomorrow. What is the value of the 40 per cent return today against any sale, compared to 40 per cent of income from lotteries in 10 or 20 years time? What happened to the revenue raising enterprising powers of the past who introduced the Opera House lottery? Why can't we do the same thing for roads, health and education? If you agree to sell New South Wales lotteries we lose all opportunities for future revenue from this area of funds and you lose one more fragment of trust.

The Opposition spokesperson said that he is against the plan because there is not enough protection for small family businesses such as newsagencies. I support that position. Having worked in the publishing industry, which had a very heavy reliance on sales through the newsagency sector, I know how hard those people work, how difficult it is to make a quid and how many small country communities are reliant on having their newsagency for a whole range of services. It would be a grave mistake to jeopardise them. The Opposition spokesperson also said:

It exposes small businesses acting as agents for lotteries to the possibility of losing those agents and perhaps seeing those agents turn up in either hotels or clubs or in supermarkets.

This is of great concern. However, I am disappointed that he said:

Once that is cleared there would no philosophical or any other objection to the privatisation.

I think there is a whole range of community opposition to which we need to listen. People in our State are sick and tired of seeing the family farm being sold off. It is time that Government members and Opposition members listened to those concerns. Taking into account the number of calls and representations I have received, I must oppose the NSW Lotteries (Authorised Transaction) Bill.

**Mr GEOFF PROVEST** (Tweed) [5.41 p.m.]: As we have heard from a number of speakers, there are certain conditions involved in the NSW Lotteries (Authorised Transaction) Bill 2009. The legislation provides



for the structure needed to implement the privatisation of NSW Lotteries. It is proposed to have two licences: an operator licence providing regulatory oversight of the operator's integrity and capability and product licences allowing direct regulatory oversight of each game. Current harm minimisation measures and consumer protection will be maintained, and the Minister for Gaming and Racing will continue to be the lottery regulator. I oppose the bill. I fall in line behind the shadow Minister for Gaming and Racing. I will run through a number of the issues that I find disturbing. I received a fax from the Australian Newsagents Federation dated 1 April 2009 and headed "ANF Meets with NSW Treasurer re NSW Lotteries", which stated:

The Australian Newsagents' Federation met this week with the NSW Treasurer the Hon. Eric Roozendaal and his advisers to discuss the Government's plans for the sale of NSW Lotteries.

The Treasurer listened keenly to the concerns and issues raised by our member newsagents around the potential impact of a sale on their businesses, the shopping precincts in which they operate and their employees and subagents.

The Treasurer and the Secretary of Treasury recognised the broader range of social and economic consequences that might arise out of the sale process and implementation.

ANF CEO, Anthony Matis said, "We are continuing our constructive dialogue with the Government to ensure all issues impacting the viability of newsagents' businesses and the broader social and economic consequences of a sale of NSW Lotteries are identified and dealt with.

We will keep members up to date with new developments as they take place.

As we know, the new developments are that the Government now wishes to sell off NSW Lotteries without any concern for those small newsagency operators. The Tweed has a number of small newsagency business operators, some of them being intergenerational, families handing down the business and so on. It is more than just little newsagencies in shopping centres. They become a magnet and attract other customers, so often there is a bakehouse, a corner shop and other small businesses surviving in cooperation with newsagents. People come to the centre and do not just buy newspapers. I have had a number of meetings across the electorate, from Tweed Heads to Tweed City, Banora Point, Terranora, Pottsville, Hastings Point and so on. A lot of small newsagents have indicated a great deal of concern to me about their future viability. There are various figures floating around, but a major part of their income comes from the sale of lottery products, whether it is scratchies, Keno or Powerball and so on. If we start to dilute that, the future viability of not only newsagents but also other shops will be affected.

I understand privatisation in principle and I can understand the Government's reluctance in watering down or restricting sale procedures. Obviously that would have a dire consequence on the sale price—the more restrictions and conditions in place, the lower the money. However, I take heed of what the shadow Treasurer has said for some time: Is now the right time to start selling the product? I most definitely say no. Why would we sell it at the bottom of the market? I come from the gaming industry; I spent 27 years working in the club industry in Sydney and on the far North Coast. I have lived through various tax regimes and harm minimisation eras.

Previous speakers indicated that some of this revenue could be directed to Health. I lived through the era of 1996 when the then Treasurer, Michael Egan, referred to an increase in club poker machine taxes and we were ably assisted by the member for Upper Hunter. The shadow Minister for Gaming and Racing stood side-by-side with the club movement and we are very proud of that association. The big thing then, and in a lot of glossy brochures produced at the time, was, "Don't worry about increased taxes because we are going to spend that money on hospitals. Don't you worry about that. We are going to use all the extra tax money to fix the hospitals." That was fine, but it never eventuated. At that time, we in the club industry saw hospitals going down, down, down.

Community development and support expenditure was introduced. The community had a national support scheme and at that time, with a certain level of turnover, we had to donate to local community charities just over 1 per cent of our turnover. Shortly afterwards, the Government moved and said, "By the way, you can't give that donation to your local hospital any more because we feel the local hospitals are double-dipping." So on two different occasions when local clubs or the gaming movement tried to actively campaign and support their local health system, it was a non-event. When this Government says that some of this money can be redirected to the health system, I just do not believe it.

I note that the member for Kiama elaborated on harm minimisation in great detail. I am pleased to see that both the club industry and the Australian Hotels Association take harm minimisation very seriously. To hide privatisation under extra harm minimisation from the sale of lottery tickets does not add up. I think it is a crying

shame that we are forced to sell now. If we look at what happened in Queensland, I tend to agree with the shadow Minister for Gaming and Racing that the potential suitors or purchasers will undoubtedly be larger corporations throughout Australia. For the information of the House, the largest private owner of poker machines in Queensland is Woolworths. There are no two ways about it—there has been a direct move into the gaming industry. Ask any of our Queensland colleagues and ask some of the smaller clubs and hotels about the impact it has had upon them in respect of being competitive.

I have also lived through the era of privatisation of the Totalisator Agency Board [TAB], which was going to generate new activities, greater marketing and so on. The sad reality in the club industry is that most clubs run the TAB at a loss—in my time it was getting 2.5 per cent of the turnover. The TAB is run as a service to members and it is hoped that they will spend other money in the club—buy a drink, a meal and so on. Clubs run the TAB because that is what the consumer base has demanded. That was a direct result of privatisation. The clubs in my electorate had to amalgamate bars and lay off some staff just to have the ability to run the privatised TAB agency on their premises. It had a negative effect on many clubs' operations. I am sure the Minister for Gaming and Racing would have heard about that when he spoke to club managers, as I am sure he does on a regular basis. The direct result of the privatisation of the TAB was another impost and another cost to those operators in the community with a TAB on their premises. It took some pretty clever management skills to ensure that the costs were absorbed in the total organisation.

Under this privatisation there will be no rival products for 30 years. It is starting to sound a little like we are selling off the farm. Yesterday, at the same time as our budget was being brought down, another budget was being introduced in Queen Street, Brisbane—the Queensland budget—under the leadership of Premier Anna Bligh. That was encapsulated in a cartoon in which the Prime Minister, Kevin Rudd, was talking to Anna Bligh and there was a map of Australia that showed Queensland missing. The caption said, "You have sold off everything. There is nothing more to be sold." This is the fear I have with the privatisation of NSW Lotteries. We are gradually selling off every little bit and there will be nothing left other than a very big debt.

**Mr Kevin Greene:** It is your policy.

**Mr GEOFF PROVEST:** Yes, but we need to be able to protect those small operators. We need to look after the mums and dads. I know that many members in this House often go to the local newsagents in the morning. Apart from people going there to buy a paper it becomes a sort of community gathering point from time to time, particularly around election time. There is also the hot bread shop and the delicatessen, and it is crucial that we protect them. However, there does not appear to be any protection or phasing-in under this proposal. A lot of people have invested a lot of money, but many families are going to suffer and ultimately many communities will suffer if the Government continues with this line. Once again I am 100 per cent for the newsagents of the Tweed.

**Mr KERRY HICKEY** (Cessnock) [5.51 p.m.]: I rise to support the NSW Lotteries (Authorised Transaction) Bill 2009 with quite a bit of trepidation. I really believe we are pulling the wrong strings. However, I am told there are very clear guidelines that will protect newsagents in New South Wales. I am told that anyone who has a licence currently will continue to hold the licence and be able to sell lottery tickets, scratchies and so on at the newsagents. I would like to know what business would close down outlets such as newsagencies. I have been through this as a milk vendor during the milk deregulation process and quite frankly I know how much impact that had. I have concerns in regard to newsagencies and the impact this will have on them.

**The DEPUTY-SPEAKER:** Order! Opposition members will come to order.

**Mr KERRY HICKEY:** However, I am told there are provisions in the bill that will allow newsagencies to continue selling lotteries. That is in schedule 3 and clause 12 of the bill. There is quite a list of provisions in the bill relating to employees' rights and entitlements. That is clearly covered. The bottom line is I will support this bill, but I am very concerned about the impact it will have. I will be watching very closely and try to ensure that we include provisions in the bill to address the problems that have been referred to.

**Mr MIKE BAIRD** (Manly) [5.53 p.m.]: I speak on the NSW Lotteries (Authorised Transaction) Bill 2009. I support the shadow Minister for Gaming and Racing, who argued eloquently in outlining why the Opposition is opposed to this legislation at this time. The member for Cessnock raised some concerns and we need to put them right. He said that licences will not be cancelled, and that appears to be the argument being put forward on the Government side. However, we need to be clear that licences have a maturity date. What happens when those individual licences with newsagencies mature, whether in one day, two months, six months

or three years? That is what the Opposition is very concerned about in relation to this bill. Certainly the Government is saying it is not going to cancel licences, but what happens when the licences come up for renewal? That is the important question and that is why we are very much concerned for newsagencies, which generate a huge number of jobs across this State. So I support the shadow Minister and will speak against this bill.

The sale of NSW Lotteries has been put forward as policy by the Liberal-Nationals Coalition and it is no surprise that we will continue to support that policy, but it has to be carried out at the right time and with the right structure. There is no doubt the proceeds from such a sale could be used to provide important services and infrastructure for the community. I will refer later to how the sale proceeds are to be used. We say that now is not the time to do this, for two reasons. When and if an asset is sold it is always in your interest to get the best possible price, but we have only to look at the current economic climate, whether it be the equity markets or the debt markets. It does not take Einstein to work out that now is a very difficult time to sell anything, let alone an asset that is very cash flow sensitive. Certainly at the moment no-one on the other side of the House can say that we are going to get the best value for these assets by selling them now. One would have to query why we are in such a rush to offload them.

We also have a huge concern about the protection of jobs. A number of newsagencies have contacted us about this. They are not just small businesses; they are at the heart of every small community. Newsagents work around the clock and build relationships with every person they come in contact with. They are doing it tough like every other business in this State at the moment. I cannot see any reasons for supporting a bill that makes life even tougher for newsagents at this time. We heard a lot about jobs in the budget and we would argue that this legislation could potentially take jobs away from communities across the State. We would be happy to work collaboratively with the Government to produce the sorts of provisions we need to protect newsagencies. I will not go into the detail of the legislation but I want to raise a couple of points concerning the level of probity. I wonder whether the Minister for Gaming and Racing should be directly responsible for some of those issues. I am certainly willing to listen to argument on that, but I will put forward some recommendations.

This bill allows for the privatisation of NSW Lotteries and includes two licences—an operator licence providing regulatory oversight of the operator's integrity and capability and product licences allowing direct regulatory oversight of each game. It retains the intellectual property currently owned by the business, including games and brands, in Government ownership. These include games such as lotteries, Lotto, Powerball, Pools and scratchies. The Minister for Gaming and Racing will continue to be the lottery regulator. The bill allows for a three-year employment guarantee—I will touch on that as well—and a transfer payment, with employees having the choice to remain employed in the public sector. The State will continue to collect duty from the sale of lottery products, which in the past three years amounted to more than \$300 million per annum.

What are we trying to achieve with this legislation? One could argue that lotteries in this market and indeed around the world are a very competitive business. One could argue quite strongly that it is not necessary that a Government be involved in this business. I understand that is the premise behind putting this asset up for sale. It also brings forward future cash flows for use today and once they are brought forward it raises the question of how they are used. They should not be used for recurrent services, which is what the bill seems to allow. It appears to allow the money to be put straight into consolidated revenue. Our argument is that if we are going to sell an asset's future cash flows they should be put directly into capital, not recurrent services. They should go into infrastructure.

Looking at market conditions at the moment, I will give the example of an A-rated business. A number of potential suitors for this business would have an A credit rating. Before the markets dislocated with the onset of the global financial crisis the cost of credit to an A-rated company was about 100 basis points. That has blown out to about 290 basis points, which is almost a 200 basis point increase. If we discount the cash flow and the 30-year licence those 200 base points will have a huge impact on the price. Why is the Government rushing into this sale? Surely it wants to maximise profits. Let us wait for stability to return to the markets and let us provide some form of protection for small businesses. Clearly, this State Government needs the money.

Having reviewed its budget, I can understand why it is looking at every opportunity to bring money into this State. The State budget is in the red like never before. If we take out Kevin Rudd's money, over the next four years we will have an \$8 billion deficit underlying the State budget. Clearly, it is necessary for the Government to find these funds, but it should take account of some of the concerns that have been raised. The Government must not use those cash flows. If they are spent on recurrent services they will be lost forever. We

must legislate to ensure that those cash flows are invested in long-term assets that benefit this State. Because of the way in which this legislation is structured, that is not likely to occur. I spoke earlier about the fact that the markets are low, but they will recover.

Why is the Government not prepared to wait for those markets to recover? The time frames are uncertain and they remain uncertain today. Over the past 72 hours equity markets have continued to be volatile. Let us wait for stability to return before we determine what to do in relation to this matter. The last thing we want is a fire sale. Before the last election the price of this transaction was costed at around \$600 million. Varying prices are available from brokers in the market through to the Government's own spokesperson. Let us wait and determine whether we are likely to get the best possible value. We will have only one shot at this transaction. I have seen no reserve price in the budget papers. It should be clearly understood by the Government that it should not sell any asset when it decides to do so without establishing a maximum and a minimum sale price. Any transaction should not go ahead if a minimum price cannot be achieved.

Where is the money going? I said earlier that this money would be going into recurrent funding. Ideally, a separate fund should be established into which this money should go and it should be spent only on critical infrastructure. This Government's budget is all about jobs even though we have a high rate of unemployment in this State. Employment figures in this State are going backwards at a rapid rate. In the next 24 months tens of thousands of people in New South Wales will lose their jobs. Government forecasts confirmed those figures, even though it was highly optimistic about employment levels. Government forecasts confirmed that tens of thousands of people would lose their jobs so we should be doing everything possible to increase job opportunities.

Newsagents across this State who have written to Opposition members have expressed a great deal of concern, in particular, as 16 per cent of their revenue is gained from that source. When this legislation is revisited—I hope it is revisited when we have better market conditions—and it contains protections for newsagents we will be keen to look at it. I refer to division 2, proposed section 21A, Review of suitability of licensee. Subsection (1) states:

The Minister may from time to time determine whether in the opinion of the Minister the licensee under an operator licence and each close associate of the licensee remains a suitable person to be concerned in or associated with the management and operation of the business conducted under the licence.

In many respects those provisions should be kept at arm's length. At the moment we are separating regulations from owners, which might well solve that problem. Have we set those provisions apart in a way that will result in the highest level of probity? I encourage the Government to consider those matters. Opposition members will be opposing this bill. From an ideological viewpoint we are supportive of the concept but we are not supportive of it at any cost. Opposition members cannot support the bill because it lacks the necessary protections required for newsagents across this State.

The Government has not given newsagents any assurances and it has not worked with them to ensure that they will be comfortable if a transition of ownership takes place. Because of current market conditions we cannot support this bill. In the current climate taxpayers would not be getting the best price from the sale of such an asset. The Government has only one shot at selling this asset so it should maximise its sale price and the return to this State. The sale involves a 30-year licence but if the sale takes place it will be 30 years before any government can revisit this issue. At the moment the Government is not maximising the price for that 30-year cash flow. The Opposition believes that the sale of this asset is against the interests of newsagents and jobs and it is against the interests of the people of New South Wales.

**Mr GREG PIPER** (Lake Macquarie) [6.04 p.m.]: I oppose the intention of the NSW Lotteries (Authorised Transaction) Bill 2009 to transfer NSW Lotteries to a private operator. I believe that such a move would be fundamentally at odds with the reason for establishing lotteries in the first place, and it would also substantially undermine the community benefit that public ownership currently delivers. The revered Labor Premier Jack Lang, who was known for his vision, started the NSW Lotteries office in 1931 as a way of funding essential public infrastructure such as hospitals. Since that time lotteries have had a symbiotic relationship with the community. This relatively innocuous form of gambling is well accepted by the public, and over the decades it has contributed to significant infrastructure and social benefit.

The products provided by the NSW Lotteries grow in popularity, as do the returns to the Government. The website of the NSW Lotteries Corporation describes its history and states that its role in raising money to help pay for important community projects is as relevant today as it was when it began operations in 1931. It

also states that, as we move into a new century, the only safe prediction is that many of the lottery gains of the future may look different. It also states that some things are too important to change and that NSW Lotteries will continue, responsibly, to develop gains that contribute to the benefit of the community. The 2008 annual report of NSW Lotteries Corporation includes as its mission statement:

Benefit the people of NSW by maximising the return to Government through providing quality lottery products and services.

It also states that the organisation will be socially responsible. That is the true value in public ownership of NSW Lotteries and a strong enough reason to reject this bill. The lotteries system should not be cashed in now for a one-off gain when instead it could provide a much greater continuing benefit. The only logic in privatising now would be to get a short-term windfall. The need for good financial management should dictate keeping the asset under current arrangements. Selling the lotteries might fill one corner of a void in the State's budget, but good financial management would have avoided that problem in the first place. Good financial management should preclude sacrificing a significant source of ongoing revenue with very little in the way of overheads.

I am confident that the public does not see privatisation of services and assets as the way forward for New South Wales, especially at the cost of a continuing income stream such as the one provided by NSW Lotteries. It is important to make special mention of all those independent New South Wales lotteries outlets such as local newsagents. I have been contacted by people who have invested in their businesses with the inclusion of lottery products as an important part of their cash flow. There would not be one such business that was not owned and staffed by hardworking people who would feel exposed to the risk of losing this vital part of their business income in the future. Why would they not worry? There are no guarantees for the long term that they will be protected as resellers.

In reality, this bill commences an inexorable path to full privatisation. When the 2008 budget was announced we were told that it did not depend on privatisation of the State's power industry, although ensuing events showed that to be untrue. What we then saw was a budget and a leadership that fell like a house of cards. The privatisation of lotteries emerged from the Government's desperate mini-budget in the wake of the failed electricity privatisation and leadership spill. This bill should be rejected because it is not part of a considered and supportable plan to revive an ailing budget. It should be rejected because it is not of benefit to the people of New South Wales. With the 2009 budget upon us that is still the case.

In his agreement in principle speech on 3 June the Minister for Gaming and Racing—and I acknowledge that he is in the Chamber tonight—said that the bill would allow taxpayer resources currently locked up in NSW Lotteries to be redirected to other priorities. The 2008 annual report of the NSW Lotteries Corporation shows that the return on corporate assets was over 54 per cent. That is a stunningly successful return of which any business would be proud, and it is a successful outcome that recurs year after year. As the NSW Lotteries Commission chairman and chief executive officer stated in the 2008 annual report:

Quite simply these are a winning set of numbers in anyone's language. Not only have records been broken, but the benchmarks have been raised for our future business targets and commercial performance.

As the proposal estimates a sale price of some \$600 million to \$500 million and ongoing returns of some \$300 million per annum, it would appear to be a good outcome for the Government. Clearly, apart from many improvements in efficiencies, which must be scant, any prospective purchaser will be interested only in the opportunities to grow the gaming business. It is inappropriate to place more burden of gambling on to the punting public without the maximum return being returned to the public. Not only is it unjustifiable, but it is also grossly irresponsible to even seriously consider handing this tremendous asset to private operators when it serves the Government and people of New South Wales so well.

The people of New South Wales were concerned about the creation of State-sponsored gambling when the idea was first developed in 1930. Premier Lang had courage and vision when he established the State Lotteries Office. However, this bill reeks of desperation, lacks vision, and short-changes the public of New South Wales. If any good is to come from gambling, it is the clear social benefits to New South Wales from the public ownership of NSW Lotteries and the maximum recurrent dividends invested in our communities. I suggest that the State Government is gambling with the assets of the New South Wales public. If there is a problem with problem gambling, this proposed privatisation is that problem.

**Mr ANDREW FRASER** (Coffs Harbour) [6.10 p.m.]: I shall speak briefly on the NSW Lotteries (Authorised Transaction) Bill 2009. I fully support the comments of the shadow Treasurer and shadow Minister for Gaming and Racing. The member for Cessnock in his flimsy defence of the legislation said, "I have been

told, I have been told, I have been told." All he is doing is laying the base so that when nothing works out, as has been predicted, he will be able to go to his electorate and say, "I was lied to." That is what will happen with this legislation. The TAB privatisation legislation included a turnover clause: If turnover was not reached, the TAB lost its licence. That is what will happen with newsagencies in New South Wales. Already Coles and Woolworths supermarkets sell newspapers. When mum does the shopping she will have no problem buying the weekly Lotto or lottery tickets at the Coles or Woolworths checkouts, or wherever these licences go.

In my electorate 17 jobs will be lost, based on the estimate that 20 per cent of newsagency turnover is basically a wage for one person in those small businesses. As has been stated in this debate, newsagencies are small family businesses that need to be supported in tough times, not deserted. NSW Lotteries is being sold at a time when the market is low. To maximise the return, the sale of NSW Lotteries should be done when the market is buoyant, not when things are on the bottom of the heap. I would liken the Government's action on this bill to selling the crockery, the cutlery and the microwave to buy food that you then cannot cook or eat. At the end of the day the Government should be standing up for small businesses, which work so hard, especially in country towns, and protect the jobs and interests of the people in New South Wales. I oppose the bill.

**Mr GRANT McBRIDE** (The Entrance) [6.12 p.m.]: I support the NSW Lotteries (Authorised Transaction) Bill 2009 as a member of the Labor Party, but I will outline my views on this particular topic. The Government and the Opposition support the sale of NSW Lotteries, but my position is that I do not support the sale at all.

**Mr Brad Hazzard**: You're supporting the legislation? Explain that one.

**Mr GRANT McBRIDE**: Just leave me alone. I will do my own speech. For the four years that I was Minister for Gaming and Racing my position regarding the sale of NSW Lotteries—I will explain why a little later—was that there was no need to sell it. Previous members have referred to the evolution or development of NSW Lotteries, which goes back to the early 1930s. Premier Lang opposed using lotteries to fund public services et cetera. Lang did not set up the lotteries; they existed already, but the proposal was to hypothecate money collected from lotteries sales for distribution to health. He did not want to extend the use of lotteries for government revenue. His view was that lotteries should be a soft form of gambling, not a hard form.

Earlier we heard discussion of how lotteries were used to fund health in New South Wales. That is just a furphy. Total government income from funds associated with gambling is about \$1.2 billion or \$1.5 billion. As all members in this House know, our health bill runs over \$10 billion. If NSW Lotteries remains in government ownership, it could not be used solely to fund health in New South Wales. Labor Party policy always has been that lotteries would be soft gambling. Examination of the history of gambling in New South Wales reveals there has been both soft gambling, with lotteries, and hard gambling, as evidenced on our television screens in recent episodes of notorious television mini-series *Underbelly 1* and *Underbelly 2*—and another one to come.

New South Wales has had poker machines since the 1950s. Poker machines in clubs in New South Wales, mainly ex-servicemen's clubs, were legalised by the Government. As well, and as shown on the television mini-series, New South Wales had illegal gambling clubs and all their associated paraphernalia. Other States did not have poker machines until less than 10 years ago. Queensland, Victoria, South Australia and Western Australia got poker machines. Members will remember the debates in South Australia and Western Australia about not having poker machines. New South Wales has had poker machines for nearly 50 years, together with a large industry for their manufacture, design and development. We are world leaders in those activities, thanks to the technological and skills of people in New South Wales. People in this State have a love of gambling. The other States ramped up lotteries. Victoria had Tattsлото, and South Australia, Western Australia, New South Wales and Queensland had State lotteries. I am sure members on the upper North Shore, or in the Upper Hunter or in Lismore, have received brochures about other State lotteries in their letterboxes.

**Mr Brad Hazzard**: What does The Entrance Newsagency think about this?

**The DEPUTY-SPEAKER**: Order! The member for Wakehurst will come to order.

**Mr GRANT McBRIDE**: It will be addressed.

**Mr Brad Hazzard**: I can't wait.

**Mr GRANT McBRIDE**: Thank you. There has been soft gambling and hard gambling throughout Australia and in other countries. Lotteries in North America offer huge prizes. The same occurs in South

America, Asia, western Europe and Great Britain. Worldwide, lottery gambling is regarded as hard gambling, not soft gambling. New South Wales is the only place that run lotteries as soft gambling. That is the big difference. We have a wealth of opportunities—no pun intended—to gamble in New South Wales. One must look at the history to see how it all fits together. The member for Barwon said that small businesses provide a service to the local community. There is no doubt about that and I support that. When I was the Minister, one reason I opposed the sale was that it would impact on small country towns. Removing just one service, such as lotteries, from a business in a country town will remove the reason people go to that store. I have seen it happen in Wyong and The Entrance.

Those small businesses need to be protected. That can be done easily through government ownership of lotteries. When is it a good time to sell a gambling asset? In my view, never. The sale of the TAB was a short-term or long-term gain. The shadow Minister, who has been responsible for his portfolio for a long time, would acknowledge that the State Government would have made a huge amount of money without selling the TAB. The whole of New South Wales would have been the beneficiary. I thank the member for Upper Hunter for his acknowledgement, which took a lot of courage, especially as the boofhead member for Wakehurst is commenting. Gambling is absolutely a licence to make money. I oppose it under any circumstances.

**Mr Brad Hazzard:** So why are you voting for it?

**Mr GRANT McBRIDE:** The member for Wakehurst supports the sale, and I do not: that is the difference. Why would I support him when he supports the sale of this asset? I am at odds with him as well as with my own party. There is another issue associated with this legislation that I would like members opposite to think about, and that is the business plan for the sale of New South Wales Lotteries. If the return to the State Government will be the same as the return when the asset is sold, the only way the private sector will be able to make a profit on the asset is by ramping up sales. What New South Wales has now is low-level or soft gambling. Whoever buys New South Wales Lotteries will soon realise that the only way to make the business a success will be to ramp up sales. What we are doing will increase net gambling in New South Wales.

When I held the Gaming and Racing portfolio I discovered that the gambling dollar is elastic. In bad times, people gamble; in good times, people gamble. They gamble for different reasons, but the gambling dollar has proven itself historically to be elastic. If governments increase opportunities for gambling, the result is more gambling. The business plan shows that inevitably there will be an increase in gambling. My position, honestly stated, is that I, as a Minister and as a backbench member of Parliament, have always opposed the sale of New South Wales Lotteries. If I had been the Minister for Gaming and Racing when the Totalizator Administration Board was being sold, I would have opposed its sale. I know that makes this a sad day for the member for Wakehurst, but I point out to the Opposition that what they are voting for is an increase in gambling in New South Wales.

*[Interruption]*

**The DEPUTY-SPEAKER:** Order! The member for Wakehurst has tested my patience once too often this evening. The member for The Entrance will be heard in silence.

**Mr GRANT McBRIDE:** That is why I opposed the privatisation of New South Wales Lotteries in caucus. That is why I want my position in relation to this legislation stated on the record.

**Mr Brad Hazzard:** So who are you going to vote with?

**Mr GRANT McBRIDE:** What? Vote with the member for Wakehurst? Why would I vote with him? He wants to sell NSW Lotteries.

**Mr JONATHAN O'DEA** (Davidson) [6.22 p.m.]: My contribution to the NSW Lotteries (Authorised Transaction) Bill 2009 will be brief. Like my colleagues, I am not philosophically opposed to the sale of New South Wales Lotteries at the right time and for the right price. I reiterate briefly the comments that have been made regarding timing and the sale being transacted at a discounted price to normal market value in the current economic climate. It disturbs me that a capital sum will go to consolidated revenue instead of being applied to a specific use, for example, health. I differ from the member for The Entrance who said that the amount that will be realised is a drop in the ocean. The sale price certainly is not a drop in the ocean.

A Northern Beaches hospital, which will not receive funding from the Government despite the Government's repeated and blatantly broken promises, could be funded with \$300 million of what will be

realised from the sale, in addition to the \$50 million extra annual dividend. The combined amount would fund the construction of a Northern Beaches hospital, but the Government refuses to do that. The Government refuses to apply the proceeds of gambling to the provision of health care and health services. That is where the funds should be directed.

I also support small businesses in my electorate of Davidson that operate news agencies and employ people. Potentially, some of those jobs will disappear as a result of this legislation. The Government is not protecting jobs but rather is attacking them. There are newsagencies in all our electorates, and they all should revolt against members who vote for this legislation. I commend the member for The Entrance for his honesty. I do not think such honesty would have been demonstrated under the administration of the previous Premier. Under the current Premier, Mr Rees, backbenchers are beginning to revolt. We have seen evidence of that repeatedly not only in leaks to the media but also in Parliament.

In conclusion, I issue a challenge to Government members to vote against the legislation. I note that on 5 June the *Sydney Morning Herald* reported that "several MPs on the right", including the member for Mount Druitt, the member for Bankstown and the member for Blacktown, from whom we may hear during this debate, "fear small businesses could suffer if the NSW Lotteries products were no longer sold in newsagents". Indeed, the member for The Entrance, who spoke earlier in the debate, was quoted as saying that the sale of products such as scratchies in casinos or pubs could turn soft gambling into a more serious problem. The member for Kiama, who did not vote against privatisation, made it clear to caucus he was worried that the sale of New South Wales Lotteries could ruin small businesses in towns and regions. The Opposition will oppose the legislation, but even more strongly I oppose the hypocrisy of Government backbenchers who have the guts to stand up and make utterances, but will not vote against the legislation. Their electorates should punish them for that.

**Mr PAUL GIBSON** (Blacktown) [6.25 p.m.]: In joining in debate on the NSW Lotteries (Authorised Transaction) Bill 2009, I make the point that my position on privatisation is fairly well known. I had hoped that the Government had learned the lesson of privatisation, considering the chaos caused by the privatisation proposals relating to electricity and prisons. Yet now we are considering the privatisation of New South Wales Lotteries, which I oppose. In common with the member for The Entrance, I will be voting along party lines, because one swallow does not make a summer, and this is just one issue. I joined the Australian Labor Party because I believed, and I still firmly believe, that it is the only political party that will help people who struggle, the workers and small business operators. For years we witnessed the chaos wreaked by the Coalition in working-class areas. Every decent thing that has been built in the State has been built by a Labor Government. I cite as an example the Snowy Mountains Hydroelectric Scheme, the Sydney Harbour Bridge and the Opera House, which were all built by Labor governments.

*[Interruption]*

I could talk about the railway out to the airport—that was a great success!—or the tunnel under the Blue Mountains, which the Opposition proposed some years ago.

**Mr Brad Hazzard:** Point of order—

**Mr PAUL GIBSON:** This is a wide-ranging debate.

**The DEPUTY-SPEAKER:** Order! What is the member's point of order?

**Mr Brad Hazzard:** Thank you for asking, Madam Deputy-Speaker. I ask you to direct the member for Blacktown to confine his remarks to the leave of the bill. The Opposition would love to hear how he will shaft newsagents in his electorate.

**The DEPUTY-SPEAKER:** Order! There is no point of order. The member for Blacktown had been speaking for less than two minutes before the member for Wakehurst interrupted him. However, I am pleased that, for a change, the member for Wakehurst has attempted to adopt the proper procedures of the House. The member for Blacktown has the call.

**Mr PAUL GIBSON:** I would not have thought that was a valid point of order. It is like many of the points of order taken by the member for Wakehurst. In all his years as a member of the House, I have rarely heard him take a point of order properly. If we consult the statistics, they probably show that 99 per cent of the points of order he has taken have been rejected, so his taking a point of order against me is like water off a



duck's back. As I was saying, I oppose privatisation because it is contrary to Labor Party policy and the Labor Party's political platform. I often say that if a farmer needs money to pay a bill, it is fine for him to sell a portion of the farm. If a farmer needs a little more money the next year, he may sell a little more of the farm. Eventually, if the farmer needs to pay more bills, there will be no farm left to sell. That should not happen.

I would have thought that the Government learned its lesson from the privatisation debate, but clearly it has not. As every member who has spoken during the debate has observed, NSW Lotteries is a cash cow. In the corporate world, it is good business to hive off part of a business that is struggling and not making a profit, but it is not good business to sell a part of a business that is a cash cow and is making a big profit. I believe that the same logic applies in relation to the New South Wales Lotteries legislation.

The member for The Entrance said that poker machines were introduced in the State in the 1950s. Other States did not have them. Lotteries became very popular in other States. The lottery is soft gambling, no matter how one looks at it, and remains soft gambling in this State. Regardless of who buys NSW Lotteries, I am afraid that the lottery will become an aggressive form of gambling; it will no longer be soft gambling. I have often thought about what would happen if Woolworths bought NSW Lotteries. Would people be asked whether they would like to buy a couple of scratchies when they were paying for their pound of butter, packet of biscuits and a tin of baked beans? That could happen.

I am afraid of what will happen to newsagents. Contrary to what some members have said in the debate, I cannot find anything in the bill that will protect newsagents. There is nothing in the bill to prevent newsagents from losing out. If I were a corporation and I bought NSW Lotteries, I would be the one who decides who sells lottery tickets. It would not come down to legislation, because there is nothing in the bill to say that the sale of lottery tickets and lotto must be solely in the domain of newsagents. So for those reasons, I oppose the sale of NSW Lotteries. At the end of the day what will the Government get for the sale? Different public documents show that the Government will receive between \$500 million and \$600 million, and it will be a one-off payment. After the sale will the Government receive from Lotteries and taxes the \$350 million it earns now? It seems like bad business to sell Lotteries.

The shadow Minister referred to the privatisation and sale of the TAB. What happened in that case? Three years after the TAB was privatised, those who took over the TAB recouped their initial investment. As I said, the TAB should not have been sold in the first place. Small business has been mentioned. Small business is the engine room and the powerhouse of the New South Wales economy. New South Wales is not like other States; it is not like Victoria, Western Australia and Queensland, which have mineral reserves and so on. New South Wales survives on small business. Small business is the main focus of business in this State. As I said, a corporate business in Australia today would not sell the part of its business that is a cash cow. And the Lotteries is a cash cow. As I said, if the bill provided protection to small business, to newsagents and so on, it might be a different story.

I will be voting with the Government because I believe in the Australian Labor Party. I will not turn my back on the Australian Labor Party because of one issue. As I said at the outset, one swallow does not make a summer. I will tell members opposite the difference with the Australian Labor Party. As a member of the Australian Labor Party I can speak as part of the Australian Labor Party and the Government and give my thoughts on this issue. There are many parties in the country and in the world today where members could not do that. The Labor Party has always been strong because its members can have differences of opinion, and it lives with those differences of opinion and survives. At least we can voice our opinions. As I said, I will be voting with the Government but I do not support the privatisation of lotteries. I do not support the privatisation of electricity, and I do not support the privatisation of jails. I do not support the privatisation of anything.

**Mr MICHAEL RICHARDSON** (Castle Hill) [6.33 p.m.]: Unlike the member for The Entrance and the member for Blacktown, my position on this legislation is unambiguous. I will not say that I oppose the privatisation of New South Wales Lotteries and then say I will vote with the Government on the legislation. I will be voting against the Government. I could not understand to whom the member for Blacktown was referring when he said that some parties in the world do not allow their members to do what he did tonight. It strikes me that such speeches would not have been made under Premier Carr, for example. It is indicative of a government that is falling to pieces.

**Mr George Souris:** Or Wran.

**Mr MICHAEL RICHARDSON:** Or Wran, as the member for Upper Hunter reminds me. The issues have been fairly clearly laid out in this debate. There are two key reasons the Opposition will be opposing this

legislation. The first is the sale price, which we believe will be manifestly inadequate in the current economic climate, and the second is the impact of this legislation on small business, to wit, the newsagency sector. I have a stronger relationship with newsagents than most members in this place because I was a magazine publisher before coming here. For more than 20 years I had a close working relationship with newsagents, and the product mix of sales by newsagencies changed dramatically over that period. Lottery products were not nearly as important back in the 1970s as they are now. Back in the 1970s, sales were primarily of newspapers and magazines. The shadow Minister said that the lotteries business is worth something like 16 per cent of a newsagent's turnover. Based on what I have seen, I suspect that it is significantly higher than that.

I worked in a newsagent during Polities for Small Business Week a couple of years ago. I reckon that 40 per cent to 50 per cent of the people who walked into the store wanted to buy lottery tickets or lotto products. When people buy lottery products in a newsagent they might also stop to buy a magazine, a card, a book or other products. So lottery products are an important drawcard for newsagencies that frankly they could not do without. A few years ago I made representations to NSW Lotteries on behalf of the newsagent in a small local shopping centre, Oakhill Drive shops, in Castle Hill. The newsagent did not have the full range of lotteries products; all he had were scratchies, which are the basic package provided by Lotteries. It was a catch 22 because Lotteries reckoned he was not selling enough scratchies to warrant giving him the full lotteries package, and as a consequence it would not give him the package.

During the half-hour I was in the store three people came in and asked for lotto tickets. On that basis I felt confident in writing to Lotteries saying that if the newsagent could get the full product range he would do well in terms of selling those products. I am delighted to say that he got the full product range and, as a consequence, not only the newsagency but the entire shopping centre kicked on. Turnover for the shopping centre increased by about 20 per cent because people were not turned away by lotteries products not being available through the newsagent. As other speakers have said, we do not know who will buy Lotteries. As the member for Blacktown suggested, it could be Woolworths. We have already seen what happened to the newsagency business as a consequence of newspapers and magazines being sold through supermarkets, as opposed to being sold exclusively through newsagencies. Woolworths also owns a large number of service stations, which also sell newspapers and magazines, taking more business away from newsagents. Without adequate safeguards, this bill can only be inimical to newsagents' interests. For that reason and the reason that the price that is likely to be realised in the current economic climate will not be high enough, I oppose this legislation.

**Mr PETER BESSELING** (Port Macquarie) [6.37 p.m.]: The debate on the NSW Lotteries (Authorised Transaction) Bill 2009 has been interesting and vigorous. Interestingly, although the Opposition supports the bill—after all, it is Coalition policy—it will vote against the bill, and some Government members oppose the bill but will vote for it. This is an interesting time and topic. We are told that the main purpose of the bill is to authorise the transfer of NSW Lotteries to a new private operator. The bill also requires amendments to the Public Lotteries Act 1996 which will establish a regulatory framework for a privately operated NSW Lotteries.

I know it has been mentioned already in Parliament but it is important to state the reasons why the State Lottery Bill was introduced in December 1930. The newly elected State Government led by Jack Lang decided that the only course of action to solve the critical funding situation in this State's hospitals was to start a State lottery. This was during the Great Depression, when money was as scarce as jobs. Unemployment was nearly 30 per cent and queues of jobless people outside soup kitchens were a common sight. Poverty was increasing the sickness rate, and authorities feared that the hospitals would not be able to cope if further outbreaks such as the 1919 flu epidemic occurred. The lotteries were introduced during the Great Depression to pay for hospitals and schools when unemployment was high. Some people call the current financial situation the second Great Depression, but the exact opposite case is being presented. The Government says we should sell State Lotteries to private operators even though it is getting a good return on investment.

The NSW Lotteries website states that one-third of player investments is returned to the Government each year. NSW Lotteries claims total payments to government amounted to almost \$412 million in 2007-08, which assisted the Government in developing community services, including roads, schools and hospitals. More than 60 per cent of player investment in lotteries is returned as prizes, which is one of the highest returns for lottery games in the world. NSW Lotteries sells Lotto, Lotto Strike, Oz Lotto, Powerball, Instant Scratchies, Lucky Lotteries and 6 from 38 Pools through a network of 1,600 small businesses throughout New South Wales and the Australian Capital Territory.

We are told the advantages of the proposed sale is that \$500 million, possibly more, will be put back into consolidated revenue for health, education and transport purposes. We are also told that \$300 million a year is still going into government coffers due to taxes on lottery products. In relation to disadvantages of the sale,

some analysts believe that tough economic times will result in a potential loss of about \$200 million on the value of the business. The sale of products, such as scratchies, in casinos or pubs could turn soft gambling into a more serious problem. TAB outlets, for example, disappeared from main streets and into pubs and clubs when the Carr Government privatised the TAB in 1998. I am not a gambler as such.

**Mr Kevin Greene:** You got married, didn't you?

**Mr PETER BESSELING:** I got married, yes, and that could be considered a gamble. However, I think I have won on that. I do not buy scratchies and I certainly do not play the poker machines regularly. Having scratchies and Lotto available at newsagents is one thing but it is not good a good thing for them to be moved into casinos or pubs and clubs where other gaming facilities are available. It is certainly not of benefit to the State or the people of Port Macquarie. The member for Tweed mentioned that Woolworths played an active role with Lotto in Queensland. Removing Lotto and lottery tickets from small businesses and putting them into big businesses, such as Woolworths, is not in the best interests of local communities. We are told that 1,600 small businesses, many of which are newsagencies, sell the products of NSW Lotteries. Our local areas contain many great newsagencies. Clarence Street newsagency, Westport newsagency, and North Haven newsagency have written to me and advised me of their concerns about the bill. Paul Heather and Alan Xia, co-owners of the North Haven newsagency, wrote:

We are a small business and prior to taking over the North Haven Newsagency & Licensed Post Office on 1<sup>st</sup> April 2008, we put together a detailed submission, which included a marketing plan and underwent lengthy training with NSW Lotteries, paid for by us together with an agency fee which amounted to many thousands of dollars. We also had to undergo thorough Police and background checks to ensure we were suitable to be granted the NSW Lotteries Agency Licence.

Since taking over the business we have worked hard and are open 7 days a week from 5.30am to 5.30pm on weekdays and 5.30am to 12.30pm at weekends, and strive to give professional service to our customers.

These are hardworking people that need the support of both the Government and its legislation. The letter continued:

NSW Lotteries has very stringent compliance requirements for the sale of its products and we strictly enforce these requirements. As such the public currently has the perception that NSW Lotteries outlets are Government Agencies and as such represent the State Government.

Our customers are concerned and have expressed their views strongly that currently NSW Lotteries is Government owned with accountability and regulations in place, and profits going back into hospitals or other social services. They often call their losing tickets 'donations' to the Government and hope that this benefits the community. If NSW Lotteries is privatized they are concerned that these 'donations' will fall into the hands of highly paid executives and as such the element of trust in the system will be compromised and lost which will surely impact on returns. It is recognized that the extent of this impact will be affected by how well the new face of a privatized Lotteries organization is presented and marketed. It is the public perception with the element of trust and accountability which needs to be maintained.

Not only is there a threat to people who invest good money in local businesses and work hard day after day, night after night, but there is trust in accountability that comforts customers who know that their money is going back to the Government to pay for much-needed infrastructure and support services. The letter continued:

As such we will be keen to see this investment in both time and money maintained. We are concerned that if and/or when NSW Lotteries is privatized the strict guidelines currently enforced by NSW Lotteries may be seen to be compromised which will affect the public's perception of Lottery products in New South Wales. This may result in a lowering of standards and image for Lotteries especially if there is a proliferation of Lottery outlets which may eventuate if current standards are not maintained.

The Bill makes for interesting reading but does nothing to reinforce the standards which need to be maintained with regards to NSW Lotteries.

I have valid concerns about small businesses right across the State. We see lottery products as some sort of honey pot that draw people into local newsagencies to spend money. The money is kept local. The system is operating well. People have confidence in giving money to the Government as a donation. I do not see a reason to sell off NSW Lotteries when the Government is making \$50 million on its investment. It can be called a cash cow, selling the farm, selling the silver or whatever, but I do not agree with it, regardless of whether it is Opposition or Government policy. I will not support this bill.

**Mrs DAWN FARDELL (Dubbo) [6.48 p.m.]:** I speak to the NSW Lotteries (Authorised Transaction) Bill 2009, which reminds me of a constituent who lives in the lower part of my electorate. When he lived in Penrith he won Lotto and with the proceeds of that win he bought a beautiful property in my electorate. He had no farming background and had struggled all his life. When he ran into financial difficulty the first thing he did was to sell the bull, which means, of course, that his property has no income. He is in dire straits. I am concerned that small businesses will suffer if this sale proceeds and lottery products are no longer sold in newsagencies. The sale of products such as scratchies in casinos and pubs could become a much more serious problem for gamblers than poker machines.

I am also worried that the sale of NSW Lotteries could ruin small businesses in towns and regions. I have many newsagents in my electorate and, as the member for Port Macquarie said, the majority of their revenue comes from the sale of Lotto and scratchies. Magazines, books and cards are available at cheaper prices in larger stores such as Woolworths and Coles that are not owned locally. Several members have mentioned that TABs disappeared from the main streets into pubs and clubs when the Carr Government privatised them in 1998. I see TABs disappearing from small golf clubs in my area; another activity will be taken away from clubs that are in financial strife.

Why sell something that makes so much money? We need to look after the largest employer of people in New South Wales: small businesses. Newsagencies are small businesses. We have spoken with the Treasurer's office this week in regard to the Government's plan to privatise the lotteries. We understand that Treasury is handling the sale, while the Department of Gaming and Racing will retain its usual regulatory controls. The Treasurer's office would not speculate on what the Government is hoping to get for the sale, but the media has reported it will be in the vicinity of \$500 million to \$600 million. That is enough for two new hospitals, but once the State has those two new hospitals, there will be no more hospitals.

The Government currently earns \$350 million annually from NSW Lotteries. It will continue to pull in \$300 million per year in duties and charges, with the remaining \$50 million from the sale of lottery products going to the eventual buyer—whoever that may be. Will it be a large South African group or an American produce company? What will the commission be and will that commission increase? How much extra will pensioners who like to buy Lotto or lottery tickets have to pay? I have been advised that the Government can step in if the product has been devalued, but it has not been explained to me how that will work. Money raised from privatisation will be used to pay down Government debt, which means we probably will not hear of any funding going into the two new hospitals that are needed in New South Wales.

There is significant concern about the impact on small businesses, such as newsagencies, if they no longer sell lottery products. In turn, that will have a major impact on rural and regional businesses that I represent, not the Liberal Party, The Nationals or the Labor Party. I am not saying one thing and meaning another: I am against the sale because there are too many ifs and buts. Legislation such as this always requires further amendment. It should not proceed at this stage.

**Mr KEVIN GREENE** (Oatley—Minister for Gaming and Racing, and Minister for Sport and Recreation) [6.51 p.m.], in reply: I will respond to the comments made by a number of speakers during the debate. The member for Manly referred to probity, which is where he made one of his mistakes. The probity framework follows similar provisions for the existing wagering licence, central monitoring licence and statewide link licence. For many years Ministers have had the responsibility of overseeing the probity of licensed operators, and similar provisions will continue.

The member for Port Macquarie referred to the North Haven newsagency. I assure the member that the regulation of the seven products that are currently licensed will continue to be maintained by the Government. It has been clearly stated by a number of speakers, and clearly highlighted in the agreement in principle speech, that the Government will continue to monitor the operator and the products issued with licences to the operator. The high standards of monitoring gaming and wagering, and for monitoring lottery products, which are traditional in New South Wales, will continue to be maintained.

Approximately \$300 million is returned to the State each year in duties, and those duties will continue to flow to the Government. It is completely incorrect to state that the Government will lose \$350 million per year. It is important that speakers who quoted incorrect statements from constituents in their electorates should ensure that constituents' incorrect statements are corrected. I will not speculate, as others have, although I was interested to note the considerable contradiction between the shadow Minister and the shadow Treasurer as to the value of NSW Lotteries 12 months ago—a difference somewhere in the vicinity of \$200 million. I will not be drawn into that speculation because it is totally inappropriate to set figures around a mark. The money obtained from the sale will be used to pay down debt that is currently funding the record infrastructure budget of the New South Wales Government. That is clearly on the record.

I will refer to some of the statements made about the sale of the TAB, particularly those made by the shadow Minister in his reference to the devaluing of the exclusivity of the licence. As everyone knows, the owners of the TAB have an exclusive licence until 2013, and they also have a wagering licence in this State until towards the end of this century. That exclusivity has been maintained and guarded by the Government in all its dealings. That is clearly on the record. I again place on the record that the New South Wales Government is doing everything it can to guide and support the jobs involved in the New South Wales racing industry. A couple of weeks ago during question time I was saddened to hear Opposition members who had taken points

of order comment that there were more important issues than those employed in the racing industry. That issue is very important to this side of the House. The Government continues to work at a national level to support the racing industry in New South Wales.

The other issue raised was the timing of the sale of the asset. NSW Lotteries has proved to be a strong and resilient business through all cycles, and represents a unique and highly compelling investment opportunity to invest in this sector and in New South Wales. NSW Lotteries is doing exceptionally well despite what is happening in the market right now. Half-yearly results show that net sales were well above target—\$603 million against \$564 million. That is a good result, demonstrating the ability of NSW Lotteries to generate profits despite adverse economic conditions.

The high level of interest from strategic buyers, most of whom have relatively strong balance sheets, encourages the Government. NSW Lotteries presents a unique opportunity for bidders wanting to establish a significant strategic presence in Australia and it is clear these bidders are ready to participate. Financial commentators, such as Liz Knight of the *Sydney Morning Herald*, have commented that now is the right time to sell NSW lotteries. The stabilisation of global credit markets has resulted in improved access to finance and declining risk aversion. Further, equity investors remain highly supportive of existing listed corporates in terms of secondary capital raisings. The Government is confident that there will be sufficient financing available to potential buyers in a sale process. The Victorian and Tasmanian governments are currently progressing the sale of wagering licences in their States, recognising that now is a good time to be selling strong counter-cyclical businesses such as these.

The last point I make is in regard to the concerns raised particularly by Opposition members and others about agents. Currently there are more than 1,600 agencies of New South Wales Lotteries' across the State. Many of those agencies are newsagents, The Government recognises that the sale of lottery products forms an important source of revenue for newsagents, most of which operate small businesses within our local communities. The appointment of agents has traditionally been a commercial decision for NSW Lotteries, and these arrangements will not change with the new operator.

All contracts that agents currently have with NSW Lotteries will continue, with all conditions intact, with the new operator. This will ensure that agents have certainty and the ability to make decisions about the future of their business. The views of key stakeholders, such as newsagents, were an important consideration for the Government in developing the legislative proposal and the regulatory framework in particular. The fact is that the business of NSW Lotteries is the goodwill that is tied up in the agency network. The member for Barwon commented on the Victorian model of two licences. We are not going anywhere near that model. It is important to note that newsagents and other agents have contracts with NSW Lotteries to sell products for NSW Lotteries. Those contracts are ongoing and will be part of the NSW Lotteries sale process. I think that addresses all the issues that were raised.

**Question—That this bill be now agreed to in principle—put.**

**The House divided.**

**Ayes, 46**

Mr Amery	Mr Gibson	Ms Megarrity
Ms Andrews	Mr Greene	Mr Morris
Mr Aquilina	Mr Harris	Mrs Paluzzano
Ms Beamer	Ms Hay	Mr Pearce
Mr Borger	Mr Hickey	Mrs Perry
Mr Brown	Ms Hornery	Mr Sartor
Ms Burney	Ms Judge	Mr Shearan
Mr Campbell	Ms Keneally	Mr Stewart
Mr Collier	Mr Khoshaba	Ms Tebbutt
Mr Coombs	Mr Koperberg	Mr Terenzini
Mr Corrigan	Mr Lynch	Mr Tripodi
Mr Daley	Mr McBride	Mr Whan
Ms D'Amore	Dr McDonald	
Ms Firth	Ms McKay	<i>Tellers,</i>
Mr Furolo	Mr McLeay	Mr Ashton
Ms Gadiel	Ms McMahan	Mr Martin

**Noes, 35**

Mr Aplin	Mr Hartcher	Mr Roberts
Mr Baumann	Mr Hazzard	Mrs Skinner
Ms Berejiklian	Ms Hodgkinson	Mr Smith
Mr Besseling	Mrs Hopwood	Mr Souris
Mr Cansdell	Mr Humphries	Mr Stokes
Mr Constance	Mr Kerr	Mr Stoner
Mr Debnam	Ms Moore	Mr J. H. Turner
Mr Draper	Mr O'Dea	Mr R. W. Turner
Mrs Fardell	Mr Page	Mr R. C. Williams
Mr Fraser	Mr Piper	<i>Tellers,</i>
Ms Goward	Mr Provest	Mr George
Mrs Hancock	Mr Richardson	Mr Maguire

**Pairs**

Mr Lulich	Mr O'Farrell
Mr West	Mr Piccoli

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill agreed to in principle.**

**Passing of the Bill**

**Bill declared passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.**

**DISTINGUISHED VISITORS**

**ASSISTANT-SPEAKER (Ms Alison Megarrity):** I welcome our sole visitor in the gallery this evening, Stephen Wills, the Lord Howe Island Board Chief Executive Officer, representing a very beautiful part of New South Wales of which we all should be proud.

**COURTS AND OTHER LEGISLATION AMENDMENT BILL 2009****PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) BILL 2009****STATE EMERGENCY AND RESCUE MANAGEMENT AMENDMENT BILL 2009**

**Messages received from the Legislative Council returning the bills without amendment.**

**ROOKWOOD NECROPOLIS REPEAL BILL 2009**

**Bill received from the Legislative Council and introduced.**

**Agreement in Principle**

**Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [7.12 p.m.], on behalf of Ms Kristina Keneally: I move:

That this bill be now agreed to in principle.

As the Rookwood Necropolis Repeal Bill 2009 was introduced in the other place on 3 June 2009 and is in the same form, I refer to the second reading speech, which appears on pages 2 to 4 in the *Hansard* galley for that day. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.**

**STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL 2009****Bill introduced on motion by Mr John Aquilina, on behalf of Mr Joseph Tripodi.****Agreement in Principle****Mr JOHN AQUILINA** (Riverstone—Parliamentary Secretary) [7.13 p.m.]: I move:

That this bill be now agreed to in principle.

The State Revenue Legislation Further Amendment Bill 2009 is the latest in a series of bills to amend Acts administered by the Office of State Revenue. This is to ensure that the legislation is current and consistent with best-practice tax administration. It makes amendments in five broad areas to provide revenue protection measures and address tax avoidance practice, provide tax concessions for duties and land tax, improve administration of first home benefits under the First Home Plus and First Home Owner Grant schemes, improve administration of fines enforcement, and clarify provisions in State revenue legislation to align them with current practices and interpretations. It also makes a number of legislative changes arising from the mini-budget. It enacts the Federal Government's First Home Owner Boost Scheme, which is administered by the New South Wales Government and requires State legislation.

The bill makes substantive amendments to the Duties Act 1997, the Fines Act 1996, the First Home Owner Grant Act 2000, the Land Tax Management Act 1956, the Petroleum Products Subsidy Act 1956 and the Taxation Administration Act 1996. The bill also makes consequential and statute law amendments to various other Acts. I will deal with the amendments to each principal Act in turn. The bill implements the decision announced in the mini-budget on 11 November 2008 to replace the land rich provisions of the Duties Act with a landholder model. From 1 July 2009, under the new landholder model, transfer duty will be payable when a 50 per cent or more interest is acquired in an unlisted company or unit trust that owns land in New South Wales with a value of \$2 million or more.

The bill imposes duty on the acquisition of 90 per cent or more of a listed entity or widely held trust with 300 or more investors. A concessional duty of 10 per cent of the transfer duty otherwise payable is provided, rather than the full duty rate charged by Western Australia and the Northern Territory. This provision will not commence until 1 October 2009 to allow those affected extra time to get ready for the new provision. To provide consistency with the tax treatment of direct transactions, landholder duty will apply to the acquisition of land and goods. In response to representations by professional and industry groups, the bill includes changes to raise certain thresholds and harmonise more closely with other jurisdictions. In addition, the bill includes several other integrity and revenue protection measures. The bill introduces a general anti-avoidance provision for duties.

Over the years, adopting provisions that specifically address identified avoidance practices has successfully protected the duties revenue base. Unfortunately, new schemes increasingly being used are to avoid significant duties liabilities on one-off transactions. To combat these practices, most Australian States and Territories have introduced general anti-avoidance provisions for duties in recent years. The challenge for these provisions is to ensure that a taxpayer who is confronted with alternative methods of achieving the same end is not guilty of tax avoidance merely by choosing the option with the lesser tax liability.

The bill adopts a general anti-avoidance provision similar to the provisions in other States. This is built around the concept of a person entering into a scheme for the "sole or dominant purpose" of tax avoidance in circumstances where the scheme is "artificial, blatant or contrived". The experience to date indicates that provisions of this nature operate as a deterrent to avoidance schemes, such that the provisions rarely need to be invoked or litigated. Any assessment pursuant to the provision would be subject to the same objection and review process that applies to other assessments by the Chief Commissioner of State Revenue. The provisions will apply only to duties liabilities arising on or after 1 July 2009.

The bill implements two other revenue protection measures for duties. The first is to clarify the basis upon which duty is paid on transfers of the goodwill of a business. A liability to transfer duty on goodwill requires a relevant connection with New South Wales. In cases where the business also operates outside New South Wales, the value of the goodwill is apportioned. A recent decision of the Supreme Court identified some deficiencies in the current provisions. The bill clarifies those provisions by adopting provisions similar to those

currently operating in Queensland and Western Australia. Once a relevant connection to New South Wales has been established, the apportionment provisions will continue to ensure that duty is payable only on the New South Wales proportion.

The second measure both protects mortgage duty revenue and ensures an equitable result for mortgages relating to property both in and outside New South Wales. Mortgage duty has been abolished on owner-occupied housing and investment housing finance taken out by natural persons. The remaining mortgage duty will be abolished on 1 July 2012. In the interim, anomalies in the current New South Wales law would create significant inequities and avoidance opportunities. The bill removes these anomalies. The bill provides that duty is payable by reference to the New South Wales proportion of the total property used as security at the time of each duty liability point. To eliminate the possibility of double duty, an optional duty credit is provided in some instances. A liability will arise on the making of an initial mortgage, the addition of further securities, and on the making of advances of money. These changes will ensure that mortgage duty is payable on no more or less than the New South Wales proportion of the security for advances at each liability point.

The bill makes two changes to ensure that the First Home Plus scheme is received only by genuine first home buyers. First Home Plus provides a duty exemption or concession on properties valued at up to \$600,000. The bill clarifies the eligibility criteria relating to whether the applicant and his or her spouse have previously owned residential property. The bill also introduces a measure to assist in recovery of duty on ineligible transactions. Approximately \$10 million in duty and penalties is reassessed on First Home Plus transactions each year and approximately \$8 million in grants and penalties on the First Home Owner Grant Scheme is required to be repaid each year. In cases where a person who has received a concession or exemption is subsequently found to be ineligible, such as where the applicant fails to satisfy the residence requirement, the bill provides that the unpaid duty is a charge on the land. This will enable a more consistent process for recovery of duty and grant moneys.

The bill provides minor extensions of three duties concessions. The first will correct an anomaly in the concession for certain conversions of title to land. The second will extend the concession on a transfer of dutiable property between custodians and sub-custodians under managed investment schemes. The third will ensure the exemption from duty for transfers of property following the breakdown of a de facto relationship continues to apply following the referral of State powers to the Commonwealth. The emergency service levy to fund the State Emergency Service commences on 1 July 2009. Consistent with an existing provision in the Duties Act that specifies that the fire service levy is included in the amount of premium for insurance duty purposes, the bill provides that the emergency service levy is also part of the premium. A complementary amendment is made to the Insurance Protection Tax Act 2001. The bill also specifies that insurance duty on trauma and disability policies is calculated at 5 per cent of the total premium, to remove uncertainty as to the applicable rate. The final change to the Duties Act made by this legislation is an update to the list of Crown bodies that are subject to duty. That list is included in the principal Act, and the Duties (Crown Immunity—Application of Act) Order 1998 is repealed.

The First Home Owner Grant Scheme identifies six criteria to determine whether an applicant is eligible for the grant, and an applicant's status in relation to some of these criteria can change during the application period. For example, an applicant may not be an Australian permanent resident when buying a home but may obtain that status before applying for the grant. Since the scheme's commencement in 2000, the practice of the Office of State Revenue had been to determine eligibility at the date of application, being the date on which the applicant declared the truth of the facts contained in the application. However, since a decision of the Administrative Decisions Tribunal in 2008, applications are now determined at the commencement date for the transaction, such as the date contracts are exchanged. The Act as currently worded remains ambiguous, and other State and Territory revenue offices have variously interpreted the same or similar provisions in different ways. The bill amends the Act to confirm that an applicant's compliance with the eligibility criteria for the grant is to be determined at the commencement date for the eligible transaction.

The bill implements the Commonwealth Government's announcement of an extension to the First Home Owner Boost, which provides additional assistance to first home buyers until 31 December 2009. This is in addition to the \$7,000 First Home Owner Grant provided by the New South Wales Government and to the \$3,000 New South Wales New Home Buyers Supplement, which was extended in the budget until 30 June 2010. The bill also implements the mini-budget announcement to introduce a cap on grant payments, limiting eligibility to the grant to homes valued at no more than \$750,000. This provision will come into force on 1 January 2010 once the Commonwealth First Home Owner Boost scheme ends.



The Chief Commissioner of State Revenue currently has the power to correct a decision to pay the grant within five years of that decision. Experience has now shown that this is insufficient time when dealing with cases of fraud and identity theft, which may not come to light until many years later. The bill allows a decision on the grant to be varied or reversed more than five years after it was made if it was based on false or misleading information provided by or on behalf of the applicant. This is consistent with provisions allowing reassessment of duty under the First Home Plus scheme. The bill also clarifies the circumstances in which information obtained in administering the grant may be disclosed. Disclosure to the Commonwealth will be permitted for the purposes of the First Home Saver Accounts scheme, and disclosure of information for the purpose of legal proceedings will be limited to proceedings arising out of the administration of the First Home Owner Grant Act or a taxation law.

I turn now to the Land Tax Management Act. Where land is jointly owned and one of the joint owners is exempt from land tax, the exemption applies only to the interest held by that joint owner. Other joint owners remain liable for their interest in the land. An example is where one of the joint owners is a Commonwealth Government body, which is exempt by the operation of a Commonwealth law. However, there is uncertainty about how the land tax liability of the joint owner who is not exempt should be calculated under the legislation, particularly where the other joint owner is entitled to constitutional immunity. It has been past practice to assess the non-exempt joint owners on the value of the property reduced by the proportionate interest of the exempt joint owner. The bill amends the provisions relating to the assessment of joint owners to confirm the current practice. The bill also clarifies that where a joint owner is immune from State taxation by the operation of Commonwealth law, the immunity does not extend to the interests of any other joint owners.

Land tax is a first charge on land, and the charge remains with the land until the tax is paid, even if the land is sold. These provisions also apply to company title land where the home unit company owns the land and building, but the shareholders are deemed owners of each individual unit for land tax purposes. As a result any land tax owed by the owner of one unit would be a charge on the entire property. It is not reasonable to place a charge on an entire parcel of land owned by a company due to a single defaulting deemed owner. It is therefore proposed to amend the Act to exclude land owned by a home unit company from the land tax provisions imposing a charge for unpaid tax. Since 1987, lessees of Crown land have been deemed to be the owners of the land for land tax purposes.

The whole of Lord Howe Island is vested in the Crown, so lessees of land on the island are potentially liable for land tax. Most of the land leased by the Lord Howe Island Board would be eligible for exemption as the principal place of residence of the various lessees, or as land used for primary production. However, a small number of parcels of land could be liable for land tax, including leases used for commercial purposes. Land on the island is not valued on a regular basis, nor are values recorded on the Register of Land Values maintained by the Valuer-General. Therefore, lessees would be unaware of any potential land tax liability, and no lessees have ever been assessed for land tax by the Office of State Revenue. Furthermore, the commercial use of land on Lord Howe Island is limited by the island's World Heritage status and is strictly regulated by the Lord Howe Island Board.

The limited valuation information that is available suggests that land values on the island are generally below the land tax threshold. Any revenue generated from land tax would not be sufficient to justify the additional costs of maintaining valuations on the Register of Land Values. The bill therefore provides that the whole of Lord Howe Island is excluded from the application of the Crown lease provisions of the Land Tax Management Act. The exclusion is backdated to the introduction of the liability on lessees in 1987.

**Mr Greg Smith:** Scintillating stuff, John.

**Mr JOHN AQUILINA:** I just wish the Lord Howe Island Board were here to hear it. They have left the Chamber. The land tax exemption for a person's principal place of residence continues to apply for one year following the death of an owner, to allow time for the executor or administrator to administer the estate. However, the concession applies only to residential land that does not include a strata lot or a residence located in a non-residential building, such as a flat above a shop. The bill clarifies that any land that was entitled to an exemption or concession because it was used and occupied by the deceased owner as a principal place of residence is entitled to continuation of the exemption or concession for one year after the death of the owner.

The mini-budget foreshadowed that the petrol subsidy in northern New South Wales would be abolished if Queensland went ahead with its proposal to restrict its subsidy scheme to Queensland residents only. The Queensland Premier has now announced that Queensland will abolish its petrol subsidy from 1 July 2009, and legislation was introduced into the Queensland Parliament on 16 June. The bill provides for the abolition of the New South Wales petrol subsidy on 1 July 2009, in line with the announced Queensland

abolition. In order to prevent recipients from increasing their last subsidy payment by bringing forward sales of product, the subsidy payable for June sales will be capped. This is achieved by limiting claims to either a 10 per cent increase on the average subsidy payable for sales in the previous 11 months of 2008-09, or a total claim of \$10,000, whichever is greater.

I turn now to changes to the Taxation Administration Act. Taxpayers who fail to pay the correct amount of tax are liable to pay penalty tax and interest on the amount of tax outstanding at a rate that includes two components—a market rate and a premium rate. Currently, the market rate is adjusted on 1 July each year, based on a rate published by the Reserve Bank during the preceding May. To ensure that the rate more closely reflects market interest rates, the bill provides for automatic quarterly adjustment of the market rate component from 1 July 2009. The bill also clarifies the circumstances in which the penalty rate can be reduced for a voluntary disclosure by the taxpayer.

The bill implements improvements to the administration of fines and penalty notices by the State Debt Recovery Office. A penalty notice enforcement order is the first step of enforcement action by the State Debt Recovery Office following the failure of a person to pay or otherwise deal with a penalty notice. An enforcement order may be annulled if the person was unaware of the penalty notice or was unable to take any action in relation to the penalty notice. In these cases the person has the right to pay the penalty amount without incurring additional enforcement costs, or to dispute the alleged offence and penalty in court. Evidence has emerged that the annulment process is being abused to delay court proceedings or to delay the imposition of driver licence demerit points.

The amendments in the bill will require applications for annulment to be made within a reasonable period after the person became aware of the penalty notice or became able to take action, and will allow annulment in other circumstances only if the person had no prior opportunity to obtain a review of the liability. The bill also limits the circumstances in which payment of the penalty notice amount without enforcement costs is an option. These amendments retain the current wide grounds for annulment but prevent delays and other abuses of the process being used to avoid liability for the fine or demerit points. Currently, any amounts paid under a penalty notice enforcement order must be refunded when the order is withdrawn or annulled, even if amounts remain unpaid under one or more other orders made in respect of the same person.

The bill authorises the State Debt Recovery Office to allocate any overpayments towards unpaid amounts under other enforcement orders of the same person, and requires the State Debt Recovery Office to notify the person of the allocation of the funds. The Fines Act specifies that fines and costs, when recovered, are payable into the Consolidated Fund unless another Act authorises payment to a specified body or account. This may conflict with another provision authorising the State Debt Recovery Office to deal with amounts collected in accordance with commercial arrangements with various government and statutory bodies. The bill confirms the authority of the State Debt Recovery Office to pay fines revenue to the body on whose behalf the fines were collected under those commercial arrangements. To simplify administration of the arrangements, it is further provided that the State Debt Recovery Office can retain the agreed fee rather than requiring that amount to be invoiced and paid back to the State Debt Recovery Office.

Finally, the bill makes a number of minor statute law amendments to the principal Acts and to the Betting Tax Act 2001, the Health Insurance Levies Act 1982, the Payroll Tax Act 2007 and the Unclaimed Money Act 1995. Most of the amendments contained in this bill have been the subject of consultation with professional and industry bodies, including the Institute of Chartered Accountants, CPA Australia, the Investment and Financial Services Association, the Law Society of New South Wales, the Property Council of Australia and the Taxation Institute of Australia. I thank those organisations for their valuable contributions to the drafting of this legislation. The amendments introduced by this bill will improve the legislation and administration of a wide range of taxes, benefits and fines administered by the Office of State Revenue, as well as other measures previously announced. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire and set down as an order of the day for a future day.**

## **NSW TRUSTEE AND GUARDIAN BILL 2009**

### **Agreement in Principle**

**Debate resumed from 5 June 2009.**

**Mr GREG SMITH** (Epping) [7.38 p.m.]: I lead for the Opposition in opposing the NSW Trustee and Guardian Bill 2009. The objects of the bill are to abolish the offices of the Public Trustee and the Protective

Commissioner while establishing a super body called the NSW Trustee and Guardian. The reforms will require significant changes in the law with respect to the Public Trustee Act 1913, the Protected Estates Act 1983, the Guardianship Act 1987 and the Powers of Attorney Act 2003. These reforms will have a substantial impact on a growing portion of New South Wales residents over the coming years. The population of this State is ageing and this will increase demand on services presently discharged by the Public Trustee. Currently, the Public Trustee has approximately \$64 million in funds. The Office of the Protective Commissioner requires about \$10.6 million a year to run its operations.

A recent report from the Independent Pricing and Regulatory Tribunal dated September 2008 recommended funding the present bodies but not merging them. In 1997 there were prior moves to corporatise the Public Trustee. At the time those moves were perceived by many as an attempt by Treasury to access the organisation's surplus funds. Of late, Treasury has reduced its funding to the Office of the Protective Commissioner against the recommendations of the Independent Pricing and Regulatory Tribunal. As a result, the Office of the Protective Commissioner is currently in deficit. In its 2008 report the Independent Pricing and Regulatory Tribunal said:

IPART believes that Government funding for the OPC should be increased from the amount of \$2.8 million that was provided in 2007/08 to \$10.6 million in a full year (2008/09 values). This increase of \$7.8 million is comprised of:

- \$3.3 million required to restore the OPC to a sustainable financial position, in the absence of any changes to fees, given the earlier cuts in Government funding and the lower contribution to the OPC's revenue from investment markets in current circumstances.
- \$4.5 million attributed to the recommended fee reforms. These reforms are needed on social policy grounds to rectify inequities in the current fee structure. The proposals do not incorporate any significant across the board deepening in client subsidies. The existing management percentage fee rates remain unchanged below the recommended caps which are designed to reduce the extent of over-recovery and cross-subsidisation for a range of existing clients.

In its overview of key findings the Independent Pricing and Regulatory Tribunal stated, amongst other things:

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

It also noted:

The shortfall resulting from these findings should be funded by the NSW Government in such a manner that it provides the OPC certainty of funding over several years. Funding should be indexed annually but adjusted for an efficiency dividend and for any fluctuations in interest income and the surplus generated by the OPC's investment management activities. The latter is subject to the vagaries of the financial markets and may be lower in future years. In return, the OPC should be held accountable for achieving a suite of key performance indicators (KPIs) agreed between it and the Government.

It also said:

- Considering the vulnerable nature of the client base and the legislated monopoly position for all but high net worth clients, the OPC's fee should continue to be regulated.
- The OPC's fee should be reviewed in two stages: a limited mid-term review and a full review in five years time. The aim of the mid-term review would be primarily to re-assess privately managed fees in the light of the better data on capacity to pay, costs and revenues that would result from upgrades to the OPC's financial and management information systems. The review should be conditional upon the development of those systems and the OPC may require urgent additional capital funding to accomplish a system upgrade.
- Improved information is essential to enable the full consideration of the OPC's fee structure in any future review.

To arrive at these key findings, IPART drew heavily on information provided by the OPC, undertook a process of public consultation and conducted its own research. Details of the review process are set out in Box 1.1.

The Government is ignoring that. It is trying to shunt the problem onto the Public Trustee, which is a successful business venture, among other things. The present proposal to merge the functions of the Protective Commissioner and the Public Trustee were mentioned in the Government's mini-budget, but no mention was made of the Public Guardian. One wonders how much thought was put into this reform and how much of it was thrown together on the fly—so many policies of this Government are rejected and something else is tried. Do members remember the north-west and south-west rail links that all members supported?

The Law Society has raised serious concerns about the merger, relating specifically to the fundamental difference in the functions of the bodies being merged. The Law Society said of an initiative in the 2008

mini-budget that the merger was intended to achieve service improvements and minor operational efficiencies by merging functions that would yield savings. Was it referring to savings of half a billion dollars or \$20 million? It was referring to savings of \$100,000 a year. Wow! What a great saving! What an excuse to destroy the Office of the Public Trustee. The initial stakeholders briefing session held on 1 April 2009 did not provide attendees with any persuasive explanation as to why the merger was critical. People With Disability Australia and various other disability groups mentioned by the Law Society have raised concerns with me and with the Government. They said:

The merger is intended to achieve a funding arrangement for the Office of the Protective Commissioner and the Public Trustee that is based on an more extensive cross-subsidisation of fees across their respective client groups. The Elder Law and Succession Committee's reservations about the proposed merger arise because the organisations are fundamentally different.

While the Public Trustee's services in making wills, creating and managing trusts and providing attorney services extend to the wider community, the Office of the Protective Commissioner and Public Guardian provides services for and protects the interests of people unable to manage their own affairs.

Some of the clients of the Office of the Protective Commissioner are so dangerous that they could not be let loose in the Public Trustee's office. It is not necessarily their fault, but because they are dangerous to other people security guards would have to be present whenever they were in the office. Joe Catanzariti, President of the Law Society, said:

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

Is that what the Government wants? Does it want all this work to go to private trustee companies? Joe Catanzariti also said:

It is the case that in other jurisdictions a single entity deals with the functions of the Public Trustee and the Protective Commissioner. But New South Wales differs from other jurisdictions in terms of its greater population and economy and the committee does not regard a single entity argument as a persuasive reason for seeking to re-brand and merge offices that have been separate since inception, have their own particular identity and provide services for different client bases. It seems to the Committee that a cost saving of \$100,000 a year does not merit the potential adverse implications of the merger.

I concur with that statement. Despite all these reasons for not going ahead, the Government puts forward this proposition that New South Wales should follow other jurisdictions that have merged organisations to produce super bodies. These suggestions are misguided. The client base of the Office of the Protective Commissioner stands at 11,000. This is a much larger number of clients compared with other jurisdictions. The impact of a merger on the community will create an undue burden on the Office of the Public Trustee, exhausting its surplus funds. Indeed, experience in other jurisdictions indicates that super bodies service delivery suffers and costs spiral.

In yesterday's Budget Speech we heard a great deal about the alleged social justice concerns of this Labor Government, but actions speak louder than words. The new super body's client base will need to fund the merger and, accordingly, low-income clients are likely to be the ones who will suffer the most. The Attorney General has previously stated that the present reform will increase efficiency. There is little evidence to support such a prophecy when looking at the experience of other jurisdictions. Disabilities groups have expressed conflicting views about the bill. My colleague the member for Bega and shadow Minister for Aged Care and Disability Services will deal with that issue.

As one of my correspondents has said, it is clear, despite the Government's denials, that the purpose of this merger is to get the money that the Public Trustee is holding and to use it to fund the Office of the Protective Commissioner. My correspondent says that the new entity will not be independent and refers to clause 106 (1) (c), clause 106 (3) and schedule clause 1 15 (1) (c), which needs to be considered together with clause 106. The budget for the new entity can be set by the director general under clause 106 (3), which results in an amount derived via schedule 1 clause 15 (1) (c) where the funding for the amount so derived is from income that properly belongs to beneficiaries of money held on trust. There can be instances when money belonging to beneficiaries can be properly spent on particular expenses—that is, on advice on the general operation or investment of the common fund or on some legal question broadly applying to most of the funds held on trust—but this is not one of those cases.

If one of the rationales of the entity is that it be self-sufficient financially, the legislation should guarantee that. The present entities have assets. For example, the Office of the Public Trustee owns its own

building in O'Connell Street and has reserves that it has acquired and maintained out of its own resources and to which government has made no contribution. As a consequence, it determines the development of its facilities. Its information technology infrastructure, which it manages from its own resources, is a good example of that. It would be inappropriate for a supposedly independent entity to be set up in the way that the legislation is cast and then to be able to be stripped of its assets.

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

The Australian Securities and Investments Commission has been looking at the requirements for the conduct of trustee companies, but that process has not been completed. A State entity may be included in that regime, but only if the Attorney General opts in. The new entity should be set up in a way that guarantees its independence so that any appropriate financial regulation is of a prudential not government policy kind. My correspondent states that although the present economic times are not easy, the structure of the new entity represents a withdrawal of government from directly funding the management of the affairs of people with disabilities. This is a very strange policy direction. I note that there was no mention of people with disabilities in yesterday's budget. I am sure that the shadow Minister for Ageing and Disability Services will also deal with that.

One wonders how this all measures up to the added costs of the merger, payment for the bureaucracy to oversee the super body and, of course, the impact on the community as a result of higher fees and poorer services. If the most vulnerable members of our society are to be put at risk because of this proposed reform for the alleged saving of a mere \$100,000 a year, this Labor Government clearly needs to be reminded that we live in a society and not just an economy. That is why the Coalition opposes this bill.

**Ms MARIE ANDREWS** (Gosford) [7.55 p.m.]: I support the NSW Trustee and Guardian Bill 2009. The main purpose of this bill is to constitute the New South Wales Trustee and Guardian as a statutory corporation. Under this legislation, the new statutory corporation will have conferred upon it the functions currently exercised by the Public Trustee and the Protective Commissioner. This bill repeals the Public Trustee Act 1913 and the Protected Estates Act 1983 and replaces them with one Act. Under this legislation the roles and responsibilities of the Protective Commissioner and the Public Trustee will be integrated. I represent an electorate with an above State average number of people aged 60 or more. Given that, this bill is of particular interest to a large number of my constituents. It is encouraging to note that for the first time this legislation sets out the duties of persons exercising functions in respect of protective persons and patients.

In future they will be required to observe the following principles: The welfare and interests of such persons should be given paramount consideration, the freedom of decision and freedom of action of such persons should be restricted as little as possible, such persons should be encouraged as far as possible to live a normal life in the community, the views of such persons in relation to the exercise of those functions should be taken into consideration, the importance of preserving family relationships and cultural and linguistic environments of such persons should be recognised, such persons should be encouraged as far as possible to be self-reliant in matters relating to their personal, domestic and financial affairs, and such persons should also be protected from neglect, abuse and exploitation. This bill reverses some of the presumptions of incapacity contained in sections 16 to 19 of the Protected Estates Act 1983.

Currently, a magistrate or the Mental Health Review Tribunal must make a person's estate subject to management unless satisfied that the patient is capable of managing his or her affairs. In future, such an order will be made only if the decision-maker is satisfied that the person is incapable of managing part or the whole of their financial affairs. I note in particular that the merger implementation team—comprising the Director General of the Attorney General's Department, the Protective Commissioner and the Public Trustee—has held a number of meetings with stakeholder groups in the disabilities sector. That is most important. These discussions will have undoubtedly gone a long way to allaying any fears that people involved in that sector may have had about the proposed merger of the Office of the Protective Commissioner and the Public Trustee. It is anticipated that this proposed merger will bring about operational efficiencies and service improvements. This outcome will certainly benefit not only my constituents in the Gosford electorate but also people throughout New South Wales. I commend the bill to the House.

**Mr ANDREW CONSTANCE** (Bega) [7.58 p.m.]: I oppose the NSW Trustee and Guardian Bill 2009. I will be brief given the contribution made by the shadow Attorney General, Mr Greg Smith, who has outlined very sound reasons as to why the Opposition is opposing this bill. I will touch briefly on issues affecting people with disabilities. It is important to note that any legislation introduced in this place must seek to enhance, protect and fulfil the rights of people with a disability in New South Wales. The Government must also ensure that any policy is funded to ensure positive outcomes for them. The Government has indicated that people with disabilities and the various organisations that advocate on their behalf have been consulted about this legislation and that they are okay about it.

I am concerned that that is not the case, particularly in light of some of the correspondence that I have received. There is no doubt that reform in this area is necessary, and members on this side of the House strongly support such reform. However, it must be measured and consultative and the Government must be engaged with the disabilities sector. Representations have been made to the Government regarding reform of this issue. People with Disability Australia's Position Statement spelled out a number of key areas requiring reform. In particular, it cited:

- [the need for] Fundamental reform of the *Protected Estates Act* to provide the basis for individualised, client centred services, organised according to the principle of least restrictive alternative;
- An end to the current cross-subsidisation of client fees as the basis for the funding of the OPC;
- Substantial public funding for significantly enhanced OPC services to persons on low incomes;
- A detailed legislative basis for a transparent fee structure for OPC fees and charges;
- A structurally independent public guardian;
- A public advocacy function as an alternative to guardianship.

I urge the Government to continue to discuss these reform proposals with the sector. However, not all concerns regarding the merging of the Office of the Protective Commissioner and the Public Trustee have been addressed. The sector is keen to examine closely the need for fundamental legislative reform to the Protected Estates Act. People with Disability Australia argue that this bill provides only for piecemeal reform. The Parliamentary Secretary acknowledged in the agreement in principle speech that these amendments have focused almost exclusively on amalgamating the two offices and that further reform may be required. That expresses the position of People with Disability Australia and the need for reform—something to which the Government must give greater consideration.

The shadow Attorney General referred to the Independent Pricing and Regulatory Tribunal report for a major recommendation for the injection of funds from Treasury for the Office of the Protective Commissioner. Merging the Office of the Protective Commissioner and the Public Trustee is an obvious attempt to fund the Office of the Protective Commissioner's service provision while achieving efficiencies across both organisations and, of course, through the Public Trustee's commercial income streams. This decision causes much concern and alarm. No doubt the demand or services provided by the Office of the Protective Commissioner will increase. This bill is a means for the Government to not properly and appropriately resource the Office of the Protective Commissioner through Treasury.

It is essential that the Office of the Protective Commissioner have the financial capacity not only to maintain current services, but also to enhance future services, given the potential future increasing demand. I am concerned also about the effects of the merger on the Office of the Public Guardian. People with Disability Australia expressed again in its correspondence concern about the effect of the merger on the Office of the Public Guardian and its impact on the status, independence and activist culture of that office. People with Disability Australia stated:

In any event, even if there were to be no substantial change, the status quo is unacceptable, and ought not to be perpetuated in new institutional arrangements. We believe that it is essential for the OPG to be provided with a strong, activist human rights mandate, and that it operate with a very high degree of institutional independence, including, in particular, from the Minister for Disability Services and the Department of Ageing, Disability and Home Care.

There is merit in their argument that the merged structure will add additional layers of bureaucracy for the Public Guardian, and that pressure will be applied to the Public Guardian potentially from the chief executive officer, therefore compromising independence. The shadow Attorney General has stated our very strong opposition to this proposed merger. I understand from a briefing with the Attorney General that he will refer the matter to a committee. The Government needs to have a long, hard look at the impact of this legislation on people with disabilities, and particularly examine closely what the merger means for the rights

of people with disabilities. Certainly, the current bill has a number of problems and challenges. I endorse the comments of the shadow Attorney General. I place on record my strong opposition to this piece of legislation.

**Dr ANDREW McDONALD** (Macquarie Fields—Parliamentary Secretary) [8.05 p.m.], in reply: I thank the members representing the electorates of Epping, Gosford and Bega for their contributions to the debate. The objects of the bill are to constitute the NSW Trustee and Guardian as a statutory corporation and to confer on it the functions currently exercised by the Public Trustee and the Protective Commissioner and, for that purpose, to repeal, re-enact and update, with some modifications, the provisions of the Public Trustee Act 1913 and the Protected Estates Act 1983. The bill does not involve substantive amendment to the roles and responsibilities currently exercised by the Protective Commissioner or the Public Trustee.

Both the Office of the Protective Commissioner and the Public Trustee provide important legal, personal trustee and financial and asset management services to the people of New South Wales. The merger provides the opportunity to improve operational efficiency while enabling the quality of services to clients to be not only maintained, but also improved. Concerns were raised by opponents to the bill and by the Law Society regarding funds and the discretion of the Attorney General's Department. In his letter to Mr Joseph Catanzariti, President of the Law Society of New South Wales, the Attorney General said:

Mr Joseph Catanzariti  
President  
Law Society of New South Wales  
170 Philip Street  
SYDNEY New South Wales 2000

Dear Mr Catanzariti

I refer to your letter regarding the proposed merger of the Office of the Protective Commissioner (OPC) and the New South Wales Public Trustee.

The NSW Trustee and Guardian Bill 2009 was introduced into Parliament on 5 June 2009. The Bill seeks to repeal and largely re-enact the provisions of both the Public Trustee Act 1913 and the Protected Estates Act 1983.

As your letter observes, the services provided separately by the OPC and the Public Trustee in NSW, are provided by a single entity in other Australian jurisdictions. This is feasible because both the OPC and the Public Trustee provide similar services, particularly in the areas of legal and financial management. The legislation creates the opportunity to forge a strong new organisation that builds on the existing strengths of both offices, while harmonising common functions.

The main impetus for the merger is not the nominal savings identified in the 2008 mini budget. Rather, its primary objective is to provide a better deal for people with impaired decision-making capacity, particularly in front-line service delivery. At present, the OPC has a highly centralised and Sydney-based operation. The Public Trustee, on the other hand, has an extensive branch network. This network will become available to protected clients with service centres at places like Gosford, Newcastle, Armidale, Broken Hill, Lismore, Port Macquarie, Wollongong and Bathurst. Improved access to services will become increasingly important for retiring 'sea changers' and 'tree changers', as the number of people affected by disabilities such as dementia grows.

The Government will also be implementing the key recommendations of the Independent Pricing and Regulatory Tribunal (IPART) report: Review of the Fees of the Office of the Protective Commissioner. The merged body will be able to provide fee relief for disadvantaged clients because it will retain the dividend and tax equivalent payments the Public Trustee would have otherwise made; it will have access to the surplus funds in the interest suspense account of the Public Trustee; and it will continue to receive community support funding from the Government. The fee regime of the NSW Trustee and Guardian will be reviewed as early as 2010 by IPART to ensure that it is both fair and equitable.

Your letter conveys the reservations of the Law Society's Elder Law and Succession Committee. The Committee refers to 'a tension between the client bases of the OPC and the Public Trustee', noting that the OPC provides services for people who are unable to manage their own affairs. The Committee seems to infer that because of its broader clientele, the newly merged organisation may lack the 'status' of the Public Trustee, and that people may decline the will-making and trustee services it provides because it also provides assistance to people with disabilities. I utterly reject this proposition. It is akin to suggesting that people would shun the services provided by solicitors, health practitioners and the full range of public agencies simply on the basis that they also provide services to disabled clients.

While the NSW Trustee and Guardian Bill 2009 essentially replicates the provisions of the existing legislation, it also contains some important amendments to promote the right of people with disabilities to live with dignity and as much autonomy as possible. For example, clause 39 of the Bill imports the principles of the Guardianship Act 1987 concerning the welfare and best interests of protected clients; clauses 44-46 reverse the presumption of incapacity that currently operates under sections 16-19 of the Protected Estates Act; and clauses 47-48 impose a six month limit on an interim order for a protected person, where currently no time limit applies.

I trust that you will agree that the merger of the OPC and the Public Trustee is an important initiative that will deliver significant improvements to front line services, as well as provide fee relief and better protection for the rights of some of our most vulnerable citizens. I urge the Law Society to lend its support to the Bill, consistent with its impressive record as an advocate for people with disabilities.

Yours faithfully  
(John Hatzistergos)

The second concern relates to the surplus funds in the interest suspense account of the Public Trustee and whether that will be used to fund the NSW Trustee and Guardian. I will now address that concern. One of the most important things to remember about the merger is that it facilitates the implementation of the fee recommendations of the Independent Pricing and Regulatory Tribunal's report, "Review of Fees of the Office of the Protective Commissioner". These recommendations followed a referral for an examination of the fees charged by the Office of the Protective Commissioner and the need for a clear, fair and transparent fee structure. The Government is implementing those recommendations relating to fees.

The Independent Pricing and Regulatory Tribunal recommended that the Government provide additional funding for the Office of the Protective Commissioner. The additional funds identified by the Independent Pricing and Regulatory Tribunal are being met from the merger. As already outlined in the agreement in principle speech, the merged body will have sufficient funds because it will retain the dividend and tax equivalent payments that the Public Trustee otherwise would have made under the Public Finance and Audit Act; and it is proposed that it will have access to surplus funds held in the interest suspense account of the Public Trustee. The surplus funds have been identified by an actuarial report as not being required as reserves for the Public Trustee's investments. The Government strongly believes that such surplus funds would be well spent on supporting the fee recommendations of the Independent Pricing and Regulatory Tribunal, and on supporting the overall functions of what is currently the Office of the Protective Commissioner.

The final concern that has been raised relates to the discretion conferred on the Director General of the Attorney General's Department. The Opposition has raised concerns about the Director General of the Attorney General's Department having an "unfettered discretion as to how much to charge individual estates for the services provided". The concern relates to fees charged for estate management by the Protective Commissioner being kept to the minimum that is necessary for the scheme's administration; that there be no hidden charges within the common fund; and that all fees should be subject to parliamentary scrutiny. The concerns of the Opposition are misplaced.

The bill clearly states in part 2, division 2, clause 7, in schedule 1, that the existing Protected Estates Regulation 2003 will continue. Further, all payments in relation to estate management by what is now the Protective Commissioner to those who invest and manage the common funds are taken from the 0.5 per cent investment fee which is listed in the regulation. There are no additional investment-related charges or cost to clients. This will continue to be the case. There is to be no increase in fees or charges. I inform members that it is also the intention of the Government to merge the existing Public Trustee Regulation 2008 and the existing Protected Estates Regulation 2003, but that that will not entail any substantive amendments other than to ensure that the NSW Trustee and Guardian can implement the fee recommendations of the Independent Pricing and Regulatory Tribunal's report, "Review of Fees of the Office of the Protective Commissioner".

The Independent Pricing and Regulatory Tribunal's recommendations followed a referral for examination of the fees charged by the Office of the Protective Commissioner and the need for a clear, fair and transparent fee structure. The Government is implementing those recommendations relating to fees. The Opposition is concerned that the Director General of the Attorney General's Department will have an "unfettered discretion" to charge any estate anything. Clearly that is not true, given that fees and charges will continue to be set out in an applicable regulation.

The chief executive officer of the NSW Trustee and Guardian will have the required independence to exercise the trust and protective functions of the NSW Trustee and Guardian, while administrative and financial decisions will be approved by the Director General of the Attorney General's Department. That will create a check on the expenditure of the NSW Trustee and Guardian and ensure the existence of a degree of financial accountability. In conclusion, I foreshadow my intention to move an amendment to clause 45 of the bill. I commend the bill to the House.

**Question—That this bill be now agreed to in principle—put.**

**The House divided.**



**Ayes, 45**

Mr Amery	Mr Greene	Mr Morris
Ms Andrews	Mr Harris	Mrs Paluzzano
Mr Aquilina	Ms Hay	Mr Pearce
Mr Borger	Mr Hickey	Mrs Perry
Mr Brown	Ms Hornery	Mr Sartor
Ms Burney	Ms Judge	Mr Shearan
Mr Campbell	Ms Keneally	Mr Stewart
Mr Collier	Mr Khoshaba	Ms Tebbutt
Mr Coombs	Mr Koperberg	Mr Terenzini
Mr Corrigan	Mr Lynch	Mr Tripodi
Mr Daley	Mr McBride	Mr Whan
Ms D'Amore	Dr McDonald	
Ms Firth	Ms McKay	
Mr Furolo	Mr McLeay	<i>Tellers,</i>
Ms Gadiel	Ms McMahon	Mr Ashton
Mr Gibson	Ms Megarrity	Mr Martin

**Noes, 38**

Mr Aplin	Mrs Hancock	Mr Richardson
Mr Baird	Mr Hartcher	Mr Roberts
Mr Baumann	Mr Hazzard	Mrs Skinner
Ms Berejiklian	Ms Hodgkinson	Mr Smith
Mr Besseling	Mrs Hopwood	Mr Souris
Mr Cansdell	Mr Humphries	Mr Stokes
Mr Constance	Mr Kerr	Mr Stoner
Mr Debnam	Mr Merton	Mr J. H. Turner
Mr Dominello	Ms Moore	Mr R. W. Turner
Mr Draper	Mr O'Dea	Mr R. C. Williams
Mrs Fardell	Mr Page	<i>Tellers,</i>
Mr Fraser	Mr Piper	Mr George
Ms Goward	Mr Provest	Mr Maguire

**Pairs**

Mr Lulich	Mr O'Farrell
Mr West	Mr Piccoli

**Question resolved in the affirmative.**

**Bill agreed to in principle.**

**Consideration in detail requested by Dr Andrew McDonald.**

**Consideration in Detail**

**Clauses 1 to 44 agreed to.**

**Dr ANDREW McDONALD** (Macquarie Fields—Parliamentary Secretary) [8.24 p.m.]: I move Government amendment No. 1:

No. 1 Page 22, clause 45, line 13. Omit "recommends to the Minister". Insert instead "orders".

Clause 45 incorrectly refers to the Mental Health Review Tribunal making recommendations concerning forensic patients to the relevant Minister. While clause 45 essentially replicates section 18 of the Protected Estates Act 1983, which similarly contains this reference, since the commencement of the Mental Health Legislation Amendment (Forensic Provisions) Act 2008 on 1 March 2009, the Mental Health Review Tribunal does not make such recommendations. Rather, the Mental Health Review Tribunal makes orders without reference to the relevant Minister. Parliamentary Counsel has advised that the Mental Health Legislation

Amendment (Forensic Provisions) Act 2008 inadvertently omitted an amendment to section 18 of the Protected Estates Act 1983 and that clause 45 should be amended to remove the reference to recommendations to the Minister.

**Mr GREG SMITH** (Epping) [8.25 p.m.]: The Opposition has opposed this bill. However, if the Government wants to correct its own errors so at least the bill, if enacted, makes sense, we do not oppose that.

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

**Amendment agreed to.**

**Clause 45 as amended agreed to.**

**Clauses 46 to 128 agreed to.**

**Schedules 1 and 2 agreed to.**

**Consideration in detail concluded.**

### **Passing of the Bill**

**Motion by Dr Andrew McDonald, on behalf of Mr David Campbell, agreed to:**

That this bill be now passed.

**Bill passed and transmitted to the Legislative Council with a message seeking its concurrence in the bill.**

**ACTING-SPEAKER (Ms Diane Beamer):** Order! Government business having concluded, the House will now consider the matter of public importance.

### **JOBS INVESTMENT**

#### **Matter of Public Importance**

**Ms ANGELA D'AMORE** (Drummoyne—Parliamentary Secretary) [8.28 p.m.]: I ask the House to note as a matter of public importance investing in New South Wales jobs. Yesterday the New South Wales Government delivered a responsible budget focused on investing in New South Wales jobs and infrastructure. This budget will support our local families in our local communities and major investment in local jobs, infrastructure and essential front-line services as part of the record New South Wales budget. The New South Wales Government's budget is a huge boost for the hardworking families in our local community. As the State member for Drummoyne, I was pleased to announce to my residents that \$82 million in funding was secured in my local electorate. This means a strong investment in our local roads, schools and hospitals, providing better services and local infrastructure.

Our local hospital, Concord Repatriation Hospital, a 500-bed teaching hospital that employs thousands of people, has secured a \$1.5 million investment for 17 full-time and one part-time clinical support officers to enable doctors and nurses to spend less time on paperwork and more time caring for patients; funding for new medical equipment, including upgrades of operating theatre equipment at Concord hospital; and \$300,000 allocated for severe burns services in outpatient services at the hospital. In education, a record \$14.7 billion will be invested in school education and vocational training across New South Wales. This is the Government's commitment to giving local students the greatest opportunity to reach their potential.

The Government will spend \$33.2 million over the next four years to enhance the quality and retention of new teachers by providing mentoring and extra classroom preparation time in their first year of teaching. An amount of \$108 million is committed to ensure every New South Wales public school has interactive whiteboards, videoconferencing facilities and online tools that enable the sharing of information. In my electorate capital upgrades include \$100,000 for a covered outdoor learning area at Abbotsford Public School, \$350,000 for toilet upgrade at Strathfield North Public School, \$230,000 for roof upgrade at Drummoyne Public School and \$200,000 for roof repairs at Concord High School—much-needed funding that is welcomed by our school community.

The Government will invest \$4.4 billion to build and maintain critical road infrastructure across New South Wales, supporting jobs and investing in local communities. An amount of \$34.7 million was allocated to Drummoyne—\$30 million for the network development, \$3.3 million for maintenance of local road networks, \$1.2 million for traffic and transport management, \$150,000 for road safety. Also, \$60 million has been allocated for the Inner West Busway, a \$170 million project to facilitate a 3.5 kilometre bus priority lane from Gladesville Bridge to the Anzac Bridge, which includes the Iron Cove Bridge duplication, tidal flow along Victoria Road to keep traffic flowing during peak hour, and pedestrian and cycling ramps.

It is with great interest that I have watched the Liberals flip flop on this issue. The Leader of the Opposition has continually opposed this project that will deliver public transport outcomes to 200,000 bus commuters along Victoria Road every week. The Opposition solution is to clip an additional lane onto the Iron Cove Bridge, a proposal that would make the project 20 per cent more expensive because the entire bridge would need to be reinforced to support the additional structure. In fact, the Opposition has called for an upper House inquiry into the project in an attempt to stall it and put on hold hundreds of jobs on which my local community is relying, and continue to inconvenience local residents who use buses every day. Once again, I have seen the Liberals argue against public transport outcomes for my local residents.

The Government has announced funding of \$4 billion for public transport services as part of an overall \$7.1 billion transport budget. In my electorate, \$9 million will go towards the \$15 million investigation into the Northern Sydney Freight Corridor project. The Federal Government will also contribute \$840 million for the separation of freight and passenger services through network improvements from North Strathfield to Broadmeadow, and \$108.7 million towards a \$121 million feasibility study for the West Metro, connecting the central business district with Parramatta. Sydney remains one of the few modern cities that does not have an underground metro network. I applaud the Government in meeting this challenge and starting the planning process that will result in a metro system for the inner west. I look forward to the day when my residents will have access to a metro system.

As local members, we all understand the importance of providing housing for our residents with disabilities. That is why I have welcomed the \$2.12 million injection for new community living accommodation in my electorate to house people with a disability. The environment and climate change are important issues in our local communities and we all want to play a part in improving our environment. Canada Bay council has been allocated \$937,500 from the Climate Change Fund to be spent on treating 152 million litres of sewerage water a year to bring it up to drinking-quality water, which will be used to irrigate our local sporting fields. An additional \$17,243 has been allocated to the council from the Environmental Trust to be spent on the Yaralla bush regeneration project in Concord West.

The Drummoyne electorate has an ageing population that is in need of good-quality affordable housing close to amenities such as shops, public transport and health services. Close to \$20 million has been allocated to provide 90 homes for people in need in Abbotsford and Concord, and an additional \$2 million for maintenance upgrades to social housing homes in the Drummoyne electorate. Local tradesmen are always telling me that providing training opportunities for our youth is vital.

**Mr Daryl Maguire:** Point of order: I am loath to draw your attention to the matter of public importance that is headed "Investing in New South Wales jobs". I have been listening intently to the member, who has referred only to the electorate of Drummoyne. Her speech sounds as though it is in reply to the budget. I expect the member for Drummoyne to address the content of her motion and to talk about what this means to the people of New South Wales.

**ASSISTANT-SPEAKER (Mr Grant McBride):** Order! I have heard enough on the point of order.

**Ms ANGELA D'AMORE:** This budget provides a stimulus for our local community and invests in local priorities to help build a better future for our community. The Government is building for the future in local communities, despite the tough economic times. An amount of \$62.9 billion is being invested across New South Wales over the next four years in the biggest building program in our State's history, supporting up to 160,000 jobs. The Government has invested wisely in this budget. The \$200 million Local Infrastructure Fund to fast-track local infrastructure projects in our local government areas is a huge win and a progressive investment. It will make available up to \$200 million in interest-free loans to our local councils and will enable councils, such as Canada Bay, to apply for funding and bring forward infrastructure projects that have been delayed in the past due to funding shortfalls or other priorities. Fast-tracking this infrastructure will support local jobs and provide local economic stimulus.

**Mr ROB STOKES** (Pittwater) [8.35 p.m.]: As a local solicitor, I have been involved in a number of employment law issues, and I have seen how devastating and dehumanising it can be for a person to lose their job. I remember one famous observation in the context of unfair dismissal litigation, where, in *Johnson v Unisys Limited*, Lord Millett asserted:

Many people build their lives round their jobs and plan their future in the expectation that they will continue. For many workers dismissal is a disaster.

Like many others, I have seen the foreclosures and fire sales of homes in my community, as families that have lost an income cannot meet mortgage repayments. I have received depressing emails from friends saying that their contact details have changed—giving a hotmail address and talking of the need to refocus and look for new opportunities. I am therefore pleased to note that over the past few months, the Government has developed an interest in the vital issue of jobs. Since Nathan Rees became Premier in September last year, an additional 46,000 people have lost their jobs in New South Wales. Hindsight is a wonderful thing. It would have been good if the Government had shown interest in creating jobs over the past 14 years—real jobs that increased overall productivity and revenue, real jobs in industries that could have cushioned the impacts of the global financial crisis. The crucial point is that businesses—small, medium or large—create jobs, not governments. Businesses can take credit for creating sustainable employment, not governments.

More often than not governments stand in the way of businesses, and put in place obstacles to job creation, such as unnecessary red tape and constant fiddling with business regulation. For example, Productivity Commission research in 2008 revealed that the New South Wales Government imposed almost 4,500 new regulatory instruments and pages in 2006-07, almost double any other State or Territory. The big disincentive that governments place on business employment is taxation. New South Wales has variously been either the highest or the second highest taxing State in Australia over the past several years. Payroll tax is the most powerful example of an anti-employment tax—a direct tax on employing people. The more people a business employs, the more tax it pays, and they pay more payroll tax right here in New South Wales than they do in Victoria, Queensland, Western Australia or South Australia. If the Government were serious about creating and saving jobs in New South Wales, it would cut payroll tax in response to the financial crisis.

**Ms Angela D'Amore:** We have. You just don't know how to read.

**Mr ROB STOKES:** It was cut in the last budget. This is just a re-announcement. While the member for Drummoyne might try to claim credit for it in this budget, three stages were announced in the last budget. She should not tell untruths. Mr Acting-Speaker, I listened in silence to the member for Drummoyne and I ask to be extended the same courtesy.

**ASSISTANT-SPEAKER (Mr Grant McBride):** Order! I call the member for Drummoyne to order. I ask her to show respect to the member for Pittwater.

**Mr ROB STOKES:** That is the approach taken in Western Australia, and the approach advocated by this side of the Chamber—a one-off 15 per cent across-the-board reduction in payroll tax for 12 months to act as a real stimulus to local businesses. The Government claims the budget is a job creation and job stimulus package. It is even running a publicly funded advertising campaign to sell its political messages about the budget. No matter how much advertising it forces the public to purchase, it cannot ultimately hide the fact that the New South Wales budgetary position, for which it must accept responsibility, is one of uncontrolled expenses growth in a context of recession and rising unemployment. If this budget is so good—if the employment market is so good—why spend public money to sell it? Surely a good budget and a healthy job market will sell themselves.

Whenever this Government is under pressure it rolls out the marketing campaign, paid for by the people of New South Wales. No wonder we have a budget in the red. With behaviour and spending like this, its claims that it will be back in the black in a couple of years. The Government cannot be believed. Labor says that this is a budget about jobs. The Chief Executive Officer of the New South Wales Business Chamber, Kevin Macdonald, said:

As we have all learnt, the real test of this Government is not the promises it makes, but rather in the implementation and execution of its commitments.

As the details of the budget show, the budget is a story of jobs being lost, not created. The budget papers reveal that the unemployment rate will grow to 8.5 per cent over the next two years. It is likely that the figures will be

even worse as New South Wales unemployment is already well above the national rate, and has been since 2005, but the budget says we will be well below the national figure this year. That also casts real doubt over future growth estimates and claims the budget will be back in the black in a couple of years. To get back into the black the Rees Labor Government must reduce spending via its public sector reform, but this is highly unlikely as the proposal has no credibility—it was pinched holus-bolus from Queensland. As a very good friend of the member for Drummoyne and former Treasurer of this State, Michael Costa, said on Sky News today, "It's just a stunt."

**Ms Angela D'Amore:** That is definitely a misrepresentation.

**Mr ROB STOKES:** I quote Michael Costa:

The fact is: the policy areas are still there. You might get rid of a few bureaucrats.

We've had three or four goes since I was in the government dealing with back office and IT and I just don't think the savings are going to be there.

That is what Michael Costa has to say about the State budget. Without Kevin Rudd's money—to be paid off by future generations—there would be an underlying budget deficit of \$8 billion over the next four years. Even so, the debt and financial liabilities are estimated to total \$36,000 per household in three years time, with no plan to pay it back. The budget confirms that New South Wales is in recession, even if the Treasurer cannot utter the word "recession". The budget shows negative growth for 2009-10 of 0.5 per cent for New South Wales against the backdrop of national growth. The truth, it seems, is hurting my friends on the other side of the Chamber, but they have to own up to what is going on and they have to own up to what their Government has done over the past 14 years. Mr Costa had some interesting things to say. The expenditure growth in this budget has ballooned out to 8 per cent and he said that the figures to bring expenditure back into line were very ambitious, particularly in terms of controlling expenses.

**Ms LYLEA McMAHON** (Shellharbour—Parliamentary Secretary) [8.42 p.m.]: I am very concerned about the member for Pittwater speaking today with false sincerity about investing in jobs when members on that side of the Chamber could not be bothered to turn up to discuss jobs as a matter of public importance the last time we raised this issue. The member for Pittwater could not be bothered to sit in this Chamber and do his job for the people who elected him and talk about jobs in New South Wales, which are very important.

**Mr Rob Stokes:** Where were you? I did not see you.

**Ms LYLEA McMAHON:** I was here, sitting at the table. The member for Pittwater also failed to declare the absence of \$39.9 billion in unfunded commitments that his side of the House has made—promises of cuts in taxes or revenue that amount to about \$3.9 billion, not to mention unfunded promises in Roads and Transport adding up to about \$36 billion. However, the New South Wales Government budget has committed to investing in jobs for a better future, not only for the people of New South Wales but also for the people of the electorate of Shellharbour. Where was the member for Pittwater when we wanted to talk about the importance of jobs? He was missing in action; he was not performing his own job. He was taking a salary but not doing his job.

**ASSISTANT-SPEAKER (Mr Grant McBride):** Order! The member for Pittwater will listen to the member for Shellharbour in silence.

**Ms LYLEA McMAHON:** The New South Wales budget has delivered major investment in jobs for the electorate of Shellharbour as well as delivering front-line services. I draw particular attention to the investment in health. The electorate of Shellharbour has been allocated funding that will double the number of renal dialysis chairs at Shellharbour Hospital from six to 12, providing lifesaving dialysis for up to 48 patients per week, as well as the nursing and clinical services jobs that go along with that. Funding of \$3 million will improve mental health facilities, including child and adolescent mental health inpatient services at Shellharbour Hospital. That funding is in addition to funding for the 20-bed mental health facility that opened this year, and the child and adolescent mental health day unit that opened this year. This funding will provide important jobs for people in the electorate of Shellharbour. The 50 per cent cut in stamp duty will ensure that the construction industry across the State is given the boosted injection it needs, particularly in my electorate of Shellharbour. Shame on the member for Pittwater for misleading this House.

**Ms ANGELA D'AMORE** (Drummoyne—Parliamentary Secretary) [8.45 p.m.], in reply: I thank the member for Pittwater and the member for Shellharbour for their contributions. It is a shame that the Opposition

has refused to acknowledge how the New South Wales Government is investing in jobs and for a better future for our local communities with a record \$62.9 billion building program over the next four years. The member for Pittwater refused to acknowledge the New South Wales housing construction acceleration plan that will provide a 50 per cent cut in stamp duty per dwelling for newly constructed dwellings up to the value of \$600,000 purchased in New South Wales from 1 July to 31 December. He also refused to acknowledge that first home buyers would continue to receive an additional \$3,000 for the purchase of newly constructed dwellings up to 30 June. The member for Pittwater refused to acknowledge \$35 million in the New South Wales community building partnership that provides his electorate and mine with \$300,000 that will go towards local projects and create local jobs.

The member for Pittwater also refused to acknowledge the \$200 million in interest-free loans that will go to local councils to upgrade essential infrastructure and provide jobs. He refused to acknowledge that we are saving New South Wales businesses about \$2.7 billion over the next five years by delivering the announced cut to payroll tax—three cuts to payroll tax, two in the next two years. The member refused to acknowledge that. What I find more interesting today is that at a time when the State Government is moving to create jobs in the community the Leader of the Opposition and members opposite are working to block the generation of jobs. Today we saw the Opposition doing everything in its power to block legislation before the House that would generate 9,000 jobs in Parramatta. The New South Wales Coalition today voted against the Land Acquisition (Just Terms Compensation) Amendment Bill 2009, which would have helped to create 9,000 construction and ongoing jobs at the proposed Parramatta Civic Place development. When we on this side of the House are supporting up to 160,000 jobs, the Opposition must explain why it has put the axe through 9,000 jobs in Parramatta.

**ASSISTANT-SPEAKER (Mr Grant McBride):** Order! The member for Pittwater will not provoke the member for Drummoyne.

**Ms ANGELA D'AMORE:** Yes, be nice. All I can say to members opposite is that we are getting on with the job of creating jobs and investing in infrastructure in this State. If they are not happy with what we are doing they can give back the money that has been allocated to their communities in this budget. But they will not do that because they know the State Government has delivered a stimulus package that will keep this State going; that will give our local families essential jobs and put food on the table. Do they have any solutions? No, they do not. They come into this Chamber tonight and try to say that we are not doing the right thing when we know that this budget will deliver real outcomes to our communities, upgrade infrastructure and provide local jobs.

**Discussion concluded.**

## **ADJOURNMENT**

**Motion by Mr John Aquilina agreed to:**

That this House do now adjourn.

**The House adjourned, pursuant to resolution, at 8.48 p.m. until  
Thursday 18 June 2009 at 10.00 a.m.**

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