LEGISLATIVE ASSEMBLY

Wednesday 25 November 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.

CRIMINAL ASSETS RECOVERY AMENDMENT BILL 2009

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

CHILD PROTECTION LEGISLATION (REGISTRABLE PERSONS) AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a later hour.

GRAFFITI CONTROL AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a later hour.

INDEPENDENT COMMISSION AGAINST CORRUPTION AND OMBUDSMAN LEGISLATION AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a later hour.

PUBLIC SECTOR RESTRUCTURE (MISCELLANEOUS ACTS AMENDMENTS) BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a later hour.

SWIMMING POOLS AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

VALUATION OF LAND AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a later hour.

BUSINESS OF THE HOUSE

Notices of Motions

General Business Notices of Motions (General Notices) given.

INDUSTRIAL RELATIONS (COMMONWEALTH POWERS) BILL 2009

Bill introduced on motion by the Hon. Carmel Tebbutt.

Agreement in Principle

Ms CARMEL TEBBUTT (Marrickville—Deputy Premier, and Minister for Health) [10.15 a.m.]: I move:

That this bill be now agreed to in principle.

The purpose of the this bill is to refer certain matters relating to industrial relations to the Commonwealth for the purpose of section 51 (37) of the Australian Constitution and to amend the Industrial Relations Act 1996. The primary role of the bill is to refer to the Commonwealth sufficient power to enable the creation of a national industrial relations system for the private sector. The establishment of this system is an event of great historical significance. It represents an unprecedented willingness of governments across Australia to work in the national interest. It demonstrates the very best aspects of cooperative federalism. It demonstrates an unwavering commitment to fairness and decency in the workplace.

The national industrial relations system will be based on the Fair Work Act—the legislation that did away with the insidious WorkChoices laws. This legislation will extend the coverage of the Fair Work Act to all private sector employees and employers in New South Wales. Employers who are sole traders, partnerships or non-trading corporations are currently covered by the New South Wales industrial relations system, and will be referred into the national system. By exclusion, this referral will not apply to the New South Wales public service or the New South Wales local government sector.

There is a seminal difference between what is happening today, in 2009, and what happened in 2006 under the former Federal Government. In 2006 the Commonwealth legislated against the wishes of the States to unilaterally seize powers and impose the insidious WorkChoices laws on the Australian people. WorkChoices did not merely impose on the Australian people a system that was both mired in complexity and fundamentally unfair; it failed in its attempt to create a national industrial relations system. WorkChoices redrew the basis on what was covered by Federal industrial laws. The corporations power of the Constitution was used to extend the application of Federal laws, overriding the limitations on the conciliation and arbitration power that had traditionally been the basis for Federal industrial laws. However, this left many organisations in limbo, not knowing what laws they were covered by. This uncertainty prevailed most strongly in the charitable sector, amongst employers and employees with the lowest capacity to seek legal advice or mount legal challenges.

The unilateralism of WorkChoices was equally offensive. The Howard Government had no mandate from the Australian people. Nor did it make any attempt to seek common ground in developing a national industrial relations system. Had the Howard Government done so, its laws would have been fundamentally different from WorkChoices. WorkChoices was as much a result of the Howard Government feeling unencumbered by checks and balances as it was of the Howard Government having an ideological obsession of removing fairness from the workplace. Today, in 2009, the situation is the antithesis of 2006. The Rudd Government has a clear electoral mandate from the Australian people, and it has engaged with the community, employer associations, unions, industry and State governments in developing the Fair Work Act. The national industrial relations system, which is in part created by this legislation, removes once and for all the ebb and flow of businesses between Federal and State laws.

Determining which industrial rules apply to a particular workplace will no longer turn on arcane and legalistic questions of whether an employer is a constitutional corporation. Similarly, the bill removes the need to apply the constitutional test as to whether an employer was genuinely part of an interstate industrial dispute. This referral will eliminate uncertainty about the status of employers, and ensure that the same broad industrial relations framework covers all employers and employees in the private sector. It will bring unincorporated businesses and charities into the system, which will, from 1 January 2010, cover all private sector organisations in Queensland, Victoria, Tasmania, South Australia and the two Territories. The House will appreciate the historic significance of this occasion. On the commencement of the provisions of this bill, New South Wales will join the national industrial relations system and a new era will be established in this country.

New South Wales has a proud industrial relations history. Laws passed by this House have provided a framework for minimum wages, maximum working hours, leave entitlements, and equality for men and women doing work of equal or comparable value. The independent industrial tribunal created by statute, the Industrial

Relations Commission of New South Wales, has served our State with distinction for more than a century. The commission is recognised internationally for its expertise in resolving disputes and developing community standards to be enjoyed by all employers and employees in this State. Indeed, the New South Wales Commission has been at the forefront of developing many of the industrial relations principles we take for granted these days. For example, Justice Sheldon of the New South Wales Industrial Commission first enunciated the concept of a "fair go all round" in 1971. The fair-go-all-round concept is the very essence of industrial justice. It sets the jurisprudence in a bedrock of balanced interests and common human decency. This concept endures today, informing decision-making with respect to unfair dismissals and other matters nationwide.

In July this year the Rudd Government's Fair Work Act 2009 commenced, putting an end to the divisive era of WorkChoices, which undermined the principle of a fair go all round. The Fair Work Act restored fairness and balance to the national system. The Fair Work Act and its associated legislation were the result of extensive consultation between the Commonwealth Government, business, unions, and State and Territory governments. Significantly, the Commonwealth Government recognised that it could not create a truly national system other than by cooperation with the States and Territories. Consequently, extensive discussions have taken place between the governments about how to shape a new national system that will be fair, balanced and enduring. I take this opportunity to put on record the Government's appreciation of the considerable personal efforts of the Deputy Prime Minister and other State Ministers and their respective officials from across Australia in these consultations.

The contrast between this process and the unilateralism of WorkChoices could not be more stark. The Commonwealth Government drew on the vast reservoir of experience in this State to inform its legislative framework. These discussions have improved the quality of the Commonwealth's industrial relations law and clarified the demarcation point with many State laws. That is, the interaction between the Commonwealth's Fair Work Act 2009 and State laws dealing with public holidays, business trading hours, essential services and victims of crime leave is now much clearer. Unlike WorkChoices, which encouraged corporations to make Australian Workplace Agreements overriding these State laws, the Fair Work Act 2009 clearly recognises the continuing operation of these important State laws.

The Government took the necessary time to determine to participate in the national industrial relations system. We took a prudent approach. While the overall shape of the national system framework has been evolving for some time, it is only with the introduction of the Commonwealth's Fair Work Amendment (State Referrals and Other Measures) Bill that the final piece of the jigsaw puzzle is now in place. That bill shows us how referrals by the States will be accepted by the Commonwealth to establish a truly cooperative national system. The Commonwealth bill also establishes how the transition to the new system will operate for the thousands of private sector employers and their employees who are the subject of this referral. Furthermore, we have been able to observe the initial operation of the Fair Work Act.

The Government made the decision to participate in the national industrial relations system after it was certain what laws would be in place in the national system. I will make a few comments about creating the modern award system as part of the transition to the fair work laws. The Australian Industrial Relations Commission is creating these modern awards. The dimensions of the task being undertaken in this process should not be underestimated. The commission is consolidating literally thousands of industrial standards into approximately 120 new awards. The changes to pay rates, leave entitlements and employment conditions are quite significant in some industries and occupations. I am satisfied that the Commonwealth laws now include a range of measures that will ameliorate the transitional difficulties that some commentators have associated with the award modernisation process.

First, employers and employees affected by this referral will, by and large, retain their State award entitlements for at least one year. There are exceptions to this: all employees will be entitled to the benefit of the new National Employment Standards, and Fair Work Australia will be able to periodically adjust these conditions. Second, Fair Work Australia will manage the transition to modern awards over a full five-year period to 2015. This will give employers and employees a reasonable period to adjust to the new awards. Finally, take-home-pay orders will be able to be made by Fair Work Australia in order to ensure that no existing employees will suffer a reduction in net pay. While the New South Wales Industrial Relations Act has worked well to provide an industrial relations framework that is fair, just, efficient and productive, the fair work laws provide similar outcomes.

The national fair work system is built upon fundamental workplace relations principles that have been agreed between the Commonwealth, the States and Territories. These include a strong, simple and enforceable

safety net of minimum employment standards; genuine rights to ensure fairness, choice and representation at work; collective bargaining at the enterprise level with no provision for individual statutory agreements; fair and effective remedies available from an independent industrial umpire; protection from unfair dismissal; an ongoing commitment to an independent tribunal system; and an independent authority able to assist employers and employees within the national system. These principles are mirrored in the Commonwealth's Fair Work Amendment (State Referrals and Other Measures) Bill and are established in the referring legislation of each of the other participating States. They are also set out in the multilateral intergovernmental agreement that all States participating in the national system will sign or have already signed.

The multilateral intergovernmental agreement is an important document. It emphasises that the new national system will be a joint endeavour amongst the participating jurisdictions. It commits all participating jurisdictions—the Commonwealth, the States and the Territories—to support the fundamental industrial relations principles. Importantly, if any future Commonwealth Government seeks to introduce an amendment to the Fair Work Act that would undermine the fundamental workplace relations principles, that issue will be able to be debated at the Workplace Relations Ministerial Council. If necessary, the council will vote on whether the amendment or proposed amendment undermines the principles. If a two-thirds majority does not support the amendment, the Commonwealth has committed to not proceed with it. This political commitment is reinforced in the legislation I have introduced today, and in the Commonwealth bill that will accept State referrals.

If the New South Wales Government is of the view that an amendment or proposed amendment to Commonwealth legislation undermines the fundamental principles, a proclamation may be made declaring that that particular amendment will have no effect in the State of New South Wales. But this partial termination of the reference of powers will not affect the overall reference; that is, the rest of the national system as it operates in this State will not be affected by such a proclamation. This mechanism permits the State to precisely identify and quarantine any objectionable amendments to the Fair Work Act. This promotes the stability of the system whilst also providing the Government with the capacity to target WorkChoices-style laws. The consultative and deliberative arrangements in the multilateral intergovernmental agreement will ensure that the national industrial relations system evolves in a manner consistent with the fundamental principles of that system.

All the referring States, together with the Commonwealth and the Territories, are committed to working together to ensure that the new national system works effectively for all private sector employers and employees. I can inform members that New South Wales and the Commonwealth are close to finalising arrangements that will underpin this cooperative relationship. The Commonwealth has agreed that seven members of the New South Wales Industrial Relations Commission will be appointed to positions in Fair Work Australia, the tribunal that administers the Fair Work Act. Three of these members will work in Fair Work Australia on a full-time basis, four on a part-time basis.

All will maintain their membership of the Industrial Relations Commission. This will provide a significant boost to the membership of Fair Work Australia in New South Wales after the Howard Government eroded the membership of its predecessor, the Australian Industrial Relations Commission. It will ensure that the skills and knowledge of State tribunal members continue to be available to employers and employees throughout New South Wales. It also facilitates the establishment of Fair Work Australia in the vital industrial centres of Newcastle and Wollongong where Fair Work Australia will share premises with the Industrial Relations Commission.

There will also be considerable cooperation between the Commonwealth and New South Wales in the provision of education and compliance services. Inspectors from New South Wales Industrial Relations and the Fair Work Ombudsman will work together to deliver information and educational services to the workplaces of New South Wales. State inspectors will be trained and dual-badged as inspectors under the Commonwealth's Fair Work Act 2009. Currently, the agencies are preparing an educational program that will be delivered in a variety of ways to employers in this State. This will ensure that, as far as is practicable, businesses are well equipped during the transition to the new national system. I am advised that the program will particularly focus on unincorporated employers who are the subject of this bill. In this program employers from regional areas of New South Wales will be key targets.

I now detail the major provisions contained within this bill concerning the operation of this referral of power. The major elements of the bill are: the creation of fundamental workplace relations principles in clause 4, reflecting those principles I have described earlier; the creation of an initial reference of powers, a referral of the power to amend the referred laws and a referral of power to make transitional laws about the referred

matters; the exclusion of a specified range of matters in clause 6; and the process for the termination of the reference in clauses 7 to 9 of the bill. Schedule 1 of the bill sets out the text that is required to be inserted in the Commonwealth Fair Work Act 2009 in order to effect the referral of powers.

I now detail the major provisions contained within this bill concerning consequential amendments to New South Wales legislation. Schedule 2 to the bill sets out the amendments to New South Wales law considered necessary to align State law with the national industrial relations system. Schedule 2 repeals section 146A of the Industrial Relations Act 1996 and amends section 146B of the Industrial Relations Act 1996. In the case of the repeal of section 146A, the commencement of the Fair Work Act 2009 clearly overrides the operation of these laws. The section is, accordingly, redundant.

The amendment to section 146B will permit members of the Industrial Relations Commission of New South Wales to be nominated as dispute resolution providers in federal enterprise agreements. This will ensure that many companies who continue to use the expertise of the Industrial Relations Commission will be able to continue these arrangements. The implementation period in 2010, and the transitional period through to 2015, will also require a positive contribution from unions, business and employer associations across New South Wales.

In order to ensure that the Government receives comprehensive advice on the operation of this new set of laws, the Government will form an Industrial Relations Advisory Committee. This body will provide an independent and regular source of advice to Government. Members will be drawn from employer and employee organisations, as well as professional bodies. This will ensure that the Government can respond quickly to any issues that arise during the implementation of the new system. There is an unprecedented level of support for the national industrial relations system.

I am reminded that the review of industrial relations undertaken by Professor John Niland 20 years ago had as one of its primary recommendations that New South Wales should seek a uniform national set of laws. More than two decades later, the future has arrived. Today this House can heed that guiding principle from Professor Niland and from many other learned commentators. New South Wales should be proud to take its place amongst the referring States and to contribute positively to the implementation of this new national workplace relations system. 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.

BUSINESS OF THE HOUSE

Suspension of Standing Orders: Routine of Business

Motion by Mr John Aquilina agreed to:

That standing orders be suspended at this sitting to permit:

(1) the postponement of the motion accorded priority to permit the introduction and the agreement in principle speech on the Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill; and

(2) the conclusion of consideration of the motion accorded priority prior to the commencement of Government business.

INDEPENDENT COMMISSION AGAINST CORRUPTION AND OMBUDSMAN LEGISLATION AMENDMENT BILL 2009

Agreement in Principle

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [10.34 a.m.], on behalf of Ms Carmel Tebbutt: I move:

That this bill be now agreed to in principle.

This bill contains three amendments to the Independent Commission Against Corruption Act and the Community Services (Complaints, Reviews and Monitoring) Act 1993. The Ombudsman and the Commissioner of the Independent Commission Against Corruption have requested the amendments, which are intended to clarify and strengthen their powers. First, the bill clarifies the ability of the Independent Commission Against

Corruption to use audio recordings involving the late Michael McGurk in the context of its corruption investigation even if those recordings may have been made unlawfully. Honourable members will be aware of reports about certain audio recordings involving the late Mr Michael McGurk and corruption allegations.

The Commissioner for the Independent Commission Against Corruption has asked the Government for amendments in the context of a preliminary investigation he is undertaking in relation to those matters. The Government agrees that there is a very strong public interest in the case and in the Independent Commission Against Corruption not being unnecessarily restricted in the conduct of this investigation. In developing the amendments, however, the Government also has been conscious of the national model surveillance laws, which are designed to enable improved cross-border law enforcement cooperation. Arising out of that process, the New South Wales Government is working hard to put in place positive, reciprocal relationships with other jurisdictions. The Government wants to emphasise that the amendments contained in this bill will not impact on that process.

The Government is also conscious of the need to ensure that there is no encouragement whatsoever to any person to make unlawful recordings in the future, which would undermine the policy of the Surveillance Devices Act. Accordingly, the bill has been drafted to ensure that there is no endorsement for, or excusing of, past unlawful recordings. The amendments will not protect any person or organisation including any law enforcement agency that has made an unlawful recording contrary to the Surveillance Devices Act. The makers of unlawful recordings remain open to prosecution. Furthermore, the bill's application is expressly limited to recordings that appear to the Independent Commission Against Corruption to be a recording of a private conversation in which the late Mr Michael McGurk was a participant.

Since Mr McGurk's death, recordings of conversations in which he participated may now be the best evidence available about the matters raised in those conversations. Clearly, the amendments would not be needed if Mr McGurk could provide the Independent Commission Against Corruption with direct evidence about any alleged corrupt conduct of which he was aware. There are also additional safeguards put in place by the amendments to protect individual privacy and the integrity of investigative processes.

The provisions of the bill only apply where the Independent Commission Against Corruption has obtained recordings through the use of its coercive powers during the course of a corruption investigation. It will not be possible for the Independent Commission Against Corruption to use recordings provided to it on an unsolicited basis or for any other non-investigative purposes, such as corruption education. As a further safeguard, the amendments will sunset on 31 December 2010. The Independent Commission Against Corruption has informed the Government that it is confident that its investigations in relation to Mr McGurk will have concluded by that time.

While it is entirely a matter for the Independent Commission Against Corruption how it wishes to pursue its investigations, the Government believes it is appropriate that there be an end date to these exceptional arrangements. A sunset provision sends a very clear message that this departure from the normal rules applying to covert surveillance is a one-off response to a set of unique circumstances. Of course, the bill will not prevent copies of a report made by the Independent Commission Against Corruption before 31 December 2010 being available after that date. The Government is confident that the bill before the House strikes an appropriate balance between protecting the public interest in individual privacy and protecting the public interest in uncovering corruption.

The second important reform in the bill is a new power for the Ombudsman to conduct an audit of the Government's implementation of the New South Wales Interagency Plan to Tackle Child Sexual Assault in Aboriginal communities. The Ombudsman's new audit function arises out of the Government's response to the Wood special commission of inquiry. In its response, the Government announced that it would take steps to ensure the Ombudsman could review implementation of the interagency plan. The interagency plan was released by the New South Wales Government in January 2007 in response to the report of the Aboriginal Child Sexual Assault Taskforce. To ensure that the Ombudsman can undertake his audit, the bill will impose a duty on public authorities to provide information to and assist the Ombudsman in his work. The bill will also allow the Ombudsman to provide relevant information or comments to public authorities. The bill also will require the Ombudsman to report to the Minister for Aboriginal Affairs on the results of his audit by 31 December 2012. The Minister must then table the Ombudsman's report in Parliament within one month of receiving it. The Government is looking forward to co-operating with the Ombudsman in this important task.

The third amendment to be made by the bill is to expend the categories of senior public officials who are under an obligation to report corrupt conduct to the ICAC. This amendment also has been requested by the

Commissioner of the Independent Commission Against Corruption. Section 11 of the Independent Commission Against Corruption Act provides that the principal officer of a public authority is under a duty to report to the commission any matter that the person suspects, on reasonable grounds, concerns or may concern corrupt conduct. The wide-ranging reforms of the New South Wales public sector instituted by the Government this year means that chief executive officers of new amalgamated departments are under this obligation to report corruption to the Independent Commission Against Corruption. The bill ensures that the management and reporting of corruption allegations in key areas of the public sector continues to operate in the most effective way under new public sector arrangements.

The bill amends section 11 of the Independent Commission Against Corruption Act to allow additional reporting officers to be prescribed by regulation in respect of separate offices within a public authority. The amendment ensures that former departmental heads who continue to hold leadership positions in operationally discrete areas—for example, the Commissioner of Corrective Services within the new Department of Justice and Attorney General—continue to be subject to reporting obligations. The Government wants to ensure that those officers who are in the best position to form a view as to whether a matter is reportable under section 11 remain under a duty to report corruption. The particular officers to be prescribed under this new provision also will be determined following further consultation with the Independent Commission Against Corruption. This bill is about ensuring that the Ombudsman and the Independent Commission Against Corruption continue to have the powers necessary to undertake their important functions. I commend the bill to the House.

Mr GREG SMITH (Epping) [10.42 a.m.]: I lead for the Liberals-Nationals in debate on the Independent Commission Against Corruption and Ombudsman Legislation Amendment Bill 2009. The stated objects of the bill are:

(a) to amend the *Independent Commission Against Corruption Act 1988*:

(i) to provide that Part 2 of the *Surveillance Devices Act 2007* (which prohibits certain activities relating to surveillance devices and recordings) does not prevent the Independent Commission Against Corruption from using, until 31 December 2010, recordings of private conversations to which Mr Michael Loch McGurk was a party that were obtained in contravention of Part 2, and

(ii) to make it clear that Part 2 does not prevent a person from providing, until 31 December 2010, any such recordings to the Commission if required to do so by the Commission, and

(iii) to enable the duty of principal officers of public authorities to report alleged corrupt conduct to the Commission to be extended to the heads of separate offices within those public authorities,

(b) to amend the *Community Services (Complaints, Reviews and Monitoring) Act 1993* to confer on the Ombudsman the function of auditing the implementation by public authorities of the New South Wales Interagency Plan To Tackle Child Sexual Assault in Aboriginal Communities 2006–2011.

This bill amends the Independent Commission Against Corruption Act in relation to unlawful surveillance device recordings and a duty to notify corrupt conduct. In other words, its proposed purpose is to enable the Independent Commission Against Corruption to inspect the McGurk audiotape or tapes—it is not clear whether there are tapes; originally, it was a tape, but maybe there are tapes—to properly conduct its inquiries. The McGurk tape was referred to the Independent Commission Against Corruption in September 2009 after the Attorney General said it was not necessary to do so. The Government relented, and referred it to the commission.

On 12 October 2009 the Government received a letter from the Independent Commission Against Corruption dated 12 October 2009. From 12 October until the last day of the last session in November, a week or so ago, nothing was done by the Government to ensure that the Independent Commission Against Corruption was provided with all the powers it needed to listen to the tape. The Government had two weeks in October to act urgently as requested by the Commissioner of the Independent Commission Against Corruption, who was soon to retire. He has now retired and has been replaced. At that time it was not considered serious enough to introduce legislation.

This belated bill is in response to that letter. Its stated purpose is to enable the Independent Commission Against Corruption to review material contained in the so-called McGurk tape, or tapes. Section 11 of the Independent Commission Against Corruption Act imposes a duty to report corrupt conduct to the Independent Commission Against Corruption on certain persons, including the principal officer of a public authority. The

regulations may prescribe the person who is the principal officer for the purposes of section 11. Schedule 1 [1] ensures that the regulations may prescribe that the principal officer of a separate office within a public authority is a principal officer of the public authority in relation to matters concerning the separate office.

The amendment will enable the duty to report to be retained in relation to former heads of government departments that recently have been amalgamated. Schedule 1 [3] inserts a special provision into schedule 4 to the Independent Commission Against Corruption Act 1988 to enable the commission to obtain, possess, publish or communicate until a specified date, which is 31 December 2010, any relevant recordings of private conversations to which Mr Michael McGurk was a party that had been obtained by the use of a surveillance device in contravention of part 2 of the Surveillance Devices Acts 2007.

Interestingly the definition of "relevant recording" specifically includes a recording of any private conversation to which McGurk was, or was apparently, a party. Schedule 1 [3] inserts a new part which provides, in clause (1) (b), that the Surveillance Devices Act 2007 is not contravened by a person providing any such recording to the commission in accordance with a requirement made of the person under the Act, and stipulates, in clause (2), that the publication or communication of a relevant recording will be made only for the purposes of investigating or reporting on particular alleged corrupt conduct.

Schedule 1 item [3], under the heading "Operation of this Part", retrospectively stipulates that anything done by the commission or other persons before commencement of that part is taken to have been validly done, if authorised by the current amendments. That hints at some listening or investigation, which would be understandable. The tapes might be blank; they might be so distorted that nothing of use can be obtained from them; or they might have problems that can be cured by enhancement of the tapes. Hopefully, the elapse of approximately six weeks since the request was made will not prejudice other lines of communication.

That does not mean, with all the publicity given to this matter, that other evidence has not been destroyed by wrongdoers. There are wrongdoers around: one person or more probably murdered Mr McGurk. Although the murder is not part of the Independent Commission Against Corruption investigation, the evidence gathered by the Independent Commission Against Corruption may be relevant to a murder investigation and could be passed on to the Homicide Squad, or whichever police unit is investigating the matter. Schedule 1 [2] enables regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.

I now refer to the amendments to the Community Services (Complaints, Reviews and Monitoring) Act 1993. Schedule 2 [1] inserts proposed part 6A, with new sections 43B to 43E, into the Community Services (Complaints, Reviews and Monitoring) Act 1993. Proposed section 43B defines the meaning of the Interagency Plan. Proposed section 43C deals with the audit of the implementation of the Interagency Plan and stipulates that the Ombudsman's audit functions include a review of the implementation of the Interagency Plan by relevant State public authorities, including identifying further action required by the public authorities to implement the Interagency Plan and making recommendations for the more efficient and effective implementation of the Interagency Plan.

Section 43C also requires that the Ombudsman must prepare a report to the Minister for Aboriginal Affairs on the audit by 31 December 2012. The report is to be tabled in Parliament within one month after it is furnished to the Minister. Section 43D deals with the provision of information to the Ombudsman by the head of a relevant public authority to assist the Ombudsman in carrying out the audit. Section 43E deals with the application of the Ombudsman Act 1974 in regard to functions exercised under proposed part 6A. Schedule 2 [2] enables regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.

By way of general background, I will make some comments as to the amendments to the Independent Commission Against Corruption Act 1988. Although it alleged the tapes were recorded secretly, we do not know whether that is the case. A tape recorder may have been placed on the top of a table to record and confirm the discussion. That is lawful. But Mr McGurk is dead and we do not know whether the other persons involved have been questioned. Clearly the Independent Commission Against Corruption has assumed that the recordings have been made covertly, perhaps for the purpose of extortion or blackmail.

If the tapes were recorded secretly it probably would infringe section 11 of the Surveillance Devices Act 2007, which provides that a person must not publish or communicate a private conversation that has come to his or her knowledge as a result of the use of a listening device. This section would not apply if the recordings

were made with the consent of the parties or was reasonably necessary in connection with an imminent threat of serious violence or of substantial damage to property. I refer to section 14 (b) of the Surveillance Devices Act. It is also an offence under section 12 to possess a record of a private conversation without the consent of all parties.

Section 13 of the Listening Devices Act is often referred to. It was established when the new Listening Devices Act 1984 was enacted as a knee-jerk reaction to the *Age* tapes. New South Wales Police, together with Federal Police and, I believe, other police agencies, were involved in illegally recording telephone conversations. It seems some of the recordings were contrary to the Listening Devices Act, as it then existed. Scanners were used to intercept car phone conversations. The famous Dr Edelstein case was based on conversations scanned by a private detective following Dr Edelstein in his car and intercepting telephone conversations between Dr Edelstein and others. The recordings ultimately were accepted into evidence and became a major part of the case that led to Dr Edelstein being struck off and convicted for attempting to pervert the course of justice. Section 13 states:

> (1) Where a private conversation has come to the knowledge of a person as a result, direct or indirect, of the use of a listening device in contravention of section 5—

section 5 sets out where a listening device may be used—

> (a) evidence of the conversation, and
>
> (b) evidence obtained as a direct consequence of the conversation so coming to the knowledge of that person, may not be given by that person in any civil or criminal proceedings

There were exceptions:

> (2) Subsection (1) does not render any evidence inadmissible:
>
> (a) if all of the principal parties to the private conversation concerned consent to the evidence being given—

obviously, if a person admitted to committing a crime during a scanned mobile phone conversation he or she would not consent to it being used later in evidence—

> (b) if the private conversation concerned comes to the knowledge of the person called to give the evidence otherwise than in the manner referred to in that subsection, notwithstanding that the person also obtained knowledge of the conversation in such a manner

For example, a person who inadvertently overheard the tape being replayed or heard the original conversation that was being taped and was able to give evidence of it could lawfully use the tape to refresh his or her memory of the conversation. The Listening Devices Act 1984, as it then was, permitted those instances of illegally obtained conversations—despite the primary prohibition that it was said by a well-known politician of the day to be a knee-jerk reaction. Those exceptions are now wiped out because the Surveillance Devices Act removes such a prohibition against the admission of evidence. It falls upon the provisions of the Evidence Act, particularly section 138, to decide where something is illegally obtained whether or not on balance—weighing up the probative force against the prejudicial effect—a court will admit it into evidence.

I am referring to an earlier stage where the Independent Commission Against Corruption undertakes an investigation. The Independent Commission Against Corruption primarily would investigate the tape to decide whether corrupt payments have been made to a public official. It also may obtain evidence of other criminal activities from the tape; it may not rely solely on the tape. The tape may contain intelligence or information that can be used in support of an application for further listening devices, telephone intercepts or search warrants to gather more evidence. The tape could be a very valuable source of intelligence, even though former Senator Richardson says it contains a lot of rubbish. I do not believe that the Independent Commission Against Corruption would rely on his opinion; it would want to be more thorough. Section 14 (1) sets out part of the functions of the Independent Commission Against Corruption:

> (a) to assemble evidence that may be admissible in the prosecution of a person for a criminal offence against a law of the State in connection with corrupt conduct and to furnish any such evidence to the Director of Public Prosecutions,
>
> (b) to furnish other evidence obtained in the course of its investigations (being evidence that may be admissible in the prosecution of a person for a criminal offence against a law of another State, the Commonwealth or a Territory) to the Attorney General or to the appropriate authority of the jurisdiction concerned.

It may be argued that the Independent Commission Against Corruption did not need this additional power. Section 17 of its Act states:

> (1) The Commission is not bound by the rules or practice of evidence and can inform itself on any matter in such manner as it considers appropriate.
>
> (2) The Commission shall exercise its functions with as little formality and technicality as is possible, and, in particular, the Commission shall accept written submissions as far as is possible and compulsory examinations and public inquiries shall be conducted with as little emphasis on an adversarial approach as is possible.

The ICAC already has incidental powers under section 19, which states:

> (1) The Commission has power to do all things necessary to be done for or in connection with, or reasonably incidental to, the exercise of its functions, and any specific powers conferred on the Commission by this Act shall not be taken to limit by implication the generality of this section.
>
> (2) The Commission or an officer of the Commission may seek the issue of a warrant under the *Surveillance Devices Act 2007*.

The question that arises is: If the ICAC has immunity until the end of December 2010, does that immunity or protection extend to the Director of Public Prosecutions, staff and Crown prosecutors who must look at the material to decide whether to prosecute? Is there immunity or protection for defence lawyers? If it was decided that the material on the tapes was relevant and would further a prosecution for, say, payment of secret commissions or matters of that sort, or a conspiracy to extort, can the necessary parties to the criminal process—the prosecution, the defence and, ultimately, the court—have access to it? When police seize drugs or the proceeds of crime they are holding on to things—possession of drugs is an offence—so they do not seem to need immunity; it is understood that they have a reasonable excuse to have these things. Will the ICAC, the Crown, the Director of Public Prosecutions and defence lawyers have a reasonable excuse, or do they need extra protection if anything comes of this?

We are legislating in stages. In any event, the ICAC felt that it needed protection, and we do not want to stand in the way of the ICAC properly investigating the McGurk tape. A big fuss was made of the fact that the upper House committee that investigated the McGurk matters did not make any findings that anyone had behaved corruptly. Of course, the committee did not have access to the tape. It does not have access to proper investigations; it does not have investigators who can execute search warrants. It has the power to call witnesses. But the nature of parliamentary committees is not similar to the ICAC or a royal commission, where people can be directed to give answers that might incriminate them as long as they take the protection of the Act that it cannot be used against them except for perjury or false swearing.

Although the parliamentary committee did not find any corruption, that certainly does not mean that there was no corruption, and it certainly does not mean that there was not a plan to release all the land at Eastern Creek before it was nipped in the bud. Who knows? It is important for the ICAC to keep investigating. As the former ICAC commissioner requested, as long ago as 12 October, that this legislation be enacted and as the Government has finally got around to doing something about it, we do not oppose the legislation. I will simply make a few comments about it. According to the media—it was not just the *Daily Telegraph*; it was the trifecta of the *Daily Telegraph*, the *Sydney Morning Herald* and the *Australian*—there was a caucus revolt on this law. An article in the *Daily Telegraph* by Simon Benson and Gemma Jones stated:

> PREMIER Nathan Rees narrowly escaped a humiliating defeat in his own caucus yesterday over his plans to allow the ICAC to use the McGurk tapes as part of a corruption investigation.
>
> A majority of MPs, including Frank Sartor, led a charge against Mr Rees over the proposed new laws with the majority of MPs voicing their opposition to it.
>
> MPs were worried it could lead to illegal taping of anyone and that tapes could be investigated by ICAC until the end of 2010.

What are Government members worried about? Who will be taped? Who is doing the wrong thing? There must be somebody who fears that he or she will be taped.

Mr Michael Daley: Don't worry—the police will catch them.

Mr GREG SMITH: The police will catch them. We have the trusty Minister for Police giving us assurances, but at the caucus it did not seem to work because, as the articles stated:

> Mr Rees was forced to plead with MPs to avoid a vote on a show of hands, which sources claimed he would have lost.

Mr Michael Daley: That's not true.

Mr GREG SMITH: This is a pretty reliable source. Obviously somebody has been talking to the *Daily Telegraph*.

ACTING-SPEAKER (Mr Thomas George): Order! The shadow Attorney General and the Minister for Police will direct their comments through the Chair. The Minister for Police will have an opportunity to contribute to the debate.

Mr GREG SMITH: Will the Minister give evidence of what was said in caucus? The article continued:

> A second vote, on voices alone, was narrowly won by Mr Rees after he convinced them that the Government would appear to be trying to quash an investigation into itself if the laws were not introduced.

The Premier made a good point. I think that would have been persuasive, but the vote was only narrowly won on the voices. If it is anything like some of the decisions on the voices in this place, one wonders whether some people have three or four voices at once, or are there extra voices that Opposition members do not hear? The article further stated:

> The loss of a vote on a Government Bill in the caucus would be unprecedented for a Premier. Even Morris Iemma decisively won all six caucus votes on the controversial power privatisation bills last year.

The Premier does not have the influence that Morris Iemma had in relation to power privatisation. What is the worry? The article further stated:

> A sunset clause in the Bill means it will expire at the end of 2010.
>
> "We don't have the luxury of bucking this inquiry, particularly in that it reflects on us.

That means Government members are scared of something and they want it all to come out. The article continued:

> The implication was that the Government was looking after itself.

And the Government is looking after itself. Has no-one in the Government listened to these tapes? Not one staffer? Has not one other person listened to all these hot tapes that are supposed to implicate at least one Minister and senior public officials? Does no-one have Graham Richardson's unexpurgated transcript? Richo said there is nothing on the tape, so there must not be anything on it. Whatever it takes—is that a song or a book? I cannot remember. Graham Richardson is one of the Labor Party's great fundraisers and right-wing numbers man. Enough of this! I am waiting anxiously for the ICAC report. I am waiting for the public hearings. Will the ICAC hold public hearings? I am waiting to hear what the ICAC finds; otherwise, we do not oppose the bill.

Mr DAVID HARRIS (Wyong—Parliamentary Secretary) [11.07 a.m.]: The member for Epping is always entertaining, and I thank him for that. The bill contains amendments to the Independent Commission Against Corruption Act—the ICAC Act—and the Community Services (Complaints, Reviews and Monitoring) Act 1993. The Ombudsman and the ICAC have requested the amendments. The first amendment in the bill has been requested by the ICAC to facilitate the ICAC's preliminary investigation arising out of audio recordings apparently made by Mr Michael McGurk. Without the amendments, there may be some uncertainty about the ability of the ICAC to consider audio recordings that may be relevant to its investigation. The ICAC will be able to use an unlawfully made sound recording only in the course of a corruption investigation.

The Surveillance Devices Act authorises covert recordings but only in limited circumstances. These are exceptional circumstances. The Government is conscious of the strong public interest served by the limitations that are imposed by the Surveillance Devices Act on the use of covert audio recordings. Therefore, the amendments apply only to recordings of private conversations to which Mr McGurk was a party. No-one would want to live in a community where a person's private conversations could be recorded secretly by other members of the public and disseminated with impunity.

The amendments carefully retain the deterrent effect of the Surveillance Devices Act by ensuring that the maker of an unlawful sound recording is not free from prosecution simply because the Independent Commission Against Corruption uses that recording at a later time. The Independent Commission Against

Corruption also requested the second amendment, which clarifies the categories of senior public officials who are under an obligation to report corrupt conduct to the Independent Commission Against Corruption. This amendment follows on from the creation of the 13 super agencies. The amendments will ensure that, after the recent departmental amalgamations, all relevant senior officials remain under an obligation to report suspected corrupt conduct to the Independent Commission Against Corruption. At present, the Independent Commission Against Corruption Act imposes that corruption-reporting obligation only on agency heads. Since the amalgamations, the Government agrees with the commissioner that it is preferable that some former chief executive officers of agencies retain their corruption reporting obligations.

The Government is pleased to be able to respond to the commissioner's suggestion and move these amendments to the Act. Lastly, the bill amends the Community Services (Complaints, Reviews and Monitoring) Act 1993 to give the Ombudsman the necessary powers to conduct an audit of the implementation of the New South Wales Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities. The Ombudsman's new audit function arises out of the Government's response to the Wood special commission of inquiry. The 2008 report of the Special Commission of Inquiry into Child Protection Services in New South Wales, led by the Hon. James Wood, QC, made 111 recommendations. One of those recommendations was that the Ombudsman audit the implementation of the report of the New South Wales Aboriginal Child Sexual Assault Taskforce, called "Breaking the Silence: Creating the Future. Addressing Child Sexual Assault in Aboriginal Communities in New South Wales".

The Government's response to the Breaking the Silence report was a comprehensive plan—the New South Wales Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities: 2006-2011—released in 2007 to address this very serious problem. It sets out a five-year plan for the Government, working together with Aboriginal communities as partners, to reduce the incidence of child sexual abuse in Aboriginal communities and increase family and community safety and wellbeing. The Government's response to the Wood recommendation was that the Ombudsman is to audit the interagency plan. The Government has already approved the provision of $1.7 million in additional funding over five years for the Ombudsman to conduct the proposed audit of the interagency plan. The bill gives the Ombudsman clear and express powers to undertake that audit and provides that the Ombudsman's report on the audit is to be tabled in Parliament. I commend the bill to the House.

Mr GEOFF PROVEST (Tweed) [11.12 a.m.]: The shadow Attorney General, the member for Epping, eloquently put forward a number of relevant facts in relation to the Independent Commission Against Corruption Ombudsman Legislation Amendment Bill 2009. The first of the three objects of this bill is to amend part 2 of the Surveillance Devices Act 2007, which currently prohibits the use of recordings obtained illegally. A number of key components of this legislation must be discussed and, more importantly, understood by my colleagues and the wider community. There is a perception in the community of corruption. One has only to read media reports about corruption, some of which have already been mentioned, for example, allegations of a tape recording in the McGurk matter.

Part 2 of the Surveillances Devices Act 2007 does not prevent the Independent Commission Against Corruption from using until 31 December 2010 private conversations to which Michael McGurk was a party that were obtained in contravention of part 2. If one has not listened to the tape how would one know who was party to the conversation? Is the Minister relying on a third party to supply that information? I struggle to understand how one knows who is recorded on a tape if one has not listened to it. The agreement in principle speech states that the Commissioner for the Independent Commission Against Corruption asked the Government to make amendments in the context of the investigation he has undertaken into audio recordings. Although I have a deep desire to respect the privacy and rights of individuals, we must also respect the rights of the wider community to expect officials to investigate allegations lawfully and, more importantly, to bring them to a conclusion. I am sure a number of members of the Government would like the matter concluded expediently.

The second object of the bill is to make it clear that part 2 does not prevent any person from providing, until 31 December 2010, any such recordings to the commission if required to do so by the commission. I take on board the comments of the member for Epping regarding immunity for Crown Prosecutors, defence lawyers and so on, but I believe the net is even wider. I hope that matter is addressed in the Minister's reply. I, like many members in this place, hear from people on the street, from taxi drivers and from the wider community that they are sick and tired of allegations of corruption; they want more positive action taken. Hardly a day goes by when we do not hear about a form of corruption or scandal, which, at times, is hard to tackle because of the variety of crimes. However, we should ensure that our relevant authorities, such as the Independent Commission Against Corruption, take all the necessary steps to guarantee that the system is open and transparent.

If these types of matters were not given such publicity I am sure we would not have to introduce this legislation and matters would dissipate like water through sand, but that is not being open and transparent. Many members of the Government have indicated time and again that they are moving to a more open and transparent government, but it never eventuates. I am sure that causes a great deal of concern in the wider community. The third object of the bill is to extend to the heads of separate offices within public authorities the ability of principal officers of those authorities to report alleged corrupt conduct to the commission. Not so long ago significant issues at RailCorp were referred to the Independent Commission Against Corruption, as a result of which legal proceedings are current. We read on a day-by-day basis various reports about the head of Sydney Ferries that were also referred to the commission, and the list goes on and on.

The taxpayers of New South Wales deserve a higher standard, which, quite frankly, they are not getting. I do not oppose the legislation because it goes some way towards ensuring transparency, but more must be done. The community is full of distrust and disdain. We must ensure that independent commissions and the Ombudsman are given all possible powers to ensure openness and transparency so that the public has trust in them. I do not oppose the bill.

Mr VICTOR DOMINELLO (Ryde) [11.19 a.m.]: I have listened to the contribution of the member for Epping on the Independent Commission Against Corruption Ombudsman Legislation Amendment Bill 2009 and I agree with his concerns in relation to the application of the Act and whether it is broad enough in the circumstances to relate to other offices such as the Director of Public Prosecutions. Another thing I would like clarified in reply is in relation to the definition in schedule 1, which states:

> *Relevant recording* means a recording of any private conversation to which Mr Michael Loch McGurk, deceased former resident of Cremorne, was a party or was apparently a party.

The words that I focus on are "was a party or was apparently a party". It seems to me that this legislation only covers a tape of which he was a party or apparently a party. At this stage the Independent Commission Against Corruption presumably has not listened to the tape. All we know is that a tape exists and that apparently it involves corruption that can bring down the Government.

Mr Michael Daley: No, you don't know that.

Mr VICTOR DOMINELLO: I said "apparently".

Mr John Aquilina: It is not even apparent. You cannot make that assumption.

Mr Brad Hazzard: It is pretty apparent from the history of what has gone on with the Government.

ACTING-SPEAKER (Mr Thomas George): Order!

Mr John Aquilina: Is this a serious debate?

Mr VICTOR DOMINELLO: It is a serious debate. I will say it again. It is alleged that this tape recording has information that can bring down the Government.

Mr Michael Daley: Alleged by whom?

Mr VICTOR DOMINELLO: That is a very good point.

ACTING-SPEAKER (Mr Thomas George): Order! The member for Ryde will direct his remarks through the Chair.

Mr VICTOR DOMINELLO: I am very grateful for the contribution made by the Minister for Police because I will use it. The question is, once the Independent Commission Against Corruption gets this tape and listens to it, who is to say that Mr McGurk was a party or was apparently a party? Hypothetically, Mr McGurk may have received the tape from another person and was not a party to the tape, and therefore the tape cannot be used. This legislation therefore does not go far enough. All we know is that it is alleged that he was in possession of a tape, so in order to properly give the Independent Commission Against Corruption powers, the definition should include the words "was a party or was apparently a party, or was in possession or apparent possession of a tape". That would cover the situation. Otherwise, if the ICAC listens to the tape and Mr McGurk was not a party or an apparent party to the tape, it is not covered and this is useless. I would like a reply to that.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [11.22 a.m.], in reply: I thank the members for their contribution to this important debate. The Government is pleased with support for the proposals in the bill to extend the Ombudsman's audit powers in relation to the interagency plan to tackle child sexual assault in Aboriginal communities. That plan sets out a five-year program for the Government, working together with Aboriginal communities as partners, to reduce the incidence of child sexual abuse in Aboriginal communities and to increase family and community safety and wellbeing. The Government looks forward to working with the Ombudsman during his audit.

I also thank members for their support of the amendments to the bill that refine the statutory model of corruption reporting obligations. The amendments ensure that reporting obligations in the new public sector structure remain efficient and effective. There are already administrative arrangements in departments to ensure that allegations of corrupt conduct are appropriately escalated and referred to the appropriate authorities. The amendments will enhance these arrangements by allowing the most senior official in some operationally discrete areas to be placed under a direct obligation to report suspected corrupt conduct to the Independent Commission Against Corruption. The Government will consult again with the commission before finalising the regulation that prescribes the additional reporting positions.

In relation to the amendments relating to audio recordings made by Mr Michael McGurk, the Government is conscious of the strong public interest served by the limitations that are imposed by the Surveillance Devices Act on the use of covert audio recordings, but, as I said in my earlier address, these are exceptional circumstances. The amendments only apply, therefore, to recordings of private conversations to which Mr McGurk was a party. The Government is confident that the bill strikes the right balance between protecting the privacy of individuals and the public interest in accountability. The amendments do not alter the legal position in relation to the maker of an unlawful covert audio recording in any way. Such people remain open to prosecution.

The member for Epping raised some concerns about the timing of these amendments. I reiterate that the Government has moved very quickly to respond to the ICAC commissioner's request for amendments. The Attorney General met with the commissioner on 14 October, only two days after his request was made. The legislation was then developed in consultation with the Independent Commission Against Corruption and notice of the bill was given in less than three weeks of the commissioner's request. Although the amendments are few in number, they raise very significant legal and policy considerations. It would not serve the Independent Commission Against Corruption or the people of New South Wales to rush ill-considered amendments about listening devices into the Parliament. To suggest otherwise and to speculate about the impact of the bill's timing on the Independent Commission Against Corruption's ongoing investigation is just an unhelpful diversion. The bill achieves the right balance precisely because the Government has acted both expeditiously and prudently in bringing the bill before the Parliament.

The member for Tweed spent some time talking about transparency. I challenge the member to find any legislation ordered by a government of either political persuasion that has gone as far as this goes towards providing the sort of transparency he talked of. I certainly do not know of any legislation ever enacted by a Coalition government that goes anywhere near this legislation. Whilst it may be said that when the honourable Nick Greiner was Premier the former Liberal-National Party Coalition introduced the Independent Commission Against Corruption—in some cases somewhat reluctantly—which received the support of both the Independents and the Opposition, the Wood royal commission was approved of very reluctantly by the then Government. It was through the support of the Independents and the Opposition at that time that the Wood royal commission was established. I will excuse the member for Tweed because he is a relatively new member of this Parliament and may not know the history of what transpired. At times when the Coalition was in government it has had somewhat questionable credentials and it has always been the Labor Party, and others in this place, that has carried the day.

Both the member for Tweed and the member for Epping raised an issue in relation to the Director of Public Prosecutions in that these powers do not go beyond the Commissioner of the Independent Commission Against Corruption. The simple fact is that the Director of Public Prosecutions never asked for these powers and was not involved. The bill is an appropriate response to the Commissioner of the Independent Commission Against Corruption. The ICAC commissioner made a specific request and the legislation is in response to that request.

The Independent Commission Against Corruption has been extensively consulted on these amendments and has advised that the amendments are sufficient for its purposes. The member for Ryde raised issues, and

referred to assertions and innuendos. I was rather surprised to hear a trained lawyer talk about assertions. In relation to issues such as this, which are so fundamental, they actually bear no relevance at all. There has been extensive consultation. There has been a specific request. The Parliament is responding to that request in the most appropriate fashion possible, which makes this Parliament and the enactment of law in this State far more transparent than has ever been the case in the past.

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.

CHILD PROTECTION LEGISLATION (REGISTRABLE PERSONS) AMENDMENT BILL 2009

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Minister for Police, and Minister for Finance) [11.30 a.m.], on behalf of Ms Carmel Tebbutt: I move:

That this bill be now agreed to in principle.

The Child Protection Legislation (Registrable Persons) Amendment Bill 2009 amends the Child Protection (Offenders Registration) Act 2000 and the Child Protection (Offenders Prohibition Orders) Act 2004 to improve the management of child sex offenders in the community. Recent events have raised questions about how child sex offenders are managed in our community once they have served their time and have been released from custody. In New South Wales since 2001 these offenders have been managed through the Child Protection Register, governed by the Child Protection (Offenders Registration) Act 2000 and administered by the New South Wales Police Force.

Schedule 1 of the bill contains various amendments to the Child Protection (Offenders Registration) Act. Offenders on the register—known as "registrable persons"—are required under section 9 of the Act to inform police of a wide range of personal information, including their primary place of residence. They are also required under section 11 of the Act to inform police of any change to that information within 14 days. The exception to this is that under section 11 (1) (a) registrable persons must currently inform police of any unsupervised contact with a child when that contact is for three days or more in a 12-month period, within three days of that contact occurring.

The bill amends section 11 (1) (a) so that registrable persons will now have 24 hours to report contact with a child. This change results from a recommendation of a national Child Protection Register working party, established through the Ministerial Council for Police and Emergency Management—Police [MCPEMP] and endorsed by MCPEMP in June 2009. All Australian jurisdictions will require their registrable persons to report any total of three days unsupervised contact with a child to police within 24 hours. Twenty-four hours is a more appropriate time frame for reporting ongoing contact with a child, as any such contact should be evaluated by police as soon as possible.

The bill also amends the section 11 requirements so that registrable persons must notify police of a change to their primary place of residence 14 days before they move. This change will ensure that police have advance notice of any planned moves made by registrable persons so that they can assess the new location and inform any relevant agencies if necessary. Clearly, 14 days advance notice will not be possible in all circumstances so the legislation makes an exception for unforeseeable emergency circumstances. Regardless of circumstance, a change of address must be notified to police as soon as practicable and, at most, within three days of a move.

Another key change to the Child Protection Register contained in this bill is the ability for the clock to be stopped on a registrable person's reporting period when that person is overseas for one month or more, through the proposed new section 15 (3) of the Act. The length of a registrable person's reporting period is

determined by section 14A of the Act and will be eight years, 15 years or life, depending on the offence committed. For juveniles, these periods are halved, with a maximum of 7.5 years. Section 15 of the Act allows for a person's reporting period to be suspended for certain reasons. If the person is in custody, their reporting obligations are suspended and the period for which they are required to be registered is extended by that time. For example, if a person who is registered for seven years is jailed for two years during their reporting period, their reporting period will be extended to a total of nine years, with no reporting required during the two-year jail term.

Police have observed that some registrable persons appear to be going overseas for long periods of time to avoid their reporting obligations. It is also believed that some persons who are required to register in New South Wales and have not done so are, in fact, overseas and will return to New South Wales only when their reporting period has expired. An example is that of a citizen of the United Kingdom who returned to the United Kingdom for six or seven years of his eight-year reporting period and returned to Australia as soon as his reporting obligations ceased. While registered sex offenders in the United Kingdom are required to report in Australia as their legislation is recognised as corresponding to our regulations, our legislation is not recognised as corresponding by their legislation. This may need to be pursued through the Ministerial Council for Police and Emergency Management—Police and the Commonwealth to ensure that, where possible, corresponding registration with other jurisdictions is occurring.

Another example is a man who travelled to Indonesia for six months, a country without a register, returned to Australia for less than 14 days—so that he was not required to report—to renew his visa, and then returned to Indonesia. The bill inserts section 15 (3) into the Act so that prolonged periods of a month or more of overseas travel to countries without a corresponding register will result in a corresponding increase to the reporting period, as with terms of custody. The bill also amends section 16 of the Act so that a registrable person whose reporting period is extended under section 15 (3) can apply to the Administrative Decisions Tribunal to have their reporting obligations suspended for the extended period.

Police do more than an admirable job in managing registrable persons. However, to be truly effective, monitoring and management of high-risk registrable persons must be done on an interagency basis. To promote interagency collaboration in relation to registrable persons, in 2008 the Government endorsed the progressive statewide rollout of the Child Protection Watch Team across New South Wales. The Child Protection Watch Team consists of representatives from the New South Wales Police Force, Corrective Services NSW, Community Services, NSW Health, Justice Health, Juvenile Justice, Education and Training, Ageing, Disability and Home Care, and Housing NSW. The team takes an interagency risk management approach to high-risk registrable persons. This approach has been found to be effective in monitoring these persons and ensuring that information is exchanged appropriately and a person's risk of reoffending is minimised.

The Child Protection Watch Team was being progressively rolled out across New South Wales with a planned completion date of 2010. However, given current public concern about child sex offenders in the community, the Government has agreed to accelerate the rollout of the remaining branches of the team to cover the whole of New South Wales. To facilitate this accelerated rollout the allocation of seven new positions to the Child Protection Registry within the Sex Crimes Squad of the NSW Police Force that chairs the Child Protection Watch Team branches has been brought forward from 2010-11 to 1 January 2010. As part of the introduction of the Child Protection Watch Team, section 19BA of the Act was introduced clearly to allow the exchange of information on registrable persons between agencies.

Section 19BA currently states that agencies may disclose personal information about a registrable person to another agency if the disclosure of that information accords with the written authorisation given by a senior officer. The officer giving the authorisation must be satisfied that there are reasonable grounds to suspect that there is a risk of substantial adverse impact on the registrable person, or another person or class of persons, if the information is not disclosed, or that the information will assist in developing or giving effect to a case management plan for the registrable person. The intention of this legislative amendment was to clarify that there were no privacy impediments to the exchange of personal information in these circumstances. However, I am advised that certain agencies have remained reluctant to exchange information without the consent of the registrable person concerned.

It makes effective management and monitoring of registrable persons difficult if the full range of information is not made available. This bill therefore amends section 19BA to allow the Commissioner of Police to serve a notice on a scheduled agency directing it to provide personal information of a particular kind about a registrable person. A drafting error in the definition of "personal information" in section 19BA (5) has recently

been identified which means that the current definition does not cover health information protected under the Health Records and Information Privacy Act 2002. As the Department of Health is a key member of the Child Protection Watch Team, section 19BA is clearly intended to cover the exchange of health information. This amendment therefore corrects the definition of "personal information" to clarify that health information is covered by section 19BA and can be exchanged freely between scheduled agencies under a section 19BA authorisation.

Information that has been exchanged between the Child Protection Watch Team agencies to date has been exchanged with the consent of the registrable person, so agencies have not been relying on section 19BA and thus have not been in breach of the legislation. Schedule 2 to the bill contains changes to the Child Protection (Offenders Prohibition Orders) Act 2004. This Act commenced in July 2005 fulfilling an election commitment made by this Government in 2003 to give officers in the NSW Police Force additional powers to monitor and restrict the conduct and behaviour of high-risk offenders against children who are on the Child Protection Register. Police can apply to a Local Court for an order to prevent registrable persons from engaging in specific behaviour when there is a reasonable cause to believe the behaviour poses a risk to the sexual safety or life of a child, or children generally.

This bill introduces a new type of order under that Act—a contact prohibition order—so that police can prevent a registrable person from contacting a specified co-offender or victim. Centrelink was recently criticised in the media for allegedly putting Dennis Ferguson into contact with his co-offender Alexandria Brookes. However, currently there is no general legislative restriction on a registrable person contacting a co-offender. Similarly, there is no general legislative restriction on a registrable person contacting a victim. Prohibiting association with a specified person or class of persons can be issued on sentence under the Crimes (Sentencing Procedure) Act, as a condition of an extended supervision order [ESO] under the Crimes (Serious Sex Offenders) Act, or of a child protection prohibition order [CPPO] under the Child Protection (Offender Prohibition Orders) Act.

The new contact prohibition order will complement the existing options for prohibiting associations by allowing police to prohibit registrable persons who are living in the community and who are not the subject of an ESO or a CPPO from contacting particular individuals who are their co-offenders or victims. A contact prohibition order will be granted by a Local Court on application from the Commissioner of Police when the commissioner has reasonable grounds to suspect that the registrable person will seek to contact the specified victim or co-offender. If the contact prohibition order is breached the registrable person will face a penalty of 12 months imprisonment, 50 penalty units, or both. Section 16D of the Act specifies that contact prohibition orders cannot be issued to restrict contact with a close family of a registrable person unless the court considers that there are exceptional circumstances that make this necessary.

This bill and the associated changes to the Child Protection Watch Team will enhance the multi-agency approach to the management of high-risk and high-profile registrable persons and continue to send a clear message to the community that protecting the safety of our children is a top priority of this Government. I commend the bill to the House.

Mr GREG SMITH (Epping) [11.45 a.m.]: I lead for the Liberals-Nationals Coalition in debate on the Child Protection Legislation (Registrable Persons) Amendment Bill 2009 and state at the outset that the Coalition does not oppose the bill. In October 2001 New South Wales was the first State to introduce a mandatory system of registration for people who have committed child sex offences or other serious offences against children. Persons who are found guilty and sentenced in respect of certain offences relating to children are required to report relevant personal information to police and to keep that information up to date. Those persons are referred to as registrable persons under the Child Protection (Offenders Registration) Act 2000. As at 19 September 2008 there were 1,937 people on the register. They are required to tell police whether they are leaving New South Wales.

The bill amends the Child Protection (Offenders Registration) Act 2000 and the Child Protection (Offenders Prohibition Orders) Act 2004. The proposed amendments under this bill will require a registrable person to report any changes to the relevant personal information of the children who generally reside in the same household or with whom the person has regular unsupervised contact within 24 hours of the change occurring. Members should note that in an amendment to the Act in December 2007 the notification period for a child residing in the home of a registrable person was reduced to three days after the changes occurred. The present amendment further reduces the time during which a registrable person must report from three days to one day. This reduction is based on a recommendation from a national Child Protection Register working party.

A further amendment requires a registrable person to report an intended change in a child's place of residence to the Commissioner of Police at least 14 days beforehand, unless the change is as a result of an emergency or it occurs in exceptional circumstances. The present bill provides for the extension of a registrable person's reporting period during the time in which he or she is travelling outside Australia for a month or more, or is residing outside Australia. The amended scheme also allows the Administrative Decisions Tribunal to exempt a registrable person from the reporting obligations imposed by such an extension of the reporting period. It also enables the Commissioner of Police to direct certain agencies to provide personal information about a registrable person for the purposes of developing or giving effect to a case management plan.

The bill also enables the Local Court to make a contact prohibition order prohibiting a registrable person in relation to a particular registrable offence from contacting a victim of that offence or a co-offender who perpetrated that offence. The Commissioner of Police can make such an application in specified circumstances and the term of the order cannot exceed 12 months and attracts a penalty of 50 penalty units, or 12 months imprisonment in the event of a breach. The potential exists for offenders to slip through the cracks and renewals of contact prohibition orders not to be undertaken, resulting in offenders contacting either co-offenders or victims. Why is the term of such orders only 12 months and not five years? The issuing of contact prohibition orders applies only to registrable persons and does not cover offenders who are not on the register.

This bill was introduced only last week. However, a man nicknamed the Night Stalker, who was convicted and released before the child protection legislation came into operation, was not on the register or required to register and is now charged with attacking a child. He was not monitored for nine years after being released from jail. This case identifies a major flaw in our protection of children and in the child protection register. The register monitors only those paedophiles convicted since the laws were introduced in 2001. Hetty Johnson, Executive Director of Bravehearts, said:

> This case justifies making the sex register retrospective. It's frightening he was out there and no one was watching him. Ideally it would be better if every person convicted of a child sex offence, who is still alive, was put on the register.

Her call was backed by the New South Wales Rape Crisis Centre whose Executive Officer, Karen Willis, said it was time for a reassessment of the register. She said:

> I would like to see it acting more retrospectively. So let's look closely at the evidence of recidivism among offenders and see if it warrants retrospective listing.

The *Daily Telegraph* commented that the only reason the laws were not retrospective was that politicians simply drew a line in the sand. It stated:

> Since October 15, 2001, anybody convicted of a sexual assault against a child is listed on the register. It also lists those serving a sentence or on parole for a sexual offence against a child as of October 2001.

If this man with the nickname Night Stalker is guilty, he has missed the cut-off day to be placed on the register by just a few months. His jail term for an 18-month crime spree in the mid 1980s when he attacked women, girls and boys ended before the creation of the register. A police officer who was part of a large team to hunt for him during his 1980s spree said the man's attack left the victims emotionally scarred. He said:

> He should never have been released, that bloke … he's a monster.

The latest alleged attack mirrors those committed by the man between December 1983 and June 1985. Again this bill does not cover every contingency. The introduction of this bill should have been delayed so that an amendment could be made to include those who had been convicted of serious offences prior to 2001 when the register came into operation. Recently we had the parole problem concerning one of the killers of Dr Victor Chang. Members will remember that the sentencing for that murder occurred before the authorities began notifying victims' relatives when offenders were coming up for parole. The Government was embarrassed enormously because it did not even make a submission to the Parole Board, nor were the Chang family members notified so they could make one. That has been corrected and the Parole Board has delayed the parole of this man, who was going to return to Malaysia.

Legislation that keeps lists of people is effective only if it keeps a list of all those who fall into the category, not just those from a particular date. I ask the Government to undertake more scrutiny with these types of provisions and registers. We agree with the register and with the need particularly to protect children. We will support any scheme that aims to improve the safety and security of young children. But we have other concerns

with some aspects of the bill. The bill seeks to restrict the capacity of registrable persons to travel freely. We understand that provision is directed at those persons on the register who voyage outside Australia for lengthy periods of time in an attempt to avoid their reporting obligations. It has been suggested that a more comprehensive approach could involve a complete prohibition on registrable persons travelling overseas, as happens in some jurisdictions. We are unaware whether the Attorney General, his Parliamentary Secretary or any of their colleagues have investigated this option.

Federal Parliament introduced laws enabling prosecution in Australia of sex offenders who go on sex holidays to places such as Thailand and the Philippines and commit offences in those countries. They are under close scrutiny. The States should cooperate in trying to stop these people leaving the relevant jurisdiction. Another of our concerns is that the present amendments do not allow the Police Force to proactively share information with housing authorities when assessing where a registrable person is to reside. Sharing such information during this process certainly is in the interests of the community, but the bill does not appear to give the police the powers that the community may reasonably expect it to exercise.

In the recent example of Dennis Ferguson no information was given to the public or to members of this Parliament, at least on this side of the House, about what checks or discussions occurred before he was placed in the middle of housing department accommodation at Ryde where children lived close by in other flats. The various agencies must cooperate and share important information about these people, particularly with someone like Ferguson, who was not subject to any controls. The housing department should have imposed a number of controls akin to controls under the serious sex offenders legislation. In my opinion it could be made a term of the rental contract or lease. This bill restricts offenders from doing certain things for up to five years, which seems a little odd when the Local Court can issue contact prohibition orders for only up to one year. Surely these matters are of sufficient seriousness to warrant five years in all instances.

Nevertheless, the proposed amendments aim to improve the present manner in which registrable persons are managed by the authorities. Protecting the community from child sex offenders is of the utmost importance. This concern is heightened in light of the high rates of recidivism, which have been discussed by the Leader of the Opposition in the other place. The Liberals-Nationals do not oppose this bill, but we will carefully monitor its implementation. We look forward at an early date to another amendment that will require the registration of all living child molesters.

Mr NINOS KHOSHABA (Smithfield) [11.57 a.m.]: I support the Child Protection Legislation (Registrable Persons) Amendment Bill 2009. These changes to the Child Protection (Offenders Registration) Act 2000 and the Child Protection (Offenders Prohibition Orders) Act 2004 will enhance the ability of police to monitor persons on the Child Protection Register. The appropriate management of child sex offenders in the community presents a continuing challenge to police and other government agencies. This Government works hard to support police in this area through progressing regular legislative changes. The changes being progressed in this bill complement the changes made through the Child Protection (Offenders Registration) Amendment Act 2007, which commenced in October 2008.

Those changes provided police with additional information for use when investigating and prosecuting child sex offences that may have been committed by repeat offenders, as well as assisting police in the management and monitoring of child sex offenders in the community. These changes included a requirement for people on the register to provide police with their email addresses and other electronic tags. This information may assist investigations of the New South Wales Police Force, particularly in relation to child pornography or grooming and/or the procuring of children. While this additional reporting requirement does not stop convicted child sex offenders from using the Internet, it may deter persons on the register from inappropriately using telecommunications. It has provided an added layer of protection for children while they use the Internet.

The changes provide power for police to take and retain DNA samples from people on the register, irrespective of the sentence they have received. This has given police a much better shot at solving other crimes the person may have committed. It also provides police with a powerful investigative tool to identify offenders, or to eliminate suspects, when new child sexual offences occur. If a registered person initially refuses to provide a DNA sample, a senior police officer can order them to do so, and the law gives police the power to use force to ensure that the sample is taken. Police also have the option of applying for a court order to force the registrable person to provide an intimate DNA sample.

The maximum penalty for breaching the reporting requirements of the register has been increased from two years to five years to provide registrable persons with a sufficient deterrent to encourage them to comply

with their reporting obligations. Police advise that a failure to comply with reporting obligations can be an indicator of further offending; it also can be evidence of disregard for the register, the seriousness of the offence or offences they have committed, and the register's overall objective of protecting children.

This bill is part of a suite of changes that were introduced in 2008. Those changes, and those that are before the House today, are a valuable illustration of how the New South Wales Police and this Government continue to be proactive when it comes to the management of child sex offenders. Once again, New South Wales is leading the way. These changes will be presented to the Ministerial Council for Police and Emergency Management—Police in 2010 for consideration by other jurisdictions. As a father of three young children, I am pleased to be part of a Government that puts child protection first—a Government that supports the police and ensures that the police have all the powers needed to protect our children and to protect our community. I ask all members to show their support for protection of our children and assisting our Police Force by supporting this bill.

Mr GEOFF PROVEST (Tweed) [12.01 p.m.]: I am pleased to participate in debate on this very important piece of legislation, the Child Protection Legislation (Registrable Persons) Amendment Bill 2009. I join with other members who have said that our children deserve our full support and protection, particularly protection of their innocence and their future. The bill addresses a number of different issues. It will require a registrable person to report a change of the individual children who generally reside in the same household as an offender, or with whom the person has regular unsupervised contact, within 24 hours of the change occurring, whereas the current legislation requires reporting to take place within three days. That amending provision is a step in the right direction.

The bill also will require a registrable person to report an intended change to their place of residence to the Commissioner of Police at least 14 days beforehand, unless that occurs as a result of an emergency or truly exceptional circumstances. Currently the legislation allows reporting within three days after a change in circumstances. A number of the provisions in the bill affect my electorate because the Tweed electorate is adjacent to the Gold Coast and its boundaries are contiguous with the Queensland-New South Wales border. It concerns me that the bill does not address cross-border issues, interagency cooperation and coordination between various States.

Nowhere is an area of the State more affected by criminal activity involving jurisdictional issues and intergovernmental cooperation than the Tweed. Sentences imposed on people convicted of criminal offences in Queensland are not being carried through to New South Wales when the offender crosses the State border. Inquiries reveal that currently there are 2,500 outstanding New South Wales warrants awaiting service in Queensland. Last year alone there were 2,300 reported child abuse cases in the Tweed and 2,250 second-tier offences, so child protection is a major issue. Albeit some time ago, I have known some child abuse victims whose offenders in some cases escaped across the border, scot-free.

The bill will enable the Administrative Decisions Tribunal to exempt a registrable person from reporting obligations by extension of the reporting period. That is a pertinent provision and I support it. The bill will amend section 19AB of the Act to enable the Commissioner of Police to direct certain agencies to provide personal information about a registrable person for the purposes of developing or giving effect to a case management plan. An issue I hope the Parliamentary Secretary will address during her reply is whether cooperation between the States is sufficient to ensure that provision of personal information about a registrable person could be provided to Queensland agencies. Moreover, if a registrable person from Queensland relocates to the Tweed, will the case management plan and information follow them, or does it stop at the State border? The bill does not provide clarity in relation to those issues.

Considering the ease of movement provided by budget airlines, et cetera, and the wider variety of travel available to people who move around Australia, I would have thought the bill would place greater emphasis on reciprocal reporting provisions interstate. This is an issue that affects all cross-border areas, not just the Tweed and the Gold Coast but also Albury-Wodonga and Queanbeyan and adjacent areas in New South Wales. As legislation is intended to have an overall effect, cross-border issues should be addressed by the bill. I ask the Parliamentary Secretary during her reply to address that issue, particularly as it relates to the exchange of information across jurisdictions. Together with every member of the House, I would hate people who commit despicable acts to take advantage of cross-border restrictions to hide their crimes and evade punishment. I will not oppose the bill.

Mr BRAD HAZZARD (Wakehurst) [12.05 p.m.]: As indicated by Liberal-Nationals Coalition members who have participated in the debate, the Opposition will not oppose the bill but I will address some

concerns. I come to this issue from the perspective of having been a shadow Minister for Corrective Services and a shadow Minister for Community Services for a considerable period as well as having experience of dealing with those who offend and those who have been offended against. I make it very clear that I have major concerns—along with other members of the House, I am sure—about the capacity of child sex offenders to ever substantially address the issues that cause them to commit offences. In a sense child sex offenders are a group of criminals who have to be considered as members of a different class and in a different way vis-à-vis other offenders.

I well recollect when I was the shadow Minister for Corrective Services visiting a number of facilities in which child sexual offenders were being dealt with. One of the most impressive facilities I visited was in Auckland, New Zealand. I attended with the assistance of the then Unity Minister who was responsible for oversight of the programs in New Zealand, and it was indeed an eye opener to see firsthand the level of effort that was being made in New Zealand to try to ensure ongoing management of child sex offenders when they exited correctional facilities. The New Zealand program was centred very much on recognition that the urges that child sex offenders have almost are unable to be addressed, if the offenders are left to their own devices. The New Zealand program examined ways of ensuring that people who support child sexual offenders outside correctional centres were aware of the problem, that the offender acknowledged there was a problem, and that if and when the inclination arose outside a correctional facility someone would maintain a watching brief, usually a family member. The subtext is that child sex offenders tend not to be rehabilitated in any substantive way.

Against that background, I express concern about this legislation. I do not doubt that the Government has sought to try to address the issue; but, as so often happens with this particular Labor Government, it has not done so in the substantive manner in which it needs to be addressed. I will not re-examine the issues addressed by the Leader of the Opposition in the Legislative Council and the shadow Minister in this House, but I point out that although the register is a valuable tool in protecting children, there are aspects of the register that concern me. New section 11F (2) states:

> At least 14 days before changing the place, the registrable person must report the intended change to the Commissioner of Police and must provide details of:
>
> (a) the address where the person proposes to generally reside, or
>
> (b) if the person does not intend to reside at particular premises—the name of the locality of the place where the person intends to generally reside.

It seems that we are being extraordinarily generous to a group of criminals who we know put our children at risk. Where one resides is a fairly clear concept in law. The electoral roll acknowledges where people reside, and motor vehicle licensing acknowledges where people reside. However, when it comes to child sex offenders, the legislation the Labor Government is asking us to put through this place simply requires that we know where they "generally reside". What does that mean? As a lawyer I have trouble knowing what that means. I appreciate that the Minister may not be able to answer that question at this time; if so, perhaps the Government could take it away and address it. If the Minister or the Parliamentary Secretary is capable of answering, in the sense of having that awareness at this point, I would welcome their response. However, if the issue needs to be addressed in the longer term, I ask the Government to take it away and think about it because the legislation may require further tightening.

It is an odd concept to think that each member of this place has to tell the police where we live if we get stopped for a minor traffic offence, and we must produce our licence, which states the place where we live. However, for child sex offenders, it is good enough to have a register and an address where they "generally reside". Section 11F (2) is another generous provision that supports sex offenders rather than the people we are trying to protect. I will highlight the words in case members have not given it a great deal of thought. Section 11F (2) (b) refers to the offender simply having to give the name of the locality of the place where they intend to "generally reside". Taken together, the words "locality" and "generally" tend to indicate a loose regulatory framework for knowing exactly where these sex offenders will be at any one time.

I put it to the Government that the Parliament is seeking to protect our children; if we are doing that, we should be serious about saying, "Look, we are sorry but you have a particular disorder that has led to your criminal activity, and it is one that generally medical experts and criminologists consider to be a problem which is in the long term—that is, for life—unable to be addressed in its absolute sense. So you will have to tell us exactly where you are living." The words "generally reside" and "locality" are utterly unacceptable. I look forward to hearing the Government's response to that at an appropriate time. I also wonder about the concept in section 15, "Suspension and extension of reporting obligations".

Reporting obligations are imposed on offenders. However, this amending bill states that if child sex offenders travel outside Australia for more than one month their reporting period is suspended for that period and, effectively, it can be added at a later time. Again, that is an enormous act of generosity by the public, which I am sure the public does not want to have for sex offenders. The reality is that if sexual offenders go overseas for just under one month, cumulatively they could be away for almost the entire duration of their reporting period. If they go overseas for 3½ weeks, say, to Indonesia on a $299 fare with Jetstar, return for a week and then travel overseas for another 3½ weeks, and stay away each time for under 3½ weeks, they could effectively spend—think about it—almost the entire reporting period overseas. They could spend three-quarters of their reporting period overseas. There is no cumulative provision in this legislation.

If we are serious about providing a reporting period, child sex offenders should have to report during every period. If they leave this jurisdiction for a day they should have that day added to their reporting period. That brings me to my final point. I am befuddled as to why the Government would limit the period of contact prohibition orders to 12 months. Most of us have been members of this House for a while and accept not necessarily the competence but the goodwill that exists on both sides of the House in terms of such issues, and we take the view that child sex offenders are dangerous people in the long term. I acknowledge that we must strike the right balance, but our primary objective must be to ensure that our children are protected.

Why must police, whose resources are already stretched, return to the court at the expiry of each 12-month period, if it is deemed necessary, to get a contact prohibition order? If we are serious about making the register work, a contact prohibition order, which has been carefully considered by a court—it will be carefully considered because that is what happens in court—should be for life. We are not talking about minor offences and offences that do not harm someone else; we are talking about offences that harm the most vulnerable section of our community, our children. Young people and people with disabilities are entitled to expect that the Parliament will do everything possible to protect them. I fail to see the logic in limiting the period of an order to 12 months; it should be for life.

If offenders want to remove orders the onus should be on them, on those who have been convicted of these heinous crimes, to prove to the court that contact prohibition orders should be removed. Finally, I endorse the comments of my colleague the member for Tweed about interstate issues. It seems that this bill leaves it wide open for people to travel across the border to Victoria, Western Australia or elsewhere for a holiday, and these days it is all accessible. We accept that the bill is better than the current legislation, but unfortunately it does not go far enough. It has not been thought through in detail. I suspect that we will need to revisit the issues. I look forward to the Government possibly being able to address the issues today; if not, perhaps at a future time.

Ms ANGELA D'AMORE (Drummoyne—Parliamentary Secretary) [12.12 p.m.], in reply: I thank the member for Epping, the member for Smithfield, the member for Tweed and the member for Wakehurst for their contributions to the debate. I will address some of the concerns put on the record by the Opposition. However, I note at the outset that this bill was before the upper House almost two weeks ago, and I am concerned that the Opposition waited until now to raise concerns and potential amendments. Certainly, if members opposite had principles or were concerned about provisions in this bill, they had time to discuss them with the Government, and we could potentially have come to an agreement.

While I note that members opposite have raised concerns, I am concerned that they have waited until now to put those concerns on the record. The member for Epping is concerned that the child protection register cannot capture offenders who were released from jail prior to 2001. The Child Protection (Offenders Registration) Act commenced on 15 October 2001, and all child sex offenders who have been released from jail or who committed a relevant offence after that date are automatically placed on the child protection register and monitored by police. However, since October 2008 serious child sex offenders who were released from jail prior to the Act's commencement can also be placed on the register through a child protection registration order.

These orders can be issued by a Local Court on the application of the Commissioner of Police if the court is satisfied the person poses a risk to the lives or the sexual safety of one or more children or generally children in our community. If the member for Epping is so troubled, why has he not raised this matter before? It is a big ask by him, a man of reasonable intelligence with a history in the field of law, to raise his concerns in the Chamber now. I am concerned that he has waited until now when he could have raised this matter earlier.

Mr Brad Hazzard: Point of order: The standing orders require the shadow Minister to put his concerns to the Parliament and he has done that. I ask the Parliamentary Secretary to address them.

Ms ANGELA D'AMORE: I am addressing them. As Parliamentary Secretary I note that the member for Wakehurst could have raised his concerns prior to entering this Chamber, as we all know. In response to the member's concerns about the length of a contact prohibition order, I advise that if a person is considered to present a risk to children they can be issued with a child protection prohibition order with a five-year term, which can restrict various behaviours, including associations. Currently, this is consistent with the provision for non-association orders in the Crimes (Sentencing Procedure) Act.

I note that the member for Epping raised concerns regarding overseas travel. The purpose of the Child Protection Register is not to unduly restrict the activities of these people but to monitor them to ensure that their behaviours do not indicate a risk of reoffending. It is therefore not considered appropriate to prevent all registrable persons from travelling overseas. They may have family overseas or need to go overseas for other purposes. If a registrable person's behaviour is considered to pose a risk to the lives or the sexual safety of one or more children, the movements of that registrable person, including overseas travel, already can be restricted through a child protection prohibition order.

The concern about the sharing of information has been discussed in various forums. Currently under section 19BA, agencies are exempted from privacy provisions so that they are able to freely exchange information relating to registrable persons in specified circumstances. This section was introduced to clarify that agencies could exchange information in relation to registrable persons, where necessary, without privacy impediments. Unfortunately, previously some agencies have remained reluctant to exchange any information relating to registrable persons without their consent. If full information is not provided to police and other agencies, it is difficult to design an appropriate management plan.

Although in many cases the person will consent to their information being exchanged, it is likely to be the highest-risk persons who would not consent. It is therefore considered necessary for police to be able to direct agencies under the bill to provide information in relation to registrable persons in certain circumstances. The police have been provided with the ability to request and demand that information be exchanged if there are concerns. The member for Tweed raised some very valid and important cross-border issues. We cannot ignore the fact that people travel. I direct the member's attention to the agreement in principle speech of the Minister for Police. New South Wales is leading the way in this area. These changes will be presented to the Ministerial Council for Police and Emergency Management—Police in 2010 for consideration by other jurisdictions in order to address the concerns about registrable persons travelling across borders.

We all agree that national consistency on registration of child sex offenders is very important, and other jurisdictions have recently agreed to adopt the changes that New South Wales made to its register in 2008. It is a positive outcome that States and Territories are working together to tackle these issues to ensure each jurisdiction is aware of the presence of offenders who cross borders and of potential issues that may arise. Information on registrable persons is shared between jurisdictions through the Australian National Child Offender Register. I hope that addresses some of the concerns raised by the member for Tweed so that he can explain these changes in his community to comfort and reassure his constituents that this and other legislation provide protection. The Government is continuously working on this issue.

I note that the member for Wakehurst expressed concern about offenders not truly being rehabilitated. I know that many people tolerate paedophiles less than other criminals, and that is human nature, but making a blanket statement that paedophiles cannot be rehabilitated goes a little too far. I do know that the Government is committed to protecting children from sex offenders and quite rightly it takes that commitment very seriously. There are several ways in which these offenders are managed both while they are in jail and once they are released. For the understanding of the member for Wakehurst, there are rehabilitation programs, which I am sure he is well aware of, but I place that on record again.

Child sex offenders in our prisons who meet the appropriate criteria are offered two voluntary treatment programs by the Department of Corrective Services, based at Long Bay jail. The Custody Based Intensive Treatment Program is targeted at those sex offenders thought to be at the highest risk of reoffending. In 2007-08 87 men completed this program. It is designed to be taken immediately prior to release. The core program is for low to moderate-risk sex offenders. In 2007-08, 70 men completed this program. Sex offenders management programs are also available post-release, in recognition that offenders may still need assistance once they come out of jail as part of parole conditions. Parole officers have an ongoing role in monitoring high-risk offenders in the community during their parole period. We fully support the Department of Corrective Services in its efforts in this crucial and challenging area.

The member for Wakehurst commented on section 11F (2) (b). Many registrable persons are homeless or live in transient accommodation. That is why sometimes the legislation will refer generally to where they live. There is no anomaly. A registrable person must provide the locality of a place where that person intends to generally reside. I direct the member for Wakehurst to section 9 (2) (a) of the Child Protection (Offenders Registration) Act 2000, which defines the place where a registrable person intends to generally reside as the premises where that person resides for at least 14 days in a 12-month period. There is an obligation on that person to state where they live, and they have to live there for at least 14 days. Quite rightly, if they are transient they still have an obligation to register their address. Therefore, if a person resides anywhere for a 14-day period in any 12-month period, the police need to be notified. This legislation goes further than the suggestions of the member for Wakehurst.

Once again, I thank members for their contribution to this debate. The Child Protection Legislation (Registrable Persons) Amendment Bill 2009 amends the Child Protection (Offenders Registration) Act 2000 and the Child Protection (Offenders Prohibition Orders) Act 2004 to enhance the management of child sex offenders in our communities. I note that both sides of Parliament are fully committed to this bill, as they should be. Ultimately we all want to protect not only our own children but all children who live in our communities. The bill will improve the ability of police and other agencies to effectively manage child sex offenders, and will ultimately contribute to the safety of our children. I note the concerns of the member for Epping and the member for Wakehurst, both of whom have a great deal of knowledge of these issues, and in particular the member for Wakehurst, who has been a member of this House for some years. I know they had an opportunity to raise those concerns earlier with the Attorney General and the Minister for Police. I am disappointed that they have waited until the eleventh hour to raise them.

Mr Andrew Fraser: That is what the debate is all about.

Ms ANGELA D'AMORE: Yes, this is a debate but they also had an opportunity to raise them previously. I have answered those concerns in my reply. That is why we have the in-reply debate. I note the interjection of the member for Coffs Harbour. I am concerned that those concerns were not highlighted prior to this debate. 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.

ELECTRICITY SUPPLY AMENDMENT (SOLAR BONUS SCHEME) BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

PRIVILEGES COMMITTEE

Report

ASSISTANT-SPEAKER (Mr Grant McBride): I report the receipt of the following message from the Legislative Council:

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that it has this day agreed to the following resolution:

1. That this House notes the report of the Privileges Committee entitled "A memorandum of understanding with the ICAC relating to the execution of search warrants on members' offices" tabled on 24 November 2009, and in particular Finding 1 of the committee:

   "That Procedure 9 of the Commission's *Operations Manual* provides a suitable basis for the execution of search warrants on members' offices."

2. That this House authorises the President to enter into a memorandum of understanding with the Commissioner of the Independent Commission Against Corruption concerning the execution of search warrants on members' offices in the terms set out in Appendix 7 to the report.

3. That a copy of the memorandum of understanding set out in Appendix 7 of the report be transmitted to the Legislative Assembly for its consideration and the Legislative Assembly be invited to pass a similar resolution".

Legislative Council
25 November 2009

AMANDA FAZIO
President

Consideration of message set down as an order of the day for a future day.

PUBLIC SECTOR RESTRUCTURE (MISCELLANEOUS ACTS AMENDMENTS) BILL 2009

Agreement in Principle

Mrs KARYN PALUZZANO (Penrith—Parliamentary Secretary) [12.31 p.m.], on behalf of Mr David Campbell: I move:

That this bill be now agreed to in principle.

The bill was introduced in the other place on 12 November 2009 and is in the same form. The second reading speech appears at pages 70 to 72 of the *Hansard* galley for that day. I commend the bill to the House.

Mr CHRIS HARTCHER (Terrigal) [12.32 p.m.]: The Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009 is the result of significant work on the part of members of the Rees Government. First they had to restock the toner cartridge, then find someone who could operate the photocopier and then find someone with a copy of Anna Bligh's Queensland Government restructure plan. Then they photocopied that, changed the heading and handed it out to the media—quite an effort. I will be clear: The documents relating to each plan are not similar; they are not coincidentally familiar; they are not I-just-can't-put-my-finger-on-it strangely comparable—they are exactly the same. The only thing that is different is the State in which they are to be applied.

The Premier's grand plan for the New South Wales public sector is the worst form of plagiarism we have seen for a long time. Had Anna Bligh's staff imposed copyright on their plan, the New South Wales Government would be broke now, having been sued with certain success by the Department of Premier and Cabinet in Queensland. The diagrams are the same, the names are the same, the headings are the same, the subheadings are the same, the format is the same, the design is the same—even the colour scheme is exactly the same. But Nathan Rees still claims that this is his own plan for the public sector, his once-in-30-years plan, the plan he spent so much time and effort on. The plan was so important that he did not even risk telling the Minister for Public Sector Reform that he was planning to reform the public sector. The Hon. John Robertson was not even told, and didn't he get angry during budget estimates when it was pointed out? He was fuming, and he is probably still fuming now.

Nathan Rees had his plan, straight from the photocopier, still warm to the touch. The Minister for Public Sector Reform was in the dark, the public service had no idea and his Cabinet had not been told. It was a great start. To make matters worse, the whole thing cost New South Wales taxpayers $15 million. The Premier announced that $15 million was going to be spent to develop the implementation of the Queensland plan and, as Channel 7 news pointed out in its broadcast of 16 September 2009, the $15 million was to be paid so that consultants could carry out the plan and they had only 48 hours to provide their advice to the Rees Labor Government. The Channel 7 news telecast was not answered by the Premier or by his Government—it went unchallenged. It cost $15 million to run something through a photocopier. The whole package released to journalists was only three pages long—three pages on a $15 million strategy. That is $5 million per page. The Premier could simply have printed the documents himself from the Queensland Government website and used the $15 million to pay a whole school's worth of teachers for a year.

As far as public sector reform is concerned, it was all down hill from there. In July the Premier decided that the public service was not insulted enough by his copied-from-Queensland restructure plan, so he issued a Stalinesque mandate that no public servant should be caught drinking bottled water. That plan—the outlawing of bottled water in the public service—lasted all of two days. The Premier was forced to admit he could not actually ban bottled water in the public service because his Government had already signed contracts to buy the stuff until 2012. The Premier's reforms were in chaos and, because they had copied the spin but none of the substance, they could not be implemented on time.

It was a month later, in fact 27 July, that the Premier issued his restructure order and he had to make it retrospective to 1 July. There was no announcement of the 27 July public service order—there was no fanfare anymore—and three months after announcing the changes the Premier does not want to talk about them any more, but brings this bill before the Parliament. The Premier desperately needed to take his mind off the mess he had created, so his director general took one for the team and held a press conference to announce that the creative and cutting-edge Rees Government was going to conduct a review of boards and committees. The Premier made the big announcement, and when the implementation had to be announced and the problems ironed out it was the director general who fronted up to the media.

The only problem is that that plan, too, had been copied from Queensland. In fact Queensland had already published the results of its review of the plan—another day, another failure. To add to his woes, members of the Premier's own Government were starting to take pot shots at the plan. The first person to have a go at the plan was the former Minister, the member for Blue Mountains Mr Phil Koperberg, who rightly pointed out that the Rural Fire Service had been lumped in with the Police Force. The Minister for Emergency Services said nothing and left the former Minister, the member for Blue Mountains, to fight for the Rural Fire Service. They won. The Premier backed off and announced the Rural Fire Service would be transferred to the Premier's Department—first amendment to the Premier's plan.

Then the Minister for Local Government was amazed when she discovered the Department of Local Government had been moved across to the lobbyist-influenced and lobbyist-controlled Department of Planning. It was the Premier who this week announced sweeping reforms to the planning structure in the Department of Planning and it was in this department that he was going to lump the Department of Local Government. Once again the Premier had to back down and his plan, announced only on 1 July, had its second major restructure. The media reported that at least three Ministers wrote to the Premier asking him to change parts of the Anna Bligh public sector restructure, which he was now introducing into New South Wales. We know that only one State Labor Party really supports this restructure and legislation, and that is the Labor Party in Queensland, not the Labor Party in New South Wales.

The Premier took another swing at public sector management—a buy-local plan. Labor Party protectionism has always been popular, thought the Premier—"I am, you are, we are Australian"—so no-one in the public sector can buy anything not made in Australia. That was part of the plan. But the Premier, just as he had forgotten about the bottled water contracts, had forgotten about the Federal Productivity Commission. Not only had the plan crossed what the Productivity Commission was saying for Australia, but the Productivity Commission placed New South Wales on a list of bizarre protectionist countries along with communist China. New South Wales was listed with communist China as a protectionist policy State, inconsistent with Australia's free trade obligations.

Once again the Premier had to withdraw—the fourth time the Premier has had to restructure his plan announced on 1 July. The Premier needed a new plan, a plan to end all plans. A public sector hiring freeze would work. It would make the Premier seem responsible in the face of global economic turmoil. The Premier issued an edict banning hiring for positions except those considered by him to be "front-line". That plan, too, lasted only days because the Premier then announced there was to be an exemption from his hiring freeze—a freeze that had been introduced only the week before as part of the plan—to provide $2 million for Rozelle metro staff. It was advertised in the paper. An amount of $2 million was allocated for additional staff to plan the Rozelle metro, notwithstanding the freeze the Premier had announced.

Then, in further violation of his own announced freeze on public sector hiring, the Premier authorised $260,000 for the employment of two industrial relations advisers. These are not ministerial staff. Ministerial office staff are a separate category of staff hired at ministerial discretion. They are political and can be hired on the basis of political expedience. The group of people I am talking about are public servants hired for special authorities established by the Government or for the Department of Premier and Cabinet. They are supposed to be subject to public service hiring guidelines and in New South Wales that is supposed to include the Premier's own edict of a hiring freeze. But the Premier apparently has one rule for the public service and another rule for himself.

Departments have to operate on smaller and smaller budgets. We hear stories of schoolteachers bringing their own resources to school because the Government will not provide the basics. Not long ago we saw a story about nurses having to buy bandages and others having to borrow resources from a nearby veterinary clinic. New South Wales residents pay record taxes and the Government claims to be spending record amounts, but the services we are getting are at record lows. Trains are still late, although the definition of "late" is now so lax it seems that if a train arrives at all it is considered to have arrived on time.

Last year saw a record number of prosecutorial referrals from the Independent Commission Against Corruption. But the Premier's answer is not to cut taxes or improve services. He finds some money in the budget—a million here and a million there—and spends it on hiring his own elite team of bureaucrats to protect him and his Ministers. They hired $2 million worth of bureaucrats to plan the Rozelle metro, a plan that is designed to protect the great friend of the Premier, the member for Balmain. They hired $260,000 worth of industrial relations advisers to help the Premier avoid fallout from his handover of the industrial relations powers to the Federal Government. When he is handing over industrial relations powers to Canberra why does he need to spend money to buy more industrial relations advisers? In terms of public sector management there has been failure after failure from this Premier and this plan.

First the Rural Fire Service had to be moved, then the Department of Local Government had to be moved and then more money had to be allocated in violation of the freeze. All this occurred under a plan that was announced only on 1 July, barely four months ago. The Premier did not have the bureaucratic order ready for the plan and did not issue it until 27 July. It then had to be backdated to 1 July. He did not have the legislation ready and it has only now been presented to the Parliament, at the end of November.

We are talking about the livelihood of 280,000 residents who serve New South Wales capably and well in the public sector. This legislation—the Premier's plan—is an attempt to shoehorn the New South Wales public sector into the Queensland Government's structure and public sector model. The legislation itself is quite basic. It changes the names of departments, it amends something like 31 Acts, and it changes the allocation of titles and powers to various departments post-restructure. Credit needs to be given, as is often said in these debates, to Parliamentary Counsel, who have done an extraordinary job in turning the Premier's plagiaristic ramblings into cohesive legislation.

New South Wales needs a Government that is going to address its concerns. New South Wales does not need a Government that spends $15 million on consultants to implement a plan that is a copy of the Queensland Government's plan. New South Wales needs a structure that is appropriate to New South Wales conditions. It does not need an attempt to force-feed New South Wales such an inadequately thought-out plan that the Rural Fire Service had to be moved within a month, the Department of Local Government had to be moved within two months, and the freeze on public sector recruitment had to be violated by the Premier not once but twice. When the Premier announced he was transferring industrial relations power to Canberra he still had to hire more industrial relations consultants at an additional $260,000 a year. Where is the planning and where is the organisation? The legislation is yet another reflection of poorly thought-out planning by the Premier. Every attempt is made to get media grabs and nothing is done to solve the problems that New South Wales faces.

Mr ROBERT COOMBS (Swansea) [12.45 p.m.]: I support the Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009. In June the Premier announced the biggest structural reform to the New South Wales public sector in more than 30 years. These changes are designed to ensure a greater focus on delivering services to the people, better integration of public services and cutting internal red tape. The rationale for the reform was and remains to put our clients first, to remove the silos and artificial barriers between agencies and to make it easier to deliver services. The bill is a necessary part of the Government's reforms and tightens the legislative framework to enable the new departments to continue to work towards delivering better services to the people of New South Wales.

In July an administrative changes order created 13 principal departments each with an appointed director general. Staff and other resources have been transferred between departments where necessary and departments have been putting in place their organisational and corporate structures. All departments are currently working to improve their service delivery to their clients and to integrate delivery where appropriate.

Departments have in the past undertaken many joint delivery projects and initiatives. The Government's Keep Them Safe policy is one of the best examples of this. Implementation of this framework for a new way of caring for children and families involves partnership, not just across various departments in the Government but also with non-government sectors as well. Through the creation of super departments the Government is identifying other areas where a better coordinated government structure can provide real benefits to the taxpayer. For example, a new Department of Human Services is taking the impetus of the amalgamations to look at how it delivers services to clients who interact with young children with disabilities or adolescents with complex needs in rural and remote New South Wales.

The new Department of Transport and Infrastructure will be in a position to deliver better coordinated transport services, which will provide real benefits for transport users. The Department of Environment, Climate

Change and Water is supporting and creating sustainable jobs through authentic nature and cultural tourism opportunities. As well as providing a platform to improve service delivery, the reform to the structure of Government will create more efficient, lower cost back-of-house support functions. This will enable a redirection of resources to improve front-line services. Savings will be made by consolidating the handling of routine transactions such as payroll and invoicing. I understand the Department of Premier and Cabinet is leading a corporate and shared services reform program to deliver a more streamlined arrangement.

Moving to this outcome is a large-scale reform program and the reforms will be phased in over time. Amalgamating 160 departments and agencies into 13 super departments is a great task and it is important that we take the time to get it right. That is why a directors general executive committee has been established, which I am advised, is meeting at least on a fortnightly basis. The 13 directors general operate as a management board for the Government, coordinating and driving reforms that have cross-government impacts.

The Department of Premier and Cabinet has also established the sector-wide central Amalgamation Joint Consultative Committee that meets with public sector unions. This is to provide a consistent approach to industrial issues that may arise as a result of the amalgamation process. In addition, individual departments will continue to consult with relevant public sector unions to address any specific issues. We are on our way towards achieving a refreshed structure to provide the service delivery priorities of this Government. This bill provides the necessary legislative changes to enable departments to continue their work. This Government has a clear strategy for public sector reform and it will continue to drive reform in this area to deliver better services for the people of New South Wales. I commend the bill to the House.

Mr ROB STOKES (Pittwater) [12.51 p.m.]: I will make only a brief contribution to debate on the Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009. Earlier the member for Swansea said that this restructure was the biggest public sector reform in 30 years. I seriously challenge that statement. This is not the biggest public sector reform in 30 years; it follows a long line of failed reforms in various departments over a considerable period. I refer, for example, to planning—an area in which I have a particular interest. Since Labor has been in office we have had the Department of Planning and Environment, the Department of Urban Affairs and Planning, Planning NSW, the Department of Infrastructure, Planning and Natural Resources, the Department of Planning, and we now have a super department or a mega Department of Planning.

In the past few days the Premier has been talking about reforming planning to make our planning system the best in Australia. Which of those reforms was the substantial reform? Which of those reforms delivered better services to the people of New South Wales? The truth lies in the title of the bill. Despite all the talk about reform, the title of the bill refers to public sector restructure. Restructure without reform is paper shuffling—bureaucratic mumbo jumbo that does nothing to deliver real reform or change for the people of New South Wales. The member for Swansea referred to the people of New South Wales as this Government's clients—language that is almost Orwellian. I would have thought that the people of New South Wales were citizens and not clients of this great State, and that is the way in which any government should relate to us.

This legislation is the reform that one has when one has no real stomach for reform. This so-called public sector reform, which is all about reinforcing silos, does nothing to increase efficiency or to provide better services for the people of New South Wales. I have already given the example of planning. The Government should implement real reform rather than reinforce planning silos. The planning silo in the handy-to-use wall chart provided with this so-called restructure or reform does not identify the role of the Department of Planning in heritage protection, which is revealing. No mention is made about the Heritage Council falling under the Planning portfolio, so I assume it is under planning. However, historic houses fall under Communities, and Aboriginal and natural heritage falls under Environment.

Rather than restructuring the public sector to ensure that these issues are dealt with in a coordinated fashion, the Government is simply reinforcing silos. It is reinforcing all those artificial divisions and distinctions that have arisen over time. Rather than engaging in real reform the legislation will merely reinforce existing silos. I used planning as an example, but I could just as easily have used the environment. The Government said that the legislation was about real reform. In the past the Government announced reforms and the Environment Protection Authority was absorbed into the new Department of Environment and Conservation, which then became the Department of Environment and Climate Change, and which has now become the Department of Environment, Climate Change and Water. Which of those reforms is real reform, and which of those reforms was just bureaucratic paper shuffling?

The Government cannot have it both ways. It cannot insist that one of these reforms will work if it continually reforms and nothing ever changes. I raise one further issue to which I hope the Minister will respond

in reply. My concern relates to forward planning for financial audits for each of these public sector agencies. With all the restructure that is going on what steps are being taken to ensure that there is no audit risk? When each department seeks to comply with an audit and it passes on its financial statements to the Auditor-General, how will the Government ensure that those financial statements are presented in such a way that we can compare apples with apples and ensure that the audit function is dealt with appropriately?

In the past the Government has had problems in relation to its so-called restructures, which has made difficult the job of the Auditor-General in auditing the financial statements of government departments. What has the Government done in its latest restructure to ensure that that problem is dealt with? In conclusion, the legislation is far from reform; I believe it to be nothing other than a shuffling of the deck chairs on the *Titanic* that is this unfortunate Government.

Mr MALCOLM KERR (Cronulla) [12.56 p.m.]: This Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009 is expensive spin over substance. I reiterate the earlier remarks of the member for Terrigal about the costs that were incurred by consultants. That money could have been used far more productively in the delivery of services to my electorate, to the electorate of the member of Pittwater, to the electorate of the member for Terrigal, or to the electorate of any other member. The people of New South Wales want a professional and independent public service that is not subject to politicisation.

Members would be aware that morale in the public service diminished as soon as this Government took office in 1995. A number of senior public servants who were sacked for political reasons were used as scapegoats, in particular, in the area of transport. The railways had bad publicity and RailCorp executives were offered as blood sacrifices to the electoral gods. However, no-one was fooled, in particular, the public of New South Wales. The direction that the Government has taken has been forced on the public service. As the member for Terrigal said, the legislation is spin and it has been stolen from Queensland.

The legislation, which is spin and contains spelling errors to boot, will not take the State forward; it will take it backwards because of the havoc that it will create. Fortunately, the member for Blue Mountains, who knew something about public administration, was able to step in on behalf of the Rural Fire Service. How many other problems are there in relation to these proposed reforms? Earlier the member for Pittwater said that the Government was continually reforming departments but that nothing ever changed. Since 1995 public administration in this State has gone backwards.

Mrs KARYN PALUZZANO (Penrith—Parliamentary Secretary) [12.59 p.m.], in reply: I thank members for their contributions to debate on the Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009. The Government's public sector restructure is aimed squarely at delivering better services for the people of New South Wales. The restructure brought about by the July administrative changes order is the biggest structural reform to the New South Wales public sector in more than 30 years. The changes ensure a greater focus on delivering services, remove the silos and artificial barriers between agencies, and make it easier for services to be delivered seamlessly. However, it is necessary to respond to a couple of matters raised in the debate, particularly by the member for Terrigal, about the necessity for these changes. Because of recent global economic uncertainty it is more important than ever to deliver government services effectively. To ensure people have jobs, houses, health services, good education and access to other key services we need to deal with the present and, more importantly, also plan for the future.

The current fiscal situation demands a modernised and cohesive public sector. We need to have the most streamlined structures to deliver services for the people of New South Wales in these challenging times. Historically, New South Wales has had a fragmented agency structure, which has resulted in confusion for users of government services who are faced with a large number of agencies offering related services. One example related to the Hawkesbury-Nepean river system. When the Premier was the Minister for Water, the member for Londonderry and I informed him that government agencies associated with the Hawkesbury-Nepean river system were accountable to approximately 17 Ministers. Approval for anything concerning the river had to go to a variety of agencies. The people of greater western Sydney were quite frustrated with how the mighty Hawkesbury-Nepean river system was administered. The Premier was the first Minister to take action to address this problem.

Eventually the Office of the Hawkesbury-Nepean was established. It is a one-stop shop for all matters dealing with the Hawkesbury-Nepean rivers and is based at the Penrith State office building. The previous fragmented agency structure resulted in many agencies associated with the Hawkesbury-Nepean rivers operating as isolated silos, which resulted in dispersed policy accountabilities and an inefficient allocation of resources.

The people of western Sydney can now knock on the door of the Office of the Hawkesbury-Nepean for a seamless procedure when dealing with local water issues. That is just one example of the importance of a non-fragmented agency structure. The Government is addressing these issues and reshaping key service delivery systems.

The member for Terrigal accused the Government of plagiarism. As a former university lecturer and schoolteacher I understand completely the seriousness of such an accusation. It is not a trivial matter. However, I must point out that public sector reform is not about colourful charts or tables; nor is it about Queensland—we are not improving services in Queensland. The New South Wales public sector structure now comprises 13 departments designed specifically to deliver better value services for people in New South Wales. The member for Terrigal and the member for Cronulla made accusations about the massive costs involved in the restructure. We are cutting the fat off government and will make sure that as little funding as possible is committed to that process. The process will deliver significant savings to New South Wales taxpayers. It will make the Government more efficient and allow us to concentrate on delivering better front-line services to New South Wales families.

The member for Terrigal also made absolutely outrageous claims about education and health. The New South Wales Education and Health portfolios have been allocated record budgets and have quite innovative and effective programs. If instead of carping, whingeing and making outrageous accusations in this place the member for Terrigal knocked on the door of his local hospital, he would see a number of innovations—just as I did last week when I visited the falls and fracture clinic at Nepean Hospital. The clinic, which is the only one of its kind in Australia, works with elderly people who have had falls or sustained fractures or who have concerns about balance. The unit uses innovative equipment to assess balance imperfections. The program also assesses any fractures sustained by elderly patients. Patients are referred either by accident and emergency units or by general practitioners, are assessed and assisted, and return on a further referral if necessary. The unit has operated for only 12 months, but the patients have achieved major improvements to their quality of life. That is just one example of improvements in health.

If the member for Terrigal knocked on the doors of a number of his local schools, he would find that many are already part of the Connected Classrooms Program. He would see interactive whiteboards in most classrooms and cameras for videoconferencing facilities. This rollout was an election commitment by the New South Wales Labor Government. The Connected Classrooms Program has been well received by all schools. If the member for Terrigal went into the classroom he would see that teachers are supported by the rollout of this program as well as by the record budget provided for the Education portfolio.

The Opposition says that the reform is a mess because of changes to the plan. On 11 June 2009 the Premier announced a broad architecture of reforms and called for feedback prior to finalising the restructure. That might be a weird concept for those opposite, who woke up only a few months ago and said, "Oh, let's go out and consult the community" when the State Plan had already been rolled out and was being re-evaluated. As a result of many productive discussions within the Government, some key changes were made to the original proposal. With more than 160 government agencies providing many varied functions, it was important that we took the time to get the restructure right.

The member for Pittwater expressed concern about audit risk. The restructure becomes effective as at 1 July 2009 and the new departments will undertake preparing financial reports for the financial year commencing 1 July 2009. The member for Pittwater should note that these financial reports will be audited in accordance with the usual practice. The Government is determined to have the best public sector structure to deliver better services for the people of New South Wales. The bill is a necessary part of the Government's restructure. 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.

GRAFFITI CONTROL AMENDMENT BILL 2009

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [1.07 p.m.], on behalf of Ms Carmel Tebbutt: I move:

That this bill be now agreed to in principle.

The Graffiti Control Amendment Bill 2009 was introduced in the other place on 12 November 2009 and is in the same form. The second reading speech appears at pages 59 to 61 in the *Hansard* galley for that day. I commend the bill to the House.

Mr GREG SMITH (Epping) [1.08 p.m.]: I lead for the Liberal-Nationals Coalition in debate on the Graffiti Control Amendment Bill 2009. The stated objects of the bill are:

(a) to amend the Graffiti Control Act 2008 …

(i) to create new offences relating to the supply of spray paint cans to children and the possession of spray paint cans by children, and

(ii) to increase the penalties for certain existing graffiti offences, and

(iii) to introduce a scheme of community clean up orders, under which an offender fined for a graffiti offence can be directed by a court to perform community clean up work in order to satisfy the fine, and

(iv) to make other consequential and minor amendments, and

(b) to amend the Graffiti Control Regulation 2009 to enable certain local council employees to issue penalty notices for certain offences under the principal Act, and

(c) to amend the Rail Safety Act 2008 to give rail safety officers the power to direct a person to state the person's name and address if the officer finds a person committing an offence against the principal Act, or reasonably suspects the person has committed an offence against the principal Act, and

(d) to amend other Acts as a consequence of the introduction of the scheme of community clean up orders.

The bill provides for increased penalties for certain existing graffiti-related offences. Proposed section 4 amends the Graffiti Control Act to increase the maximum penalty for the existing offence of damaging or defacing property with a graffiti implement from six months to 12 months imprisonment. Proposed section 5 increases the maximum penalty for the existing offence of possessing a graffiti implement with the intention that it will be used to damage or deface property from three months to six months imprisonment. Under the Graffiti Control Act it is an offence to sell a spray paint can to a person under the age of 18 years.

The bill creates two new graffiti offences. In item [5] of schedule 1, proposed section 8A deals with the supply of spray paint cans to persons under 18 years of age whereas proposed section 8B deals with the possession of spray paint cans by persons under the age of 18 years. Under proposed section 8A, a person who supplies a spray paint can to a person under the age of 18 years will be guilty of an offence that is punishable by a fine of up to $1,100. Various defences are available, the onus of proof for which vests in the person supplying the spray paint can, including that he or she believed, on reasonable grounds, that the recipient intended to use the spray paint cans for a defined and lawful purpose, such as the lawful pursuit of an occupation, education and training.

It will be a defence if the person charged proves the supply occurred in a public place and that the person believed, on reasonable grounds, that the recipient intended to use the spray paint can at or in the immediate vicinity of the place where the supply occurred for another defined lawful purpose. Moreover, it will also be a defence if the person charged can prove that the supply occurred in a private place and that the person believed, on reasonable grounds, that the recipient intended to use the spray paint can at or in the immediate vicinity of the place where the supply occurred for an activity that does not constitute an offence against the principal Act or any other law. In item [5] of schedule 1 under proposed section 8B a person under the age of 18 years who is in possession of a spray paint can in a public place is guilty of an offence attracting a maximum penalty of $1,100 or six months imprisonment. There are various defences that are similar to those I have already stated in connection with supply. Lawful purpose is defined in section 8B (3) as:

(a) the lawful pursuit of an occupation, education or training, or

(b) any artistic activity that does not constitute an offence against this Act or any other law, or

(c) any construction, renovation, restoration or maintenance activity that does not constitute an offence against this Act or any other law, or

(d) any other purpose authorised by the regulations.

It is strange that, contrary to provisions relating to illegal drug activity in which supply is regarded as the more serious of the two offences, there is a greater penalty for possession than for supply of spray paint cans. However, proposed section 8B (5) provides that a court that convicts a person of an offence under this section must not sentence the person to imprisonment unless the person previously has been convicted of a graffiti offence on so many occasions that the court is satisfied that the person is a serious and persistent offender, and is likely to commit such an offence again.

That provision seems to have been coloured by its predecessors, the Summary Offences Act and certainly the Graffiti Control Act. It gives courts, particularly those presided over by a magistrate, enormous leeway in deciding whether to imprison an offender. Usually people would not be imprisoned for graffiti offences, but serial offenders and those who cause hundreds of thousands of dollars worth of damage should be considered for a penalty of imprisonment. Proposed section 8B (6) defines a public place to mean a place or a part of premises that is open to the public or is used by the public, but does not include the premises of a school or other educational establishment.

At present, a police officer is authorised to confiscate a spray paint can in the possession of a person in a public place if the officer reasonably suspects the person is under the age of 18 years, unless that person satisfies the officer that he or she has a spray paint can in his or her possession for a purpose that is not unlawful. Proposed section 9 is amended to empower a police officer to confiscate a spray paint can unless the person satisfies the officer that his or her possession of the spray paint can does not constitute an offence under the new provisions.

Proposed part 3A deals with community clean-up work. The proposed part enables a court to make an order requiring a person to perform community clean-up work to satisfy the amount of any fine that is imposed. Community clean-up work is defined in proposed section 9C to mean, in the case of a child offender, any community service work under the Children (Community Service Orders) Act 1987 or, in the case of an adult offender, the Crimes (Administration Sentences) Act 1999 that is approved as community clean-up work by the Minister who is administering the relevant Act. Proposed section 9D provides that a court must not make a community clean-up order unless satisfied that the offender is a suitable person for community clean-up work and, if the offender is a child, that the child is sufficiently mature to perform community clean-up work and that community clean-up work is available in the area where the offender lives. Surely there is sufficient graffiti clean-up work available wherever one lives: it is everywhere.

As soon as is practicable after making a community clean-up order, a court must give written notice of the order to the offender. In the case of an adult offender, notice of the order also must be given to the Commissioner of Corrective Services. If the offender is a child offender, notice of the order also must be given to the Director General of the Department of Human Services. If a court other than the Children's Court makes the order, notice must be given to the registrar of the Children's Court. The notice must include where the offender must present himself or herself so that administration of the order can begin, and must indicate the period in which the offender must present himself or herself for that purpose. A court that makes a community clean-up order must explain, in language that is likely to be readily understood by the offender, the requirements of the order, the consequences of not complying with the requirements, and the fact that the offender may pay the fine instead of performing community clean-up work.

Pursuant to proposed section 9H, community clean-up work must, if practicable, include at least two hours participation in a graffiti prevention program. Proposed section 9I provides that, if an offender complies with the community clean-up order by completing the required number of hours of work, the fine is taken to be satisfied. One hour of community clean-up work performed by an offender will be equivalent to $30 of the fine. That is interesting because many of the offenders would be lucky to earn $7 an hour working for McDonald's or KFC, but if they clean up the walls of our beautiful suburbs and city that have been covered with ugly graffiti they will receive $30—that is amazing. Should an offender perform only part of the work under the order, the fine will be taken to be satisfied by the amount calculated at $30 for each hour of community clean-up work performed. One wonders whether a person who has not been convicted of anything could do the work and receive $30 an hour. I doubt it—otherwise there would be a big queue!

Pursuant to proposed section 9J, an offender may also choose to pay the fine or the balance of the unpaid fine instead of completing the community clean-up work. The community clean-up work order ceases to

be enforced if the offender pays the fine or the balance of the fine. Pursuant to proposed section 9K, a court may revoke a community clean-up order for several reasons, including if it is satisfied, after receiving a report from the offender's assigned officer, that the offender has failed to report for work under the order within three months after being required to do so; has failed to report for work within any period of three months; has failed to comply with the order; is not capable of performing the work; or is not suitable to be engaged in work under the order. A court also may revoke a community clean-up order if the offender so requests and the court is satisfied that it would be in the interests of justice to do so.

Under proposed section 9L a community clean-up order is also revoked if the finding of guilt, conviction or sentence for the graffiti offence, in respect of which the order was made, is quashed, annulled or set aside. If a fine imposed by a court is varied, the court that varies the fine may revoke or vary a community clean-up order made in respect of that fine. Proposed section 9M provides that notice of revocation or variation of the community clean-up order must be given to the offender and to the offender's assigned officer. The bill has various other provisions concerning revocation. Proposed section 9N states that that there is no right to appeal against the making of a community clean-up order, a failure to make a community clean-up order, or the revocation or variation of a community clean-up order. Proposed section 9O will allow the registrar of the court to carry out the function of making the order, if the offender consents to the making of the order. Proposed section 9P provides that the Children (Community Service Orders) Act applies, with some exceptions, to a community clean-up order made in respect of a child offender.

The Crimes (Sentencing Procedure) Act 1999 and the Crimes (Administration of Sentences) Act 1999 also apply, with some exceptions, to a community clean-up order made in respect of an adult offender, in the same way as they apply to a community service order made in respect of a person. Finally, the regulations may make further provision with respect to community clean-up work and may increase the amount of $30 per hour for community clean-up work performed by an offender. Proposed part 3 makes certain consequential amendments to the Children (Community Service Orders) Act and the Crimes (Administration of Sentences) Act.

Proposed schedule 2.2 amends the Children (Criminal Proceedings) Act to make it clear that the Children's Court has the power to make a community clean-up order in addition to any other powers it has under that Act. Clause 11 of the Graffiti Control Regulation 2009 is amended to allow certain local council employees to issue penalty notices for offences relating to the sale or display of spray paint cans. Currently, only police officers and investigators under the Fair Trading Act 1987 may issue penalty notices. Also, power is provided under the Rail Safety Act for people to direct a person to tell them their name and address if they are committing an offence under the Graffiti Control Act.

As for arguments in favour of the legislation, the cleaning up of graffiti by offenders will reduce the cost to the community in general. Graffiti is an economic crime and its cost to the community cannot be underestimated. It has been said that it costs at least $100 million in this State to clean up the mess. Last year RailCorp spent $3.8 million to remove graffiti from trains and stations. Interestingly, one would think that security at Redfern and places such as that would be better. It would be much cheaper to employ security officers to guard trains—which seem to be targeted all the time—than to clean up the mess. The City of Sydney spends up to $3 million annually, and councils across New South Wales, such as throughout Sydney, the Central Coast, Wollongong and Newcastle, spend $25 million per annum.

Some councils—for example, Dubbo, where a program has been successfully introduced—offer rewards for people who give information leading to the detection of graffiti vandals. Sometimes local papers, such as the excellent *Weekly Times*, which is printed in Ryde and distributed in the Epping electorate, offer rewards in conjunction with various business communities and chambers of commerce. No doubt an increase in penalties will deter offenders. Having to clean up graffiti will also act as a significant deterrent. But this bill is simply window-dressing; it does not deal with the real issue, which is catching the vandals. More resources must be provided to achieve that. More resources must be provided to the police and councils to assist them to catch graffiti vandals.

It has been suggested that some sort of machine or detector could be attached to the sides of buildings to alert a council when someone is spraying graffiti. I wish they would put one on the building in which my office is located at Epping because from time to time we are strafe with graffiti, particularly after certain activities on Wednesday nights at a local public house. As I said in my speech in this House on 25 November 2008, if the Government were serious about this issue it would set up a dedicated graffiti squad to catch these criminals. The tags used by regular offenders are a bit like handwriting, fingerprints or DNA. Expertise could be developed in identifying tags so that a brief could be put together by skilled detectives showing that X or someone else was responsible for specific graffiti. In my area a bloke called Jael—I assume it is a fellow—is a serial offender who has tagged many places with his graffiti.

The bill deals only with spray cans. It has been shown in Chicago that a modest reduction in spray paint graffiti has led to an offsetting increase in glass etching and marker pen graffiti. Increased penalties still do not deal with the fact that a judge is required to use imprisonment only as a last resort. Normally, people would not be jailed, but in the Hyde Park Café graffiti case a woman called Cheyene Back was given three months jail by, I thought, a courageous magistrate who was trying to draw the line and do something to stop this epidemic. Unfortunately, when the case went to the District Court her appeal was allowed and she was released with a slap on the wrist under section 10. There may be a tension between section 5 of the Crimes (Sentencing Procedure) Act and section 8B of the Graffiti Control Act, which inserts the further requirement that a court must be satisfied that the person has been convicted of a graffiti offence on so many occasions that the person is a serious and persistent offender and is likely to commit such an offence again. This is similar to a provision in the Habitual Criminals Act, which has been abolished.

The clean-up provisions apply only to those offenders who cannot afford to pay their fine in full. Such offenders should be given six months of clean-up work every Saturday and Sunday. Teams of offenders should clean up the mess while under supervision. The reason that that will not happen is largely financial. The Government does not want to spend money on supervisors, because the offenders must be supervised. But there are better ways. Volunteers could be involved in supervising, provided proper insurance and other protections are put in place. We consulted the Law Society, the Bar Association, the Director of Public Prosecutions and the Legal Aid Commission. The Bar Association expressed some concerns regarding the bill in relation to the offence of supplying a spray can to a person under the age of 18, namely, that the offence provision in proposed section 8A should be worded so that the State must prove the unlawful purpose. In other words, the unlawful purpose should be part of the offence provision, not a defence. That would fit with the normal rules of criminal justice: the prosecution must prove all the essential elements, including intention.

Secondly, the Bar Association submitted that it is of the view that as a general rule custodial options should not be available for graffiti offences. Accordingly, there should not be a six-month penalty for possession of a spray can. The gravity of offending and the general profile of a typical offender—that is, children or young adults—does not warrant such a severe sanction. Further, increasing the penalty for damage by way of graffiti from six months to 12 months, for the same reason, is unwarranted. Such penalties are wholly inconsistent with the aim and philosophy behind diversionary schemes in the New South Wales justice system.

There is a diversionary aspect to the legislation, in the sense of getting offenders to do the clean-up. In some ways, the most successful way of dealing with graffiti offenders is to have them clean up either their own work or that of someone else. Some of them feel pain because they think they are destroying a work of art. Most of us would not share that view. It is a little like aversion therapy; people would have to clean up these works of art. Graffiti vandals might see an ugly, bare, cream-coloured wall, whereas everyone else would say how nice it looked. Perhaps that is not a bad treatment. However, the problem is that it is available only as an alternative to fines. Having said all that, we do not oppose the bill.

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

[*The Assistant-Speaker (Ms Alison Megarrity) left the chair at 1.29 p.m. The House resumed at 2.15 p.m.*]

DISTINGUISHED VISITORS

The SPEAKER: I acknowledge that Terry Rumble, a former member for Illawarra, is in the gallery.

QUESTION TIME

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

GOVERNMENT CREDIBILITY

Mr BARRY O'FARRELL: My question is directed to the Premier. Given that since becoming Premier he has lied to this House about the Government's ability to build the south-west rail link, he has lied about his own job creation figures, and he has lied about choosing his own Cabinet—

Mr John Aquilina: Point of order: Mr Speaker, you have ruled previously in relation to members using unseemly and unparliamentary language. The Leader of the Opposition should not accuse the Premier of lying in this Chamber.

Mr Adrian Piccoli: To the point of order: There are three clear examples of the Premier lying to the Parliament. How else could it possibly be described?

The SPEAKER: Order! As members are aware, I have ruled on this matter on a number of occasions. The word "lie" is unparliamentary. The Leader of the Opposition will restate his question in order.

Mr BARRY O'FARRELL: Given that since becoming Premier he has misled this House on the ability of his Government to build the south-west rail link, he has misled the public about his own job creation figures, and he has misled the public about choosing his own Cabinet on merit, why does he expect the community to believe anything he says?

Mr NATHAN REES: Is the Leader of the Opposition, or any member of his Coalition, still receiving donations from property developers or big tobacco?

The SPEAKER: Order! Members will come to order. Members have been particularly rowdy today. I am losing my patience.

ETHICS EDUCATION

Mrs KARYN PALUZZANO: My question is addressed to the Premier. Will the Premier update the House on ethics courses?

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

Mr NATHAN REES: I thank the member for her question and for her longstanding interest in this most important matter.

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

Mr NATHAN REES: Back in 1880, when Henry Parkes created our free, compulsory and secular public education system, voluntary scripture classes were introduced for families who wanted them. This system has lasted for 129 years and the system will remain unchanged. Parents who want their children to be taught scripture will retain that right—special religious education under section 32 of the Education Act guarantees that. However, Australian society is changing, and it is changing profoundly. Today just on two-thirds of Australians profess some form of Christianity,—that is according to the 2006 census. In other words, around 30 per cent of Australians have professed no religion in the census. These trends have been reflected in attendance at scripture classes in our schools. At the turn of the twentieth century 99.6 per cent of children attended scripture classes; today 25 per cent attend such classes. In some schools, such as Rozelle Public School—which the Minister for Education and Training and I visited this morning—non-attendance at scripture is at about 80 per cent.

It is clearly time for some new thinking. Just because a citizen does not have a formal religion does not mean that he or she is devoid of values. Far from it. There are millions of Australians who do not subscribe to religion, yet have deep-seated values and beliefs. Those values are based on long and sophisticated tradition informed by philosophers such as Plato, Spinoza, Kant, Bentham and Mill. To argue, as some commentators do, that you cannot lead a good life without formal religion is an insult to millions of Australians who seek to live decent and honourable lives through a secular ethical framework. At the moment students who do not attend scripture classes spend their time in supervised study, and that is a far from ideal use of their time. For some months now the New South Wales Federation of Parents and Citizens' Associations and the St James Ethics Centre have been proposing a secular alternative to special religious education.

The Government agrees that this idea deserves further exploration. Therefore, we have agreed to trial this measure in up to 10 primary schools over two terms in 2010. Interested schools can put themselves forward. The choice rests with individual school communities. These ethics classes will be purely voluntary. Students will take part only with parental approval. The curriculum will be developed by the Board of Studies in conjunction with the St James Ethics Centre and experts in philosophy and ethics, along with the New South Wales Teachers Federation and the New South Wales Federation of Parents and Citizens' Associations. The curriculum will need to be rigorous and defensible. It will not be able to push any particular line socially or politically, and it will address issues such as bullying, fairness and determining right from wrong. I agree wholeheartedly with the member for Murrumbidgee, who said on Radio 2SM at midday today:

> Well the New South Wales Coalition cautiously welcomes the trial but we want to be very careful about any kind of ethics course taught because whether the teacher is a member of the Greens or a member of One Nation would obviously give a different perspective on what is ethical and what's not ethical.

The course will deal with fairness, tolerance and diversity—the very values trashed by purveyors of hate and division like One Nation. One Nation opposes immigration. It wants to smash multiculturalism, slash foreign aid, stop welfare to single mums and condemn indigenous Australians to a second-class existence.

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

Mr NATHAN REES: In September 1998 a Liberal leader from Victoria, Jeff Kennett—scorched-earth economics notwithstanding, he was a leader—had this to say:

> We must crush One Nation.

That is what Jeff Kennett said in 1998. He described One Nation as a black cloud that needed to be removed from the Australian political landscape.

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

Mr NATHAN REES: He is not going to get any help at all on that front from the Leader of the Opposition. A mainstream political party such as the New South Wales Liberals cannot lend its name to such nonsense. I call on the Leader of the Opposition to disendorse Chris Spence—

Mr Adrian Piccoli: Point of order: The question was about ethics courses in schools. I ask you to draw the Premier back to the question.

The SPEAKER: Order! I will hear further from the Premier.

Mr NATHAN REES: Yesterday on Radio 2BL the Leader of the Opposition said—

The SPEAKER: Order! Members will cease interjecting.

Mr NATHAN REES: This is what the Leader of the Opposition had to say yesterday:

> Mr Spence has said that he made a mistake when he was younger. He admits that was a mistake.

"A mistake"—singular.

Mr Adrian Piccoli: Point of order: Mr Speaker, I refer you to Standing Order 129.

The SPEAKER: Order! I remind the Premier of the question before the House.

Mr NATHAN REES: Here is what the Leader of the Opposition has sought to airbrush across—airbrush the singular mistake. Mr Spence joined One Nation.

Mr Adrian Piccoli: Point of order: Mr Speaker, I refer you to Standing Order 129. Michael Coutts-Trotter made one mistake as well.

The SPEAKER: Order! The Premier has the call.

Mr NATHAN REES: This is something of a case study in ethics, so listen carefully. Firstly, Mr Spence—

The SPEAKER: Order! Members will cease interjecting.

Mr NATHAN REES: —joined One Nation. You might say that is a mistake.

Mr Adrian Piccoli: Point of order: I refer you to Standing Order 129.

The SPEAKER: Order! The member for Murrumbidgee has taken a number of points of order and I have reminded the Premier of the question. I remind members that I always extend a significant degree of latitude to the Premier and the Leader of the Opposition. That has been a convention for a considerable period of time.

Mr NATHAN REES: Chris Spence, the handpicked—

Mr Andrew Stoner: Point of order—

The SPEAKER: Order! Does the Leader of The Nationals rise on a different point of order?

Mr Andrew Stoner: I do. The convention in this place is that if the Premier or any member wishes to denounce the character of an individual it must be done by way of a substantive motion so that the matter can be debated.

The SPEAKER: Order! The Leader of The Nationals will resume his seat. He should read the standing orders before he quotes incorrectly from them.

Mr NATHAN REES: First, he joined One Nation. Secondly, he stood as a candidate for One Nation in 1998 in the Australian Capital Territory seat of Fraser. That is two mistakes. Thirdly, he stood for One Nation in New South Wales in 2003 in the seat of Barwon. I am advised that he was elected to the New South Wales State Executive of the party. He also certified the party's annual electoral return for 1998-99.

Mr Adrian Piccoli: Point of order: I refer to Standing Order 129. I know they have asked you to join, Mr Speaker, but I ask you to draw the Premier back to the question. If they are going to attack individuals like this, the House is a farce.

The SPEAKER: Order! In future the member for Murrumbidgee will take a point of order without reflecting on the Chair. I have reminded the Premier of the question before the House.

Mr NATHAN REES: Mr Spence headed One Nation's national youth wing. He was national president of the party and he was an adviser to David Oldfield. He was sacked by Pauline Hanson.

Mr Adrian Piccoli: Point of order: This House will be a joke for the next 12 months if this is what we are going to get about every candidate. I ask you to draw the Premier back to the question if you have any authority in this House.

The SPEAKER: Order! I have reminded the Premier of the question before the House.

Mr NATHAN REES: He was responsible for Pauline Hanson's One Nation's deregistration by the State Electoral Office. The Electoral Commissioner said of Chris Spence—

Mr Adrian Piccoli: Point of order: My point of order relates to Standing Order 129. We all have histories. Milton Orkopolis comes to mind.

The SPEAKER: Order! The member for Murrumbidgee will resume his seat. The Premier has the call.

Mr NATHAN REES: The Electoral Commissioner said, "The misrepresentation that Mr Spence was the secretary was material to my decision to deregister the party."

Mr Adrian Piccoli: Point of order: It is up to you, Mr Speaker, whether this continues.

The SPEAKER: Order! If the member for Murrumbidgee takes a point of order every three words it is very difficult for me to ascertain—

[*Interruption*]

The SPEAKER: Order! If the member for Murrumbidgee would like me to adopt a very literal interpretation of the standing orders I would be pleased to take that on board. I direct the Premier to respond to the question before the House.

Mr NATHAN REES: This is a page of activity by Chris Spence in One Nation over a period of years.

Mr Adrian Piccoli: Point of order—

The SPEAKER: Order! The member for Murrumbidgee will resume his seat. I have directed the Premier to answer the question. Members should allow me to hear the answer.

Mr Andrew Fraser: Point of order—

The SPEAKER: Order! Does the member rise on a new point of order? Government members will come to order.

Mr NATHAN REES: He is your handpicked candidate, Barry.

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

Mr Andrew Fraser: My point of order relates to Standing Order 250 (5). I will read it out.

The SPEAKER: Order! I do not need the member for Coffs Harbour to read out the standing order. I have made a ruling in relation to the Premier's response. The Premier has the call.

Mr NATHAN REES: The question was about ethics, so I will return directly to that point. The handpicked candidate for The Entrance said this last week in the *Central Coast Express Advocate*—

Mr Andrew Fraser: Point of order: Standing Order 250 (5) says that a member can be named by the Speaker for persistently and wilfully disregarding the authority of the Chair.

The SPEAKER: Order! The member for Coffs Harbour will resume his seat. I have ruled on the matter. I ask the Premier to conclude his answer.

Mr NATHAN REES: The Leader of the Opposition has misled the people of New South Wales with regard to the activity of the McGurk inquiry. He misled the people of New South Wales when he asserted that my Government used images of Minnesota. He misled the people of New South Wales when he said that Chris Spence made a single mistake. This is his handpicked candidate, his One Nation candidate. The reality is that the Leader of the Opposition cannot impose his will on the member for Terrigal. That is what is going on here.

Mr Adrian Piccoli: Point of order: I refer to Standing Order 129.

The SPEAKER: Order! I have directed the Premier to conclude his answer.

Mr NATHAN REES: Mr Spence now enjoys the protection of the two most senior Liberals in New South Wales, the Leader of the Opposition and the member for Terrigal. Unlike these clowns, public school students in New South Wales will have a chance to learn what being ethical actually means. They will learn values and principles to help them become humane—

The SPEAKER: Order! Members will come to order so I can hear the Premier.

Mr NATHAN REES: —and law-abiding citizens. The trial of the ethics courses will be reviewed at the end of next year and we will look carefully at the results. I stress again that participation will be purely optional. It is simply another choice available for New South Wales parents and students. The right of other parents to seek religious instruction for their children will not be diminished one iota.

PREMIER, MINISTER FOR THE ARTS, AND MINISTER FOR THE CENTRAL COAST

Mr ANDREW STONER: My question is directed to the Premier. Given that the outcome of Labor's factional warfare last Saturday, which the Premier embarrassingly described as the biggest day of his life, will not provide one extra hospital operation—

The SPEAKER: Order! I call the member for Bathurst to order. I call the member for Blacktown to order. The Leader of The Nationals will state his question.

Mr ANDREW STONER: —one additional metre of road or put one extra cop on the street, is the Premier surprised that people regard him as a political puppet, completely out of touch and the State's worst ever Premier?

Mr NATHAN REES: This is the man with an undisclosed source of alternate income. I am reliably informed that the Leader of The Nationals sells animal manure outside his home.

The SPEAKER: Order! The Leader of The Nationals will resume his seat. The House will come to order. The behaviour of members on both sides of the House has been appalling. Members will behave in a manner that is in accordance with community expectations. The behaviour of members during question time today has brought the House to a new low.

Mr NATHAN REES: Unlike the confected outrage, which is par for the course on that side of the Chamber, I note—

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

Mr NATHAN REES—that the Leader of The Nationals is genuine about this matter, and I withdraw my earlier comment. In response to his assertion this is the reality: a record health budget of more than $15 billion; more operations; more babies being delivered; better care than at any other time in Australia's history being delivered in New South Wales; a record budget for public transport; a record budget for roads; and Australia's best education system by a mile. The reality is an inconvenient truth for those opposite, but that is the reality. New South Wales leads Australia in health care and it leads Australia in its education system.

In law and order, 16 out of 17 categories are stable or falling; 15,603 is the authorised police strength, and we are above that in New South Wales. If Opposition members want to argue on matters of policy substance, they should go for their lives. The reality is that they do not have a water policy, an electricity policy or a transport policy that delivers a bus, a train, or an extra road. They do not have an education policy of substance and they refuse to back reform on matters as fundamental as political donations in New South Wales. That is the fact of the matter. The stark reality that faces the people of New South Wales is zero policy versus some of the best service delivery in Australia.

ROAD INFRASTRUCTURE PROJECTS

Mr GEOFF CORRIGAN: I address my question to the Minister for Transport. Can the Minister update the House on major road infrastructure projects across the State?

Mr DAVID CAMPBELL: I acknowledge that the member for Camden continually raises with me the Camden Valley Way project, which is now undergoing $65 million worth of construction. The New South Wales Government has a record $4.4 billion to invest in improving roads in this State. That $4.4 billion will be spent on upgrading key roads and implementing key maintenance across the road network. In the past decade, this Government has spent more than $8 billion on road building and the maintenance of regional and rural roads. Anyone listening to the whingeing and the whining of Opposition members could be forgiven for believing that this Government is not spending one cent outside Sydney on road projects.

It was good to see the member for Willoughby arriving on time in the Chamber today. The other day she arrived 30 minutes late for a meeting in Quakers Hill. I hope that the little black Honda, which suffered some damage on the way to the meeting, has recovered but, most importantly, I trust that the member for Willoughby is okay after that accident. It might be best for the member for Willoughby to leave her car at home next time and to take public transport. If she needs some help with the timetable she should ring 131500.

Mr Ray Williams: Can you catch a train?

Mr DAVID CAMPBELL: I note the interjection of the member for Hawkesbury. Anyone can catch a train to Quakers Hill, which is where the meeting was held. I have caught the train at Quakers Hill. The Pacific Highway is one of the roads on which work is moving forward at a pace. Around 1,400 men and women are working on the Pacific Highway upgrade—the biggest infrastructure project anywhere in the country. Over a period of 10 years the former Federal Coalition Government allocated only $660 million to the Pacific Highway, while the New South Wales Labor Government spent $1.6 billion. In just one budget the current Federal Labor Government has allocated more funding to the Pacific Highway than the previous Federal Government did in its 11 years in office.

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

Mr DAVID CAMPBELL: Around 1,400 employees are out there on the job supporting over 7,000 jobs in surrounding towns and villages in regional New South Wales. This includes 50 apprentices who are currently learning their trade, which is extremely important for our future infrastructure projects and the future strength of our economy. Just last week the Government announced the successful consortium to build the Kempsey bypass of the Pacific Highway. That $618 million project will create 450 jobs in the short term while building the infrastructure. Work will start on that project early next year.

In the good news for Port Macquarie—and I note that the member for Port Macquarie made some positive comments about this project in his local media—work is continuing on the Oxley Highway upgrade. A contract has been awarded to BMD Constructions for the next stage of the Oxley Highway upgrade between Wrights Road and the Pacific Highway. The State Government has allocated $25 million in the 2009-10 budget to continue on the full length of the Oxley Highway upgrade. The Oxley Highway upgrade will improve road safety and provide shorter travel times for motorists travelling from Wauchope and surrounding areas into Port Macquarie. Work will start early next year on one of the biggest infrastructure projects ever seen in the Hunter region—the Hunter Expressway that will link the F3 to Branxton. I thank those members from the Hunter region who acknowledged that work.

[*Interruption*]

Hold your horses, Shelley! Do not get ahead of yourself.

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

Mr DAVID CAMPBELL: Just relax, Shelley. The $1.7 billion project in the Hunter will support up to 800 jobs in the short term while building the infrastructure. With the Hunter region growing strongly each year, this project is essential. The Hunter Expressway is vital for the continued growth of the Hunter region. Once completed in 2013, the Hunter Expressway will provide a new and faster east-west connection between Newcastle and the lower Hunter. Heading down from the Hunter, all lanes on the F3 widening project are now open to motorists. On Thursday I had a look at the newly upgraded road and I talked to the team that delivered the project. With all three lanes open to traffic it is great news for the people of northern Sydney, the Central Coast and the Hunter.

The project as a whole involved widening a 12.5-kilometre section of the freeway to three lanes in each direction between Cowan and Mount Coolah. I refer, next, to projects in the Illawarra and I ask the member for South Coast to listen. Last week all lanes were open to traffic on the 5.5-kilometre upgrade of the Princes Highway between Oak Flats and Dunmore. This upgrade will improve traffic flow and safety. It is great that this project has been opened before the busy holiday period. A few weeks ago the member for Shellharbour, the member for Kiama, and I inspected that work.

I am familiar with another project in the Keira electorate—the Northern Distributor extension and advise members that a community day this Sunday, which will be open to everyone, will celebrate the opening of the southbound section. People will have an opportunity to walk along the Northern Distributor southbound carriageway. While I am talking about roads I call on the Leader of The Nationals, the Opposition roads spokesperson, to stand up to the Leader of the Opposition and to get him to sign up to a ban on developer donations. There is evidence of this, but Opposition members do not want to talk about it.

The SPEAKER: Order!

Mr DAVID CAMPBELL: Obviously Opposition members are sensitive about the bloke Spence who was sacked in 2000 by none other than Pauline Hanson. At the time it was reported:

> The beleaguered One Nation party was thrown into further turmoil today when disgruntled leader Pauline Hanson purged the party of three more staff. Ms Hanson said:
>
> > They were asked to please explain and they didn't.

Mr Adrian Piccoli: Point of order—

The SPEAKER: Order! The Minister will resume his seat.

Mr Adrian Piccoli: I refer you to Standing Order 129.

The SPEAKER: Order! I remind the Minister of the question before the House.

Mr DAVID CAMPBELL: I was talking about the F3 link between the Central Coast and Sydney.

Mr Alan Ashton: A very expensive project.

Mr DAVID CAMPBELL: It is a very expensive project. As I understand it, this bloke Spence, who has some involvement in the Central Coast, was responsible for Pauline Hanson's One Nation party being deregistered by the State Electoral Office in October 2000.

Mr Adrian Piccoli: Point of order: I refer you to standing order 129 and to the previous ruling to the Minister.

The SPEAKER: Order! I will hear further from the Minister. I have reminded him of the question before the House.

Mr DAVID CAMPBELL: In 2000, Electoral Commissioner John Wasson said:

The misrepresentation that Spence was the secretary was material to my decision to deregister the party.

Mr ADRIAN PICCOLI: If you will not shut him up, I will. I move:

That the member for Keira be not further heard.

Question put.

The House divided.

Ayes, 35

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

Noes, 55

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 Rees
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 Lalich	Mr Tripodi
Mr Costa	Mr Lynch	Mr West
Mr Daley	Mr McBride	Mr Whan
Ms D'Amore	Dr McDonald	
Mr Draper	Ms McKay	*Tellers,*
Mrs Fardell	Mr McLeay	Mr Ashton
Ms Firth	Ms McMahon	Mr Martin

Question resolved in the negative.

Motion that the member be not further heard negatived.

Mr DAVID CAMPBELL: I note from that strong vote that the House wants to hear more. There can be no other interpretation from that vote than the House wanting to hear more about the battles on the Central Coast and the rifts in the Coalition. It is interesting to note that this former One Nation apparatchik, who has now joined the Liberal Party, is being defended by The Nationals. Not one member of the Liberal Party sought to take a point of order on this issue.

Mr Adrian Piccoli: Point of order: I refer to Standing Order 129.

The SPEAKER: Order! I uphold the point of order. I direct the Minister to answer the question.

Mr DAVID CAMPBELL: After that long litany of involvement with One Nation, as the Premier mentioned earlier and as I sought to inform the House, the one final point to note is that this bloke Spence took a job with the member for Terrigal. That says it all. Importantly for the House and for the community I can point out that this Government has a $4.4 billion roads program this financial year. As always, the builders over here will get on with the job and the wreckers over there will continue to fight amongst themselves.

MINISTRY

Mr ANDREW CONSTANCE: My question is directed to the Premier. Now that the Premier claims to have authority over appointments to his Cabinet, is he not embarrassed that an experienced doctor, former rural fire chief and former Sydney Lord Mayor sit on his backbench while he has promoted union hack Paul McLeay, whose sole claim on being a member of Parliament is that he is the son of Leo McLeay?

Mr NATHAN REES: Talk about leading with your chin! All the talent on the Opposition benches have been placed as far away from Barry O'Farrell as he can get them. Notwithstanding that, I do not agree with the extremist views of the member for Epping, Greg Smith, on a range of social policy issues; I believe he is much more talented than are some of the deadwood that Barry O'Farrell has got lined up opposite me. I look towards the back of the Chamber at the Opposition front bench and I see the member for Goulburn, who has an extraordinary record of public service. She has been placed as far away from Barry O'Farrell as he can get her. I look at the other end of the Chamber and find a member who is embarrassed to be mentioned: yet again, the member for Manly struggles to ask a question because Barry does not want to be shown up. That is the reality.

Who can forget the extraordinary footage shown a few weeks ago on *Stateline* when the Opposition unveiled its bit of nonsense that it refers to as its social policy framework? The Leader of the Opposition was staring forlornly at the ceiling, waiting for the whole episode to end, and it wound up with the Deputy Leader of the Opposition and member for North Shore stating, "We're not the sole repository of good ideas". Well, there were no surprises there! It was absolutely extraordinary stuff.

The SPEAKER: Order! I call the member for Murrumbidgee to order for the second time. I call the member for North Shore to order.

Mr NATHAN REES: The member for Murrumbidgee did not even know the shadow portfolio of the member for Goulburn. He did not even know that. He has zero ideas of what any of his colleagues are up to. He cannot come up with transport, water or energy policies and he cannot commit to a clear policy on electricity.

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

Mr NATHAN REES: He could not even bring himself to commit to his own policy document concerning the sale of NSW Lotteries. He could not even bring himself to do that. It has been almost a fortnight since league tables were published on the front page of the *Sydney Morning Herald* and he is missing in action. The Leader of the Opposition is still unable to rule out that he will not take donations from property developers and big tobacco companies. He stands for absolutely nothing, unlike the member for Vaucluse and the member for Manly, who are men of principle and clear persuasion on matters of social policy and who are able to articulate and define Coalition policy.

The Leader of the Opposition keeps the front bench as far away from him as he can possibly get them. But that is just the front bench. When I come to the back bench, we come to people who will not be part of the

Coalition after the next election because the Leader of the Opposition would rather back in a One Nation candidate than lift a finger to protect the hardworking members representing the electorates of Cronulla, Castle Hill and Baulkham Hills.

The SPEAKER: I note the small mention of bipartisanship.

PLANNING, JOBS AND INVESTMENT

Mr ALLAN SHEARAN: My question is addressed to the Minister for Planning. Will she update the House on how the planning system is facilitating the creation of jobs and investment in New South Wales?

Ms KRISTINA KENEALLY: I thank the member for Londonderry for his question and note his strong advocacy for his community. I enjoyed meeting with him and a group of his constituents earlier today to discuss planning matters. I am pleased to advise the House that over the past month the Government's planning system has been extremely effective in creating jobs and investment in New South Wales. In October 36 major projects were approved, supporting approximately 2,335 jobs and more than $1.6 billion in capital investment. When we factor in October's figures, it shows that since September 2008 our major project system has supported over 66,000 jobs and almost $23 billion in capital investment.

The Government said that we wanted to reduce the time it takes to assess major planning projects. We wanted to maintain the rigour but increase the transparency. Figures for the last nine months from February to October 2009 show that our efforts are working. I advise the House that of our major planning projects, 62 per cent were finalised in three months, 24 per cent were finalised in five months, 14 per cent were finalised in eight months, and that no project has taken longer than eight months. When compared to the 2008-09 financial year, when 9 per cent of major project assessments took longer than eight months, it can be seen that our changes, beginning with legislative reforms introduced by my predecessor, are delivering real results.

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

Mr Andrew Stoner: Name him!

Ms KRISTINA KENEALLY: For the benefit of members opposite, who seem to have forgotten who is the former Minister for Planning, I point out that it is of course the Hon. Frank Sartor. I note the Minister for Emergency Services' comment on the team of goldfish opposite.

The SPEAKER: Order! Members will cease interjecting. I call the member for Bega to order. I call the Minister for Emergency Services to order. The Minister for Planning has the call.

Ms KRISTINA KENEALLY: Other great results are being delivered by our new Joint Regional Planning Panels. The first five applications to be assessed by the panels have taken an average 93 days to progress through the assessment and determination system. That compares favourably to the 2007-08 statewide average for determining development applications worth more than $5 million, which was 238 days. These are very positive signs that the panels will make a measurable difference towards making our planning system more efficient. The New South Wales Government aims to deliver Australia's best planning system—one in which decisions are efficient and transparent, one that provides certainty, and one in which decisions are made at the most appropriate level. One has only to refer to the results that we are delivering—66,000 jobs and $23 billion in capital investment—to see the progress that has been made.

However, all of that will be gone if members opposite ever have the opportunity to implement their haphazard approach to planning, which would result in abolition of part 3A—except for rail, port, coalmines and projects that cross council boundaries as well as anything else that the member for Wakehurst may think up. The Coalition will abolish the Joint Regional Planning Panels and shut down all of our new developments, relegating 640,000 new homes in the Sydney Basin to the fringe areas of Sydney, thereby creating a $12 billion infrastructure bill. That is not a plan for sustainable growth or economic growth. Members of the Government are delivering real results from our planning system, and we will continue to do so.

INNER CITY AFFORDABLE HOUSING

Ms CLOVER MOORE: I address my question to the Minister for Planning. Will she undertake an immediate review of the affordable rental housing State environmental planning policy to allow the Council of the City of Sydney to include a 4 per cent levy to ensure that affordable housing is provided in the inner city where it is needed most?

Ms KRISTINA KENEALLY: I thank the member for Sydney for her question and I note her commitment to the issue of affordable housing as well as her compassion for homeless people in her local government area and in her electorate. The Department of Planning undertook a comprehensive consultation program on the affordable rental housing State environmental planning policy from November 2008 and worked with developers, peak groups, councils and the Local Government and Shires Associations. We developed a policy that was designed to give us the best chance of delivering more affordable housing. Leading industry experts have endorsed our approach, including Professor Peter Phipps from the University of Western Sydney who is an expert in urban planning and development.

The New South Wales Government is using statewide incentives when it comes to stimulating more affordable rental housing as an alternative to allowing council-wide taxes on all new development. Our target through the policy is simply to produce as much affordable housing as is possible. When the Premier and I launched the State environmental planning policy on 31 July this year we said that we would review it in 12 months. We think that a review of the State environmental planning policy after 12 months makes sense. It gives the Department of Planning a good understanding of how the State environment planning policy is operating. Bringing forward the review will not give us sufficient time to collect meaningful data relating to future decisions vis-à-vis the State environmental planning policy.

While the Government does not support a plan to levy across just one entire council area in an attempt to fund affordable housing, we are eager to work with the member for Sydney and the Council of the City of Sydney. Already I have asked the department to review research provided by the council in relation to affordable housing. I confirm that meetings between my staff and senior staff of the council already have been scheduled. I look forward to an ongoing dialogue with the Lord Mayor of Sydney on this issue.

DOMESTIC VIOLENCE

WHITE RIBBON DAY

Ms CHERIE BURTON: My question is addressed to the Minister for Community Services, and Minister for Women. What is the Government doing to reduce homicides due to domestic violence?

Ms LINDA BURNEY: Today is White Ribbon Day, and all members are supporting the message of this day by wearing a white ribbon or a band on their wrist. The message is simple: violence against women is unacceptable. This year men have been asked to swear an oath never to commit, excuse or stay silent about violence against women. Between 2003 and 2008, 215 people died as a result of domestic violence, which equates to 42 per cent of all homicides in New South Wales. It is an awful statistic. However, these are not just numbers; they are people—people like Jody Galante, who was shot by her husband on a dirt track in the Blue Mountains in front of their two-year-old child, and Ingrid Poulson, a poised, generous, amazing woman who I met this morning. In 2003 Ingrid's estranged husband killed her two children and her father.

This morning the Attorney General and I announced that the Rees Government will set up a domestic violence homicide review panel. We all have a responsibility to prevent domestic violence, and the Government has an important role to play. I want to be sure that we are doing everything we can to support victims and, as far as possible, stop this devastating crime. If we can do things better, we need to know about it. This panel will help us to ensure that victims have access to appropriate support and that laws, policies and services are effective. Ingrid has been a strong advocate for a domestic violence homicide review. She said:

> To fight our enemy, we must understand it.
>
> We must use … the painful lessons of our past to improve our knowledge and understanding, to shed light into the corners of our ignorance where women and children live in fear, where women and children die.

The panel will examine the facts of individual closed cases to develop an understanding of why domestic violence related homicides occurred, if there were any warning signs and how such homicides might be prevented. It will also have a responsibility in relation to research. Importantly, this will be backed by legislation, and that is the power of it. That legislation will be introduced in the first part of next year. This panel is about one thing; it is about getting to the truth. It will operate independently of government and for the first year it will be based in the office of the New South Wales Coroner, Ms Mary Jerram, who will be the Chair. Additional resources have been provided.

The panel will compile an annual report, which will be tabled in Parliament. In particular, I acknowledge the Attorney General and his department for developing a robust model. I acknowledge the

Premier for establishing this panel. The process was assisted by Dr Lesley Laing, Professor Julie Stubbs and Ms Betty Green. The panel also included representatives from Police, Community Services, the Attorney General's Department, Health, and the Office for Women's Policy. The panel's detailed report had at its centre the establishment of a domestic violence homicide review mechanism, which will be a permanent fixture in New South Wales. Betty Green, who was a member of that advisory panel, said:

> This is a significant step forward and one which I believe will not only make a difference in the long term but also honour the women, children and men who have been killed in the context of domestic violence.

These deaths cannot be in vain. The establishment of this expert domestic homicide review panel is evidence of our commitment to stamping out this insidious crime.

POLITICAL DONATIONS

Mr BARRY O'FARRELL: My question is directed to the Premier. In view of the failed attempt by Unions New South Wales to sell and develop Currawong to reap a $15 million profit, and the fact that unions have given $4 million to the New South Wales Australian Labor Party since the last election, will the Premier confirm that nothing in his proposed ban on developer donations will stop union bosses from continuing to pour millions of dollars into his campaign fund?

Mr NATHAN REES: The Leader of the Opposition can raise all of that in the joint select committee process. He might also like to raise the $160,000 he received from Buildev as assistance to his party. He might also like to explain the role of Bart Bassett who, as mayor of Hawkesbury, was the casting vote for a major development in that area of Sydney. The question here is simple: do the Leader of the Opposition and his Coalition colleagues still receive donations from property developers and big tobacco companies?

The SPEAKER: Order! Members will cease interjecting.

Mr NATHAN REES: The headline states, "O'Farrell won't ban donations from developers". The article states, "Mr O'Farrell said he did not support this and a total ban would put the burden of election funding on taxpayers". That is absolutely extraordinary. I quote from the *Sydney Morning Herald* of 29 September:

> Serious questions surround a decision by Hawkesbury council to approve a housing development because of large political donations made by the developer to the Liberal Party.
>
> The $15 million North Richmond seniors housing development was approved by the council in September 15 despite the objections of residents—

here is where it gets interesting—

> The facility, proposed by the developer Buildev was approved by Hawkesbury's five Liberal councillors who used the casting vote of the Liberal mayor, Bart Bassett, to defeat the five councillors in opposition.

According to the article, Buildev donated $160,000 to the Liberal Party between April 2007 and December 2008. The Leader of the Opposition can raise all of that during the committee hearings.

FINANCIAL COUNSELLING SERVICES

Ms SONIA HORNERY: My question is addressed to the Minister for Fair Trading. What is the New South Wales Government doing to build on its existing financial counselling services program?

Ms VIRGINIA JUDGE: I thank the member for her interest in this important issue. In today's world financial problems can affect anyone. Being unable to manage one's finances leaves one with more than an empty wallet. Financial stress is a destructive influence on relationships and health. Sadly, it can escalate quickly as debt turns into denial and desperation. Sometimes there is nowhere left to run. Enter a good financial counsellor. Financial counselling services can help families to manage short-term difficulties, make informed decisions and establish a sound plan to avoid financial stress in the future. This Government recognises the heartbreak that financial stress can cause and its diverse faces, and we are doing something about it.

I am pleased to inform the House that I have approved approximately $750,000 over three years to fund seven new projects for indigenous and multicultural communities as part of the record $5.4 million we are spending this year on the highly successful Financial Counselling Services Program. I trust that the member for Barwon and the member for Murray-Darling will welcome news that the Salvation Army will receive $126,000

over three years for its Moneycare program in Moree and Centacare Wilcannia. Forbes will receive $126,000 over three years. Obviously members opposite are not interested because they are not listening. I also have some news for the Leader of The Nationals, which I expect he will wholeheartedly support. Kempsey Neighbourhood Centre will receive $126,000 over three years. Lifeline Central West in Bathurst will receive $45,420 over three years.

The member for Bathurst knows what a great job the 82 Lifeline volunteers and six staff do, and Government members stand shoulder to shoulder with them. I thank the member for Bathurst for the great work he does in his area. The Financial Counsellors Association of New South Wales will receive $120,000 over three years. The member for Camden, the member for Campbelltown and the member for Wollondilly will be pleased to know that $126,000 is going to Macarthur Legal Centre Incorporated. The member for Upper Hunter should welcome news that the Financial Counselling Hunter Valley Project Incorporated will receive $80,295 to provide services for communities across his electorate.

It is very disappointing that the Opposition does not take an interest in this policy area. What is the Opposition doing to support families in need? What is the Leader of the Opposition doing while the Rees Labor Government has modern policies in place? That is typical of the Opposition. Members of the Opposition ought to hang their heads in shame because they know that it was the Wran and Unsworth governments that gave us the Credit Counselling Program in 1986. Mr Speaker, could we obtain the services of a translator because I cannot understand the drivel that is coming from across the Chamber?

The SPEAKER: Order! No, we do not need to hear it again.

Ms VIRGINIA JUDGE: One might say the Fahey Government did its bit establishing the Financial Counselling Trust Fund for the bargain price of $20,843 in 1994-95. Even if $20,000 were added from the Labor-established Credit Counselling Program, the total would amount to only 10 per cent of what this hardworking Government is spending. Members of the Opposition think this is a laughing matter. The Government is serious about its policies. Ten per cent of what this Labor Government is spending—that is all one would expect from a Liberal-Nationals government after all. Maybe that is why the shadow spokesman has not uttered one word or syllable in this House this year on the Financial Counselling Services Program, because that would involve ending the petty politics and acknowledging that this Government has policies that help people in real need because we care and we are Labor and we are compassionate.

The SPEAKER: Order! Members will cease interjecting.

Ms VIRGINIA JUDGE: The last word belongs to the former shadow spokesperson, who hit the heights of hypocrisy in a media release on 9 September 2008, by declaring:

> New South Wales Fair Trading still has no coherent strategy for financial counselling and financial literacy services.

The only person that statement applies to is the member for Albury, who has no alternative policy—surprise, surprise—because he knows Labor is delivering for the people of New South Wales. Once again it is Labor's Rees Government that is delivering record levels of funding for a program that works. I call on The Nationals in this House to do the right thing: do not let the Liberals and their former One Nation candidates stand in the way of good policy and common human decency.

Question time concluded at 3.22 p.m.

LEADER OF THE NATIONALS

Personal Explanation

Mr ANDREW STONER, by leave: I wish to make a personal explanation. Earlier today in question time the Premier sought to impugn my character by making a very serious allegation that I had earned undeclared income. He referred to a sign placed outside my property that was prepared by my 12-year-old daughter. My child did the right thing—exactly what every parent would like their children to do—by showing initiative and hard work to earn a little extra pocket money by selling bags of manure at 50¢ each. I do not care what the Premier throws at me, I will not cop him throwing stuff at my family.

The SPEAKER: Order! I ask the Leader of The Nationals to correct the record and not debate the matter.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to section 63 of the Public Finance and Audit Act 1983, of the Auditor-General's Report for 2009, Volume Seven.

PETITIONS

The Clerk announced that the following petitions signed by fewer than 500 persons were lodged for presentation:

Royal Flying Doctor Service

Petition opposing the current tender process and requesting that a permanent air ambulance contract with the Royal Flying Doctor Service, received from **Mr Peter Draper**.

Hornsby Kuring-Gai Hospital Renal Dialysis

Petition praying that a public renal dialysis unit be established at the Hornsby Kuring-Gai Hospital, received from **Mrs Judy Hopwood**.

Wagga Wagga Base Hospital

Petition requesting funding for and the commencement of construction of a new Wagga Wagga Base Hospital in this parliamentary term, received from **Mr Daryl Maguire**.

Tumut Renal Dialysis Service

Petition asking that the House support the establishment of a satellite renal dialysis service in Tumut, received from **Mr Daryl Maguire**.

Tumut Hospital and Batlow Multiple Purpose Service

Petition asking that vital equipment be provided immediately to both Tumut Hospital and Batlow Multiple Purpose Service, received from **Mr Daryl Maguire**.

Tumut Hospital Anaesthetic Services

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

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 line, received from **Mrs Shelley Hancock**.

Princes Highway Rest Areas

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

Bus Service 311

Petition praying that the Government urgently improve bus service 311 to make it more frequent and more reliable, received from **Ms Clover Moore**.

Road Tunnel Filtration

Petition requesting that all Sydney Tunnels be filtered, received from **Ms Clover Moore**.

Macarthur Preschool Boundary Adjustment

Petition requesting the Department of Education and Training grant a boundary adjustment for Macarthur Preschool, 8 Lawson Avenue, received from **Ms Pru Goward**.

Adoption Laws

Petitions opposing any adoption law changes that take away the right of adopted children to be raised by a mother and a father, received from **Mr Richard Amery**, **Mr Craig Baumann**, **Mr Victor Dominello**, **Mr Peter Draper**, **Mr Paul Gibson**, **Mr Michael Richardson**, **Mr Richard Torbay** and **Mr Russell Turner**.

Culburra Policing

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

Shoalhaven Local Area Command

Petition requesting additional resources for the Shoalhaven Local Area Command, received from **Mrs Shelley Hancock**.

National Parks Tourism Developments

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

Hornsby Electorate Homeless

Petition requesting funding and resources to map homeless people in the Hornsby electorate, received from **Mrs Judy Hopwood**.

Inner City Public Housing

Petition requesting that no inner city public housing stock be sold and that funding be increased for housing maintenance, received from **Ms Clover Moore**.

Galston Sewerage

Petition requesting that Galston households be connected to reticulated sewerage, received from **Mrs Judy Hopwood**.

Mental Health Services

Petition requesting increased funding for mental health services, received from **Ms Clover Moore**.

Pet Shops

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

Game and Feral Animal Control Amendment Bill 2009

Petition opposing the Game and Feral Animal Control Amendment Bill 2009 in its entirety, received from **Ms Clover Moore**.

The Clerk announced that the following petition signed by more than 500 persons was lodged for presentation:

Ku-ring-gai Local Environmental Plan

Petition requesting that the draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008 not come into force, received from **Mr Jonathan O'Dea**.

BUSINESS OF THE HOUSE

Reordering of General Business

Mr BRAD HAZZARD (Wakehurst) [3.28 p.m.]: I move:

That the General Business Notice of Motion (General Notice) given by me this day [Social Housing] have precedence on Thursday 26 November 2009.

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [3.28 p.m.]: The Government will be delighted to debate the motion of the member for Wakehurst tomorrow.

The SPEAKER: That is the most powerful speech ever made by the member for Riverstone!

Mr BRAD HAZZARD (Wakehurst) [3.29 p.m.], in reply: We acknowledge that this State Labor Government had to be dragged kicking and screaming to debate the issue of affordable housing in New South Wales. Both the Department of Housing and the Department of Planning are addressing—

The SPEAKER: Order! I call the Minister for Planning to order.

Mr BRAD HAZZARD: The Liberal-Nationals Coalition recognises the need to have further social housing and community housing. But what we want to see—

[*Interjection.*]

Members opposite should be very careful about what they say because they are part of the problem here in New South Wales. We recognise the need for community housing. We also recognise the need for the government of the day to ensure that there is an appropriate and transparent process about determining how and where public housing and social housing will be situated. There are two pieces of legislation that State Labor is using at the current time to steamroll over local communities all across the State.

Mr Gerard Martin: You are losing us, Brad.

Mr BRAD HAZZARD: The member for Bathurst is one of them. The member for Kiama is another. The member for Swansea is another.

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

Mr BRAD HAZZARD: The member for Maitland is another, as well as the member for Charlestown. Each of these members is going through the process of failing to stand up for their community. Each of them, and each of the other members of the Labor Party who have failed to stand up for local communities, can sleep on it tonight because tomorrow they will have the chance to vote with the Opposition to ensure delivery of what is necessary in public housing, or to continue to steamroll over local communities.

The SPEAKER: Order! Government members will contain themselves. I call the Minister for Tourism to order.

Mr BRAD HAZZARD: The issue here is about a Government that is failing to stand up for its members. The member for Charlestown is sitting and grinning like a Cheshire cat. He should not be grinning. He had a meeting last week, but the Minister for Housing did a disappearing trick—just shot through and never came to talk to his constituents. Has he uttered a word about that? Not a word. The member for Swansea thinks that steamrolling over local communities is a good idea. He is in the local press saying it is a great idea.

The SPEAKER: Order! The member for Wakehurst will confine his remarks to the motion. He will not debate the matter. I call the Minister for Planning to order.

Mr BRAD HAZZARD: The Minister for Planning is interjecting. Well, talk about a Minister who really understands lack of transparency! Part 3A has been her personal little baby to make sure that she steamrolls over every community in the State. What we will do tomorrow is give them an opportunity—

Mr Gerard Martin: No, you won't.

Mr BRAD HAZZARD: The member for Bathurst says we won't.

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

Mr BRAD HAZZARD: On that basis, if this is a cynical exercise by Government members to make sure that they do not have to show their colours, if it is a cynical exercise to make sure they are not going to come in to this House and debate, I ask the Leader of the House, who has led the House to believe that we are going to be debating the motion tomorrow, to give an undertaking that this will be debated—an absolute commitment, a gilt-edged commitment, that this will be debated tomorrow. Those on the other side will then have the opportunity to come into this place and show their colours.

Mr John Aquilina: Point of order—

The SPEAKER: Order! The member for Wakehurst has in fact invited the point of order taken by the member for Riverstone.

Mr John Aquilina: As a point of personal explanation, I apologise—it was a moment of weakness that I allowed the member to debate the motion. He is really doing a very good job of talking us out of it. He has about 40 seconds left. Maybe he can convince us to go on with the debate tomorrow, but at the moment we are thinking very hard on voting against it.

Mr BRAD HAZZARD: There is now only one question: Is the Government going to honour its statement that we will be debating this motion tomorrow or not? What we have just heard is a clear indication that this Government does not want its members, who will not stand up for the community, to vote. Tomorrow they will get their chance. Meanwhile members on this side—the Liberal members—are busy fighting for their communities. We want to strike a balance between getting social housing in place and also having the opportunity to consult and to have transparent processes. Members opposite have failed that test.

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

Motion agreed to.

BUSINESS OF THE HOUSE

Business Lapsed

General Business Notices of Motions (General Notices) Nos 535 to 539 will lapse on Thursday 26 November 2009 pursuant to Standing Order 105 (3).

BUSINESS OF THE HOUSE

Withdrawal of Business

General Business Notice of Motion (for Bills) No. 1 withdrawn by Mr Peter Besseling.

CRIMES AMENDMENT (FRAUD, IDENTITY AND FORGERY OFFENCES) BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

ELECTION FUNDING AND DISCLOSURES AMENDMENT (PROPERTY DEVELOPERS PROHIBITION) BILL 2009

Bill introduced on motion by Mr Nathan Rees.

Agreement in Principle

Mr NATHAN REES (Toongabbie—Premier, Minister for the Arts, and Minister for the Central Coast) [3.36 p.m.]: I move:

That this bill be now agreed to in principle.

New South Wales has long been at the forefront when it comes to mandating transparency around political donations. In 2008 this Government undertook the most significant reform of the Election Funding Act since its enactment. Those reforms have given New South Wales, in the words of the Election Funding Authority:

The most transparent and comprehensive disclosure provisions of all Australian jurisdictions.

For many years the Government has called for national laws which go beyond disclosure, laws which will eliminate large donations and the shadow they cast over Government decision making once and for all. As I have said previously, consistent national reform is the ideal way forward. That approach is the most practical way to minimise loopholes arising from our Federal system of government and the national structure of political parties in Australia. I continue to support a national approach. The Commonwealth Government's Electoral Reform Green Paper presents all jurisdictions with the opportunity to achieve national reform of political funding as part of a broader harmonisation of Australian electoral systems.

I recognise, however, that consistent national reform will take time. In the interim New South Wales will continue to lead on this issue and continue to strengthen its own rules governing political donations and expenditure. On 14 November I announced that the Government would press ahead with reforms to remove a culture of donations from this State's political landscape. As a first step, the Government is committed to banning corporate donations by property developers in New South Wales. The Election Funding and Disclosures Amendment (Property Developers Prohibition) Bill gives effect to this commitment. It will continue New South Wales' history of leadership in this complex but important area.

The bill will amend the Election Funding and Disclosures Act 1981 to prohibit political donations made by or on behalf of property developers. In particular, the bill will make it unlawful for a property developer to make a political donation. It will make it unlawful for a person to make a political donation on behalf of a property developer. In order to minimise opportunities for avoidance, the bill makes it unlawful for a property developer to solicit another person to make that political donation. It will also make it unlawful for a person to knowingly accept a political donation made by a property developer, or made by a person on behalf of a property developer.

Any political party that breaches the new rules will be subject to a maximum penalty of $22,000. In the case of any other person, the penalty will be $11,000. These penalties apply in addition to the power of the Election Funding Authority to recoup unlawful donations. It is well established that determining exactly who is a property developer for the purposes of a ban on donations is a difficult exercise. No single definition of "property developer" will ever be perfect. There will always be different views on what should be included or excluded. The bill contains a detailed definition of "property developer" to ensure certainty and to minimise loopholes in relation to corporate donations.

It consists of four key elements: A corporation engaged in a business that regularly involves the making of relevant planning applications in connection with the residential or commercial development of land with the ultimate purpose of the sale or lease of the land for profit. The definition makes sure that "close associates" of such corporations are also captured and banned from making donations. Close associates include: A director or officer of the corporation, and their spouse; and any person whose voting power in the corporation or a related body corporate is greater than 20 per cent, and their spouse. Related bodies corporate and stapled entities are also deemed to be close associates for the purposes of the ban. Further, if the corporation is a trustee, manager or responsible entity in relation to a trust, a person who holds more than 20 per cent of the units in the trust, in the case of a unit trust, or is a beneficiary of the trust, in the case of a discretionary trust, is deemed to be a close associate.

Inevitably, any definition of property developers and their close associates will involve some grey areas at the margins. For those falling on either side of this definition, the demarcation may appear somewhat arbitrary. For example, spouses of certain persons are included in the definition of "close associate", but not other family members. Officers and directors of a corporation that is a property developer are covered, but not regular employees. The definitions in the bill have been carefully crafted so as not to encroach on an individual's right to freedom of political communication, but still ensure that the ban is meaningful and reasonably adapted to address the public's concern about corporate donations from property developers.

Importantly, the bill clarifies that corporations such as supermarkets and other retail businesses that make planning applications from time to time in relation to properties from which they conduct their usual business, such as selling groceries, are not covered by the ban. The ban on donations does not apply to home owners or individuals renovating investment properties. The Government does not believe that ordinary citizens should be deprived of their right to make a political donation simply because they have at some stage required development approval in relation to their home or another property owned by them. The Government acknowledges that for some corporations, the question of whether they are a "property developer" will be finely balanced.

The bill aims to provide certainty for potential donors, candidates and political parties, which will in turn improve compliance. It enables a person to seek a determination from the Election Funding Authority confirming that they are not a professional property developer for the purposes of the ban. All determinations made by the authority will be published on a register on its website. Anyone who gives false information to the Election Funding Authority in connection with a request for a determination will be guilty of an offence, punishable by a maximum penalty of 200 penalty units or imprisonment for 12 months, or both. As I have said, no attempt to ban donations from a particular sector will be perfect. Those who wish to circumvent the system will always try to find loopholes.

But let me be clear about this: the ban on developer donations is a first step. A ban on donations from one sector of the business community inevitably raises the issue of corporate donations more generally. That is why I have announced that—one way or another—the next State election will be conducted under a public funding model in conjunction with bans and caps on private donations. Legal advice indicates that any wholesale ban or significant cap on donations may impact upon the right to freedom of political communication. This in turn gives rise to constitutional issues, which could render any ban or cap invalid. Public funding of election campaigns is therefore essential if we are to progress further serious donations reform in New South Wales.

Devising a public funding model is not an easy task. It is important that any such model has the full support of all parties. For this reason, the Government has referred the specific issue of a public funding model to the Joint Standing Committee on Electoral Matters for inquiry and report. I have specifically asked the committee to build on the work undertaken by the Select Committee on Electoral and Political Party Funding in 2008. I note that 19 of the recommendations made by the select committee in 2008 have already been implemented by the Government. In its report, the select committee acknowledged that measures such as bans and caps would necessitate an increase in public funding. The new inquiry will provide a forum for consideration of a public funding model to be undertaken in a manner that ensures that the views of all parties, candidates and the community are taken into account.

The bill combined with my Government's longer-term commitment to the wholesale reform of campaign finance laws sends a clear message to the public that the era of big donations in New South Wales is rapidly coming to a close. 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.

CONSIDERATION OF MOTIONS TO BE ACCORDED PRIORITY

Climate Change

Mr MATT BROWN (Kiama) [3.45 p.m.]: The motion I read out earlier today refers to one of the most topical issues facing the Australian people at the moment, climate change, and that is why it should be given priority.

Government Performance

Mr ANDREW STONER (Oxley—Leader of The Nationals) [3.46 p.m.]: My motion deserves priority because while this State suffers from Government incompetence the New South Wales Labor Party rabble worsens. Here are the facts: On 8 September last year Nathan Rees announced his first Ministry, declaring, "The soap opera is over." Three days later Matt Brown resigned as police Minister. Less than two months later Tony Stewart was sacked as Minister for Small Business. On 1 September this year John Della Bosca resigned as Minister for Health, and on 15 November Nathan Rees told Joe Tripodi and Ian Macdonald to resign or he would sack them. The Premier puffs out his chest and says he chooses his Cabinet on merit, but he actually has more talent now on his backbench than among the mediocre mob on his front bench.

Ms Noreen Hay: Point of order—

The DEPUTY-SPEAKER: Order! Members will come to order.

Ms Noreen Hay: Not one word so far said by the member opposite has related to the motion he is supposed to be seeking priority for.

The DEPUTY-SPEAKER: Order! I will hear further from the Leader of The Nationals. I remind him that he must establish why his motion should be accorded priority.

Mr ANDREW STONER: It is like a twisted variant of the John West slogan: It is the MPs that Nathan Rees rejects that make Nathan Rees' Cabinet the worst. There is a long list of rejected Ministers. There they all sit like buzzards on a fence—Paul Gibson, Tony Stewart, Frank Sartor, Phil Koperberg, Matt Brown, Joe Tripodi, and let us not forget Reba Meagher, Ian Macdonald and John Della Bosca, all boned by the so-called freckled Latham. The funny thing is that most of those speared are from Labor's right wing factions. It will be a long time before the right ever backs another leftie as Premier. Poor old Joe and Eddie must be wringing their hands over the out-of-control Frankenstein's monster they helped create. It is not just the speared former Ministers who sit like wrecks in the cul de sac of broken dreams. There is the talented Dr McDonald, who has been completely overlooked, not to mention the eternal aspirant, Bundy Bear, who has been passed over too many times to mention.

My motion deserves priority because the sad upshot of all of this for New South Wales is that despite Nathan Rees's internal factional head kicking, nothing changes for the long-suffering residents of our once great State. Whilst the Premier describes his internal Labor Party warfare as being the biggest day of his life, not one more operation has been carried out in a public hospital, not one more kilometre of shoddy road has been fixed, not one minute of commuting time has been reduced for public transport users or drivers, not one more crime has been prevented or solved and not one more job has been created in New South Wales. All the talent is sitting on the Government backbench while those on the front bench are out of ideas and are completely incompetent. My motion deserves priority because after 14 years in office the Government is out of ideas and is focused purely on spin. Its main source of policy is the Liberal-Nationals Coalition.

Let us have a quick whip around of those policies. A year ago the New South Wales Liberal-Nationals Coalition said it would build the south-west rail link. One year on the Premier announced at this month's Labor conference that the project is back on the drawing board. I refer, next, to feed-in tariffs for solar energy. On 23 June this year Minister Tebbutt, the then climate change Minister, told the Parliament that the Government's solar bonus would be a net scheme a clear two days after the Liberal-Nationals Coalition made clear that its scheme would be a gross feed-in tariff.

I refer also to the campaign finance reform. This week the Premier had the audacity to try to rewrite history on campaign finance reform when the Coalition has been leading all the way and his proposals go only half the way. Members would be aware of the homicide review panel—Coalition policy for the 2007 election—that was shamelessly announced today by the Minister for Community Services. The list goes on. The people of New South Wales deserve an apology. Rail lines have been axed, people are struggling in traffic and the health system is a basket case.

Ms Kristina Keneally: Point of order: The member's time has expired.

The DEPUTY-SPEAKER: Order! There is no point of order.

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

The House divided.

Ayes, 49

Mr Amery	Ms Gadiel	Ms Megarrity
Ms Andrews	Mr Gibson	Mr Morris
Mr Aquilina	Mr Greene	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
Ms Burton	Ms Keneally	Mr Stewart
Mr Campbell	Mr Khoshaba	Ms Tebbutt
Mr Collier	Mr Koperberg	Mr Terenzini
Mr Coombs	Mr Lalich	Mr Tripodi
Mr Corrigan	Mr Lynch	Mr West
Mr Costa	Mr McBride	Mr Whan
Mr Daley	Dr McDonald	
Ms D'Amore	Ms McKay	*Tellers,*
Ms Firth	Mr McLeay	Mr Ashton
Mr Furolo	Ms McMahon	Mr Martin

Noes, 39

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

Question resolved in the affirmative.

CLIMATE CHANGE

Motion Accorded Priority

Mr MATT BROWN (Kiama) [3.59 p.m.]: I move:

That this House:

(1) congratulates Kevin Rudd and Malcolm Turnbull on reaching agreement on how Australia will deal with the challenge of climate change;

(2) calls on the Australian Parliament to pass the Carbon Pollution Reduction Scheme legislation as soon as possible; and

(3) condemns Andrew Robb, Wilson Tuckey, Nick Minchin, Barnaby Joyce and other members of the Coalition for continuing to deny the scientific evidence of climate change.

The New South Wales Government has a long and proud history as an advocate of an emissions trading scheme as the primary means for Australia to reduce its greenhouse gas emissions. In 2003 this State introduced one of

the world's first mandatory greenhouse emissions trading scheme. We led the national debate on the need for a response to climate change. We have been strong supporters of the Commonwealth Government's efforts to introduce an emissions trading scheme—an effort absent under the Howard Liberal Party-National Party rule. The delaying tactics of the Federal Opposition resulted in more uncertainty for business and setbacks to the rollout of clean energy jobs across the country.

The introduction of the Carbon Pollution Reduction Scheme [CPRS] will affect all of us in some way. However, it presents Australia with an opportunity to fundamentally transform our economy because we recognise that Australia, and our State in particular, is well placed to capitalise on the opportunities of a low carbon society. It means more clean energy jobs in construction, manufacturing and research, and more apprenticeships. This policy is about looking to the future; it is about a period of transition. It is time to move forward from views held by those who would prefer to do nothing when faced with an environmental problem of national and international significance. Look at the wonderful work the world did when confronted by the depleting of the ozone layer. Through a massive reduction in the use of chlorofluorocarbons [CFCs] the ozone layer increased in size. We can all make a difference through the Carbon Pollution Reduction Scheme.

That is why the New South Wales Government today congratulates Prime Minister Kevin Rudd and the Federal Leader of the Opposition, Malcolm Turnbull, on reaching agreement on the Commonwealth's Carbon Pollution Reduction Scheme. The Federal Leader of the Opposition and the prevaricators in his party have joined those of us who know that the cost of inaction on climate change will far outweigh the cost of action. Because Australia is well placed to capitalise on the opportunities of a low carbon society, no doubt it will be a complex process to bring in the Carbon Pollution Reduction Scheme. However, in acknowledging that complexity, the New South Wales Government welcomes the new package of assistance measures announced yesterday by the Commonwealth Government.

These measures are important and allow us to achieve production targets while maintaining the strength of our economy. Only a strong economy can drive the scale of investment in low emissions technology that will be needed to achieve deep cuts in carbon emissions. The new measures include increased assistance for emissions-intensive trade-exposed industries, an additional $1.5 billion in transitional assistance for the coal sector over five years, measures to ensure the Carbon Pollution Reduction Scheme takes into account voluntary action by households, an additional $4 billion in assistance to the electricity sector, and a $1.1 billion program to assist large manufacturing and miners adjust to higher electricity prices. I represent many workers in industries in the Illawarra region and, of course, young students wanting to work in the region, one of whom is Gabriela O'Brien, who is in the public gallery. Gabriela is a work experience student from St Mary Star of the Sea College. These people are interested in green jobs and measures aimed at reducing our carbon footprint as well as assisting jobs in our country.

The Commonwealth Government and the New South Wales Government have long expressed a commitment to helping low- and middle-income households deal with price increases caused by the Carbon Pollution Reduction Scheme. To make sure that the most vulnerable in our society are not forgotten the New South Wales Government is investing $272 million in rebates and payment assistance over the next five years. Let us look at some of those policies. We have increased the pensioner energy rebate to $130 a year, increased vouchers available to customers in crisis to $480 a year, announced new medical energy rebates for those who rely on heating and cooling at home to stay well, and expanded assistance for people on dialysis at home to pay their bills. This complements the New South Wales Government's $150 million investment supporting households and businesses to implement energy-efficiency measures to reduce energy consumption and drive down costs.

The Government offers rebates on solar hot water systems and washing machines that help to save power. From 1 January next year New South Wales will have the most generous payments in the country for families with rooftop solar panels—a huge credit to Minister Robertson for his drive in this particular direction. To ensure the Opposition fully understands our commitment to this issue, I repeat that in 2010 New South Wales will have the most generous payments in the country to ensure families with rooftop solar panels receive incentives to help create a better future for our State. The New South Wales Government also welcomes the amendment to ensure that voluntary action by households and individuals will be taken into account.

We particularly welcome the amendment that will ensure all existing and future purchases of GreenPower will be counted—a process for which we advocated strongly. The new package offers greater assistance than previously foreshadowed to emissions-intensive trade-exposed industries and other strongly affected industries, including coal-fired electricity generators. As the Carbon Pollution Reduction Scheme

commences New South Wales will continue to focus its efforts on measures that support and complement emissions trading: measures that help New South Wales businesses and workers take advantage of the enormous opportunities for investment, job creation and new apprenticeships that the transition to a low carbon economy will bring.

Mr ROB STOKES (Pittwater) [4.06 p.m.]: I join with the member for Kiama in welcoming Gabriela to the Chamber. I point out that this is the third occasion on which this House has debated the same issue as a priority motion—the other two debates being on 3 September and 24 September. All three debates were about an issue over which this Parliament has absolutely no jurisdiction whatsoever. The State Government appears to want to speculate on issues outside its control because it has completely failed to deal with those issues within its control and jurisdiction. I note the member for Kiama's close interest in Canberra issues as opposed to those in New South Wales. Perhaps this is a first step to jumping ship and contesting the Federal seat of Throsby now that the member for Throsby, who has been a great advocate for her community, is leaving Canberra. Perhaps the member for Kiama will defy the Prime Minister's edict that no New South Wales Labor members of Parliament will be allowed to jump ship to Canberra. This motion may be the member for Kiama's first step. The member for Kiama is exposed.

Mr Matt Brown: Point of order: The House has listened to the member for Pittwater for nearly 1½ minutes, but he has not addressed the motion at all. He is speculating why this Parliament and this Government has no jurisdiction—a debatable issue that I look forward to rebutting. He is now speculating on internal party matters, preselection and all the rest of it.

Mr Brad Hazzard: What's the point of order?

Mr MATT BROWN: The point of order is that the member is not talking to the issue at hand. I direct you, Madam Deputy-Speaker, to have the member return to the leave of the motion.

The DEPUTY-SPEAKER: Order! The member for Kiama will not direct the Chair. I will hear further from the member for Pittwater.

Mr ROB STOKES: This side of the House focuses on issues that we are constitutionally charged to manage and does not seek to deflect focus from the issues facing this State and this Parliament. The duty of this Parliament is to develop local responses to the global issues of the amplified greenhouse effect. The challenges for New South Wales are immense. We have the highest atmospheric concentrations of carbon dioxide in more than 400,000 years, currently about 370 parts per million. The consequences of the increased concentrations of carbon dioxide in our atmosphere include increasing temperatures and amplified risks from natural disasters such as bushfires, heat waves, coastal flooding and coastal erosion, sea cliff collapses and risks from tropical illnesses, the range of which will extend further south. The issue is what the Parliament and the Government are doing about it. For that reason I move:

> That the motion be amended by leaving out all words after "That" with a view to inserting instead:
>
> this House calls on the Government to ensure adequate compensation of New South Wales based industries affected by the Federal Government's Carbon Pollution Reduction Scheme.

The amendment sets out the real issue with which the Parliament should be dealing. I moved the amendment because the Coalition understands the imperative for doing something positive about reducing greenhouse gas emissions and global warming while at the same time avoiding exposing the State's economy to threats of downturn. New South Wales is extraordinarily exposed to global competition. We produce a great deal of aluminium, we are a major coal exporter and other industries will be affected by the disadvantage of additional costs associated with carbon pollution reduction when competing with overseas industries that do not have to bear equal costs. The State's agricultural industries particularly are exposed to that disadvantage.

Irrespective of whatever the Federal Government decides to do, many jobs in New South Wales and many industries will be exposed to disadvantage. I moved the amendment because it is imperative to take positive measures to reduce greenhouse gas emissions at a national as well as a State level, but at the same time we do not wish to jeopardise Australia's future economic growth or the New South Wales economy without compensation. I would have thought the member for Kiama would have recognised that issue, given the importance of coal to the Illawarra's economy. The very real threats posed by this issue to the New South Wales economy were explained in an article in the *Australian* by Matthew Franklin on 23 September, which stated:

> A growing chorus of exposed industries - including airlines, petrol refiners, LNG exporters, cement manufacturers and aluminium smelters - has voiced concerns in recent days that billions of dollars of investment risk being lost overseas.
>
> Their concerns tally with the AWU fears that thousands of jobs would be lost on the tide of outgoing investment.

They are the issues with which the New South Wales Parliament should be dealing. New South Wales has seven coal-fired power plants that produce more than 11 per cent of the nation's carbon emissions. That is something that the New South Wales Government should be focusing on. The power stations in New South Wales should be refitted to improve their environmental performance. The Government should also focus on transport, which is a large end-user source of CO_2; yet on this Government's watch, new vehicle registrations increased by more than one million new vehicles that are currently on our roads. There has also been a massive increase in the number of vehicle trips in the metropolitan area and that has led to a massive increase in traffic congestion. We should be focusing on public transport solutions to mitigate or abate the very real threat that carbon dioxide poses to our economy and our environment.

We should not forget that the whole of Australia produces less than 1 per cent of solar power that is generated throughout the world, despite the massive solar resources that are available, particularly in New South Wales. That is something that the Government should be focusing on instead of focusing on what may or may not happen in Canberra. The Government also should stimulate local carbon production initiatives. One of the big problems with the Federal emissions trading scheme is that savings achieved by local people, through the use of photovoltaic cells and other energy-saving installations, do not benefit local people; nor are the rewards being reaped in our overall target for the scheme. We should be focusing on the emitters, not the local people. [*Time expired.*]

Ms CHERIE BURTON (Kogarah) [4.13 p.m.]: What a bizarre contribution from the member for Pittwater! He agreed with the Government that climate change is a real threat and is a problem that needs to be addressed, but then moved a bizarre amendment to the effect that it is not a Federal Government responsibility. At the end of the day, the New South Wales Opposition is a rabble, and there is another Opposition rabble in Canberra that is being led by Malcolm Turnbull. Mr Turnbull sent a minion to negotiate with the Federal Government to achieve an outcome that will benefit the people of Australia as well as future generations by reducing carbon emissions. The Federal Opposition proposed some very strong amendments and changes, engaged in robust negotiation, and came to an agreement—or so we thought.

The negotiations broke down, the Federal Opposition returned to its party room, and the real Liberals—the sceptical extremists—emerged. If that was not embarrassing enough for the member for Pittwater, he embarrassed himself even more by his convincing speech on how damaging climate change can be. Let us talk about Nick Minchin, Barnaby Joyce, Andrew Robb and Wilson Tuckey—the real Liberal Party, the puppeteers who really control the Liberal Party. Malcolm Turnbull has turned out to be a real joke and a real disappointment. At the end of the day, the Federal Government thought that a bipartisan approach would be adopted to climate change and that something serious would be done to address climate change while simultaneously protecting farmers and industry. But that was not to be, and the Liberals are in turmoil. People should not think that the disarray of the Coalition applies only to the Canberra Opposition: its effects extend all the way to the lifeless and policy-bereft mob of Conservatives opposite.

Against that background, the member for Pittwater set out to prove how real climate change is. I will cite the Leader of the New South Wales Nationals with whom the member for Pittwater, "Captain Snooze", is in Coalition. He said in relation to climate change and an emissions trading scheme that it is something that "might make some North Shore doctors' wives feel good about themselves".

Mr Matt Brown: That is what he said.

Ms CHERIE BURTON: That is right. The shadow Minister for Climate Change and Environment in the other place, the Hon. Catherine Cusack, does not agree. She pretends, as does the member for Pittwater, that her party believes passionately in protecting the environment. We have just heard him telling us that he is a very passionate advocate for the environment. He said, "We believe we have to fight the effects of climate change." There is no evidence of unity in the Coalition on any policy in any sort of direction, and there is no evidence whatsoever that the Coalition is serious about addressing the issue of climate change. The Liberal Party and The Nationals only now are having the arguments that the rest of the world had decades ago. The New South Wales Opposition is another version of *Jurassic Park* and the dinosaurs of the Federal Coalition—the real Liberals, such as the Wilson Tuckeys—are the real political operatives. They are the backroom boys and they are the ones who are really controlling the Liberal Party. They have no electoral appeal whatsoever.

Fortunately for the people of New South Wales, the New South Wales Government has been leading debate on these issues since the mid 1990s, not the New South Wales Opposition. For the benefit of the relatively newly elected member for Pittwater, who should have done his homework on this issue before he

made a complete fool of himself, I point out that we are yet to gain any insight into what the Opposition stands for when it comes to the environment. The New South Wales Opposition is all over the place. It is easy to say, "The State Government this …" and "The State Government that …", but if members of the New South Wales Opposition took any notice of what is going on around them, instead of living in a bubble, they would know that while we are getting on with the job of rolling out a $340 million Climate Change Fund and delivering a $150 million energy efficiency strategy and working with the Federal Government on the National Energy Efficiency Strategy, their environment policy is non-existent.

Opposition members may make as many claims publicly as they like that they support measures to address climate change, but the reality is that they are now running around madly and are promising anything to anyone who will listen to them. After listening to a speech such as that made by the member for Pittwater, in which he admitted that there is a need to address climate change and that we are heading for disaster if we do not do anything about it, and contrasting that to the attitude on climate change adopted by the Liberal Party we can see that the real Liberal Party is in disarray. If members of the Liberal Party cannot govern themselves, how do they expect the people of Australia or the people of New South Wales to think that they deserve to occupy the Treasury benches, or to be governing at all?

Mr GEOFF PROVEST (Tweed) [4.18 p.m.]: It is with pleasure that I participate in debate on this extremely important motion. Nowhere in the State is the environment of greater importance than in the Tweed electorate. The Opposition is very committed to protection of the environment and to expansion of the economy of New South Wales. We should not forget that it was the Liberals-Nationals who first mooted the rainwater tank rebate, and that was copied by Labor. It was the Liberals-Nationals who pushed hard to promote solar energy and create a gross feed-in tariff, but that has not been adopted, despite many of my constituents having purchased solar panels and doing their bit for the environment. My constituents want gross feed-in tariffs, but they have been disappointed.

Government members claim to be stridently committed to protection of the environment, but I believe the Government to be inept. Over the past two years the Government has spent as little as $5 million on innovative science programs, just $2.5 million in two years to promote solar energy research and only $2.6 million on renewable fuel projects. That would be about one week of Labor Party spin advertised in the local paper. If the Government was fair dinkum it would provide the resources. That is why some of our leading solar experts are leaving New South Wales.

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

Mr GEOFF PROVEST: I come from the Tweed, where people are 100 per cent committed to the environment. Just over the border Anna Bligh is currently growing algae beside coal-fired power stations. That not only captures carbon but also provides stock feed. There are some smart people in Australia. It is a pity they are not in the New South Wales Government. The Liberals-Nationals have led the way on biofuels and carbon capture. My area leads the country in terms of sugar cane and carbon capture. Guess what? Sugar cane producers do not get 1¢ from this State Government. Members opposite have their heads in the sand. They care not about the environment but about their plush jobs in Sydney. If they were fair dinkum they would provide resources to support scientific research in our great community. They would listen to the local people. They would not need all the spin from this inept Government.

We should look at the Government's performance in terms of how it has run our health system, the Police Force and public transport. Members opposite are good at what they do, but in terms of the environment they are an absolute disaster. The Government has spent $2.4 million on solar energy over two years. Give me a break! Let us be fair dinkum. The people of the Tweed are committed to their local environment. Fortunately we have full rainwater dams at the moment; we have not suffered with water restrictions. Without any prompting from the Government, the local people have reduced their water consumption by 20 per cent over the past year. That is what the general community is doing. The people of the Tweed are not feeding off the spin of this inept Labor Government. They are doing things. They are installing rainwater tanks, composting toilets, solar energy and so on.

The DEPUTY-SPEAKER: Order! I call the member for Cessnock to order.

Mr GEOFF PROVEST: I hate to say it but in Queensland the Labor Government and Anna Bligh are getting on with the job. She is doing things. She is investing in scientific research. She has not invested

$2.4 million over two years. She has invested tens of millions of dollars in research. We need to do things, as the environment is extremely important. I wholeheartedly support any moves to protect the environment, and the people in my local area stand shoulder-to-shoulder with me. They showed that back in March 2007 when Labor lost the seat of Tweed. The people of Tweed showed that they did not trust the Labor Government. Government members must go out and talk to the scientists, the mums and dads and the hardworking taxpayers. Today we read in the *Daily Telegraph* that the bills for taxpayers will increase by about $1,100.

My area has the highest percentage of people aged over 65. Over the past two years electricity bills have increased by 40 per cent. Yet the member for Kiama said that the Government was doing a great job. Forty per cent? Members opposite should see the pain and suffering experienced by those poor pensioners. They might not care about pensioners and working mums and dads in their electorates. The Opposition is deeply committed to them. Once again, I am 100 per cent for the Tweed.

Mr MATT BROWN (Kiama) [4.23 p.m.], in reply: Talk about global warming! There is a lot of hot air in the Chamber, and it is mainly coming from the member for Tweed. He said he is 100 per cent for the Tweed, but today his performance was probably only about 50 per cent for the Tweed. First, I will address the contribution of the member for Pittwater, who said that the New South Wales Parliament has no jurisdiction over any climate change or environment matters. He then moved an amendment calling on the New South Wales Government to ensure that climate change policy protects the environment and so on. Neither the member's contribution nor his amendment made sense. Therefore, I reject his amendment. He suggested that members opposite like debating these issues but we have not heard a coherent policy debate from the member for Pittwater or the member for Tweed. Their contributions were nothing short of rants; they did not put forward any solutions or real policies.

Indeed, members opposite are claiming that they came up with the policy of rainwater tanks and solar panels, which is one of the most successful policies introduced by the New South Wales Labor Government. I remind members that the New South Wales Labor Government is the only government in Australia that has mandated biofuels. We have a mandate for ethanol consumption in New South Wales that is not replicated anywhere else in this country. Having ethanol in our fuels has significantly reduced greenhouse gas emissions. The member for Tweed said that his constituents reduced their water consumption by 20 per cent. Congratulations to the people of Tweed on that. However, I do not think the member for Tweed should pat himself on the back for that. Clearly, he is a member of the white shoe brigade on the North Coast. His constituents are trying to reduce their footprint simply to spite their local member.

A big part of the Rudd-Turnbull deal is that there will be extra costs. We all know that there will be extra costs. In my initial speech I spoke about that at length. I said that this Parliament supports those deals. Billions of dollars will go towards transitional assistance in the coal sector; billions of dollars will go towards assisting the electricity sector; and there is a $1.1 billion program to assist large manufacturing and mining companies adjust to higher electricity prices. So the criticism by the member for Pittwater is unfounded. A lot of work is being done in Canberra, and we acknowledge that today. We want to ensure that the Liberal-Nationals in this Parliament support the direction of this Government and the Rudd-Turnbull deal to ensure that we are leading the world in this area.

The member for Pittwater criticised the fact that there are an extra one million cars on our roads. At least we are finally getting a policy from the Liberal Party. It would ban people from buying cars. It is a brilliant policy. It was a brave move. Sir Humphrey would have suggested that it is a brave move to restrict car purchases. Car dealers are doing well in our economy, but the Liberal Party does not want anyone to buy a new car. It wants people to stay in their old, clapped-out vehicles that are polluting the streets, rather than buy nice new cars that are much more fuel efficient. We disagree with the comments made by the Leader of The Nationals. We disagree with the shadow Parliamentary Secretary for Climate Change, who said, first and foremost, "I don't think we should have an ETS." Later he said, "I don't think carbon is a pollutant and it does not affect the climate." The Nationals are a disgrace on this subject. They should follow the lead and direction of the New South Wales Government if they want to know how to get anywhere.

Question—That the words stand—put.

The House divided.

Ayes, 50

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

Noes, 35

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 J. H. Turner
Mr Constance	Mr Merton	Mr R. W. Turner
Mr Dominello	Mr O'Dea	Mr J. D. Williams
Mr Draper	Mr O'Farrell	Mr R. C. Williams
Mr Fraser	Mr Piccoli	*Tellers,*
Ms Goward	Mr Provest	Mr George
Mrs Hancock	Mr Richardson	Mr Maguire

Question resolved in the affirmative.

Amendment negatived.

Motion agreed to.

The SPEAKER: Order! It being after 4.30 p.m., the House will now proceed to Government business.

ROAD TRANSPORT LEGISLATION AMENDMENT (MISCELLANEOUS PROVISONS) BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

GRAFFITI CONTROL AMENDMENT BILL 2009

Agreement in Principle

Debate resumed from an earlier hour.

Ms JODI McKAY (Newcastle—Minister for Commerce, Minister for Tourism, Minister for the Hunter, and Minister for Science and Medical Research) [4.38 p.m.]: It is my pleasure to support the Graffiti Control Amendment Bill 2009. I am particularly pleased that the Government is introducing tougher penalties for graffiti vandals and new measures to prevent further attacks in cities and towns across New South Wales. As the member for Newcastle I believe this bill will come as a great relief to the many constituents and small

business owners who have raised the issue of graffiti with me in the past. I am confident the bill will ensure that the community is protected from needless vandalism and damage to their property. The Graffiti Control Amendment Bill provides effective and meaningful penalties to those who seek to damage public and private property.

Under this bill, maximum penalties for graffiti vandalism will be doubled to 12 months in prison and to six months for possession of a graffiti implement. It will also be an offence for juveniles to carry spray paint unless it is for education, employment or legal art. Importantly, this bill ensures vandals take responsibility for their actions. The graffiti crackdown will result in more vandals being forced to clean graffiti as part of community service orders. This builds on the Government's previous announcement under which graffiti vandals are forced to clean up their mess, pay compensation to their victims, or undertake a training program.

In July I was joined by Newcastle City Local Area Commander Max Mitchell to launch a local campaign targeting this senseless and destructive crime. As part of the campaign police stepped up patrols of known graffiti areas to ensure that young offenders in Newcastle take responsibility for their actions. Graffiti costs the community millions of dollars a year, money which could be better spent on valuable community projects. I am advised that RailCorp spends up to $15 million every year wiping out graffiti, while local councils spend, on average, $65,000 on graffiti clean-up operations. The New South Wales Government has listened and understands that the community has had enough. That is why we have taken steps to significantly reduce the 11,000 incidents reported every year. With this legislation the message is loud and clear, that vandals must be held responsible for their destructive behaviour.

The bill is part of a comprehensive graffiti action plan announced by Premier Nathan Rees on 8 November 2009, which included other initiatives such as Graffiti Action Day, which is a dedicated day each year for community-based graffiti clean-up in partnership with Keep Australia Beautiful; a shared approach to graffiti removal in two trial locations in Sydney—and I welcome and support an extension of the trial to Newcastle; designing out graffiti, making planners of all new State Government buildings take graffiti and crime prevention measures into consideration; and graffiti hotspot funding, $1 million in an annual grants program to fund the implementation of anti-graffiti design treatments in identified hotspots.

I especially welcome the Graffiti Action Day, which will enable the Newcastle community to play a part in cleaning the streets of tags and other eyesores. A graffiti action day will be held annually in New South Wales in partnership with Keep Australia Beautiful to enable community-based clean-up operations, and the first is to be held on 2 May 2010. I note that the New South Wales Government's provision of $1 million in annual grants to fund the implementation of anti-graffiti design treatments in identified hotspots will also benefit my electorate.

These measures will work in well with the efforts already undertaken in Newcastle to address graffiti in locations such as the Newcastle central business district, the Joy Cummings building in Pacific Park, and regions within Waratah. Unfortunately, Newcastle has had more than its fair share of graffiti attacks. I note that our city has for too long topped the State for graffiti incidents. The Bureau of Crime Statistics and Research recorded 737 graffiti incidents in Newcastle between July 2008 and June 2009. This is not something of which our community is proud. The Newcastle community is working together to respond to graffiti, and the bill will further enhance their efforts.

I am able to report to the House that, in response to an overwhelming level of vandalism, the Newcastle community together with the support of the local business community, Newcastle City Council and the New South Wales Government established the Pride of Place Taskforce. The Pride of Place Taskforce in Newcastle has worked to develop a longer-term plan that encompasses prevention, removal, community engagement and prosecution strategies, including a timely response to graffiti removal on State Government assets. The task force also involves the direct participation of local young people.

Newcastle City Council has established a graffiti hotline and recruited a graffiti team leader to coordinate removal programs, trial new techniques, and work with the community in general on reducing graffiti in the city. The partnership with the community, business and council is committed to tackling graffiti and the overall improvement of the appearance of our city as a whole. By encouraging and involving residents, businesses and government agencies in the process, our city can be confident of long-term improvements.

Graffiti is not just a costly eyesore, it is a serious crime that chips away at community pride and can make people feel unsafe. The Government's graffiti crackdown will further empower the Newcastle community

to fight back against senseless vandalism. There are also measures that residents and business owners can take to help prevent opportunistic graffiti vandals from attacks on property, such as securing any implement that could be used for graffiti. I encourage interested residents to visit the Government's Stop Graffiti Vandalism website at *www.graffiti.nsw.gov.au*.

Community support is crucial to the success of the Government's measures to crack down on graffiti vandals. I know all Newcastle residents are appalled at the mindless attacks by graffiti vandals on our property and our city. We must continue to work together through the Pride of Place Taskforce and use the new powers and resources to be made available through the Graffiti Control Amendment Bill 2009 to build upon Newcastle's strong civic pride and send a clear message to graffiti vandals. I commend the bill to the House.

Mr JOHN TURNER (Myall Lakes) [4.45 p.m.]: There is no doubt that graffiti vandalism is a scourge on our communities and society. What these vandals see in the wanton destruction of people's property is beyond me. If they think they are being clever in undertaking this vandalism, they simply are not. As well as being a blight on public and private property, graffiti is an economic crime with many millions spent by Government and councils to clean off the offending acts of vandalism, and that is what it is—vandalism. Never should these acts of vandalism be legitimated by anyone calling them art.

Those that do the vandalism are cowards, in my book. They attack in the dead of night, hooded to hide their identity. They have no regard for the anguish they cause to house-proud people whose homes, walls or fences are vandalised. They have no regard for the cost to businesses to clean up after them. They have no regard for their fellow citizens, even their mothers, fathers, grandparents, or brothers and sisters, who have to pay higher and higher rates and taxes to recover the cost of cleaning up after them. It is just a selfish desire on the part of these vandals to display incomprehensible messages through their vandalism.

I will address a few issues in the bill and will come back later to the outstanding work done in my electorate by Mr Ted, known locally as the "Graffiti Buster". Whilst I do not oppose the bill, it is only window-dressing and does nothing to deal with the real issue, that is, catching graffiti vandals. In fact I believe the bill is soft on vandals and misdirected in certain areas, which I will address later. The amendments to the Graffiti Control Act will, firstly, create new offences relating to the supply of spray paint cans to children and the possession of spray paint cans by children; increase penalties for certain existing graffiti offences; introduce a scheme of community clean-up orders under which an offender fined for a graffiti offence can be directed by a court to perform community clean-up work in order to satisfy the fine; and make other consequential and minor amendments.

The bill also amends the Graffiti Control Regulation 2009 to enable certain local council employees to issue penalty notices for certain offences under the principal Act, and it amends the Rail Safety Act 2008 to give rail safety officers the power to direct a person to state the person's name and address if the officer finds a person committing an offence against the principal Act, or reasonably suspects that the person has committed an offence against the principal Act. The bill also amends other Acts as a consequence of the introduction of the scheme of community clean-up orders.

The bill therefore extends the concept of it being illegal to sell spray cans to persons under 18 to it being illegal to supply cans. I suppose that fixes a loophole not unlike in the liquor laws where it is illegal to supply alcohol to persons under 18 years. The Act provides for increased penalties, including for supplying spray cans to under 18-year-olds of up to $1,100. I note that it is up to $1,100. I wonder how many magistrates will impose the maximum fine, which in most cases would be a fraction of the cost to remove the vandal's work.

I also note that there is provision to increase the possible imprisonment for the existing offence of damaging or defacing property with a graffiti implement from 6 months to 12 months. However, this is where the bill and the main Act, the Graffiti Control Act, are soft. Both say that where a court convicts a person of an offence of intentionally damaging or defacing property by means of a graffiti implement, it must not sentence them to imprisonment unless the person has previously been convicted of a like offence on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such a crime again.

Let us have a look at that provision. It is really akin to a Monopoly "get out of jail free" card because the vandals will know that they can, on at least a number of occasions, commit further acts of vandalism before a magistrate can consider the implementation of a custodial sentence. Either the Government is serious about curtailing this antisocial, and indeed criminal, activity or it is not. The Act should have been amended to give the courts the option in the first instance to approve a custodial sentence.

I note that the bill will provide for community clean-up orders and those orders can only be made if the court is satisfied that the offender is a suitable person for community clean-up work. I wonder what criteria will be used by the courts to determine if a vandal is a suitable person to do the work. What if they are not? What will be the alternative? This provision goes on to say that if an offender complies with the community clean-up order any fine imposed is deemed to be satisfied. That is a real insult to the community because the Government is decreeing that one hour of community clean-up work performed by the vandal will be the equivalent of $30 of the amount of the fine. The people cleaning off the vandals' work will invariably receive significantly less than $30 as an hourly wage rate. This provision is wrong and should be reviewed by the Government. Here we have vandals being put above ordinary everyday people.

Now I want to record what happens in my electorate in relation to graffiti vandalism. Mr Ted Bickford, known as the "Graffiti Buster" in the Great Lakes area, has been a stalwart in removing graffiti as it appears in the Great Lakes area. Mr Bickford started doing this work voluntarily and almost anonymously as part of a personal community service. However, it has reached the stage now where he is sponsored by the council and routinely cleans graffiti when and where it occurs. He does not accept any remuneration from the council for this work. More importantly, however, Mr Bickford has established such a reputation and respect that graffiti by residents of the Great Lakes area has almost ceased, and when incidents of graffiti occur it is often the work of people from outside the Great Lakes area. Because of Mr Bickford's networks, particularly with young people, many of whom are ex graffiti vandals, these people are often identified and can be pursued.

Additionally, Mr Bickford has been able to involve young people in his graffiti removal work. In many cases these young people were formerly graffiti vandals themselves. Mr Bickford has observed, however, that there has been a change in the demographics of people involved in graffiti and finds that younger people are now more inclined to be involved. He has instances of 9- to 13-year-olds being very involved in graffiti. As a result of his observations and concerns, and his dedication to his community, Mr Bickford has now, with the permission of schools and the Great Lakes Council, embarked on an education program within the schools. Mr Bickford attends primary schools within the Great Lakes Council area, and explains the social and criminal ramifications arising out of graffiti. It is a fully integrated program and he has a young person with him who has been convicted of graffiti offences and is now assisting in cleaning up graffiti. The program interactively involves the young students in what he is doing by enlisting them as "spotters" for graffiti and, of course, educating them against entering the graffiti field.

Great Lakes Council is fully supportive of Mr Bickford. Some of the incentives Mr Bickford uses are council certificates for young people who assist him in removing graffiti as well as "spotting" where graffiti has occurred, or for participating in courses in school activities where Mr Bickford has attended and spoken. Mr Bickford has developed a fantastic range of contacts. He even receives tips when a graffiti gang arrives in town so that he can take preventative action by confronting the likely offenders. Ted Bickford is not a young man, but I know he has chased some of the graffitists and eyeballed them. Mr Bickford's work has been recognised with an Order of Australia decoration and it is also being duplicated in other areas. The member for Port Stephens, Mr Baumann, will also speak about Mr Bickford's outstanding achievements and contribution to removing and controlling graffiti in the Great Lakes area as his electorate shares part of that local government area with mine.

I note that the City of Melbourne has introduced a new control plan for graffiti in that city. A dedicated mobile graffiti removal vehicle will travel around the city and remove graffiti on sight, which is exactly what Mr Bickford does. We all know the biggest deterrent for graffiti artists is to remove the offending painting before it gets any recognition. I spoke to Mr Bickford just last week and he said there was a new gang in town who have been following him around because he is removing their work as soon as they do it, and they are quite angry and upset about it. The City of Melbourne will also place more emphasis on proactive programs such as the Graffiti Education Program in schools, the street art permit process and the graffiti mentoring program; strengthen relationships with Victoria Police, the Department of Justice, neighbouring councils and government and non-government authorities; and make changes to make sure the plan is consistent with the State's Graffiti Prevention Act, which was introduced in 2007.

Mr Bickford's work in removing graffiti quickly is not unique and many cities around the world have rapid action squads to quickly rid an area of vandalism, as the greatest put-down for these vandals is the quick removal of their criminal work. There is no doubt graffiti is a blight on our society. Will these amendments reduce this blight? Time will tell. I urge the courts to apply meaningful deterrents to the vandals. The people of New South Wales have had enough of them. The word would get around pretty quickly if a few of them were dealt with with the full force of the law.

Ms CLOVER MOORE (Sydney) [4.55 p.m.]: I share strong community concern about the problem of illegal graffiti and unsightly tags, particularly prominent racist, homophobic or obscene graffiti. Graffiti has been a significant issue in the inner city and residents legitimately get angry when vandals deface their homes, their public places and their open space. Unsightly illegal graffiti adds to an atmosphere of neglect and urban decay and makes people feel unsafe in their neighbourhood. There is also significant economic cost associated with graffiti. In the 2007-08 financial year the City of Sydney removed 411,368 incidents of graffiti and bill posters in the local government area.

At the same time, graffiti art is an established visual art form, particularly among young people. Graffiti art can provide important social commentary and for many it is visually beautiful. My electorate has a high proportion of young adults and it is no surprise that many of my constituents appreciate the contribution street art makes to their urban environment. I have concerns about the approach the Government is taking to address graffiti through the Graffiti Control Amendment Bill.

The bill would make it an offence for someone under the age of 18 to carry a spray can in a public place or for anyone to give them a spray can. The bill includes a defence that the spray can is for a lawful purpose, however a defence in terms of lawful artistic purposes applies to a young person only if they are on the site where the can is to be lawfully used. The bill gives courts the power to order offenders to remove their graffiti, which I support. However, it also increases maximum penalties for damaging or defacing property from 6 to 12 months imprisonment, and from 3 to 6 months for carrying an implement with the intention to damage or deface property. With the popularity of graffiti art growing, it is not difficult to envisage scenarios where a young person has to travel distances with their spray cans to where they will create legal graffiti art.

The bill fails to recognise a range of possibilities and makes an assumption that young people in certain situations are going to commit a crime. In the worst-case scenario, young people can end up in jail, where they will learn how to commit crime. Furthermore, is this Parliament certain that increasing maximum penalties for graffiti-related offences is an appropriate or even a useful way to reduce graffiti in our community? Some illegal graffiti is the work of street artists who use the medium to comment on society or to make the urban environment a more interesting place. Illegal graffiti art can be part of the subculture and the average person would not consider this activity criminal. It can become an important part of an area's history. It would be more appropriate to provide these artists with access to public space to provide art.

The City of Sydney has a proactive approach to addressing graffiti in the city. When graffiti is identified it is removed quickly. The City's interim aerosol art guidelines are to be reviewed to ensure that legal mural walls are developed and retained as part of the individual character and diversity of the community. The City will also develop a register to record aerosol art and murals that exist in the City area. The success of the program relies on the City's sensitivity to the distinction between creative community expression and unacceptable visual pollution. We do not take a black and white, hardline approach. My concern is that this bill ignores the blur between legitimate art and vandalism and is about being seen to be tough on graffiti without considering the social costs or reducing illegal graffiti.

Mrs SHELLEY HANCOCK (South Coast) [4.59 p.m.]: I wish to contribute to debate on the Graffiti Control Amendment Bill 2009. I note that last year this Government tried, through its Graffiti Control Act 2008, to deal with the ongoing problem of graffiti throughout New South Wales. One year later, the Government has been forced to recognise that its earlier tough legislation has largely been ineffective in deterring graffiti crime in this State. Graffiti in New South Wales, and indeed in my South Coast electorate, is an ongoing problem, costing the State approximately $100 million in clean-up costs, and individuals, businesses, local councils and residents hundreds and thousands of dollars in the removal of graffiti or the installation of deterrence in the form of closed-circuit television cameras in certain areas.

All members recognise that this is a serious problem. I suspect that people in many areas have become immune to graffiti, and I suspect that after 14 years in office this Government is unable to resolve the problem. Today we are debating new legislation to prevent graffiti. The bill seeks to amend the already significant deterrence established in the 2008 legislation essentially by increasing penalties for certain existing graffiti offences. Section 4 of the Graffiti Control Act will be amended to increase the maximum penalty for the existing offence of damaging or defacing property with a graffiti implement from six months to 12 months imprisonment. Section 5 will be amended to increase the maximum penalty for the existing offence of possessing a graffiti implement with the intention of using it to damage or deface property from three months to six months imprisonment. In addition, this bill creates two new graffiti offences.

Proposed section 8 deals with the supply of spray paint cans to persons under the age of 18 and proposed section 8B deals with the possession of spray paint cans by persons under the age of 18. Under section 8B a person under the age of 18 who is in possession of a spray paint can in a public place is guilty of an offence and is subject to a maximum penalty of $1,100 or six months imprisonment. Opposition members do not oppose the bill, as they are aware of the unacceptable economic costs incurred by businesses, residents and the State Government via various agencies such as RailCorp. However, I express concern about this Government's inability to deal with problems such as crime and vandalism except by way of increasing penalties and threatening potential jail sentences. Locking up young people or threatening to do so does not seem to me to be the most appropriate method when it has not proved to be an effective deterrent in the past.

In the absence of diversionary programs or any lateral thinking with regard to this issue, the Government simply wants to fill its jails with young or older offenders. The Government, which has had to state its policies, is spending millions of dollars on the construction of new jails, such as the one in my South Coast electorate. Even though there was a great deal of opposition to the construction of that jail it was imposed on residents in my electorate. Because this Government is unable to introduce innovative methods to deter this crime, or any other crime, its only solution is to look tough, to sound tough and to lock up people. Government members should note—as I am noting now—that the most recent study released this year by the New South Wales Bureau of Crime Statistics and Research states:

> Being sent to prison is no more effective in reducing the risk of future reoffending than being threatened with prison. In fact if anything being sent to prison actually increases the risk of further reoffending.

The only solution that the Premier and this Government can offer is a lazy approach to the problem—to increase the penalties, to threaten offenders with jail sentences, and to send people to prison for longer. This Government, which wants to sound tough and look tough, has no solutions. Twelve months after the introduction of the last piece of legislation it is getting tough again. Jail is the only place for genuine criminals who are a threat to the safety and security of the community, and most deserve to lose their liberty. However, in dealing with young people the Government must engage with them and with graffiti offenders and seek to understand the motivation behind the senseless vandalism of the property of others.

There is no doubt that some graffiti vandals consider their work as art and not vandalism. I do not, but they do. In my electorate local youth groups and the local council have introduced programs to provide an outlet for so-called graffiti artists in the form of art spaces. The inclusion of offenders in clean-up programs has been successful and, if used in conjunction with the efforts of local police, works extremely well. There are better solutions but it takes work and imagination—not the lazy approach of this Government. It seems to me from the contributions of members on both sides of this House that the onus of responsibility falls again and again on local councils. All the State Government does is increase the penalties and threaten young offenders with jail sentences.

In my view the stricter deterrence in this bill will not work unless the Government works with young people, police, schools and other educational institutions, local councils, youth workers and offenders, rather than simplistically increasing jail sentences and wanting to the fill the State's jails with young offenders for whom strict deterrence has not worked in the past. A whole-of-community response is required, not just a piece of legislation and amendments to it that will not work. Without increased resources, either in police numbers or youth workers, graffiti vandals will continue to vandalise residential premises, businesses, commercial premises, and outdoor or public spaces without fear of being apprehended. That is the case in many towns and villages in my electorate that are isolated and located some distance from the main police command in Nowra.

Last week the village of Culburra experienced incidents of reckless vandalism. Residents told me that there was no point in calling the police because it was so far for them to come. Officers from the Nowra police command would take half an hour to get to Culburra, and by the time they arrived the offenders involved would have already left the scene. Last week on a major thoroughfare in Nowra and in broad daylight young offenders used marker pens to vandalise the windows of ABC Radio offices. Marker pens have become the new graffiti weapon for many graffiti vandals but this bill does nothing to address that problem. The New South Wales Labor Government, which is way behind the perpetrators and young people involved, is clueless about any real solution to the problems they create. Those who undertake graffiti cost this State millions of dollars each year in clean-up costs.

If the vandals are caught they should be involved in cleaning up their mess and the graffiti of others, or they should be involved in cleaning up beaches, public parks and other places in their area. That will send a positive message to them that they have destroyed the public or private property of somebody else and that it has

cost them money. We must be imaginative about diversionary programs that are designed to deter this crime and we must involve young people in the solutions. After teaching in the classroom for 27 years it is my experience that young people offer some of the best solutions if they are involved in the solution-making process.

I suspect that graffiti vandals are not concerned about this new piece of legislation and many of them would not even be aware that it is being debated in this House. They will continue their activities unabated for as long as they like, unless they are required to work in the community and understand the seriousness of their crimes. However, they should not be threatened with jail sentences. When I was at school the threat of detention did nothing to stop me from receiving further detention down the line. In year 9 I received a number of detentions but I was not at all concerned.

ACTING-SPEAKER (Mr Wayne Merton): Order! I call the member for Coffs Harbour to order.

Mrs SHELLEY HANCOCK: Anyone at North Sydney Girls High School who was given detention regarded it as a badge of honour. When I was teaching at high school the worst punishment or deterrent that could be meted out to students was to ask them to clean up the playground at lunchtime in front of all their friends. Let us seek ways to punish these offenders rather than threatening them, as threats will have no effect. Those who really understand young people would be aware that this piece of legislation does nothing. Without a concerted effort by all stakeholders we will simply be filling our jails with young offenders and graffiti vandals; we will not be solving the problem because more will come along to replace them. We must engage with young offenders and young people generally.

Mr NINOS KHOSHABA (Smithfield) [5.08 p.m.]: I support the Graffiti Control Amendment Bill 2009 and congratulate the Rees Labor Government on continuing to combat this scourge on our community. Graffiti is a significant issue in my electorate that I know the police, the local council and, indeed, all responsible people in the community are working hard to address. The bill builds on the passage of the Graffiti Control Act 2008, which consolidated and modernised the various graffiti laws in New South Wales. With amendments this year to the Young Offenders Regulation mandating outcomes for juvenile graffiti offenders, the Government has renewed its efforts to combat graffiti.

The new initiatives are informed by two items of research conducted by the Department of Justice and Attorney General: the Motivations and Modus Operandi of Persons who do graffiti, a series of interviews with 52 graffiti offenders and the paper entitled "Review of Graffiti Reduction Demonstration Projects 2007-08", which is an analysis of the impact of graffiti reduction strategies on the incidence of graffiti. The bill creates two new offences: prohibiting the possession of spray paint cans and making the supply of spray paint to juveniles by adults illegal. The Government carefully considered when it is appropriate to have spray paint, which the bill reflects in the defence of lawful purpose.

A child found at a public place in possession of a spray paint can has two statutory defences to the offence under the bill. The first is to prove possession of the can for the lawful pursuit of an occupation, education or training. The second defence has two components. It must be shown that the spray paint was for a lawful purpose as defined in section 8B (3)—such as a lawful artistic activity—and the person was at or in the immediate vicinity of the place where the spray paint can was being used or intended to be used. If a juvenile has a spray paint can in his or her possession and is not using it for a lawful purpose, he or she will face a maximum penalty of $1,100 or six months imprisonment.

Under this bill adults will also have to take positive steps to ensure that spray cans handed to children are to be used for a lawful purpose. Experience has shown the community of New South Wales that giving children free access to spray paint can lead to damage caused by graffiti. This bill provides a framework that guides adults on when children should have spray paint and promotes its responsible use. The defence to the offence of supply has three separate parts. The first provides that if the supplier can prove that the child intended to use the spray can in the course of education, training or in the course of work, then the supply is not unlawful.

The second provides that where the supply occurred in a public place, if the supplier can prove that the child who received it intended to use the spray can in the immediate vicinity of where the supply occurred for one of the other lawful purposes defined in section 8A (3), then the supply is not unlawful. The third provides that where the supply occurred in a private place, if the supplier can prove that the child who received it intended to use the spray can for any lawful purpose at the private place or in the immediate vicinity of that place, then the supply is not unlawful. The lawful purpose under this limb of the defence is not constrained by the defined purposes in section 8A (3) and can be any lawful activity. The lawful purposes defined in section

8A (3) are the lawful pursuit of an occupation, education or training; any artistic activity that does not constitute an offence against the principal Act or any other law; any construction, renovation, restoration or maintenance activity that does not constitute an offence against this Act; or any other law. These are important improvements to existing graffiti legislation, and I am happy to support them.

Mr ANDREW FRASER (Coffs Harbour) [5.13 p.m.]: Approximately 25 years ago I attended a game of golf on a Saturday morning with a local police sergeant. When we reach the third hole on Coffs Harbour golf course we saw extensive damage to the green. Apparently, on the Friday night some idiot decided to drive a vehicle through the wire fence surrounding the third green, do a doughnut on the green causing immense damage and drive off. Obviously, the driver thought it was very funny. What was not so funny for the driver was that he left his numberplate behind. The police identified him fairly quickly later that day, after we had finished our round of golf.

The driver was arrested and charged, and the court sentenced him to do community service at the golf course on the weekend so that club members knew exactly who he was and what he had done. The punishment was a huge embarrassment to the young man. He excelled in doing the work the court had sentenced him to do. He went far beyond repairing the damage he caused to the golf course and these days he is a valued member of our community. The sentence, which caused extreme embarrassment, put that young bloke back on the right road to becoming part of the community.

Graffiti is a scandalous act that costs the State around $100 million a year. It costs the State Rail Authority in the vicinity of $4 million a year and the City of Sydney about $3 million a year to remove it. No matter how quickly the owners repaint the walls of the buildings in the laneway behind my office, the young louts return and graffiti them. Far more policing is required to combat this problem. Last week a representative of the police union told me that on Friday and Saturday night last week only one general duties police car was patrolling from Nambucca Heads through to the Tweed. How on earth can we expect the police to apprehend or deter these criminals when they lack resources? I agree with the member for South Coast: We can make all the threats we like of severe jail sentences and fines of some magnitude but, in reality, if no-one can enforce the law these kids will run wild.

This bill is a talk-tough approach by the Government, but it has not provided the police or society with the resources they need to stop this vandalism. Most graffiti has tags, which should make it fairly simple to track down the offenders, but police in every electorate state that they do not have the resources and there are far more important issues to address. We have reached the stage where we now just grin and bear it. Mr Bickford from the Myall Lakes area has done a great job in trying to combat damage caused by graffiti. He formed a local community group called Graffiti Busters. He has single-handedly reduced graffiti in his local town. He accepts no remuneration for this service; he simply does it out of the goodness of his heart. However, I am pleased to say that he received recognition for the great work he has done with an Australia Day honour. But we cannot have a Mr Bickford in every town. Serious steps must be taken to stop these vandals.

If a graffiti perpetrator is caught, which I doubt will happen, and the court imposes a $1,100 fine or a community service order, the legislation provides for the perpetrator to work off that community service order at a rate of $30 an hour. That equates to a rate of $60,000 per annum. Mr Bickford gets paid nothing for what he does. Good kids in our community learning work skills and ethics at McDonald's are paid something like $6 an hour or the equivalent of $12,000 a year. Yet this bill merely imposes the huge threat of a $1,100 fine that can be worked off at $30 an hour. Therefore, 40 hours of community service may not even clean up the graffiti damage caused in one night, but that is the equivalent of the maximum monetary punishment that can be imposed should the court not issue the alternative penalty of six months imprisonment.

Parents should be held accountable for graffiti damage caused by their children. I would suggest that most of these kids have had no parental guidance. Parents of graffiti vandals would get a fair slap in the face if they had to buy the chemicals and equipment to remove the graffiti their children put on public and private properties, or if they had pay for the cleaning. As far as I am concerned once these kids are identified, get them to publicly clean up not only the mess they were caught making but also a hell of a lot more. Sentencing them to a number of hours of community service does not result in their receiving $30 an hour. The bill is just window-dressing. It appears to be tough, but it does not address the issue. We need more resources, sentences that mean something, and lessons being learnt by vandals and their peers.

We also should address ancillary issues. For example, a business that operates in Park Avenue Lane has paid young kids to redecorate its wall. The kids went away to work on their designs and painted a mural on the

wall of the business when they returned. Some of the designs are not to my taste, but the wall looks much better than the graffiti on the walls of other businesses. It is appalling that a business and property owner has to pay somebody to paint a wall, and allow them to repaint the wall on a number of occasions throughout the year, simply to stop graffiti from defacing and devaluing their property. Granted, the business is in a lane and few people see it—only people such as me, and only because I drive there pretty much on a daily basis—but alternatives need to be provided.

Thirty-five years ago, graffiti consisted basically of writing on toilet doors in public restrooms. I owned a caravan park prior to being elected to Parliament. If someone wrote on the toilet wall and if I did not get out there, paint over it, and lock the cubicle—thereby inconveniencing everybody because the cubicle was no longer available—the graffiti would not stop. The more that graffiti appeared on the doors, the more somebody else was encouraged to follow suit. By inconveniencing the majority of caravan park residents in locking a toilet or shower cubicle, the residents of the caravan park would soon figure out who was responsible and apply peer pressure. That usually worked and prevented graffiti from recurring, but many people suffered inconvenience unnecessarily because of vandalism that was caused by a few.

The University of Newcastle used to put a graffiti wall in the toilets and would hold a competition. Whoever won the smart comment award for the week was shouted a beer at the bar. That kept toilets and restrooms at the university clean and actually promoted some intelligent thought rather than mindless vandalism. The comments were quite witty. However, graffiti is not witty; it is definitely vandalism. We need to take a close look at this legislation instead of patting ourselves on the back and saying, "Isn't this wonderful—it will do something", because I do not believe that this bill will prevent graffiti from recurring.

In conclusion, I reiterate what I believe are the remedies to graffiti: more police, penalties that mean something, publicly outing vandals by having them clean up their handiwork in front of people and suffering embarrassment, and peer group pressure to ensure that others do not follow suit. I will be very interested to follow the progress of the legislation. The Graffiti Control Act 2008 has been ineffective. I think members will find that this amending bill also will be ineffective.

[*Business interrupted.*]

BUSINESS OF THE HOUSE

Suspension of Standing Orders: Routine of Business

Mr JOHN AQUILINA (Riverstone—Parliamentary Secretary) [5.23 p.m.]: I move:

That standing orders be suspended at this sitting to permit:

(1) the consideration of the matter of public importance at 7.30 p.m.;

(2) the House to consider Government business after the conclusion of the matter of public importance; and

(3) the House to adjourn on motion.

The motion will enable the House to continue sitting this evening. There is an expectation that, following the conclusion of private members' statements at 6.45 p.m., the chair will be resumed at 7.30 p.m. at which time we will deal with the matter of public importance.

Mr THOMAS GEORGE (Lismore) [5.24 p.m.]: The Opposition agrees to the motion.

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

Motion agreed to.

GRAFFITI CONTROL AMENDMENT BILL 2009

Agreement in Principle

[*Business resumed.*]

Mr MALCOLM KERR (Cronulla) [5.25 p.m.]: It is with pleasure that I join in debate on the Graffiti Control Amendment Bill 2009.

Mr Barry Collier: Of course!

Mr MALCOLM KERR: The member for Miranda referred to my previous contribution to debate as "brilliant".

Mr Barry Collier: But in inverted commas.

Mr MALCOLM KERR: Of course. I quoted it. That was brilliant repartee.

ACTING-SPEAKER (Mr Wayne Merton): Order! Notwithstanding the member for Cronulla's memorable contribution on a previous occasion, he does not need any encouragement. He will be heard in silence to give him the opportunity to present another memorable contribution, as he describes it.

Mr MALCOLM KERR: I appreciate that we must not have brilliance spoiled by interruption.

ACTING-SPEAKER (Mr Wayne Merton): Order! The member for Cronulla should proceed and not press his luck.

Mr MALCOLM KERR: The legislation represents an opportunity for the Government to create more spin in response to a serious social problem. As I have said in the House on numerous occasions, graffiti is a serious problem, yet the bill represents just another attempt by the Government at grandstanding. Graffiti is a blight on the urban environment. As the member for Coffs Harbour stated earlier, nobody can justify graffiti. In fact, it is criminality that results in damage to property owned by hardworking families whose neighbourhoods and businesses are being ruined.

I have spoken to a great number of my constituents, as I am sure has the member for Miranda, about problems caused to their businesses or homes by graffiti that has resulted in substantial damage. As the member for Coffs Harbour stated, the Government can place a number of provisions on the statute books, but unless it is prepared to enforce the statutes by providing adequate policing and adequate remedial resources, the law simply becomes a joke. The legislation can be as tough as the Government would want, but unless sanctions are enforced, no progress will be achieved in resolving the graffiti problem. One of the most recent despicable acts of graffiti is scratching glass, which is becoming prevalent on shopfront windows as well as on the windows of private residences.

I am pleased that the member for Castle Hill has entered the Chamber because he has pioneered efforts to deal with graffiti. For years he has been introducing private member's bills to restrict the availability of spray paint cans. The Government criticised his bills, but after a suitable interval adopted the measures under a different name. The one person in the State who has made a contribution to combating graffiti has been the member for Castle Hill. He has taken a special interest in resolving the graffiti issue.

Mr Thomas George: Hear! Hear!

Mr MALCOLM KERR: I agree with the member for Lismore.

Mr Barry Collier: But this is not his bill.

Mr MALCOLM KERR: It is not quite his bill because I do not think he would have included a provision to pay criminals $30 to clean up graffiti. I will be interested to hear the Parliamentary Secretary's justification of the bill enabling courts to impose fines that will in fact be paid by taxpayers. The work will be paid for at the rate of $30 an hour. I am sure many people in the workforce would like to attract a wage of $30 an hour. We have the situation of the State imposing a fine that will be paid by taxpayers at the rate of $30 an hour. That is not the way to punish people who have committed criminal offences.

Mr Ninos Khoshaba: Point of order: I am reluctant to interrupt the member for Cronulla, but I think he misunderstands the bill. Criminals are not being paid anything. He has referred to criminals being paid $30 an hour, but that is not the case. They are not being paid $30 an hour. It is just a way of working off the fine. I am reluctant to draw attention to the fact that obviously he has not read the bill.

ACTING-SPEAKER (Mr Wayne Merton): Order! While we all appreciate the member for Smithfield's contribution, there is no point of order. The member for Cronulla may proceed. I will listen attentively to how he develops his argument.

Mr MALCOLM KERR: There is a difference between a debating point and a point of order. Hopefully, with a little more experience the member for Smithfield will be able to differentiate between them. I was quoting from the Legislation Review Digest, which states that offenders pay off those fines by way of community clean-up work at a rate of $30 an hour. It is for people to judge whether their taxes will be used at a rate of $30 an hour on behalf of those offenders. That is clearly the situation. For example, if the member for Smithfield committed a parking offence for which he was taken to court and given a community service order, perhaps to see constituents for three hours, and was fined $90, but his fine was then paid off at $30 an hour, that would seem to be fairly generous treatment.

Mr Michael Richardson: Probably pay $30 an hour period.

Mr MALCOLM KERR: That may be a bit harsh. The constituents of Smithfield would not necessarily be anxious to see him over those three hours. Nevertheless it would be a generous arrangement that is not available for parking offenders at present.

Mr MICHAEL RICHARDSON (Castle Hill) [5.31 p.m.]: I am delighted to make a contribution to debate on the Graffiti Control Amendment Bill 2009. As members would be aware, dealing with graffiti offenders and graffiti vandalism has been a passion of mine for about 16 years, ever since—

Mr Malcolm Kerr: You saw the writing on the wall.

Mr MICHAEL RICHARDSON: I did see the writing on the wall. I saw on the walls of the kindergarten at Castle Hill Public School the most vile and obscene graffiti for the edification of five- and six-year-olds. I did not think that was appropriate and I felt that we should do something about it. I wrote a paper, which evolved into an interdepartmental working committee, and we legislated in 1994 as a result of that inquiry. In particular, we legislated to allow magistrates to order graffitists to clean up graffiti as part of their punishment. While the Government has paid lip-service to the concept of making the punishment fit the crime, it has done very little over the 14 years of its administration to make that happen. My great concern about this legislation is that it perpetuates the neglect. It does not do enough to make the punishment fit the crime, which in my view is the next step that we have to take to do something about graffiti vandalism.

The Government has been paying lip-service to this issue for probably 10 or 12 years. Initially, it ignored the issue. It took the ostrich approach: It stuck its head in the sand and hoped that it would go away. Finally the Government was dragged kicking and screaming to do something because of community pressure. It is hard to maintain the line that the Government was taking decisive action when it was confronted with a shopkeeper whose side wall had been covered with indecipherable gibberish or with a man like the one I spoke to on radio who had just erected a new Colorbond fence that was vandalised within 24 hours of its erection. The Government usually makes changes to graffiti laws because of suggestions put forward by the Opposition. I give as an example locking up spray cans. I introduced two private members' bills to that effect. It took 10 years for the Government to agree to lock up spray cans.

Indeed, the former Minister for Fair Trading, Faye Lo' Po, ridiculed me in this place for having the temerity to introduce the concept of locking up spray cans. I did so because the statistics showed that about 90 per cent of the cans used by graffitists were stolen. I am pleased that information provided by the Government and my local area commander suggest that those laws are working and that the amount of graffiti in the community has reduced as a result of a law that the Government ridiculed when I suggested it 11 or 12 years ago. We now have this bill, which, among other things, creates a scheme of community clean-up work. As I said, the previous Government legislated to give magistrates the power to order graffitists to clean up graffiti as part of their community service orders. This Government has done nothing to date to encourage or even coerce magistrates to enforce the law.

Late last year I made a freedom of information application seeking information about the number of graffiti clean-up community service orders handed down by magistrates. Given my longstanding interest in this issue, I would have thought that request was reasonable. I was not attempting to beat up on the Government; I was attempting to push the debate forward or perhaps to come up with another private member's bill that would assist the Parliament and the Government to deal with this pernicious problem. I was told that 34 documents fell within the ambit of my request. Guess how many I was given? I was denied access to 31 of those documents and I was given the publicly available Bureau of Crime Statistics and Research document "Graffiti vandalism in New South Wales", a copy of the Graffiti Control Bill 2008 and a media release from the Attorney General headed "New graffiti laws passed".

I led for the Opposition in debate on the Graffiti Control Bill 2008, and I was given a copy of it as though I did not know what was in it. That shows the depth of the Government's contempt for anybody who genuinely tries to come up with new ideas and tries to solve a problem that every member of this House faces on a weekly basis. Everything else was Cabinet in confidence, I assume, because this legislation was coming up. But I am sure the Government could have got around that. It could have provided me with information that would have led to a more informed debate on this important issue at this time. The Government has now decided that graffitists who are fined will be able to work off their fine by way of community clean-up work at the rate of $30 an hour.

The member for Cronulla talked about this. I have to say that $30 an hour is a pretty fair wage for low-grade, menial work. By comparison—the member for Charlestown is probably aware of these figures—a 16-year-old, full-time shop assistant gets $8.18 an hour; an 18-year-old gets $11.47 an hour; and someone over 21, say, a 30- or 35-year-old, gets $16.39 an hour. But the Government is prepared to pay someone who has been convicted of a criminal offence $30 an hour for clean-up work that is not necessarily cleaning up graffiti. Under the bill, community clean-up work is defined as any community service work that is approved by the relevant Minister as community service work. I believe it should specify graffiti clean-up and only graffiti clean-up unless no such work is available.

As I and others have said in this debate, the punishment should fit the crime. The Government seems to be pathologically incapable of grasping that fundamental principle. I have done a lot of radio on this issue, and I have said that the punishment should fit the crime. Whenever I do this, the radio switchboard lights up with people in heated agreement calling in. They want these people to clean off the graffiti. In her excellent contribution the member for South Coast mentioned that at the school she attended, North Sydney Girls High, the one punishment the girls feared above all else was going out in front of their peers and cleaning up the school playground. It is exactly the same for graffitists. They do not want to be seen to be cleaning off graffiti in front of their peers, perhaps in front of their gang. There is no kudos whatsoever associated with so doing.

The bill provides for a magistrate to decide that a fine is a more suitable option than community service orders or prison before then deciding that the fine should be paid by way of community clean-up work. The offender must also attend at least two hours of a graffiti prevention program when possible. The question is: Why? A Government report cited by the Attorney General in his second reading speech said that most graffiti vandals do graffiti either in pursuit of fame or recognition, or for an adrenaline rush. I could have saved the Government the cost of that study. Over the years I have made many speeches on the scourge of graffiti and in 1994 I prepared a report on graffiti in which I have said much the same thing. I fail to see how doing two hours of a graffiti prevention program will discourage those antisocial cretins from plying their noxious trade. Alternatively, offenders can volunteer to work off their fines and, quite frankly, who would not do that at $30 an hour? It is a soft cop, a soft option, for offenders.

I am pleased to note that the Government report identified that locking up spray cans is having a beneficial effect—it has actually reduced the incidence of graffiti. That is a tick for this side of the House, because not only did the Coalition propose that originally, but also it was our policy in the lead-up to the 2003 State election. The bill recognises the role that other people may have in procuring spray cans for minors. The bill provides for an offence for anyone over the age of 18 years to supply a spray can to someone under 18, with a maximum penalty of $1,100. Other members have noted that it is extremely unlikely that that $1,100 penalty will be applied. The defence is, of course, that the supplier believed that the paint was going to be used for a lawful purpose. The lawful purposes are defined in the bill.

I could shoot holes in proposed section 8A. Someone who is charged with supplying a couple of cans to a minor would say that he understood that the can was to be used to spray paint a bike, a roller board or something similar. That proposed section will work only when a large number of cans of different coloured paint are supplied. Media attention relating to this bill appears to have focused on the stiffer jail sentences for graffitists—up from a maximum of six months to 12 months for defacing property, and from three months to six months for possessing graffiti implements with the intention to deface property. It is most unlikely that a magistrate would give an 18-year-old a 12-month sentence for graffiti, or if he does that it will be upheld on appeal. Under section 4 of the Graffiti Control Act 2008 the offender can be sentenced to jail only if he or she has been convicted of an offence on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again.

Members would recall the case of Cheyane Back. Earlier this year she was given three months in jail by Magistrate Ian McRae for a single graffiti offence. That sentence was overturned on appeal. Members may be

less familiar with the penalty handed out to 18-year-old Matthew Sale. Earlier this year Magistrate McRae sentenced Sale to a year's jail with eight months non-parole, but that was not simply for the 14 graffiti offences to which he pleaded guilty. Sale also stole train keys and jammed signal boxes with rocks to stop trains so that he could vandalise them. He probably pulled the rocks out of his own head! Matthew Sale was jailed for six months, non-parole, for each of the graffiti offences with the sentences to be served consecutively. However, the real issue was that he stole the train keys and jammed the signal boxes with rocks. That was not just a public nuisance—his actions involved real public safety issues.

As other members have said during this debate, the bill is really window-dressing. It is yet another example of the Government trying to look tough when it really wants the courts to treat offenders with kid gloves. That is demonstrated by the cautioning system that is in place under the Young Offender's Act. No-one wants to lock up young people, but we do want young offenders to get more than a slap on the wrist. The member for Miranda sneers at that comment. He ought to go to Miranda police station and ask his local police officers what they think of the young offenders Act. The system works for some kids, but a lot of them just laugh at the police and other authority figures.

The Opposition will not oppose the bill, but we do not believe that it will solve the problems. The way forward is for the Government to legislate for clean-up orders to be given for cleaning up graffiti, and only graffiti, unless there is no graffiti to be cleaned up. In other words, make the punishment fit the crime. The rate for clean-up orders should be struck at $10 an hour, not $30 an hour, which is ridiculous. No single member who has contributed to this debate has supported the concept of paying criminals $30 an hour. Also, the Government should legislate to allow police officers to issue on-the-spot clean-up orders up to a maximum of, say, 10 hours. That would speed up the process and make the punishment fit the crime. It would also give police officers the power to deal with those issues at a local level.

Of course, the offenders need to be caught. Therefore, as other members have said, there should be a dedicated graffiti squad. The member for Epping spoke about that in his contribution to the debate. It is really important not only that police are given those powers but also that there be sufficient police to do the job. The Attorney General described those measures as "tough, extraordinary", but instead of being an iron fist in a velvet glove they are a knuckleduster made of sponge rubber. I would like to believe those measures will work, because I want my community to be free from the scourge of graffiti. I am sure that other members want that too—but I do not see it happening any time soon.

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

PERSONAL PROPERTY SECURITIES (COMMONWEALTH POWERS) AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

PRIVATE MEMBERS' STATEMENTS

VIOLENCE AGAINST WOMEN

WHITE RIBBON DAY

Ms PRU GOWARD (Goulburn) [5.45 p.m.]: In June this year I spoke about fundraising activities in the Goulburn electorate. One of the events was a clothes-switching party that I held to raise money for the Southern Highlands Domestic Violence Forum. That forum supports victims and helps raise awareness in the community of this terrible crime. We raised $600, which members of the Domestic Violence Forum decided to use to purchase a banner with the message "Not Silent. Not Violent. The Southern Highlands says no to violence against women." The meaning of White Ribbon Day, which as I am sure member's already know, is to urge men to speak out against violence against women. It was originally the brainchild of a handful of Canadian men in 1991, following the massacre of 14 women in Montreal. Members will note that that was not intimate partner violence. Since then it has grown in popularity and gained support from more and more men and women who are speaking out against this violence.

The Southern Highlands Domestic Violence Forum engaged the female inmates in the printmaking department at Berrima Correctional Centre to make the banner, thus keeping it local. There is an irony in that, of course, because statistics tell us that over one-third—or 39.9 per cent—of Australian women report experiencing at least one incident of physical violence or sexual violence since the age of 15. It would not come as a surprise to learn that many female prisoners in Berrima jail have been victims of domestic violence at some time in their lives. The banner will be displayed on the main road between Bowral and Moss Vale in the grounds of Chevalier College. Although it was originally planned to display the banner across the main street in Bowral, the cost of paying for public liability insurance was prohibitive, but that is a discussion for another time.

The community has certainly thrown its weight behind White Ribbon Day. Many businesses across the Southern Highlands, including my office, are displaying posters bearing the same message as the banner. Curves, Contours, Centrelink, the local library, Community Health, Mission Australia, Campbell Page and Anglicare are but a few that have set up window displays to promote White Ribbon Day. Businesses were keen to participate to help spread the word that violence against women and children is not acceptable.

Members of the local liquor accord, which includes pubs and clubs in the area, have all been issued with information packs, coasters and posters. The link between alcohol and domestic violence has long been recognised—sometimes, I fear, downplayed. But where better to spread the message of White Ribbon Day than in venues that provide alcohol? Detective Inspector and Crime Manager Ward Hansen of the Goulburn Local Area Command spoke to our local radio announcer Graham Day on radio 2ST. Inspector Hansen's wife, Felicity Hansen, is also a police officer and she works with victims of domestic violence. As a family, they are strongly committed to raising awareness of this insidious crime. Having spoken to Ward Hansen today, it appears that more and bigger activities are afoot for next year.

No area in New South Wales—or Australia—is free from domestic violence. It does not matter what the postcode is, what the professions are, how big the house is or what make of car is driven—it lives and thrives amongst us and will continue to do so until everyone gets the White Ribbon Day message that violence against women and children is not acceptable. It is interesting to note that in the largest prison in my electorate, the Goulburn jail complex, domestic violence features as an aspect of the lives not only of inmates as offenders but also of children and witnesses to domestic violence.

The Southern Highlands Domestic Violence Forum is helping to make these messages very clear. We all know that the promotion of this message must be accompanied by greater services if the message is to be supported and embraced by victims. If people do not get services when they report violence, they are less likely to report it in future, and that means that they are more at risk of even greater violence and injury. The Southern Highlands Domestic Violence Forum is making that very clear in the area for which I am responsible. I am proud that our fundraising efforts and those of other community groups have contributed to this important message on this very important day.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [5.50 p.m.]: I thank the member for Goulburn for bringing to the attention of the House the Southern Highlands Domestic Violence Forum. As the member quite rightly said, domestic violence is a scourge on our community. Any man who hits a woman is a coward. Today I went to the launch of White Ribbon Day at Parliament House. I signed up, along with many of my colleagues, to raise the issue of domestic violence and keep it in the public eye. Groups such as those in the Southern Highlands and in my electorate—such as the domestic violence support staff at Sutherland Local Court and domestic violence services at Sutherland Shire Family Services—are helping women to overcome the scourge of violence and encouraging them to report. It is important that they do report.

One often finds with domestic violence that the victims grow up to become perpetrators, and that is a very sad condemnation of domestic violence. It is a scourge and we must do everything we can to prevent it. Any man who suspects that a friend is abusing his wife or children should pull him up and have the courage, if he does not stop, to at least report it to police. That is what we must do. We have to stamp out domestic violence in all its forms in every corner of this great State.

VIOLENCE AGAINST WOMEN

WHITE RIBBON DAY

Mr NICK LALICH (Cabramatta) [5.52 p.m.]: I have always been an advocate of saying "No" to violence against women. It is fitting for me to speak on this very important issue today, White Ribbon Day.

White Ribbon Day aims to engage men in the campaign to end violence against women and asks all Australian men to challenge these attitudes and behaviours so that we can begin to drive real change in our community. In the Cabramatta electorate the White Ribbon Day campaign will last for 16 days, commencing today. Fairfield City Council, the Fairfield Domestic Violence Committee, Fairfield and Cabramatta local area commands and numerous local community organisations are aiming to raise awareness in our community of domestic violence issues by delivering a comprehensive range of activities and events across the city of Fairfield.

I welcome the 16-day campaign with open arms. Over those 16 days individuals and groups will raise awareness of gender-based violence as a human rights issue at the local, national, regional and international levels; strengthen local work issues around violence against women and establish a clear link between local and international work issues to end violence against women; provide a forum in which local organisers can develop and share new and effective strategies; and demonstrate the solidarity of women's organisations from around the world on this important issue.

As many of members know, domestic violence is not just physical or sexual assault. It can be psychological, social or financial abuse, as well as intimidation or stalking. According to the Australian Bureau of Statistics, in 2006 one in 20 Australian women were the victims of violence; 4.7 per cent of women experienced physical violence, including physical assault, attempted assault or the threat of assault; and 1.6 per cent of woman experienced sexual violence including sexual assault, attempted assault or the threat of assault. As a community, we need to ensure that people know that they have our support in helping them to break the silence and make a stand against violence. We must encourage victims to talk to someone and ask for help. Together we must empower victims to leave violent relationships. For many victims of domestic violence, it is hard to speak up and ask for help. It is hard for them to acknowledge and admit what is happening in their home behind closed doors. It is hard for them to acknowledge and admit what their loved one is doing to them.

In Cabramatta and the Fairfield local government area a range of events and activities will take place. For example, community groups will organise entertainment; the police and the council will give away information bags, wristbands and white ribbons; and there will be barbecue breakfasts and lunches. I am proud to wholeheartedly support the campaign and I welcome it to my electorate of Cabramatta. White Ribbon Day is one way to promote respect in relationships and to stop violence against women. We must talk about domestic violence and encourage victims to share their stories so that other victims know about the help and support that is out there. We must all stand up and, in true Australian style and tradition, say "No" to violence against women.

VEHICLE HEIGHT LAWS

Mr ANDREW STONER (Oxley—Leader of The Nationals) [5.57 p.m.]: Today I highlight the plight of four-wheel drivers and car enthusiasts within my electorate of Oxley who share a common concern with similar communities throughout New South Wales. In July this year the then Minister for Roads, the member for Maroubra, announced harsh new laws that prohibited vehicle owners from lowering or raising their vehicles' suspension by 50 millimetres or more. I refer to a press release dated 16 July issued by the former Minister. He said that these laws were aimed at car hoons to stop "young hoons putting their lives or the lives of others at risk". Despite being aimed at car hoons, the new regulations applied to all motorists who raised or lowered their vehicle's suspension, regardless of whether they were so-called hoons or not. Four Wheel Drive NSW and ACT, which represents more than 90 four-wheel-drive clubs and approximately 10,000 members, had not been consulted about the change. It responded the next day:

> Labelling thousands of owners who modify their vehicle as hoons is unacceptable when the proper purpose of modifications is to improve durability, performance, handling and safety.

By 29 July the then Minister had back-flipped, putting the changes on hold until "further" consultation was completed. I highlight the word "further" in the former Minister's statement as reports suggest that there was scant consultation prior to the announcement. Instead this was just another Labor Policy announcement on the run. And that, sadly, is where the official position of this Government has remained, leaving many New South Wales families and four-wheel drive enthusiasts, including those in my electorate of Oxley, in limbo as to the legality of their vehicles.

The inaction and lack of certainty can perhaps be linked to yet another change in roads Ministers since the ill-conceived July announcement. Since 2002 the job of Minister for Roads has been passed around the Labor throng from one member of Parliament to the next. The timeline is from Carl Scully in 2002 to Joe Tripodi, Michael Costa, John Watkins, Eric Roozendaal, Michael Daley and finally, or at least currently, to

David Campbell. What a revolving door the Roads portfolio has been under Labor—six Ministers in seven years. Two months ago, on 24 September, we were told in this House that the issue was under consideration by the current Minister for Transport. That is two months ago!

Only yesterday we heard a re-announcement about digital camera technology for Roads and Traffic Authority cameras. It is seven years since it was first announced and still it has not been implemented. When asked about the delay the current Minister for Transport suggested it had not been implemented because he had been in the job for only a few months. This is unacceptable. This incompetence, spin, inaction and lack of certainty are having an effect on four-wheel drive owners and car enthusiasts right now. An email I received late in October, a good three months after the announcement, reads as follows:

> My young bloke is a 2nd year electrical apprentice who drives hundreds of kilometres a week to do jobs in and around Wagga Wagga. He is a responsible driver who knows he can't afford to lose his license. Two years ago he purchased a BMW 1993 sedan which had been factory lowered. He bought it through a dealer. Of late he has been pulled over by police who told him it was illegal height under the new system and that they would seize the car unless he got it raised. The problem is that he has not got any paperwork to show an engineering certificate. He is not a yobbo and I feel these new laws without an acceptable grandfather period are draconian.

This is but one of a litany of emails that I have received from many members of my community and from throughout New South Wales in protest at this ill-conceived policy announcement and lack of proper consideration. It demonstrates very clearly that the Government must take action. They cannot leave people in limbo any longer. I refer to other emails I have received. One states:

> Such laws will ruin many businesses, lifestyles, and access to hard to reach places

Another said:

> I take my family well off the beaten track regularly including my 76 year old mother who cannot walk on typical "bush tourist walks" and I worry for the future of my son and all children, who are in danger of being able to see very little of our amazing country and only from the tinted window of a tourist bus!

And from another email:

> I am offended and angry by the fact that under these new regulations I am being labelled as a hoon and that my vehicle is to be doomed illegal.

It is plain that the four-wheel drive, caravan-towing and car enthusiasts in our community want the Government to make its position clear on this matter. No more delay, no more spin, no more inaction. That is why over 3,800 people have signed up to my online petition [*Time expired.*]

KIAMA LIONS CLUB AND OPERATION SMILE

Mr MATT BROWN (Kiama) [6.02 p.m.]: This evening I want to pay tribute to the outstanding work and dedication of one of my constituents and good friends, Andy Keating. Through his work, Andy has helped change the lives of thousands of Vietnamese children. In the process he has brought Australia and Vietnam closer together and sowed the seed for the building of a friendship house between our two nations in the village of Hoi An. Andy is in the gallery tonight with his wife, Anne, and friends and supporters from Kiama. A number of years ago Andy did some volunteer work in an orphanage in Ho Chi Minh City. I accepted Andy's invitation to go over there and look at the work he was doing. I could clearly see that he had found a calling to assist these young Vietnamese get well and have a wonderful life.

Due to the hardship many families face in Vietnam, a number of children with minor deformities such as a cleft lip or cleft palate were left on the steps of the orphanage. Andy knew that there must be a solution to this condition and sought out the charity Operation Smile. The aim of this charity is to raise money so those kids born with a cleft lip can have a life-changing operation that will remove the condition along with the stigma associated with it. The operation gives the kid and their family hope and confidence. Life is already hard enough for most people in Vietnam and for only $US100 a new life can be granted. That is the amazing thing about this operation. It is relatively cheap from a Western perspective—only $US100—and makes the world of difference, but it is cost prohibitive for many Vietnamese families.

An abnormally high percentage of Vietnamese are born with this condition mainly due to an inadequate diet on the part of the mother, especially a lack of folic acid. Many think that the condition is due to the Agent Orange poisoning that still affects many parts of the country after the war that the Vietnamese call the

"American War". However, I have been informed that that is not the case but a different health issue altogether. Nevertheless, it still impacts on many in Vietnam. Those who know Andy know that when he decides to do something he throws himself in, boots and all. Helping these Vietnamese children through Operation Smile probably has consumed him more than any other project in his life.

But the results are there for all to see—happy, smiling children now with the world at their feet. But all this work needs good administration and good administration is probably not one of Andy Keating's strongest points. Knowing this, Andy sought the assistance of the Kiama Lions Club, whose members are also present in the gallery, to help raise money and see that it was well accounted for. Kiama Lions do a lot of amazing work in my home town, but their efforts with Operation Smile are truly outstanding. In fact, Kiama Lions Club, the largest Lions Club in Australia, has raised more than $80,000 for this charity and has committed to raise $100,000. They recently accompanied Andy to Vietnam to see firsthand how their money has changed lives.

Of course, all this good work could not be done without the support of a stable and loving home. In this regard I wish to place on record my huge thanks to Andy's wife, Anne. Anne keeps the family ship sailing no matter what difficult weather conditions come up from time to time, and they definitely come. On behalf of all those who have benefited from the good work of Andy Keating, thank you Anne.

In a similar vein I would like to acknowledge the interest and support the Vietnamese Government has shown in Andy's work and recognise His Excellency Mr Vu Hong Nam, the Consul General of Vietnam, and his Deputy, Mr Tran Quoc Khanh, and their Sydney team, who are in the gallery to join this tribute to Andy. Andy is also receiving support tonight from the Ambassador for Ireland, His Excellency Martin O'Fainin. The Vietnamese Government has approved a sister town relationship between Hoi An and Kiama. This is a clear example of the way Andy has brought our two countries closer together.

Thank you also to Kiama Council and, in particular, the Mayor, Sandra McCarthy, and General Manager, Michael Forsyth, for the support they have given this special relationship. On Andy's last trip he spoke with the Australian Ambassador in Hanoi. At this meeting the seed was sown for the building of a friendship house between our two nations. I am honoured to have been asked to put a steering committee together to see that project come to fruition. Tonight's tribute is all about the energy and compassion of a truly remarkable Australian. Well done, Andy. You have made the world a better place.

ACTING-SPEAKER (Mr Thomas George): As President of the Parliamentary Lions Club, I acknowledge the Kiama Lions Club members here tonight. I congratulate and thank them for the job they do for the community.

AUTOMATED EXTERNAL DEFIBRILLATORS

Mr ROB STOKES (Pittwater) [6.07 p.m.]: Surf clubs throughout Pittwater are constantly engaged in training volunteer lifesavers. One of the most important developments in surf lifesaving training in recent years has been the introduction of automated external defibrillators to assist patients suffering sudden cardiac arrest, which is one of Australia's biggest killers, taking the lives of around 20,000 Australians every year. Sudden cardiac arrest occurs when a person's heart unexpectedly stops beating, preventing the flow of blood to their brain and other vital organs. When this occurs an immediate response is paramount and a defibrillator is required to help restore the victim's heart to its regular rhythm.

Obviously risks of sudden cardiac arrest are heightened in the context of the surf, where exhaustion, exposure or marine envenomation can dramatically increase pressure on the normal operation of the heart muscle. Yet it is thanks to the vigilance and service of surf clubs in Pittwater and across New South Wales in embracing defibrillation technology that a patrolled beach in New South Wales is among the safest places for victims of cardiac arrest.

I place on the record my appreciation for the work done by Gary Beauchamp, the assessors, the chief instructors and the trainers with Surf Life Saving Sydney Northern Beaches and Pittwater's local surf clubs. Throughout the rest of the Pittwater community and elsewhere in New South Wales real risk factors point to the need for easy access to the effective treatment that can be provided by an automatic external defibrillator, or AED. For example, Pittwater has an ageing population and it is remote from the rest of metropolitan Sydney, which is why having convenient medical services at Mona Vale hospital is so important. It also emphasises the need for easy and immediate access to defibrillation.

The key to a successful resuscitation is time. Defibrillation must take place within the first few minutes of arrest as each minute that lapses decreases a victim's chance of survival by around 10 per cent. Given that the average response time for an ambulance in New South Wales is now more than 10 minutes, often there is very little chance of survival. Fewer than 10 per cent of those who suffer cardiac arrest outside a hospital live to tell their story. The need for urgent intervention prompted Irish cardiologist Frank Pantridge to develop the first portable defibrillator in 1965. Today's AED devices are lightweight, easily transportable and operational. They are designed to assess a patient's condition and then visually and verbally coach users on how to apply the device and administer treatment. Professor Pantridge's vision was to have the devices located, like fire extinguishers, in buildings and in public places. He accepted that it simply was not possible for paramedics to be everywhere within five minutes, and he believed that the availability of these devices was the next best thing in providing cardiac arrest victims with a fighting chance.

Since the early 1990s we have begun to see the gradual rollout of these devices at sports stadiums, airports and hotels, resulting in the successful defibrillation of a 63-year-old man after he went into cardiac arrest at Sydney airport. The State Government is beginning to place defibrillator units in CityRail's busiest stations after a life was saved during the trial of just five machines. There is, therefore, a clear correlation between access to these easy-to-use devices and lives being saved. In New South Wales we have made it mandatory to wear seatbelts in vehicles and install smoke detectors in homes as they have a proven role in saving lives. We now have another lifesaving device that has a proven role in saving victims of sudden cardiac arrest.

The challenge for the Government is to encourage the installation of these devices in workplaces, public buildings and entertainment venues through education, licensing and development application conditions and incentives. Such a move would provide a welcome safeguard against the risks of sudden cardiac arrest and help to give victims a real chance of survival. With Pittwater's population ageing and increasing like the rest of this State's population, there is increased pressure on our health services. Now is the time to be looking at innovative ways to address what will become an increasingly serious issue in the future. No doubt costs will be involved, but the cost of inaction will be even greater, with more lives lost, more victims in our hospitals, rehabilitation centres and care facilities, and an ongoing burden on the public purse.

A policy solution might involve making it a condition of consent for licences under the new legislation permitting the development of small bars across communities such as those in the Pittwater electorate that licensed premises be equipped with defibrillator devices, especially since heavy alcohol consumption is a clear risk factor in sudden cardiac arrest and it is entirely foreseeable that a cardiac emergency could occur in or near a public bar. This is just one example of the numerous opportunities that the Government could explore to ensure that these essential lifesaving devices are made available at venues frequented by large numbers of patrons. This would be a real investment in people's lives and a real investment in New South Wales. I commend defibrillators to the New South Wales Parliament and invite the Government to explore new opportunities to use these lifesaving devices. I refer, once again, to the great work that Surf Life Saving Sydney Northern Beaches and the Pittwater Surf Club are doing in championing the use of defibrillators in the Pittwater community.

WATER MANAGEMENT TECHNOLOGY

Mr RICHARD TORBAY (Northern Tablelands—Speaker) [6.12 p.m.]: Undoubtedly one of the major issues facing us this century is the more efficient use of resources, and in particular water. The profligate practices of the past are unsustainable and that is brought home to us every day with the news of drought, failing river systems, irrigators in trouble over supply, and towns and cities placing every restriction on water usage. One of the mantras coming out of the climate change debate is that new technology and clever thinking will rescue the situation. In a sense this is already happening. A project in my electorate is at the forefront of innovative thinking that drives change. RMTeK, a company based in Armidale and driven by four former academics from the University of New England, has developed a server-based solar and wireless monitoring device for use in remote locations. Its core product, RMCam, is a solar-powered industrial controller-camera unit with high-quality optics running over Telstra's NextG network.

A major part of this technology is the capacity to collect data and effect control at a remote site in real time. The company, which commenced operations almost two years ago, employs seven full-time staff and has already established strategic partnerships with Telstra, Canon Australia, Inland Technology and manufacturing partner RF Industries. Commercial trials are established and operating with Country Energy, the Australian Railtrack Corporation, Clyde Agriculture, Auscott Pty Ltd, Gosford City Council, Executive Oasis and the New

South Wales Office of Water Hydrometrics Group. There is a great deal of interest in this project because the cameras can be placed strategically in locations that are difficult and expensive to monitor. For example, farmers can visually monitor their irrigation systems on screen, make adjustments through the data that is supplied and, as a result, save water, money and time.

The cameras measure a full range of water-quality measurements and other data that make the remote control management possible and effective. Weather stations can also be attached and return data in real time. The technology applies equally to rail and road systems where potentially dangerous rock falls or other incidents can be identified instantly and measured to provide work teams with the information they need to undertake repairs quickly and efficiently. In the construction industry innovative accommodation provider Executive Oasis is using the technology to reduce carbon emissions by remotely monitoring its Narrabri development, drastically reducing travel and saving time. RMCam operates with or without mains power and does not require fixed communication lines as it operates over Telstra's NextG network. It provides vision that can pan, tilt and zoom live, or it can patrol preset positions of interest, building an historic database of images and supporting data for referencing.

RMCam can provide real-time notification of changes to sensors attached to the unit. It collects and transmits a range of hydrometric and other environmental data for analysis. It can switch and control devices at a remote location and verify the change of state through vision captured by the unit. It reduces travel and labour costs associated with routine checking tasks. Former academics Chris Weber, Bradley Scott, Brendan Doyle and Warrick Forbes have developed this technology through university-based research work over many years and they continue a close association with the University of New England's Institute of Rural Futures, the Precision Agriculture Research Group and the Cooperative Research Centre for Spatial Information. They have received good feedback from clients who have used the technology in a wide variety of locations.

Its application for monitoring water use on farms and in river systems is of prime importance. Many communities, agricultural enterprises and natural environments dependent on a plentiful supply of water are now in crisis as that supply diminishes from dry weather conditions and overuse. While we can do little about the weather, we can, through technology such as this, make much better use of the water that is available. The other good outcome of this technology development is that it will create more jobs. The company is developing whole-farm water-balance measurement software to partner the RMCam units, and has estimated that a 2 per cent adoption of the technology among irrigation farmers will create 170 new jobs over the next five years. In economic terms the flow-on effects through efficiencies would be substantial. I believe that RMTeK has applied for some assistance from Industry and Investment New South Wales and I am advised that discussions with the Minister's office have been positive. I am confident that this project will receive government support.

COFFS HARBOUR DRAINAGE WORK

Mr ANDREW FRASER (Coffs Harbour) [6.17 p.m.]: Tonight I express disappointment about the drainage system in Coffs Harbour after recent rainfall events, during which time hundreds of properties were affected. Earlier, Acting-Speaker Mr Thomas George expressed an interest in the event about which I am speaking, and we have had five major rainfall events this year. The last rainfall event had an extreme effect on the Orana and Bucca valleys and on many rural properties and businesses. I thank all members of staff in my office, who have been inundated with inquiries from constituents, for the great job that they do. Yesterday the painters were called into my office. I was here and my staff had to put up with the inconvenience of painters going through the place and cleaning it up. They have done a great job.

I spoke to Minister Kelly this morning about the problem. Many farmers lost fences yet again, in some cases for the fifth time this year. The Government has failed to approach the Federal Government for a $15,000 grant to farmers. Many farmers would not qualify for these grants, but the loss of fences, roadways and bridges for the fifth time in one year is a huge expense on a farmer's annual income. We must examine the criteria for approving grants to farmers and private landowners who have lost farm equipment, roads, fences, et cetera. In Jordan's Way just north of Coffs Harbour the drains were not sufficient during the flood and driveways were washed out. These local people are desperate for help as the shared road they use, which council allowed under a subdivision, is not covered under flood assistance. These people collected $40,000 for repairs after the March flood and will now have to spend a similar amount just to gain access to their homes. The three levels of government need to cooperate to establish a new procedure to determine which roads are covered and what drainage work needs to be done.

Coffs Harbour City Council told us months beforehand that environmental legislation stopped it from cleaning out drains and creeks. After checking with the Catchment Management Authority I could not find any

legislation that prevented the council from undertaking that clean-up work. In fact, it was probably the council's own local environmental plan that prevented it. Amazingly, after I called a meeting at Coffs Harbour on the Tuesday night to which approximately 150 concerned residents turned up, on Friday the council had its excavators, diggers and workmen cleaning out those drains and creeks, getting rid of flood debris and reducing the level of rubbish that increases the water level during floods.

The rail and road bridge at the end of Coffs Creek on Orlando Street also needs improving. Years ago our fishing fleet was moored in Coffs Creek. These days the creek is so shallow that you can walk across it at low tide and probably not even get your knees wet. When we get high water flow down Coffs Creek together with increased run-off from development—I am not against development—the creek fills quickly, but when the flow gets to the mouth of the creek it cannot get out as quickly, so it backs up and floods the town centre, homes and everything else. The Australian Rail Track Corporation, State Rail, and the Roads and Traffic Authority should look at how the creek has been narrowed by putting a rail and road bridge across it.

The creek needs to be widened and it will need State and Federal funding to do so. I appeal to the Government to send Ken Moroney back to examine the infrastructure problems and ensure that not only the town creeks and drains but also the farm creeks and rivers are cleaned out. I lost about 150 metres of fencing on my property, which will give me something to do over Christmas—a welcome change from politics. At the end of the day many farmers are worse off than we are in our valley. Some people have lost all their fences and some have lost stock. We need to look hard at how assistance is granted and the qualifications for it. We need also to look at making sure that these creeks, dams, rivers and drains can be cleaned out to ensure properties do not get flooded.

MINGARA RELAY FOR LIFE

Mr GRANT McBRIDE (The Entrance) [6.22 p.m.]: Relay for Life was held at Mingara Recreation Club on Saturday 17 October 2009 and I had the privilege of opening this wonderful event. In my address I was able to acknowledge the people of the Central Coast community that joined together at Mingara to help support the fight against cancer on the Central Coast and beyond. They were there to celebrate the lives of those who had passed, the lives of those who have survived and the lives of carers. As we all know, cancer knows no boundaries and it is how we respond that defines us as human beings. Mingara Relay for Life is the third largest event held in New South Wales, with this year's event witnessing a total of 1,636 people registered to participate over the weekend, including 146 teams, 100 survivors and 108 carers.

I take this opportunity to congratulate and acknowledge all the hardworking members of the organising committee on this outstanding achievement: Paul Barry, Julie-Anne Rogers, Ms Lesley Chart, Kate Rey, Karen Morabito, Peter Hill, Debbie Smith, Maureen Troy, Alan Phillips, Kate Jennings, Debbie Cooper, Richelle Bennett, Bill Gray, David Ardley, Gleness Rowe, Jackie Kelly, Jean Ardley, Jordan Brinklow, Colin Gibbons and Hazel Reinhard. I thank also John Millard, Community Officer for Mingara, and Bernie Randall, President and the director of Mingara, for their support of this important community event.

The relay kicked off at 4.00 p.m. with a Welcome to Country followed by a welcoming address by the chairman of the organising committee, Mr Paul Barry. Following my address to the attendees, Dr Chris Jolley from the Cancer Council spoke to the relay participants about how the moneys raised through this event are spent on cancer research. Cancer survivor Debbie Smith conveyed her journey with cancer and read the Relay for Life Oath, declaring the 2009 relay open, and 10 cancer survivors drawn from the attendees cut the opening ribbon simultaneously. Each of these survivors represents a different type of cancer. This expression of inclusion helps illustrate the broad swathe that cancer cuts through our communities and families.

As the flashing signs lit up reading, "Celebrate/Remember/Fight Back", the survivors and their carers proceeded to walk the initial lap, led by the band, to the cheers of the attendees from the border of the track. Since its inception in 2001 each year's event just gets better and better. Entertainment from the Singing Hands Choir Group opened the candlelight ceremony at dusk. The choir sing with their hands, gesturing symbols such as love to convey a story relative to so many individual journeys. This talented group helps to bring people together by making them feel part of this special event. Other great entertainment for the event was the very successful and fun Miss Relay, when men dress as women for a beauty contest.

The weekend really came alive with the involvement of many stalls set up around the track offering food, massages and souvenirs, all helping to raise money for cancer research. For example, the Pretty in Pink stall ran a barbecue and participants were invited to purchase sausages and hot beef rolls. Something truly

unique unfolded at Mingara's Relay for Life this year with a milestone being reached. The Cancer Council event hit the million-dollar mark after almost a decade of footwork and fundraising. Given the heavy demands placed on the generosity of people by a variety of competing charities and events, and by the global economic climate, the $200,000 raised at the 2009 Relay for Life was a superb outcome.

In a more sombre note I pay tribute to Margaret "Maggie" Kearney, a mother of seven grown children and nine grandchildren, our neighbour and friend of 24 years who came home to die in her own bed after 2½ years of fighting the good fight. Her daughter Kathy told me that her mother had taken the pain from all her family by her gift of spirit and belief. I am sorry to say she has now lost her battle. Mingara Relay for Life is a day—as is tomorrow and as is every other day—to share these experiences and celebrate the lives of those who have passed away, of those who have survived and of those who are carers. This event is a positive memory for all who participated, and again I thank the organisers for their dedication and commitment to the ongoing fight against cancer.

MANLY STORMWATER

Mr MIKE BAIRD (Manly) [6.27 p.m.]: I reassure the Manly community that its opposition to Sydney Water's proposal to build a sewerage tank on the northern beaches has been heard. The community rightly was outraged when Sydney Water changed its plans to build a $70 million underground storage tunnel to capture stormwater overflows and to build instead a storage tank the size of 18 Olympic swimming pools on community land. We all want Manly and Curl Curl lagoons to be clean, but it should not be at the expense of our parks or school playgrounds. The plan is an important initiative because with about a dozen storm events each year more sewage pours into Curl Curl and Manly lagoons—and that is unacceptable in this day and age. This problem should be a priority. Sydney Water started with a plan but changed it, primarily due to cost.

Sydney Water acknowledged the need, and certainly the allocation of $70 million towards the project is appreciated. However, when I learned that the plan no longer provided for a tunnel because of cost implications, I called the Chief Executive Officer of Sydney Water to request a meeting to express objections to the three sites identified for a storage tank. I acknowledge that Dr Kerry Schott, Managing Director of Sydney Water, and Paul Freeman, General Manager Asset Management, listened to community concerns and have started to address them. Really that is all we can ask. Kerry in particular acknowledged that Sydney Water had not got the project right and after listening to the community tried to respond in the best possible way. During the discussions, Sydney Water said that the industrial area at Brookvale had been canvassed, but that it had been passed over. At that meeting I requested Sydney Water to seriously reconsider Brookvale as an option because it is likely to attract the majority of support in the community. As events have unfolded, that certainly appears to be the case. I am grateful for the action taken by Sydney Water.

I understand that during the next week or so Sydney Water will rule out two of the three proposed sites for the sewerage tank, and that it will seriously consider the industrial area at Brookvale as an alternative site. It appears that Sydney Water will rule out the Manly Selective High School site. That was a crazy proposition to begin with because it was within the grounds of a high school and would have destroyed the last of the incredible remnant bushland behind the site. Sydney Water has also ruled out Harbord Park, which is situated among a range of residential-type developments. Both of those sites will be depicted as not viable, or at least I understand that will be the outcome. I look forward to written confirmation of the discussion.

I have always said in relation to John Fisher Park that it would not even be considered by the community unless the sewerage tank could be completely buried and an understanding could be reached in relation to environmental impact and management of the site. Taking into account some engineering advice I have received as well as community concern, the proximity of a water table will make it impossible for the tank to be completely buried. If the tank has to be located above ground, the community will rule it out as a site forthwith, and rightly so. For similar aesthetic and environmental reasons, John Fisher Park should be immediately ruled out as well. Only one site remains for consideration. I ask for priority to be given to the Brookvale Industrial Park.

It is my firm understanding that Brookvale Industrial Park is being seriously considered as the location of the tank, and I endorse that proposal. I acknowledge that the community as a whole has responded and that Sydney Water has acknowledged that consultation to date has not been properly carried out. To remedy that defective process, Sydney Water has attempted to consult as many groups as possible, and all groups will be consulted going forward. I await feedback relating to the consultation, particularly in relation to the Brookvale Industrial Park site.

I take this opportunity to pay tribute to several residents who have been very actively involved in this issue: Nick, Jane and Madeleine Lush from North Curl Curl, Brent and Jayne Persico from the North Curl Curl Action Group, Deborah Cox and Rod Abbot from the John Fisher Park Community Group, and Craig Brighton, who represented the Freshwater group. All those people are passionate community members and represent literally hundreds of others. In just two weeks, almost 3,000 people have visited a Facebook page that has been set up to oppose the sewerage tank being located on the northern beaches sites that were proposed. The community is determined to ensure that public land is not lost to accommodate a sewerage tank.

I applaud the work of the community. I give a commitment to all the groups involved that we will not stop the fight until the sewerage tank is located in the Brookvale Industrial Park or, indeed, the initial proposal is restored to the agenda.

WALLSEND RSL SUB-BRANCH

Ms SONIA HORNERY (Wallsend) [6.32 p.m.]: On the eleventh hour of the eleventh day of the eleventh month, we stood to remember the fallen of the Great War and subsequent wars and conflicts that this country has participated in since that time. I take this opportunity to reflect on an organisation that has helped to support the survivors of those conflicts. If the Gallipoli campaign was the birth of a nation and the Australian character, then it was the actions of the members of the RSL that helped to cement the ethos of looking after your mate. The Wallsend RSL Sub-Branch is celebrating its ninetieth anniversary, and incidentally was one of the first groups to host a dawn service.

Since its inception, the RSL has forged a reputation in our town as a prolific fundraiser. Having raised a large percentage of the funds, the Women's Auxiliary used that to assist unemployed and sick ex-servicemen and provide welfare to their families. The sub-branch purchased the redundant Wallsend Council Chambers, which proved to be a welcome source of income. During World War II, they worked with the community to form the Wallsend Farewell and Welcome Home Committee. Realising the need for better health facilities for our veterans, the sub-branch commenced an appeal in 1944 to build an ex-servicemen's hospital locally.

Federal Park hosted many chook raffles, and to keep the constabulary happy the Inspector of Police was lucky enough to win many chooks. The hospital was opened at Bolton Point in 1956. Eager to have a club of their own for the many World War II veterans, the Wallsend RSL and Citizens Club was opened. It provided a steady flow of income to the sub-branch. The success of the club enabled the sub-branch to grow and expand. New premises were built and the club relocated to the present Robert Street building in 1960. From 1955 to 1965, a decade of rebuilding, the sub-branch did not lose sight of the main game.

Hospital visitations to sick members were increased. Welfare assistance to members and widows of members continued, as did disability pension claims. During this period and up to the present time, many members were assisted in making claims for disability pensions as their age increased and their health deteriorated. Advocates were provided to ensure they were properly represented at tribunals. War widows were assisted to gain all proper entitlements. It is important to note that the sub-branch's generosity also extended to the broader community. Junior sporting teams of all types received support and equipment. Learn-to-swim campaigns were carried out in summer, and children were provided with transportation by bus and returned to the RSL. Tuition was given by members of Nobbys Surf Club, who the branch supported by providing a surfboat and other equipment. Community charitable organisations of all kinds were given financial assistance.

In the early 1960s it became obvious that the club and the sub-branch should go their separate ways, as separate ballots were required to give our citizen members representation on the board of directors and the right to vote. The club then became a completely separate entity and remains so at this date. The sub-branch is governed by a committee whose members are elected by the ex-service members of the RSL. Its sole function is to support their members however it can. That is financed by interest earned on the money received by the sub-branch for the sale of the club.

This wonderful organisation, which empathises with and cares for the men and women and their families who have been touched by the horror of war, really deserves our respect and appreciation. I acknowledge Mr Len Legget, who is the sub-branch's historian, for the invaluable information he has provided. The Wallsend RSL Sub-Branch demonstrates what true mateship is all about. We in Wallsend thank the sub-branch for 90 years of continuous service to the Hunter community.

DUBBO CANCER TREATMENT SERVICES

Mrs DAWN FARDELL (Dubbo) [6.37 p.m.]: Today I call for support for the establishment of a private cancer centre in the city of Dubbo to serve both public and private patients throughout western New South Wales. This project will provide a vital piece of infrastructure in the Dubbo electorate and for areas far beyond, but to make it a success we will require the support of both State and Federal governments. The Acting Prime Minister, Julia Gillard, announced at the New South Wales Australian Labor Party's State Conference two weeks ago that applications for infrastructure funding for regional cancer centres are now being sought. This is an opportunity that the State Government and its agency, the Greater Western Area Health Service, must seize upon for the sake of hundreds of thousands of people throughout western New South Wales who have no access at all to local radiotherapy services. A Cancer Council New South Wales report has already identified Dubbo as one of the centres that should be urgently considered for radiotherapy services.

The city of Dubbo is the hub of western New South Wales. It is a key service centre for more than 200,000 people throughout western New South Wales. The residents of isolated outback towns such as Bourke, Nyngan, Coonamble, Walgett, Lightning Ridge, Cobar, and Brewarrina travel long distances to Dubbo to access a wide range of services. The people of Gilgandra, Coonabarabran, Dunedoo, Narromine, Warren, Peak Hill, and Trangie regularly make a trip to Dubbo. Dubbo is also now the biggest health referral centre in western New South Wales. Cancer victims in the western region come to Dubbo for diagnosis and treatment. Sadly, cancer strikes at a disproportionately high rate in western New South Wales compared with other parts of the State that have greater socioeconomic wealth and better access to medical facilities. Yet having already driven hundreds of miles to the Dubbo regional centre, they are then forced to travel even farther to Orange or to Sydney for the basic lifesaving services that residents of Sydney take for granted.

It is not fair that hundreds of thousands of people living in some of the most disadvantaged communities in New South Wales cannot access radiotherapy treatment in Dubbo. The current situation is a travesty and must be remedied. The Federal Government's regional cancer centre proposal is the way to resolve this problem so I exhort my colleagues in this place, particularly the Minister for Health, to throw their support behind an application to establish a regional cancer centre in Dubbo. Inequitable provision of radiotherapy services across New South Wales is resulting in serious emotional trauma to patients who are already vulnerable from surgery, drug treatment and a potentially life-threatening diagnosis, according to the Cancer Council. The council's "Roadblocks to Radiotherapy" report documents the practical, financial and psychological hardships experienced by patients who are already seriously ill yet are forced to travel long distances to receive radiation therapy.

For those with families with limited financial resources, a trip to Orange or to Sydney is a logistical nightmare. It is made even worse by the fact that public transport is almost non-existent—I am sure the member for Lismore is aware of this in his area—and the financial assistance retrospectively available from the Isolated Patients Travel and Accommodation Assistance Scheme barely covers a fraction of the costs involved in travel and accommodation. Many people choose not to complete treatment or to receive only minimal medical assistance because they cannot access help locally. As a result, the survival rate for cancer sufferers in western New South Wales is much lower than in other parts of New South Wales. This is a disgrace. Is a life worth less in the Dubbo electorate or in outback New South Wales than it is elsewhere? And the situation will get worse, with cancer cases forecast to increase by 30 per cent over the next 10 years.

In his landmark report on New South Wales public hospitals a year ago, Peter Garling identified services for patients outside cities as a major problem. I understand that the Greater Western Area Health Service is currently in talks with several potential private partners regarding a bid for Federal Government funding for such a regional cancer facility. This cash-strapped organisation does not have the funds to take on a radiotherapy facility in its own right, but a partnership with a private provider could be the key to supplying the radiotherapy services so desperately needed in Dubbo. The Greater Western Area Health Service must pursue this application as a matter of priority and do whatever it takes to make this bid a winner. We are still reeling in the Dubbo electorate from the shocking revelation that budget mismanagement has resulted in extensive medical services being developed in the city of Orange, at the expense of Dubbo, despite Dubbo being the obvious regional centre for key medical facilities.

I repeat: Dubbo is now the biggest health referral centre in western New South Wales. The Cancer Council chief executive, Andrew Penman, has stated that the lives of cancer patients should not be risked simply because of "lack of planning, management and investment into radiotherapy" by the State Government. It is now up to the Greater Western Area Health Service and the health department to make amends and urgently pursue

this application for a regional cancer centre in Dubbo. I call on fellow members in this place, and in particular the health Minister, to back this bid. The Minister must lobby her Federal colleagues to ensure that the people of western New South Wales can finally gain access to radiotherapy and other crucial cancer services.

COOK PARK, KYEEMAGH

Mr FRANK SARTOR (Rockdale) [6.42 p.m.]: I congratulate the member for Dubbo on what she is arguing for. I was involved in setting up the State cancer institute when I was the Minister responsible, and the member is pursuing a good cause. I wish her all the best. Today I wish to talk about the significant improvements the community will be able to enjoy at the northern end of Cook Park in Kyeemagh once Sydney's desalination plant is completed. As most members will be well aware, the northern end of Cook Park has been used over the past two years by Sydney Water and the Water Delivery Alliance to build the pipeline for the desalination plant, which runs across Botany Bay to a microtunnel under Tancred Avenue, Kyeemagh, to take the pipeline through to Erskineville. During construction a temporary car park was built off Bestic Street to provide parking for the C-Side restaurant, as well as a new temporary bicycle and walking track so cyclists and pedestrians could continue to use and enjoy the park. In addition, a four-metre noise abatement barrier was built along General Holmes Drive to reduce noise impacts on residents living nearby.

On top of this, a new slip lane was built on General Holmes Drive to provide a safer entry and exit point for vehicles moving in and out of the site. Throughout this entire process my office received very few calls or complaints about the work at the site. I congratulate Sydney Water and the Water Delivery Alliance on doing such a professional job. Earlier I approached the Water Delivery Alliance and Sydney Water to achieve some lasting legacy for the park, given that the community had been deprived of its enjoyment for more than two years. I also spoke with the Minister for Water, who was very supportive, and I thank him for his support. Recently, I met with representatives of Rockdale City Council and the new Mayor, Councillor Shaoquett Moselmane, together with Sydney Water and the Water Delivery Alliance, on the site to discuss the restoration process and possible improvements to Cook Park, Kyeemagh.

After lengthy discussions, a number of improvements were agreed on, and they include the following. On the northern end of the site the eastern shared pathway will be moved seaward to accommodate a new disabled access ramp to the beach. The western shared bike way will be extended further south with an additional section to go around the restaurant to link to an existing pathway and provide a continuous cycle track southwards towards Brighton-le-Sands. A new 40-space car park will be built south of the restaurant. The existing car park north of the restaurant will be reduced from 108 spaces to 40 spaces, and a new 40-space car park will be built further north, which will be linked with the slip lane. Of course, that will greatly improve traffic safety along General Holmes Drive. By reducing the existing car park in the middle section of Cook Park, Kyeemagh, a more clearly defined open space will be left, allowing users of the park to engage in more ball games, picnics and other recreational activities.

The cycle and walking tracks that exist now will be restored and kept, and all the vegetation, grassland and lawn will be restored. Finally, Sydney Water will provide the people of Rockdale with a new larger state-of-the-art playground, which will be located at the southern end of Cook Park, Kyeemagh, near the existing playground. These might be small matters but they are significant to the local community, which has been patient while this work has been happening in its parkland. They are significant improvements to the park, and I thank Sydney Water for its contribution. Furthermore, I inform the House that over the next two weeks two community information and feedback sessions will be held to enable the community to have its say on Cook Park and the development of a new plan of management for Cook Park. The first meeting will take place this coming Saturday between 11.00 a.m. and 2.00 p.m. at Ramsgate Life Saving Club. The second meeting will be held on Thursday 3 December between 6.00 p.m. and 9.00 p.m. at the Novotel Brighton.

All residents are welcome to attend and have their say on what they would like to see happen in Cook Park. Public feedback from these sessions will be incorporated in the draft plan. It is intended that a draft plan will be put on formal exhibition from 17 December 2009 until 19 February next year. There is a lot of good work happening on the plan of management for Cook Park. I hope that in the new year, with cooperation between the Department of Lands and Rockdale council, we can see some significant enhancements for the local community. I also thank the Roads and Traffic Authority, which is now looking at providing better pedestrian access from General Holmes Drive and across the Grand Parade to allow people to have access to that important recreation area. I thank them for their contributions. I commend this matter to the House.

Private members' statements concluded.

PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT (AUTOMATIC ENROLMENT) BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

WATER MANAGEMENT AMENDMENT BILL 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2) 2009

Bill received from the Legislative Council and introduced.

Agreement in principle set down as an order of the day for a future day.

[*The Acting-Speaker (Mr Thomas George) left the chair at 6.48 p.m. The House resumed at 7.30 p.m.*]

VIOLENCE AGAINST WOMEN

WHITE RIBBON DAY

Matter of Public Importance

Mr GERARD MARTIN (Bathurst) [7.30 p.m.]: I ask the House to note as a matter of public importance the White Ribbon Day campaign to stop violence against women. Today marks the United Nations International Day for the Elimination of Violence against Women or, as it is more commonly known, White Ribbon Day. Members could not fail to notice the large white ribbon banner adorning Parliament House this morning in recognition of this important day. Today is not a day to celebrate or rejoice. It is a day when we should all reflect on the scourge of violence against women. In Australia one in three women has experienced physical violence at the hands of their current or former partner. That is indeed a shocking and sobering statistic. The wearing of white ribbons on 25 November has become a well-recognised symbol of saying no to violence against women. I note that today members in the House, almost universally, are wearing a white ribbon.

What makes this campaign so powerful is that men, men who are willing to take a stand and proclaim that violence against women is unacceptable and intolerable, carry this message. Statistics show that men are responsible for 80 per cent of the violent acts committed against men and women. The percentage committed against women is higher than that committed against men, so it is obvious that if we are to change those statistics we must target men. White Ribbon Day ambassadors are men who are positive role models to other men in the community; and I am pleased to inform the House that I have been an ambassador for five years. White Ribbon Day ambassadors pledge never to commit, condone or remain silent about violence against women. The Premier, the Attorney General, the Minister for Corrective Services, the Minister for Mineral Resources, the Leader of the Opposition and the Prime Minister are all proud White Ribbon Day ambassadors. They join other men from the media, sports and entertainment industries, the church, law enforcement, education and politics, in carrying the White Ribbon Day message. About 1,000 men in Australia are White Ribbon Day ambassadors. But we need more!

However, what is most inspiring is that among the ambassadors are a number of schoolboys—a salient point. We commend those young men for their strong public stand and outstanding leadership. Today across Australia, men will wear white ribbons and will pledge to never commit, condone or remain silent about acts of domestic violence. I strongly encourage all male members of this House to take that pledge. The White Ribbon Day organisation has set up a website to do that—*www.myoath.com.au*. All members should visit that site and make that commitment. White Ribbon Day evolved from a campaign by a group of Canadian men in 1991 who were horrified by one man's massacre of 14 women in Montreal. It is now a worldwide movement. In 1999, the United Nations General Assembly declared November 25 to be the International Day for the Elimination of Violence against Women.

The White Ribbon Day Foundation in Australia does incredible work in raising awareness of violence against women at national, State and local levels. I am proud that the Government supports White Ribbon Day and enables the foundation to undertake these activities. White Ribbon Day is complemented by the 16 Days of Activism to stop the violence against women that run from 25 November to 10 December, which is World Human Rights Day. During the 16-day campaign communities across New South Wales run events to raise awareness about violence against women in their communities. The Government is a strong supporter of these events. Recently it funded 59 local domestic violence committees to produce some outstanding initiatives as part of White Ribbon Day and the 16 Days of Activism to stop violence against women campaign.

Previously my colleague the Minister for Women informed the House of some of the incredible work the committees have done with the help of Government funding. I again draw the attention of members to some examples of the events that are being carried out in many electorates. In doing so, I remind members that the local domestic violence committees are not bureaucratic bodies; they are groups of committed and passionate individuals, men and women who have come together voluntarily to take a stand and to make a difference in their communities. In Forbes, the local committee will hold a street stall to provide information about preventing violence against women, publish anti-violence notices in the local newspaper and produce an information pamphlet for the Forbes area containing emergency numbers and services. The notices will be distributed at doctors' surgeries and hospitals.

In Wellington, the campaign is known as Wello Says No. A range of promotional and prevention material and information is being produced. In Broken Hill, the local committee will conduct a media campaign during the 16 Days of Activism campaign with 16 men, one per day, appearing on local television to express their condemnation of violence against women. The Wollongong Domestic Violence Committee has produced two large banners to be hung on the Wollongong City Council building and the Shellharbour City Council building during those 16 days. The Inner City Committee will launch a community education DVD entitled *Aboriginal Women Going to Court*, made by and for Aboriginal women. The DVD provides information for Aboriginal women who have experienced violence and information about court process. We all recognise that domestic violence is a major problem in indigenous communities.

All those initiatives and many more highlight just some of the incredible work being undertaken at a grassroots level to raise awareness of violence against women, to prevent it and to support survivors. It is very important that male members of this House, supported by female members, take the onus, the responsibility, to make a difference. A major cultural change is needed, starting in homes and continuing in schools and sporting organisations. All men need to stand shoulder to shoulder and say that it is not acceptable that violence against women and children be perpetuated in any circumstances.

Ms PRU GOWARD (Goulburn) [7.37 p.m.]: It is with pleasure that I support Parliament in its condemnation of domestic violence and its acknowledgement of the importance of White Ribbon Day. It is well recognised that domestic violence has continued despite 30 years of intervention. The Howard was the first Federal Government to become involved in the prevention of domestic violence Government—at which time I was privileged to be the head of the Office of the Status of Women. However, for many years the States have carried the greater burden of responding to domestic services. State governments fund services—police, welfare, housing and criminal justice services—are constitutionally responsible for them.

Where are we today? At a national level, we are in a situation where at least homicides related to domestic violence are trending down. However, the kindest way to describe the statistics in New South Wales is to say the situation is stationary—the trend is not up nor is it down. There is argument that possibly it is becoming more serious in New South Wales where, pro rata, more murders result from domestic violence. As the member for Bathurst observed, men and women must stand ready to condemn domestic violence. This is not about will or lack of belief. It is about the way we get the services to work together and the recognition of the damage to children. Children who witness domestic violence are more likely to become children in out-of-home care and to become part of the criminal justice system, particularly the juvenile justice system.

Everyone knows of the economic ramifications of domestic violence, such as in lost working hours. We know about the enormous contribution that the State has to make to housing, welfare and support services, not to mention criminal justice and police services. New South Wales lacks information sharing between agencies, which would make the coordinated response for families in domestic violence situations much more effective. But we now have information sharing arrangements when it comes to children in need of care and protection. Earlier this year the Parliament passed major amendments to the Children and Young Persons (Care and

Protection) Act to enable the exchange of information between not only government organisations but between government organisations and non-government organisations. This was difficult for a long time because of privacy reservations, which in a democracy are important to recognise.

Thanks to the recommendations of the Wood inquiry, the Parliament recognised that on occasions respect for the privacy of an adult decision and the privacy of a family within its four walls cannot overwhelm the importance of protecting children. We are not far from drawing the same conclusion when it comes to the protection of the innocent victims of domestic violence, whether men or women. Whilst the majority of victims of domestic violence are women, some are men. A case was recently reported in the weekend media that tragically, and movingly, described the difficulties faced by men living with abusive women and how they might end up killing those women. Others live in fear of their wives for years. It is a very different dynamic. It is not about the fear of physical violence but another sort of fear, which can be just as destructive for that family as the fear of physical violence.

However, the majority of victims of domestic violence are women, as amply demonstrated in the domestic violence homicide-related statistics. Domestic violence is similar to child protection in the sense that the victim is completely innocent, and we know how important it is to achieve an integrated response in helping with the problems of a child or family at risk of neglect or abuse. Therefore, we need to start saying the same things in relation to protecting victims of domestic violence.

Privacy laws are important. We are all living in a vibrant democracy and people have the privacy of their own homes, but for victims of domestic violence, the police should be able to say to a welfare organisation dealing with domestic violence cases, "We can tell you this about this family. We can tell you this about that victim. We would like you to do the following." That is not possible now because of privacy laws, which prevent the exchange of information at intergovernmental agency level, not including the exchange of information between government and non-government agencies.

Until we do that, and until we respectfully allow the exchange of information, we will never get the integrated response, which the Duluth Model in cities around America and indeed in places in Australia has established as the key to ensuring a strong response to domestic violence. A woman should be confident when reporting domestic violence that she will only have to tell her story once and that she will be carried through the system with the support of agencies that have been able to freely tell each other what needs to be done.

Dr ANDREW McDONALD (Macquarie Fields—Parliamentary Secretary) [7.44 p.m.]: I am proud to speak to this most important matter about an issue that is above politics, because every member of this Parliament wants to see domestic violence reduced. No issue is more important than stopping violence against women. As a paediatrician I have seen countless lives destroyed by the effects of domestic violence. Quite simply, this violence on our families has to stop.

As the National Council on Reducing Violence Against Women and their Children reported, any woman can become a victim of domestic violence and/or sexual assault. There is no geographical, socioeconomic, age, ability, and cultural or religious boundaries to these dreadful crimes. Over their lifetimes, sexual violence affects almost one in five Australian women and physical violence affects at least one in three Australian women. To me, the greatest tragedy is that domestic violence is often repeated down the generations. The Christmas holiday period is often a peak time for domestic violence. Almost one in four children in Australia have witnessed violence against their mother or stepmother. The Medical Journal of Australia of 2 November reported that one in four indigenous women living with dependent children younger than 15 years has reported being victims of domestic violence in the previous year.

White Ribbon Day, an international campaign, allows us to reflect on these sobering facts to recognise the suffering of so many women and to move to stamp out these terrible crimes, which are essentially violations of fundamental human rights and destroyers of future happiness. White Ribbon Day casts the spotlight on these terrible crimes and the spotlight on our role as a community, as men and women, to speak out against these crimes and to stop them. I commend the work of the White Ribbon Foundation and the White Ribbon ambassadors. On 10 September this year, I attended the White Tie Dinner, and met Kevin Maher, previously from the Australian Workers Union, who spoke eloquently on the effect his fathers' domestic violence had on his life. Kevin has broken the cycle. We must enable every person who has witnessed domestic violence to be able to do the same. The Australian Workers Union website tonight has an excellent link for all who access it to swear the oath.

The New South Wales Government has done much to tackle violence against women through legislative, policy and program reforms and initiatives. We will never resile from our zero-tolerance approach to

offenders. Our message is simple: if you are violent against women you will be prosecuted to the full extent of the law, no matter whom you are. At the same time the Government will continue to pursue the best possible strategies to support women who have been the victims of violence. Many of our reforms lead the nation. One such reform is the Staying Home Leaving Violence Program, which forces the offender to leave while the women and children can remain safely in the family home. Another key reform was the codification of consent laws regarding sexual assault, which now leaves no ambiguity or confusion about when no means no. A recent magazine quiz that awarded points to men who had coercive sex is to be deplored and is typical of the ideas that all men have to fight against.

In relation to sexual assault, we have provided a raft of initiatives that support victims through the court process. We are investing $35 million a year for 92 projects, and providing accommodation and support services for women escaping domestic and family violence. We have invested more than $1.67 million per annum for safe house services under the New South Wales Supported Accommodation Assistance Program in Bourke, Brewarrina, Lightning Ridge, Walgett and Wilcannia from 1 April 2009, and we are continuing the 24-hour-a-day, seven-days-a-week domestic violence line, which takes more than 23,000 calls a year.

The New South Wales Government also supports community-based projects, such as the Tackling Violence Program. Rugby league teams across New South Wales have signed up to this program and are making a commitment to change attitudes and address domestic violence at a grassroots level. Committing violence against women is an act of extreme aggression and cowardice, a crime of power and control—vicious and abhorrent—sometimes ending in murder. Our announcement today of the establishment of a Domestic Violence Homicide Review Panel demonstrates the commitment that the New South Wales Government has to making continued improvements to the system to ensure a reduction in this horrendous crime. The New South Wales Government has a policy of zero tolerance towards domestic violence. I am proud to wear the white ribbon today and repeat my pledge in front of my parliamentary colleagues:

> I swear never to commit violence against women,
> never to excuse violence against women
> and never to remain silent about violence against women.
> This is my oath.

In making this pledge I will carry the message of condemning violence against women beyond today. It is a 365-day commitment. I urge all my male colleagues to visit the website and to do the same.

Mr GERARD MARTIN (Bathurst) [7.49 p.m.], in reply: I thank the member for Goulburn and the member for Macquarie Fields for their contribution to this matter of public importance. I will canvass a number of issues in reply. In relation to the general cultural challenge we have before us, this morning we had a White Ribbon Day breakfast in Parliament House, which was attended by 200-plus people. The guest speaker was Richard Harry, who was a well-known and credentialed Australian Wallabies front-rower and is now a very successful businessman. A group of footballers from the Cronulla Sharks rugby league club were there, and present for part of the morning was Wendell Sailor, a well-known rugby league personality.

Mr Thomas George: From St George Illawarra.

Mr GERARD MARTIN: Just for a little while, but yes. Michael O'Loughlin, a former Swans player, and 2BL breakfast announcer Adam Spencer and a number of other media personalities also attended. The fight against domestic violence and violence against women is a 365 days per year challenge, but our national day—25 November—is a chance to bring high-profile people together and to make an impact, engage the media and make sure we get the message out.

About five years ago I was approached to be a White Ribbon Day ambassador. Andrew O'Keefe, a well-known television personality, is the New South Wales chair of the White Ribbon Day campaign, and Sue Conde, whose husband I worked with for many years before I came here, was also involved. They got me involved and I was probably one of the first members of Parliament, certainly in New South Wales, to be an ambassador. Even five years ago, the challenge was to get the message across. People like Saatchi and Saatchi, the international advertising agency, came on board and added their expertise. Over the past four or five years, very confronting television and radio advertising campaigns have been getting the message across.

What struck me today was that finally we are getting traction in the community. By using a targeted strategy, high-profile personalities and being savvy about it, people are getting the message. Mainstream media is taking up the message. Initially this was taboo. It is not a phenomenon of the modern age—it has been around

for centuries, thousands of years, in all sorts of cultures—but now that it is out there people are facing up to it, and that is the challenge for us as men. As the Parliamentary Secretary for Health, the member for Macquarie Fields, has said, we should all stand and take the pledge that he uttered a few moments ago because we need to lead the way.

Publicity about violence involving professional footballers in some parts of the tabloid media would suggest that this is an issue only for professional footballers. The reality is that the incidence of domestic violence is throughout our community, from the family home to local sporting and other organisations. It is not secreted away in one part of our society, it is a cancer that spreads right through our communities—and that is where we need to attack it.

We need to attack it in the family home. As parents of children we must get the message across that violence towards anyone, whether women or children, is not an option in solving problems. Violence against vulnerable women and children is not an option. We need to bring that to schools. The New South Wales Department of Education and Training has started pilot programs that have been very successful in getting boys and girls in the school community to have mutual respect for one another and recognise that, whatever their issues or fundamental problems, there are ways of sorting them out without perpetuating violence against someone, which is self-defeating and destructive. It is a real cancer in our society and I hope that this day—25 November 2009—puts us a little bit further along the road to getting rid of it from our culture and our society. I thank the members who have joined us tonight in supporting the motion.

Discussion concluded.

GRAFFITI CONTROL AMENDMENT BILL 2009

Agreement in Principle

Debate resumed from an earlier hour.

Mr RUSSELL TURNER (Orange) [7.54 p.m.]: The Graffiti Control Amendment Bill amends the Graffiti Control Act 2008 and related legislation to make further provision with respect to the minimisation and control of graffiti. The Legislative Review Committee digest refers to an increase in penalty from six months to twelve months imprisonment and an increase from three months to six months imprisonment for the existing offence of possessing a graffiti implement with the intention that it be used to damage or deface property. I wonder, with the current legislation, how many graffiti artists, who I call criminals, have been sentenced to three months or six months imprisonment. The legislation provides for police, councils or courts to impose maximum penalties, but how often is the maximum penalty imposed?

The Opposition supports the bill in the hope that the police, the courts, and councils where applicable, will support the legislation, which is supported by everyone in the community other than those who carry out this particular offence. The second reading speech states:

> Portions of the bill draw on the evidence-based research done by the Department of Justice and Attorney General on graffiti offenders in the report entitled "The motivations and modus operandi of persons who do graffiti". The report on the interviews with 52 offenders found that while most offenders do graffiti either in the pursuit of fame or recognition or for the adrenaline rush that doing graffiti gives them, graffiti offenders are a heterogeneous group; and while some offenders are opportunistic in their illegal activities, around a third of those interviewed stated that they were dedicated members of a crew or semi-organised group, which can range from 10 members and up to 40 members.

I acknowledge that there are professional groups comprising young people who want an adrenaline rush. How many of those offenders that are ultimately caught receive a maximum sentence? There are also young people in small country towns or suburbs of Sydney who do it once or twice in front of their mates for a bit of a buzz, maybe after a few beers. The bill also creates a scheme for community clean-up work. The Minister said in his second reading speech:

> Courts which impose fines for graffiti offences will be able to order that offenders pay off those fines by way of community clean-up work at the rate of $30 per hour.

Community clean-up work is not necessarily confined to removing graffiti. It can involve other clean-up work in the community. Previous speakers have pointed out that $30 an hour is a high rate of pay for juveniles who usually get $10 or $12 an hour. This provision recognises that offenders may not have the ability to pay a fine. They may be unemployed, on a low income or paying rent. By participating in a scheme for community

clean-up work they may learn to value their community and become fine citizens rather than be part of a group that thinks that putting graffiti on buildings is fun. They do not think about the consequences and the costs involved in removing graffiti.

In Orange there is not much graffiti, but at one particular location an offensive comment has been written on a wall. Part of it has been scratched out, and now it refers to the male genitalia rather than the female genitalia. The local council says it cannot paint over it because it is on private property. The owner of the building is not interested in removing the graffiti because it appears at the back of his property, which is vacant. People who use the adjoining public car park can see this offensive comment written on the building. It gives the impression that the city does not care whether the graffiti is removed. The council should paint over it. It has been proven that the best way to reduce the amount of graffiti is to paint over it as soon as possible. If it is removed quickly the kids will not get any glory from their mates the next day.

In relation to graffiti, street littering and alcohol free zones, regardless of the legislation that is passed and the available penalties, local councils and police must enforce the law. We hear that police do not have the time or the numbers to deal effectively with these matters. The police say that they have to see the spray can in an offender's hand. We hear all sorts of excuses as to why police do not arrest offenders. If they do arrest them, far too often the courts let the police and us down by issuing a warning or a fine, which offenders have no means or intention of paying.

The Government took a positive step when it took away fines for offences committed in alcohol-free zones and gave police the power to tip out alcohol. That is a greater deterrent to some people than a fine. I have seen infringement notices in Robertson Park, which is opposite my office in Orange. They are issued in Bourke and tossed in a gutter or under a tree in Orange the next day. The offenders have no intention of paying the fines. They take an offence far more seriously if police tip out their $30 or $50 bottle of scotch or bourbon. The Opposition does not oppose the bill. But the legislation will not work unless council and police enforce it. In his second reading speech the Minister said:

> Currently only Police and Fair Trading investigators may issue penalty notices with respect to the sale of spray paint cans. Schedule 2.4 amends the Graffiti Control Regulation 2009 to allow certain local council employees to also issue such penalty notices.

I do not believe that many council employees use that ability to issue penalty notices. They do not enforce the littering laws or alcohol free zones because they do not want to get involved, they do not want to go through the courts or they do not want to lose the time. I do not know the reason but council officers are not using the powers granted to them. I doubt that too many council officers will go to Bunnings, Crazy Prices or other stores to ensure that spray paint cans are sold legally. I know that most retailers are responsible. Wherever I go the cans are in a locked cage, the customer has to ask for assistance and the cans are sold to responsible people.

But some retailers will not take too much notice if a responsible looking adult buys some cans and then gives them to younger brothers or friends. Who controls that situation? The bill is moving in the right direction, but its provisions must be enforced. The increased penalties may be a deterrent. Professional gangs of up to 40 young people go out at night and we see the disgraceful results on our trains and bridges. I do not believe any increased penalty, monetary or prison, will stop them because they see it as a challenge and they get a thrill out of doing it in the company of their friends.

When I represented Cowra, the Aboriginal community painted murals on pylons of the main bridge that crosses the Lachlan River. Eight or ten years later those murals have not been touched. Even the graffiti artists have respect for those murals. They are not graffiti; they are professionally painted murals. After predictions that they would be painted over, I am pleased to see that they have not been touched. Sadly, that is not the case in other places. Fortunately, in most country towns we do not have the same level of graffiti as occurs in Sydney. Our trains and buses are not defaced just because it is a challenge. Some young people put themselves in such danger that they lose their lives. They get hit by a train or fall off a building.

It does not matter what the fines are, it will not stop those kids from spraying graffiti. It will not happen overnight. At least the legislation is moving in the right direction, but it will only be effective if the police have the numbers and the will to enforce it, and if councils use their powers wherever they can. When the kids and young adults go to court, the courts have to support the legislation by using their power to impose penalties.

Mr FRANK TERENZINI (Maitland) [8.09 p.m.]: I support the Graffiti Control Amendment Bill 2009. The member for Orange is quite correct in what he says. Although the legislation moves in the right

direction and contains some good reforms it is not the only answer. The member made a good point when he referred to the youngsters who endanger their lives for the glory and satisfaction of painting a train. It just goes to show the attraction this criminal activity has for some young people and the eagerness with which they take part in it. One might wonder what we have to do to stop this activity. There is no one answer. This bill does not purport to be a silver bullet. It is certainly a very good improvement on what existed previously and reflects the great work done by the Anti-Graffiti Action Team in researching the problem.

Graffiti is a community problem. The member for Orange also made a point about getting council inspectors out to check areas and issue penalty notices. That may be another aspect of the problem. Members of the community have a role to play as well in making sure graffiti is brought to the attention of authorities. As the member for Orange said, one of the best ways of reducing graffiti is to make sure it is wiped off very soon after it has been applied. That is a very important point. We have seen instances of local councils employing technological additions to their armoury and talking about putting sensors near walls where graffiti often occurs that sense the chemical emitted by spray paint cans that send a signal to the authorities so that police can get to the scene as quickly as possible. That is an option as well. There has to be an array of options for a problem that affects all electorates.

I am happy to say that in the Maitland electorate we do not have a great problem with graffiti. If you go around the electorate you will see graffiti on some electricity boxes and near skate parks, but we do not have a great problem in the Lower Hunter with graffiti on trains. I am pleased to see some of the measures in the bill, particularly the community clean-up orders in lieu of a fine. This is a good step forward.

Mr Thomas George: Not at $30 an hour, though.

Mr FRANK TERENZINI: It is a good concept because I know from my experience in the criminal law that a fine does not work for some people. I have seen many cases of a person being sent out to perform a community service order, whether it be cleaning up graffiti or performing some other form of community service work. It has the right effect on people because it makes them do something. I think the community clean-up order in lieu of a fine is a good idea. Of course, the judicial officer has discretion to allow an education component to be part of the clean-up order. The way the system works is that a person is fined and then there is an application to convert that into hours of work under a clean-up order. There may also be an educational component. That is a good component in the overall fight against this problem.

Another aspect of the bill relates to the supply of spray cans. Secondary supply is a new concept involving offences committed by adults who buy spray cans and pass them on to someone under 18. Again, it is not the be-all and end-all, but it is an important part of making sure we show the community we are serious about dealing with this problem.

An important aspect of the bill is the increase in penalty from six months imprisonment to 12 months imprisonment. As members of Parliament we represent the community and when we increase the maximum penalty for an offence we are speaking on behalf of the community and sending a message to judicial officers that we regard this matter as serious. I suggest that any offence that carries a maximum penalty of 12 months imprisonment is a serious offence. It is a Local Court offence, a summary offence, but the penalty has increased from six months to 12 months, so the message is clear that graffiti is a real problem. Jail is certainly the last resort but I think this change is a welcome step. Judicial officers should take heed of this amendment. In a recent case a youngster was jailed for graffiti vandalism but on appeal the jail sentence was reduced to a bond. As I recall, the fact that someone was imprisoned for the offence of graffiti attracted a fair amount of media attention because it had not been done before. That had a very good effect on the community: it showed that we were serious.

The Parliament has made it clear that the maximum penalty for an offence will now be 12 months imprisonment. That should send a clear message to those adjudicating on such cases that the community regards this as a very serious offence. The member for Ryde has been agreeing with me a fair bit lately and is nodding as I speak, which is a good sign. He will go a long way. He is coming out of his warranty period and is running in fairly well. He gets his pink slip!

The message has to be sent that these matters will be dealt with seriously because it is a community problem. The unsightliness of graffiti on walls and on the sides of trains and buildings is a bad reflection on the community. We do not want it in our electorates and the community does not want it. I am asking the judiciary of New South Wales to take particular notice of this measure because the maximum penalty is an important

factor in sentencing. It is an indication of how seriously we regard this offence. In particular, the increase in the penalty for possession of a graffiti implement from three months imprisonment to six months imprisonment is a welcome change as well.

This legislation is a good step forward but dealing with the problem of graffiti is a matter for the whole community. How much better would it be if people who live near or pass by parks and train stations kept a lookout and reported graffiti to the authorities? There is no doubt that if the perpetrators of this crime knew that they would be caught or that the graffiti would be taken off very soon after it was applied it would reduce the incidence of graffiti. Some good points have been made in this debate about the lengths some people will go to in creating graffiti.

Mr Victor Dominello: He's a good talker.

Mr FRANK TERENZINI: Again the member for Ryde pays me a compliment. That is a good sign. Maybe he has just joined the wrong side of politics. As time goes on he will see the light. He is always welcome on this side of the House. I look forward to the contribution of the member for Ryde on this topic. Seriously, we are all concerned about this problem. I am heartened by the comments of members of the Opposition—at least the member for Orange, who made some good points. I commend the bill to the House. Hopefully, we will see some results. It is important that we continue to monitor this problem and make reforms. We cannot let up because once we do that with this kind of activity the perpetrators will flourish.

It is an easy crime to commit and a very difficult crime to keep track of, and that is the problem. One-third of the people who commit this crime are semi-professional groups who are very organised and gather their equipment and move around the suburbs. It is like hit-and-run tactics—they carry out their graffitiing and then they move on. It is very difficult to track them down and that is why we need the help of the community. I congratulate the anti-graffiti action team on getting the legislation together. I congratulate the Attorney General on the bill. I have great pleasure in commending the bill to the House.

Mr DARYL MAGUIRE (Wagga Wagga) [8.19 p.m.]: The Graffiti Control Amendment Bill 2009 seeks to amend the Graffiti Control Act 2008 to create new offences relating to the supply of spray paint cans to children and the possession of spray paint cans by children; to increase the penalties for certain existing offences; to introduce a scheme of community clean-up orders, under which an offender fined for a graffiti offence can be directed by a court to perform community clean-up work in order to satisfy the fine; and to make other consequential and minor amendments. The bill also seeks to amend the Graffiti Control Regulation 2009 to enable certain local council employees to issue penalty notices for certain offences under the principal Act; to amend the Rail Safety Act 2008 to give rail safety officers the power to direct a person to state the person's name and address if the officer finds a person committing an offence against the principal Act, or reasonably suspects the person has committed an offence against the principal Act; and to amend other Acts as a consequence of the introduction of the scheme of community clean-up orders.

I read the objects of the bill into *Hansard* because we have been in this position before with this legislation, although perhaps not so far. But this is a continuation of a government that is trying to pretend that it is doing something about acts of graffiti vandalism when in fact it is doing very little. We can bring all the bills we like into this Parliament and we can stand here, procrastinate, debate and vote on them as much as we like, but, as the member for Maitland pointed out, "What do you have to do to stop them?" The reality is that we have got to catch the graffiti vandals, and that is not happening in this State. We can have all the legislation we like but until offenders are brought before the courts and the legislation is used to its full effect, nothing will happen.

This is a cruel hoax and it is setting expectations from councils and from members of the public, when we all know that the Government has absolutely no intention of increasing police resources or reinstating the graffiti task force, which was charged with documenting and logging graffiti tags and effecting prosecutions. The community must be made aware of the Government's inaction. Over time I have put a series of questions on notice to various Ministers. I asked the Minister for Planning, and Minister for Redfern Waterloo, representing the Minister for Police, the following question:

1. Does the police service keep a photographic log of graffiti tags in each command?

2. If so, is an officer responsible for the maintenance of the log?

3. What measures are taken to record acts of graffiti and vandalism and make that information available to the courts?

The answer was:

1. The NSW Police Force Rail Vandalism Task Force keeps a database which is shared with Local Area Commands. In addition some Local Area Commands with a high incidence of reported offences keep graffiti databases.

2. Yes.

3. All reported graffiti offences are recorded on police information systems. Generally such information is requested by the courts only when a specific offence is being heard.

Therefore, there is no systematic tracking and logging of graffiti on a statewide basis. After the Minister made a statement in this House, I asked the Minister for Transport, and Minister for the Illawarra, representing the Attorney General, Minister for Justice, and Minister for Industrial Relations, the following question:

1. How many people have been charged with acts of graffiti in the South Western Area Command and where?

2. What were the punishments delivered by the courts?

3. How many people have been directed to clean graffiti from walls and buildings as punishment by the courts?

4. How many have been placed on good behaviour bonds?

The Minister's answer was:

1. Graffiti offences comprised offences under sections 9 and 10 of the Summary Offences Act. Some more serious graffiti offenders may have been charged with property damage under section 195(1)(a) of the Crimes Act but the Bureau of Crime Statistics and Research is unable to identify which of the property damage charges are for graffiti offences. With the commencement of the Graffiti Control Act 2008 on 20 February 2009, it is expected that most graffiti offences will be charged under the new Act, allowing the Bureau of Crime Statistics and Research (BOCSAR) to collect better data.

2. The Bureau of Crime Statistics and Research BOCSAR does not maintain separate court statistics for all graffiti offences.

I asked the Minister a further question:

1. How many people have been charged with acts of graffiti in the Wagga Wagga electorate and where?

2. What were the punishments delivered by the courts?

3. How many people have been directed to clean graffiti from walls and buildings as punishment by the courts?

4. How many have been placed on good behaviour bonds?

The Minister's answer was:

The Bureau of Crime Statistics and Research (BOCSAR) does not classify crime according to electorate.

After a statement was made just a few days ago in this House I asked the following further question:

How many young offenders participate in the cleanup program of over 2000 hours as mentioned by the Minister in Question Time on Thursday 15 May 2008?

The answer was:

355 young people have participated in Community Service Order (CSO) programs from 1 July 2007 to 4 June 2008. Not all of those young people were engaged in graffiti removal.

The point I make is that we are given a final figure—355 young people participating in community service orders—but the Minister is unable to tell us how many were engaged in the removal of graffiti. The system that records information is deficient. I also make the point that 355 people are participating in community clean-up service orders but there are more than 100,000 reports of graffiti in the central business district of Sydney alone. There are hundreds of thousands of reports of graffiti in New South Wales. After gathering these figures, on 1 April I made a statement to the House suggesting that 355 young offenders being caught is an admission that the Government has failed.

The City of Sydney removed graffiti from 411,368 buildings—there were more than 170,000 square metres of graffiti. Campbelltown city reported 3,454 incidents of graffiti covering 10,000 square metres. That is a combined total of 440,822 graffiti incidents across two local government areas. However, I am told that 355 young people have been recorded as participating in community service orders and that the Government

cannot tell me how many were engaged in graffiti removal. This is just another bill before the Parliament that will have no effect because there is no graffiti task force and the Government has no will to put more resources towards tackling the problem, except to paint the picture that it is going to do something about it.

In regard to the sale of spray paint cans, I point out that most of the paint is stolen. Graffiti artists are not necessarily younger people; they come from all sorts of backgrounds and all walks of life. Quite often they are much older than 18 years of age and they are transient: they will get on a train and travel to regional and rural areas, do their work for a couple of weeks, tag the local community, cause tens of thousands of dollars worth of destruction and then move on to the next town. This information is not being tracked. Now that the police service does not have the graffiti task force it is not collating information and following the tags. The tag is the mark of the graffiti vandal and information on the tags is not being collated. That is part of the problem.

I repeat: When it comes to graffiti, the number of buildings, roadways, public property, et cetera, that are defaced is enormous. One only has to look at the M2—all the new concrete work and paint has been vandalised. It has been painted over by the private operators, but it is not removed on the public section controlled by the Roads and Traffic Authority and others. Graffiti is not removed by the energy companies that have fixtures and fittings in public places. The Roads and Traffic Authority tends to leave graffiti on road signs, yet the Government encourages councils and others to remove graffiti immediately.

The Roads and Traffic Authority encourages councils and others to remove graffiti immediately. Other speakers who contributed to debate on this bill said that they wanted councils in their electorates to paint out graffiti as it discouraged graffiti vandals, which is correct. However, what is this Government doing about it? When I drive along the M2 to the turnoff on the Pacific Highway I can see where private entities have painted out graffiti, but the Roads and Traffic Authority has done nothing about the flyovers. More and more graffiti is evident along our roads and this Government is doing nothing about it. Unless the Government leads by example rather than expecting others to foot the bill and do the work that it should be doing, people will regard this measure as the Government's pretence at being tough.

No-one will throw these kids in gaol; it just will not happen. When a young person was threatened with jail the community screamed, as did everyone else, and it did not happen. This Government must put in place more initiatives and ensure that it is doing its job. Retailers should not cop the brunt of any fines if they are apprehended for making paint available to minors. I doubt whether that will happen as no retailer in his or her right mind would do that. If it did occur it would be purely by accident, or it would be unintentional. Graffiti incenses communities because of the needless costs that are forced on them. It is an affront to our communities to suggest that vandals or offenders should be paid at the rate of $30 an hour to clean off graffiti. The award wages paid to cleaners and others in Australia might be regarded as a lower rate of pay.

I do not believe we should reward someone who has vandalised another person's property by paying him or her $30 an hour to clean off graffiti. Some workers in our industries are paid only $17 to $25 an hour. I do not believe it is fair for anyone to be rewarded by being paid $30 an hour to clean off graffiti. If I were a cleaner or someone who was paid a low wage I would be incensed if those who defaced property were paid $30 an hour, rather than the base rate of pay. Schoolchildren working at McDonald's are paid a lesser rate than that. It appears to me as though these offenders will be rewarded. Graffiti vandals who defaced buildings in Wagga Wagga were caught red handed, taken to court and put on a good behaviour bond. They are wandering around the streets and their graffiti is still on the walls defacing heritage buildings, which outraged those who apprehended them. Their apprehenders identified where they lived, followed it up with the police and they got off with only a bond.

The courts must get serious about using this legislation and meeting community expectations, and the Government must get serious about addressing the wanton destruction that has spread through this city like a cancer ever since it came into office. The Government said it would do something to address graffiti in this State, but it has done nothing. It has now introduced legislation that will be meaningless unless it allocates resources to ensure that people are apprehended. Government members should get in their cars, drive along the roads in this State—in particular, the M2, which is freely accessible to everyone provided there is no major traffic jam or traffic incident—and look at the damage that has been caused before the turnoff to the Pacific Highway. All the corridors and the public and private buildings have been defaced.

The only section of that motorway that is free of graffiti is the section where the private motor company painted it out over the past few weeks. It is appalling. No effort has been made by the authorities or by the Government to use technology such as sensory cameras that will aid in identifying graffiti perpetrators. As

our roadways are accessible it is easy for vandals to create wanton destruction. As long as this Government is soft and it refuses to provide resources to establish a police graffiti task force, graffiti vandalism will continue no matter how much legislation is introduced in this House.

Mr CRAIG BAUMANN (Port Stephens) [8.34 p.m.]: I do not oppose the Graffiti Control Amendment Bill 2009. I doubt whether any electorate in this State is free of graffiti. It is a crime that never seems to go away. While it is not in the category of serious crime—it is not a crime that traditionally threatens lives—it is a costly crime. Just last month a terrible graffiti attack that occurred inside a unit block in Nelson Bay in my electorate resulted in a damage bill of more than $60,000. According to police, yesterday the real estate agent opened up one unit to show it to potential owners and found tags on walls, tiles and glass sliding doors. A second unit and an interior stairwell were also targeted.

It is estimated that the clean-up and associated aspects of dealing with graffiti cost Hunter businesses and government agencies almost $3 million last year alone. Port Stephens council expended more than $51,000 between November 2008 and January 2009 on the removal of graffiti. However, the Hunter Business Chamber estimated that local businesses spent around $1 million in dealing with graffiti in 2008. That is why I welcome the aspect of this bill that seeks to have offenders ordered to do community service and to clean up in their areas to satisfy these fines. The legislation will ensure that offenders will be ordered to do so only if they have the maturity and they are suitable to perform that duty. That could be a great cost saver for councils and businesses. That aspect of the legislation is all well and good if the offenders are caught.

But all members know that graffiti often happens in the darkness of night. Children are rarely out early in the morning tagging park benches for all to see. When one is driving to work first thing in the morning one suddenly notices a tag on a bus or street sign that was placed there overnight. The Coalition believes that far more must be done to make a difference in the war on graffiti. We need a dedicated graffiti squad to patrol our streets, especially vandalism hot spots, to catch offenders in the act. I acknowledge the Port Stephens Graffiti Action Team—a group of volunteers fed up with graffiti around Nelson Bay who are hoping to tackle graffiti with a coordinated approach from police, Port Stephens Council, businesses and residents on the Tomaree peninsula.

Port Stephens Council has allocated $5,800 to the cause, including occupational health and safety training, insurance for volunteers, as well as the cost of chemicals. The Coalition believes that heavier penalties for the possession of spray paint cans, or selling them to minors, as well as the community clean-up threat will deter some vandals. However, the laws conflict with existing legislation and may be difficult to enforce. Similarly, there is nothing in this aspect of the legislation to deal with the use of pens and markers in the committing of graffiti. It is important to advise members about one man's attack on graffiti. I refer to Ted Bickford, a man who has already been mentioned by my colleagues the member for Myall Lakes and the member for Coffs Harbour.

Nation Wide News Pty Ltd, as publishers of the *Daily Telegraph* and the *Sunday Telegraph*, organise and promote the Pride of Australia Medal within New South Wales and the Australian Capital Territory. The award seeks to honour individuals or groups within New South Wales and the Australian Capital Territory that are "everyday Australians who do extraordinary things", making their communities a better place in which to live. In 2006 Great Lakes Council's park and recreation staff nominated Mr Ted Bickford in recognition of the voluntary work he undertakes in the removal of graffiti from public property, the promotion of community pride with young people through a schools program, and the upkeep and maintenance of the Tuncurry State Park and Beach Street Reserve. The award supports 10 categories. Ted's nomination was placed within the Environment category for "an Australian or groups of Australians whose actions have nurtured and improved the environment".

Three finalists were selected from the thousands of entries for each category and a panel of judges selected the winners, who were announced at a ceremony in Sydney in August 2006. Ted Bickford was announced as the winner for the government category and received a certificate and a sterling silver medallion. In 2008 Ted Bickford was awarded the Order of Australia for services to the community of the Great Lakes district for his involvement in graffiti removal programs and for his role as a mentor and supporter of young people. The Attorney General should travel to Forster to get Ted's advice on how his program could be implemented throughout New South Wales. Ted Bickford has done far more to control graffiti and to change the mindset of graffiti artists than anything this legislation will ever achieve.

Mr VICTOR DOMINELLO (Ryde) [8.40 p.m.]: I speak on the Graffiti Control Amendment Bill 2009. Graffiti is a serious issue in this State and it must be properly addressed. The Government has had ample

opportunity to address this problem. To its credit, it has at least tried to do some window dressing. It has had many years to address this scourge on society. It has established the Rail Vandalism Taskforce, the Graffiti Strategy Taskforce, the Graffiti Solutions Program, the Graffiti Reference Group, the Graffiti Solutions Taskforce and the Anti Graffiti Action Team. There have been more taskforces and more programs than there have been Health Ministers in this broken Government. However, in each attempt to remedy this scourge the Government has failed to deal with the substance of the problem; that is, that people must learn to take responsibility for their actions. That is what this Government does not want people to do. It does not provide a mechanism to teach young offenders that what they are doing is wrong and it does not provide real deterrents in the legislation.

I have asked a number of questions since being elected to this place about the various taskforces that have been announced by this Government to deal with graffiti. On 23 September 2009 I asked a question about the Rail Vandalism Taskforce and I received an answer on 28 October. In fact, I asked 13 questions about when the taskforce was established, its terms of reference, its chairperson, its members, the dates on which the taskforce met, who was present at those meetings, whether minutes were taken and so on. They are basic questions to which the community is entitled to answers. The Minister's answer was:

> I am advised:
>
> As the Rail Vandalism Task Force is an operational arm of NSW Police, these questions should be redirected to the Minister for Police.

I asked a similar series of questions about the various taskforces and that was typical of the responses I received. I then asked the same template-type questions about the Graffiti Strategy Taskforce to which the community is entitled to answers. While the community does not receive answers from this Government—which is far from transparent—people will continue to distrust it and to have grave doubts about its ability to manage our great State. I asked those questions on 23 September 2009 and, again, the answer I received on 28 October advised me to direct the question to the Premier. Thank you very much! I asked the same template-type questions about the Graffiti Solutions Program to which we are entitled to answers, and the answer was along the same lines:

> I am advised:
>
> The reduction and management of graffiti in NSW is now overseen by the Government's Anti Graffiti Action Team (AGAT).

That is all well and good. I am glad that AGAT is now in control. However, I wanted information about the programs that the Government had previously implemented. I wanted to know why they failed, why they morphed and why there was more spin. There was no answer. I still do not know, and if I do not know the public does not know. When was the Graffiti Solutions Program established? No-one knows; it is a ghost. What about the terms of reference? There was no answer. Members opposite do not care. Who was the chairperson before the program was morphed into AGAT? The Government does not want to tell me. Of course, we do not know whether the Graffiti Solutions Program ever existed. The Coalition has searched beyond AustLII—

Mr Barry Collier: Why would you search AustLII for that information?

Mr VICTOR DOMINELLO: I would be grateful if the Parliamentary Secretary would stop spewing the drivel that comes out of his mouth. Every time he does it he makes a mess.

Mr Barry Collier: Point of order—

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! The member for Ryde will resume his seat.

Mr Barry Collier: Sit down!

Mr VICTOR DOMINELLO: Don't you tell me to sit down! I will not sit down.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! The member for Ryde will resume his seat.

Mr VICTOR DOMINELLO: I won't listen to you!

Mr Barry Collier: You have been asked by the Assistant-Speaker to sit down.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! The member for Ryde will resume his seat.

Mr VICTOR DOMINELLO: I will listen to her, not you.

Mr Barry Collier: Don't show disrespect to the Chair.

Mr VICTOR DOMINELLO: I have no respect for you. What's your point of order?

Mr Barry Collier: The member should not have a go at me; he should stick to the leave of the bill.

ASSISTANT-SPEAKER (Ms Alison Megarrity): Order! There is no point of order. However, the member for Ryde should address his comments through the Chair and other members should refrain from interjecting.

Mr VICTOR DOMINELLO: I will refrain from speaking to the Parliamentary Secretary. The Government announced a series of programs. I asked the same template-type questions about the Graffiti Reference Group. When was the group established? What were the terms of reference? Who was the chairperson? They are basic questions to which the residents of this great State are entitled to answers. Taxpayers' money is used to run this State, so we are entitled to that basic information. The Minister's response was:

> I am advised:
>
> The reduction and management of graffiti in NSW is now overseen by the Government's Anti Graffiti Action Team (AGAT).

Thank you very much—no response. I also asked those questions about the Graffiti Solutions Taskforce. Once again the response was that the reduction in and management of graffiti in New South Wales is now overseen by AGAT. Again, there were no answers to my questions. I suspect that the Graffiti Solutions Taskforce was yet another ghost operation or Government spin.

Finally, I asked the same questions about the Anti Graffiti Action Team. When was it established? What are the terms of reference? Who is the chairperson? Who are the members? When did it met? Who was present on each occasion? Were minutes taken? Is the team required to publish an annual report? Are the members remunerated? What is the cost of operating recurrent services each financial year? These are basic questions to which we are entitled to answers. The response was just as poetic and suggested that I refer to the Stop Graffiti Vandalism website. I will come to that in a moment. The response is even more creative. Then they referred me to other answers that are equally vague and useless. At no point did we get basic answers to these questions.

I would have thought there would be one person in the Government who had some idea about what is going on in this State, let alone on the graffiti issue, who could say, "Mr Dominello, the team was established on X date, the terms of reference are Y and the chairperson is P." We do not get that. Instead we are referred to a website that had none of that information. The best I can obtain is that the team was established circa 9 May 2006. At least that is a start. So since 9 May 2006 this team has operated. Therefore, I assume that the Graffiti Solutions Task Force, the Graffiti Reference Group, the Graffiti Solutions Program and the Graffiti Strategy Task Force all operated prior to that date and were merged, morphed, disbanded or discredited, for reasons we will never know because this Government hates transparency. That is the sorry history of the Government's attempt to tackle graffiti. The Attorney General in the other House said as much:

> Given that the current penalties do not appear to be a deterrent to these serious graffiti offenders, there is a need to increase their severity.

The concession is made, appropriately by the Hon. John Hatzistergos, that what the Government has been doing to date has not worked. We want to know not just as members of this House but also as taxpayers of New South Wales why these things did not work. Why have these numerous illusory task forces not worked? Once we know that, we can work out how to fix things. We will never get the answers because this Government does not believe in transparency. We now have a state of chaos on this issue. The Graffiti Control Amendment Bill was introduced shortly after the Graffiti Control Act to try in some way to improve the current deterrents regarding graffiti. With all these taskforces, surely the Government should have had a clear plan. But that is not the case. We now find out that a plan does not exist. The Attorney General also said:

> The tough and extraordinary measures in this bill leave no doubt as to the Government's view of people who deface property and how they deserve to be treated.

With great respect, there is no signal in this bill that the Government is taking this issue seriously. The maximum fine that can be imposed for graffiti offences is $2,200 under section 4 (1) of the Graffiti Control Act. By the time an offender is caught—and I can guarantee that such a person would have offended many times before—and is prosecuted and hauled before a court for a hearing, the amount of public money spent, in police, prosecution and judiciary time, on bringing that person before the court and in the management of community service orders, would far exceed a $2,200 fine let alone some of the other pithy penalties such as $440 for posting bills. What a joke! This does not send a serious message.

This State must get serious about graffiti. The first way to get serious is to get rid of this Government. Once that is done, we can get serious by introducing measures so that only exceptional circumstances will prevent people convicted of graffiti offences from cleaning up their mess or that of another vandal. In other words, teach the vandals that if they make the mess, they clean it up. That should be the compulsory penalty, unless there are exceptional circumstances, and it should be in addition to a fine. If a graffiti vandal can pay a fine, that is not good enough because it does not teach them a lesson. A graffiti vandal who has $1 million in the bank can easily pay a $1,000 fine and will not be taught a lesson. What will teach them a lesson is having to clean up their own mess. Madam Acting-Speaker, I seek an extension of time.

Extension of time not granted.

Mr GREG APLIN (Albury) [8.55 p.m.]: The Graffiti Control Amendment Bill 2009 appears to be the Government's latest response to the proliferation of graffiti in New South Wales. The lack of effective action has allowed graffiti to spread like a plague for years. It impacts on us all, visually and through removal costs, rate increases, diversion of police resources and possibly court costs. All too often communities give up, accept defacement of property, and have to live with the appearance of anarchy on trains, industrial estates and shopping precincts. For too long the Government has ignored this graffiti crime epidemic. For too long crocodile tears have been shed when a swipe of the tail or a nip with the teeth might have brought some results for communities across this State. The Premier needed a Sunday story so a so-called action plan was cobbled together, with this bill as a central component.

Will this bill reduce graffiti crime? We can only hope that it provides the opportunity for the courts to enforce public expectations. More importantly, the detection and apprehension of graffiti vandals need to be increased, with swift consequences for offenders. The scourge of graffiti in our society is growing and costing taxpayers millions of dollars each year. The cost to business is growing at a rapid rate. Graffiti is a blight on our community. In the Albury electorate graffiti vandalism has exploded in the past 18 months to 2 years. The quantity and locations have highlighted how acts of vandalism have become brazen. Apprehending these criminals is an enormously difficult job for the police, who need public support, and in turn the public needs evidence of positive outcomes.

The historic Albury post office building in the middle of town on the main street had every pillar tagged. The area is well lit at night, police patrol the area and the local nightlife leaves little opportunity for acts of this nature to go unnoticed. The cinema complex has been tagged, but not at ground level. Vandals accessed the roof awning that covers pedestrians and tagged every upright section of the façade covering an entire street corner block. A major shopping complex, Lavington Centro, has been a regular target with multiple taggings on the majority of its external walls. Graffiti is vandalism; it defaces somebody's property. It is a deliberate crime and reflects an image to locals and visitors of neglect and lawlessness.

Police are aware that some of the tags painted in Albury are by Melbourne residents who travel to other areas to mark their territory like animals spraying their scent. I joined police, councils and chambers of commerce in working hard to address this massive problem. Apprehension of these vandals is a rare event. Understandably, the community expects that if perpetrators are convicted of committing this crime, an appropriate punishment will follow—if the perpetrators are found guilty by the Local Court. Recently in Albury two individuals were caught committing acts of graffiti at Lavington Centro shopping centre and were found guilty of the offence. It was reported in the *Border Mail* on Wednesday, 15 July 2009 that the local magistrate had told the defendant's solicitor in open court that he would "very much like the power to force people to clean up graffiti". As one would imagine, my office was inundated with calls from reporters asking, "Why can't the magistrate make these vandals clean up the mess? Why isn't there legislation to cover this? What are you doing to rectify this problem?"

I was able to advise that there was legislation in place with clear penalties, including community service orders that direct the offender to perform the removal or obliteration of graffiti from buildings and the

restoration of the appearance of the building. I also had to advise that a person convicted under the Graffiti Control Bill 2008 can be liable for the cost, if the court orders the rectification of the damage caused by their actions. Section 91 of the Crimes (Sentencing Procedure) Act 1999 is entitled "Removal of graffiti". It reads as follows:

> A community service order may recommend that the community service work to be performed by the offender should include:
>
> (a) the removal or obliteration of graffiti from buildings, vehicles, vessels and places, and
>
> (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal or obliteration of graffiti from them.

The Graffiti Control Act 2008 stated the following in section 15:

> **Alternative action to imposing penalty for graffiti sections 4 and 5**
>
> A court may, instead of imposing a fine on a person or sentencing the person to imprisonment for an offence under section 4 (Damaging or defacing property by means of graffiti implement) or 5 (Possession of graffiti implement):
>
> (a) make an order under section 8 (1) of the *Crimes (Sentencing Procedure) Act 1999* directing the person to perform community service work, being an order containing a recommendation of the kind referred to in section 91 of the act, or
>
> (b) make an order under section 5 of the *Children (Community Service Orders) Act 1987* requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 5 (1A) of that Act …

It remains unclear to the community why the magistrate made the statement and why a more appropriate punishment, which was available, was not delivered. The outrage from the constituents of the electorate was palpable. The two young adults involved were fined $200 and placed on 18-month bonds. Those two young adults were already on bonds for previous convictions of affray and being armed with intent—multiple bonds for multiple offences. Where is the deterrence?

The day after the news article was published, an Albury city councillor who spoke out about graffiti and the article and is working towards solutions to address this problem had his front fence tagged in what could only be called an act of defiance. I have asked both the Attorney General and the Minister for Police for details in relation to reporting and prosecuting graffiti offences in the electorate but received a generalised response that did not answer the question submitted. Let us return to how seriously the community views this problem in the Albury area. I want to read to members from the front page of the *Border Mail's* edition of Wednesday, 15 July 2009. The main headline stated:

> CLEAN IT UP
> Community wants graffiti punishment: Aplin

An article by reporter Brad Worrall, published following an interview with me, stated:

> Graffitists should clean up their mess and other damage caused by vandalism as part of their punishment, says member for Albury Greg Aplin.
>
> He says it is what the community wants and not just for a weekend, but over several months.
>
> Mr Aplin's comments came after two men charged with graffiti-related crimes at Centro Lavington were given a $200 fine and bond in Albury court yesterday.
>
> In sentencing, magistrate Gordon Levre lamented his inability to get them to clean up their own damage.
>
> "There are opportunities to impose community service on those found guilty of graffiti, and it may not be as specific as sending them to an address, but it is there," Mr Aplin said.
>
> "The community expectation is that there needs to be some form of restoration and people who commit these crimes be punished appropriately.
>
> "But as far as I'm aware no person convicted in Albury under the new Graffiti Control Bill, that came into effect in February, has received a community service order.
>
> "The act gives a magistrate the power to do this and I believe that is what the community wants."
>
> Mr Aplin said the community was tired of senseless vandalism.
>
> "Graffiti is a sad reminder of the ill-directed and idle," he said.

"The fact that Albury Council and the chamber of commerce in recent times have come out so strongly against vandalism and graffiti is just another example that this community will no longer tolerate the proliferation of this crime around the city.

"But the fight also needs people to raise the awareness levels, report it as it happens and wherever it happens.

"It will also take the courts to show leadership, so when these offenders are caught they receive the appropriate punishment.

"I can't comment on individual cases, I wasn't in court today, but generally speaking I think the community wants some sense that the offenders are making reparation for their actions."

In recent months, Mr Aplin has continued to lobby the NSW Attorney-General over the need for community service orders that deal specifically with graffiti offenders.

"What I was hoping to do was have it filter back to Albury that there is a community expectation that young offenders will be directed through community service orders to clean graffiti from walls, buildings, fences and they need to be supervised for the long term," Mr Aplin said.

"Not just a weekend, I'm talking months.

"I believe it imposes discipline clearly not imposed in the home.

"There is a community expectation that would be fulfilled, they would benefit from working in a team for a positive result.

"And perhaps there are work or study activities that might flow from the community service."

The Albury magistrate described the graffiti as a social evil. He said the graffiti was ugly, a blot on the landscape and nothing artistic in nature, and he imposed fines on those individuals. There are various sources for the imposition of the correct punishment. This bill adds to those but it will only be as good as the actions that then flow. Our local business and community leaders and the police are working hard to stem the tide of this eyesore in our community. The least our judicial system can do is to punish the offenders with heavy deterrents to ensure they receive the right message. Let us make sure that this bill is not merely window dressing but delivers the advertised product—reduction of graffiti through enforcement of the law.

Mr RAY WILLIAMS (Hawkesbury) [9.05 p.m.]: It is ugly, it is immoral, it is illegal, and it is costing New South Wales taxpayers hundreds of millions of dollars a year. No, I am not talking about the current New South Wales Government; I am talking about that blight on society as we know it, graffiti. You can change all the laws, increase all the fines, but we need to go back to the core of this problem. Our society has taken a dramatic turn for the worse when a lot of people in our community are undertaking graffiti. They have lost respect for the community and they have no responsibility whatsoever. It is illegal, it is disgusting and it is the first thing that communities notice in their suburbs. When they see tags scrawled from one end of their suburbs to the other they see lack of law and order and lack of social responsibility. As I said, it costs our councils, our shopkeepers and our businesses many millions of dollars a year.

Recently The Hills Shire Council, one of the councils in my electorate, really got on top of graffiti in its council area. That area was not covered in graffiti like some of the adjoining shires, but when the graffiti started to appear a couple of years ago, the council climbed right on top of it. It has a target group that goes out and knocks the problem on the head straightaway. However, this comes at a cost. Something like $300,000 has been spent over the past four years to have the target groups heading out to address the graffiti problem. Having come from the private transport industry, I know there will always be a certain amount of graffiti on public transport. The only real way to keep that to a minimum is to address it as quickly as possible and get it off. It does grow. There are some absolutely disgusting displays across western Sydney.

We cannot say that graffiti affects only a small section of our community, because it does not. I visited the shops on the southern side of Quakers Hill station with Councillor Nick Tyrell and Mike Gallacher, the shadow Minister for Police, and looked at those shops. Those shop owners are absolutely disgusted that morning after morning the fronts of their shops are absolutely defaced with disgusting graffiti. That is a disgrace to the good people who live in Quakers Hill. When I was first married I lived in that area for a short while. Some great people live in that area, and they do not deserve to have that disgusting blight on their area. I know from press reports and from talking to people that they hate graffiti. It is the first thing they notice. A continual build-up of graffiti indicates a breakdown in law and order in an area.

Groups of people in the community are actively addressing the problem. Councillor Nick Tyrrell has been working closely with the Riverstone Neighbourhood Centre and its 60 volunteer members, and they have

been heading out to clean up Riverstone. The volunteers are young people and some are teenagers. Vikki Durrant, who belongs to the Riverstone Neighbourhood Centre, said that the clean-up was organised to lift the profile of the town. She said:

> We don't just work here; it is where we live and we all want a clean and tidy town."

That is what everybody wants. People are absolutely disgusted by what these pigs do to our society. They cost us millions of dollars. They deface our community. They cause malicious damage, which is a crime, and we must address that. But the imposition of fines occurs after the fact, and we should examine closely the trend of some kids developing their tags while they are at school. They are even tagging their books. We need a large database to register the tags and retain them for all time. I know that the good police officers of my electorate are registering tags. I know that they are on top of the problem and they take particular notice of tags. When they identify the offenders by their tags, they find it very easy to pick them up.

The other point I make is that there is a very good program in America involving what are described as bait cars. A bait car, which is equipped with tracking devices, is planted in shopping centres with a high incidence of robbery and theft of motor vehicles. It is advertised widely that bait cars are planted in specific shopping centres. The result is that the rate of vehicle theft has decreased by 50 per cent. I suggested to one of the police officers in my electorate, Steve Blackmore of the Hawkesbury Local Area Command, that we set up a bait wall. We could work with local businesses and the local council to put up some closed-circuit television cameras in hot spots and focus on walls that were recently repaired and repainted following vandalism to see whether we can capture repeat offenders painting bait walls.

That type of innovative solution is a step in the right direction. We must nip graffiti in the bud. We should clean it up as quickly as we can. It is great that the Riverstone Neighbourhood Centre and councillors such as Nick Tyrrell are responding to the call. I know that Bart Bassett has been very proactive in addressing the problem. A press article reveals that the Leader of the Opposition, Barry O'Farrell, and Bart Bassett recently visited Cambridge Gardens. The photograph accompanying the article included a tag that caught my eye. The tag "DTL" was written on a wall in an industrial area at Cambridge Park, and it says, "Defyin' the law". That sums up perfectly the attitude of graffiti vandals. Some grubs defaced the side of that business premises. Business owners are absolutely disgusted.

Recently the New South Wales Parliament passed legislation to keep children at school to ensure that they obtain a good education. While I agree there is much merit in education, as a person who has trained many apprentices and turned out some very good-quality tradesmen, I know we have a massive skills shortage in panelbeating, spray-painting, automotive mechanics, carpentry, building and bricklaying. It occurs to me that a lot of the kids who are spending their time on graffiti—I would never refer to it as art—could do well in trades. We should not be trying to push them into formal education. The types of young people I am thinking of do not want to learn anything from a teacher in a classroom, but I guarantee they could learn a trade and turn their hand to something practical. That would be a much more proactive start in life and would be a better alternative than increasing fines to deter people from committing graffiti offences.

Perhaps we could divert some of the funding allocated to remedying graffiti to practical measures that will take young people off the streets. Right across western Sydney there is a massive proliferation of graffiti: one has only to travel through Quakers Hill and the Cambridge Park industrial area or visit the Whalan Park Community Centre, where I recently attended a meeting because local people had lost some bus services, to realise the extent of the problem. The first thing I noticed when I drove into the car park at the Whalan shops was graffiti. I drive through Riverstone on a weekly basis to visit family, and although Riverstone is not as bad as it once was, it is still an area where there is a lot of graffiti. I believe that western Sydney is where the skills shortage could quite easily be addressed. Young people from western Sydney areas should be encouraged to undertake trades and address their graffiti problem.

Rhett Morris from 180 TC, which is a rehabilitation centre at Yarramundi, recently said to me that graffiti is almost a cry for help from kids who need to be noticed. It is probably the case that the kids engaged in graffiti have not been noticed or raised in the best families. I come back to the point I made at the commencement of my speech: We should devise a program that engenders respect. As much as we want to educate young offenders and persuade them not to engage in graffiti, equally we should ensure that their parents take responsibility for their behaviour. I would like parents to be responsible and pick up the tab for the removal of graffiti. If that happened a few times and parents noticed their hip pocket getting lighter because they had to meet expenses associated with the actions of their children they would begin to teach their children to behave properly.

There is no more effective remedy than making people accountable for their actions. The interesting feature of this legislation is that the Government will pay graffiti offenders $30 an hour to clean up the rubbish they have written. I wonder what some of the great hardworking kids who at this very moment are slaving away at McDonald's at 9.15 p.m. while we are debating this legislation—great friends of mine in McDonald's restaurants in Rouse Hill, Mulgrave and Dural—think about that provision. They are slaving away for probably less than half the rate of $30 an hour. Imagine what they would think about paying graffiti offenders—grubby pigs that are defacing our society—$30 an hour to clean up their mess.

For God's sake, we should not be paying them anything. We should be punishing them and making them clean up. We should be dragging them to account. They should be dragged by their parents, like some members of this House have been, to be held to account. They should be made to apologise to people when they do something wrong. They should be dragged to people they have offended and forced to apologise. I am sure members will recall the humiliation when their parents took them next door after they had broken a window with a cricket ball and made them apologise and pay for the damage.

Our approach should be no different in relation to graffiti vandalism. That is exactly the type of action we should be taking. We must engender respect and responsibility in our society. It is something that is sadly missing. No amount of fines we may wish to impose or laws that we may wish to pass will achieve the desired outcome. Responsibility is the key. I am happy to say that that will be an initiative that a Liberal-Nationals government will take after 2011. We will ensure that respect and responsibility is put back into our society.

Mrs JUDY HOPWOOD (Hornsby) [9.17 p.m.]: It is with pleasure that I join in debate on the Graffiti Control Amendment Bill 2009. The bill will amend the Graffiti Control Act 2008 and related legislation to make further provision with respect to the minimisation and control of graffiti. The objects of the bill are:

(a) to amend the Graffiti Control Act 2008 …

(i) to create new offences relating to the supply of spray paint cans to children and the possession of spray paint cans by children, and

(ii) to increase the penalties for certain existing graffiti offences, and

(iii) to introduce a scheme of community clean up orders, under which an offender fined for a graffiti offence can be directed by a court to perform community clean up work in order to satisfy the fine, and

(iv) to make other consequential and minor amendments, and

(b) to amend the Graffiti Control Regulation 2009 to enable certain local council employees to issue penalty notices for certain offences under the principal Act, and

(c) to amend the Rail Safety Act 2008 to give rail safety officers the power to direct a person to state the person's name and address if the officer finds a person committing an offence against the principal Act, or reasonably suspects the person has committed an offence against the principal Act, and

(d) to amend other Acts as a consequence of the introduction of the scheme of community clean up orders.

Every member who has contributed to debate on this legislation would agree that graffiti is the scourge of our community. By and large, most communities have been affected by graffiti in one way or another, and some have been worse affected than others. In the Hornsby electorate we have what I consider to be hot spots. Those areas are largely around railway stations, high-density areas and shopping centres. An area that has a particularly heavy incidence of graffiti is the Hornsby Mall. Every day when I drive to my electorate office I turn into Florence Street and down Hunter Lane, where I am usually confronted by the extremely unpleasant sight of graffiti that has either been there for some time or has been newly painted onto the walls that I pass as I drive towards the entrance to the car park.

I find this unpleasant. Graffiti detracts from the overall beauty of the electorate, but when graffiti is added to older premises and fixtures in the older section of the Hornsby central business district it becomes a visual nightmare. I report regularly to council requesting the removal of graffiti and council works extremely hard, with limited resources, to remove the graffiti as soon as possible. However, some graffiti persists, detracting from the area and making it look unsafe and unsavoury. Most members would have similar situations in their electorates. Indeed, constituents and visitors have said that they do not like to visit areas that look disgraceful as a result of graffiti sprayed, drawn or scratched on windows and other surfaces.

Some time ago Hornsby Chamber of Commerce instituted the Tag-a-Tagger graffiti project. However, continuing that initiative is not a focus of the new regime or executive. That successful project involved

businesses—I participated—taking photographs of graffiti. We would then email the photographs to a central point, where police could access them. I know that police found the bank of graffiti tags very helpful and informative, and continue to do so to this day. However, police do not have sufficient resources to keep up to date; they rely on chambers of commerce and other organisations to do the detective work of photographing the tags. Certainly, the project has had a deterrent effect.

Another seedier and problematic aspect of tags is their meaning. Unfortunately, a number of local gangs, such as the Hornsby Boys, use tags to indicate their presence. The presence of tags is a sad indictment on the gangs and their activities. Lately there has been a spate of unpleasant youth activities, with fights and bad behaviour around the Hornsby Mall area, in full view of passers-by and restaurant patrons. It is not pleasant for people to witness these activities, and the accompanying tags make the situation even more uncomfortable and unpleasant. This type of activity deters visitors and businesses suffer. It affects the ambience of the entire area.

In conclusion, I accept that, although this bill is a step forward in graffiti control, it is merely window-dressing. We have waited a long time for another means of deterring graffiti perpetrators, and this bill does not deal with the real issue, which is catching graffiti vandals. Police need more resources to help them catch vandals—which is the only way to describe them. The Government must ensure that it makes the necessary resources available to police, including increasing police numbers, to fight the graffiti scourge.

Mr JONATHAN O'DEA (Davidson) [9.24 p.m.]: I speak on the Graffiti Control Amendment Bill 2009. The financial and social costs of graffiti are immense and require a strong response from government. However, the Government must adopt a whole-of-government approach. The danger lies in the Government becoming complacent and simply increasing penalties and thinking that it is enough to address the problem of graffiti. The Government must address the lack of resources directed to policing and be prepared to look at a range of policy options in managing graffiti. While I welcome the community clean-up orders, their implementation in this bill is problematic.

It is accepted that the cost of graffiti to the community is unacceptable. It is difficult to quantify the financial cost due to the fact that many property owners are forced to clean up graffiti at their own expense. However, in April 2002 the Hon. Harry Woods, MP, then Minister for Local Government, advised Parliament that graffiti vandalism costs New South Wales up to $100 million per year. This figure is obviously likely to be much higher now in what our New South Wales Minister for Tourism admitted earlier today was the State with the highest number of graffiti incidents. There is also a social cost due to the fact that graffiti in public places creates a perception that authorities have, to some extent, lost control. It makes some people feel less safe. It also may encourage others to think that graffiti does not matter, contributing to what is known as the broken window theory.

There are a number of ways the Government can address the problem of graffiti. There is, of course, deterrence, which aims to deter both the individual graffitist and others. We see this in proposed schedule 1 [2], which increases the maximum penalty for the existing offence of damaging or defacing property with a graffiti implement from six months to 12 months imprisonment, and in proposed schedule 1 [3], which increases the maximum penalty for the existing offence of possessing a graffiti implement with the intention that it be used to damage or deface property from three months to six months imprisonment. The Government can also attempt to prevent graffiti through restricting the tools required, urban design or increased surveillance. This bill creates two new offences that further restrict the supply of spray paint cans to persons under the age of 18 years through proposed section 8A, and the possession of spray paint cans by persons under the age of 18 years through proposed section 8B.

While we do not oppose these initiatives, there are other approaches to managing graffiti. The report on research by Geason and Wilson, "Preventing Graffiti and Vandalism", Australian Institute of Criminology, Crime Prevention Series 1990, indicates that "extensive alienation, hostility and social malaise on the part of growing numbers of youngsters contributes to graffiti". Those interviewed for the Government's research conducted by the Department of Justice and the Attorney General, which was published in the report entitled "The motivations and modus operandi of persons who do graffiti", identified other motivations for graffiti vandalism. The Government may wish to consider some suggestions from the Parliamentary Library's Briefing Paper on Dealing with Graffiti in New South Wales, including "raising the self-esteem of young people; promoting in them a sense of responsibility for and ownership of community resources; providing alternative activities for young people; and developing a positive profile for young people in the community".

Quickly removing graffiti is a very effective method as it denies offenders the thrill and kudos they receive from committing the offence. This is a key part of the Ku-ring-gai Council graffiti policy. I acknowledge

the work that Rotary does in the Ku-ring-gai area in relation to graffiti removal. Under the leadership of Roger Norman, Turramurra Rotary established a graffiti removal project to clean up existing graffiti on both private and public property and to promptly remove new graffiti. This project is now expanding to Lindfield Rotary and other clubs. I acknowledge also the role of the Dulux paint company in sponsoring paint supply, and the role of Don Wormald in helping arrange the sponsorship.

There are a number of reasons to question increased sentencing as a solution to the problem of graffiti. It is no good increasing sentences if police are not given the resources to arrest offenders. If the Government were serious about graffiti, it would increase police resources so that offenders were caught and people were deterred from committing offences due to the risk of being caught. The Government may be concerned about the cost of increasing police resources. However, it does not seem to be concerned about the cost of imprisonment. The Productivity Commission's 2009 report on government services states that in New South Wales the net recurrent and capital costs of imprisonment total $280.60 per day. Therefore, a prison sentence of six months will cost New South Wales taxpayers in excess of $50,000.

There are perhaps more effective and less expensive alternatives, such as community clean-up orders, which are included in this bill but not implemented properly. Offenders who are sentenced to perform community service, or clean up the mess they created, help address the harm they inflicted. They are also publicly confronting and acknowledging the harm they have caused and deterring others from making the same mistake. If the court imposes a community clean-up order, this should not be able to be satisfied by the payment of a fine. Yet it seems that section 9J of the bill allows this. It states:

> If an offender who is subject to a community clean up order duly pays the fine … the order is taken to be satisfied.
>
> …
>
> A community clean up order ceases to be in force when it is satisfied.

This completely undermines the unique nature of the community clean-up order. An offender who simply pays a fine is not forced to publicly confront the damage they have caused. The act of cleaning up graffiti is a powerful deterrent due to its public nature and physical demands. In addition, this provision sends the signal that if you can afford to, you can avoid getting you hands dirty and the embarrassment of cleaning up the damage caused. A fine should be no substitute for community service. The Government is simply favouring those who have money or the capacity to pay. That is wrong.

The Government should not forget the importance of youth justice conferences and consider expanding them to include adults. These conferences force the offender to meet the victim of their crime and negotiate an appropriate outcome, which may include the offender cleaning up the damaged property. In an Internet article titled "Jail not answer to stopping graffiti", 2009 Australian Broadcasting Corporation, Professor Chris Cunneen has indicated that "young people attending a youth justice conference are less likely to re-offend than those who proceed through the court system".

While we do not oppose this bill, the Government should not become complacent by simply increasing penalties and thinking that that is enough to address the problem of graffiti. The Government must take a whole-of-government approach and be prepared to properly resource the police force and undertake education campaigns. While I welcome community clean-up orders, they should be implemented properly and other alternative policies should be given serious consideration.

Mr ROB STOKES (Pittwater) [9.33 p.m.]: The Graffiti Control Amendment Bill 2009 amends the Graffiti Control Act 2008 to provide increased penalties for certain existing offences and creates new offences relating to the supply and possession of spray cans. In particular, the bill creates new offences relating to the supply of spray paint to children and the possession of spray paint by children, and it introduces a scheme of community clean-up orders under which an offender fined for a graffiti offence can be directed by a court to perform community clean-up work in order to satisfy their fine. The bill also makes amendments to the Graffiti Control Regulation 2009 to enable certain local government employees to issue penalty notices for particular offences under the Act.

The bill will amend the Rail Safety Act to give rail safety officers the power to direct a person to provide their name and address if the officer finds a person committing an offence or reasonably suspects that the person has committed an offence under the Act. As many other members have articulated in this debate, our communities are hurt, angry and fed up with the mindless destruction of graffiti vandalism. Graffiti vandalism is

not only angering local residents and creating eyesores throughout our communities; it is also having significant economic implications. In recent years Pittwater Council has been forced to spend upwards of $100,000 a year on removing graffiti and repairing malicious damage while the ongoing and escalating costs to local business and residents is getting completely out of hand.

The problem with the legislation is that increasing penalties is completely ineffective unless perpetrators of graffiti vandalism are caught. We can come up with as many laws, regulations and rules as we like in relation to graffiti, but they will be completely worthless unless they are enforced and unless there are the resources to ensure that they are enforced. I would certainly argue, as other members have argued in this place, that harsher penalties are not necessarily the answer. Penalties should always be proportionate to the offence, but the first thing to ensure is that perpetrators of crimes are caught. Again, we can have as many penalties as we want but if they do not result in the apprehension of offenders there is little point.

For this to be better achieved, it is clear that the bill must be backed up by increased resources to help authorities prosecute offenders. For example, Pittwater Council and Warringah Council do a fantastic job in encouraging the community to report acts of graffiti, cataloguing examples and working closely with police to tackle this issue. I commend the mayor, councillor Harvey Rose, for his work on this issue. I also commend community volunteers, people like Auburn McGuiness, who are cataloguing examples of graffiti and reporting them to the local council. However, as always, only limited resources are available, and every minute spent on pursuing graffiti perpetrators is a minute less that both the police and council have available to spend on other tasks.

Obviously, this is an ongoing concern, and the subtext of this entire debate must be addressed before the bill or any graffiti control legislation can make inroads into the State's graffiti problems. Under section 8A of the bill a person who supplies spray paint to a person under the age of 18 years will be guilty of an offence unless they believed on reasonable grounds that the recipient intended to use the spray paint for legitimate and lawful purposes such as an occupation, education or training. I understand the strengthening of this section of the Act and believe that, as with alcohol or cigarettes, children have no need to purchase spray paint. However, I again raise caution, as I have done previously on this matter in this place, that it can often be difficult for suppliers to determine the desired intentions of those minors requesting to obtain spray paint.

With alcohol it is obviously very different as we have banned outright the sale of alcohol to minors. However, I understand that with spray paint the issue is more complex: it would not be appropriate to prohibit all individuals under 18 years of age with a legitimate reason, such as trade apprentices, from purchasing spray paint. Furthermore, under proposed section 8B stronger penalties will apply to those under the age of 18 years who are found in possession of spray paint without a defined lawful purpose. Once again I suggest that this may be fraught with difficulty as it can often be arduous for authorities to clearly determine if spray paint is being carried for the intention of an unlawful act. While police may have their suspicions, there are literally a million and one excuses for an individual to lawfully have spray paint on their person. Justifications may include taking it home for a school project or hobby, purchasing it for a parent—the list goes on.

The bill amends section 9 of the Act to empower police officers to confiscate spray paint from individuals under the age of 18 years unless the minor can satisfy that their possession does not constitute an offence under the new provisions. Once again I question the effectiveness of this provision, given the numerous defences that exist, and suggest that it is not as practical and straightforward as it might first seem.

Part 3A of the bill, which creates a scheme enabling a court to order a person to perform community clean-up work, will be welcomed by those in the community I represent as a positive step towards punishing graffiti vandals. As a proportionate response I think this is the key in dealing with graffiti vandalism. However, I am disappointed to note that proposed section 9J restricts this option to offenders who cannot afford to pay the fine in full. I share the opinion of many within my community that it is far more worthwhile and constructive for those found guilty of defacing and damaging property to be actively involved in the arduous task of removing the graffiti.

By restricting the community clean-up option to only those who are unable to afford the fine, the bill misses a great opportunity to demonstrate to perpetrators the damage their actions have on society and the effort required to right their wrong. Simply paying a fine is a cheap and easy way out that does little to educate perpetrators about the impacts of their crime. I strongly argue that an hour's hard labour in scrubbing walls to remove graffiti—in many cases, at least an hour's hard labour—is worth much more than the $30 equivalent that this bill has stipulated. It would be much more beneficial if all perpetrators were liable to this option.

As I mentioned earlier, councils, local residents and business owners in my community are being forced to fork out significant amounts of money to have graffiti removed, whilst perpetrators are getting off with a small fine and leaving the victims to clean up their mess. This simply is not right. When I speak to community groups, property owners and shopkeepers in my community they tell me that they want vandals to be forced to clean up the mess they create. In my view this is the most logical, positive and practical penalty for graffiti vandals. Unfortunately, the bill misses this viable opportunity by providing that only perpetrators suffering some form of financial hardship and therefore unable to pay the fine will be susceptible to this penalty. Not only is this blatantly unjust, by giving those with the capacity to pay some option for what seems to be a lesser penalty in that they only had to pay a pecuniary penalty, it also means that perpetrators who are able to afford the fine will be exempt from the real and restorative benefits that this type of punishment could provide.

I note that schedule 2.5 to the bill amends the Rail Safety Act 2009 to give rail safety officers the power to direct a person to provide their name and address if the officer finds the person committing an offence or reasonably suspects the person to have committed an offence. While it is welcome that the bill seeks to protect the State's assets, no concessions or powers are provided to bus network transit officers, who are charged with protecting the more than 1,900 buses in the State Transit fleet. Whether the graffiti is carried out whilst these buses are in motion, stationary at bus stops or parked at depots, the level of graffiti being seen on Sydney's buses is of major concern. I recently discussed this issue with a number of local bus drivers, who informed me of the appalling extent of vandalism on our buses and how alarmed they are that the State Government has such little regard for the State's public transport assets. In response to this I have placed a question on notice to the Minister seeking to establish the annual economic costs being incurred as a result of this activity.

Therefore, whilst I understand and fully support an increase in powers provided to rail safety officers and note the shocking level of vandalism on the CityRail network to the tune of $3.8 million annually, the bill unfortunately again appears to miss the mark by not providing any direct enhancement, as far as I can see, to the protection of Sydney buses. I seek clarification from the Parliamentary Secretary as to whether this is the case, and if so what alternative measures are in place to ensure that bus transit officers can help protect our buses from the perils of graffiti vandalism.

In relation to buses I am disappointed that the bill fails to further address marker pen graffiti by dealing specifically with graffiti done with spray cans, an aspect covered by sections 8A and 8B and section 9. On buses and in confined spaces particularly marker pens can be just as destructive as spray cans and can cause significant damage. I therefore welcome any amendments to the bill that address this type of vandalism. Everyone wants to make their mark on society. The Government and the Parliament should address the reasons why graffiti vandals seek to make their mark by literally making marks, and in so doing defacing property owned by another. Unless this fundamental issue is resolved, we will continue to debate piecemeal legislation that may be well intentioned but everyone knows will not make much difference in dealing with graffiti vandalism and its consequences.

Mr JOHN WILLIAMS (Murray-Darling) [9.44 p.m.]: I will speak briefly to the Graffiti Control Amendment Bill 2009. There is no doubt that graffiti in society reflects pretty much the culture that is accepted within that society. When one visits Singapore, for example, one notes that there is a zero tolerance towards graffiti in that country. I recall that many years ago in Singapore an Australian youth was caught in the act of graffiti and he subsequently faced five lashes with the rotan. At the time there was a wide-ranging appeal in Australia to try to influence the court in Singapore to readdress the penalty and apply some sort of leniency.

There is no doubt that when graffiti started at some point in Australia, when we found that spray cans had arrived and people were able to perform acts of graffiti, there was some acceptability of the activity. In fact, some people believed graffiti was a form of art. Since that time acts of graffiti have escalated to the point where historical buildings, for example, are being graffitied. All of a sudden the authorities believe that graffiti vandalism has exceeded a point of tolerance. Unfortunately, action should have been taken a lot earlier than this. It is a little like what occurred with the legislation relating to bikies in New South Wales. There was early recognition that bikie gangs in Australia should be treated with a great deal of concern. Unfortunately, some people believed that there was no harm in bikie gangs, and as a consequence we have seen what has come out of that. On a smaller scale, graffiti vandalism is compatible with bikie gangs.

It seems that graffiti vandalism is now out of control. Throughout my electorate I see acts of graffiti, and in many cases those who get away with an act of graffiti then move on to an act of vandalism. They then move on to break and enter offences, and they become criminals. So graffiti vandalism is pretty much a stepping-stone in the process. If there is a tolerance in society for one of the first acts of crime, where people

find that they can perpetrate the crime easily, there is no doubt that it is open for those who want to take the next step, if that is tolerated, to commit an act of vandalism. There is no doubt that graffiti in itself is an act of vandalism. We have seen the degradation of public assets, private assets and public transport as a result of graffiti.

Graffitists for so many years have got away with their activities, and they believe that they can continue to leave their sign behind in as many places as possible, which really destroys the environment. People who visit our country come to understand that crime is tolerated here, and consequently the impression they have about this country is that we have vandals running amok. One has only to travel on our trains to observe acts of graffiti. Most of the graffiti we see on our trains is not done with spray paint cans; the graffitists use a device to etch a design, mainly on the windows of the train compartments. We are seeing what I believe is a very valuable asset defaced. People are trying desperately to maintain standards but those standards are simply being torn apart by these vandals who continue to carry out acts of graffiti wherever they can.

I believe the Government has never hit the nail on the head with regard to addressing graffiti vandalism. If a person is involved in juvenile crime—and predominantly the graffiti we see is juvenile crime—not much is done. The person has the opportunity of either paying a fine or cleaning up the graffiti. I ask: Who will control the cleaning? Who will be there? What method will be used to clean up graffiti? Graffiti clean-up is a very hard job and lots of shires in my electorate have a policy of identifying graffiti and painting over it in an attempt to stop the location becoming a permanent graffiti site.

Past attempts to deter graffiti have failed. The Government has taken a soft approach to graffiti, and there is clear evidence that that needs to be reassessed. The perpetrator should suffer a greater penalty than paying a fine or having to clean up his graffiti. I wonder how that can be done. Western New South Wales does not have enough people to supervise clean-up operations. In many areas those who go through the juvenile justice system are accommodated in a good facility and receive three meals a day—which are probably far better than they are accustomed to—so they are benefiting. When offenders are made to pay with hard labour—and that is as it should be—there is no incentive to carry out those acts. The Government should not take the soft option. The bill contains a promise to the community that acts of graffiti may diminish. The Government should demonstrate that it is in control, not the graffiti artists. That has not been the case to date. This law should be seen to be working by forcing graffiti artists to clean up their vandalism.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [9.51 p.m.], in reply: The member for Epping, the member for Myall Lakes, and the Minister for Commerce and other members raised a large number of matters that need to be addressed. I value the contribution of the member for Sydney, who is in the Chamber, and thank the members representing the electorates of South Coast, Smithfield, Coffs Harbour, Cronulla, Castle Hill, Orange, Maitland, Wagga Wagga, Port Stephens, Ryde, Albury, Hawkesbury, Pittwater, Davidson and Murray-Darling for their contributions.

The member for South Coast spoke of the value of cleaning up graffiti, which was supported by the member for Coffs Harbour. Members and the community in general believe that community clean-up work is valuable. Under the Graffiti Control Amendment Bill 2009 it is possible for a magistrate to order a person to do community clean-up work in order to pay off a fine. If a magistrate decides that a fine is appropriate, the magistrate sets the fine and can then order that the offender pay the fine by way of a community clean-up at the rate of $30 per hour. I will address that point further later. A person who has been convicted of a graffiti offence will also be allowed to elect to pay the fine through community clean-up work, but only if he or she is suitable to do the work.

As the member for Orange said, clean-up work involves cleaning off graffiti and other community clean-up activities. In the event that the offender fails to do the work, he or she will have to pay the fine in the ordinary way. All other sentencing options remain, including community service orders and imprisonment. Under the current provisions, the only option available to a court to order graffiti clean-up is under a community service order. Bureau of Crime Statistics and Research data suggests that courts most frequently impose fines. It should be noted that a community service order is, of course, a serious sentence; it involves deprivation of a person's liberty and any breach may result in a prison sentence.

That is why the Government is introducing community clean-up as a way for offenders to serve their sentence in lieu of a fine. It is designed to offer the court an option other than a fine and a community service order. It allows the offender to pay a fine via clean-up, thus increasing the number of graffiti offenders doing clean-up work. Magistrates have been given the power to order community clean-up work, regardless of

whether a person consents to do it. However, a court must not make a community clean-up order unless satisfied that the offender is a suitable person for the work. Ultimately, an offender who fails to do any work will have to repay the fine in full.

The contributions by a number of members regarding the fine made me wonder what planet they are on. The bill is not about paying an offender to clean up his or her community. The Government and the Opposition want offenders to clean up graffiti in the community in lieu of a fine. It is one hour's work for every $30 fine. For example, if a magistrate imposes a $300 fine, the offender will have to do 10 hours of clean-up. If a magistrate imposes a $900 fine, the offender will have to do 30 hours of clean-up, which is quite onerous. The reference to a $30 fine is a way of calculating the number of hours of cleaning up that will be required. The Opposition really does not understand, as evidenced by the contributions of many members, that the Government is encouraging offenders to clean up their graffiti. It is a complete fallacy to say they are being paid $30 an hour and compare that with the wages offered by McDonald's. I am sure that members opposite know that that is a truly spurious argument.

The member for Epping, the member for Myall Lakes, the member for South Coast, the member for Coffs Harbour and the member for Wagga Wagga talked about the Government's efforts to tackle graffiti. On 8 November 2009 Premier Nathan Rees announced the Graffiti Action Plan, which included initiatives such as Graffiti Action Day, a day each year dedicated to community-based graffiti clean-up in partnership with Keep Australia Beautiful. Further initiatives included a shared approach to graffiti removal in two trial locations, Blacktown and Mosman, and designing out graffiti by making planners of all new State government buildings take graffiti and crime prevention measures into consideration. Recently I had the privilege of opening on behalf of the Attorney General the Designing Out Crime Centre at the University of Technology, Sydney, to which the State Government contributed $450,000 per year for three years. Some of its projects are absolutely extraordinary. In discussions I was told that one of its projects was designing out graffiti in a particular laneway. Another initiative was graffiti hot-spot funding, which is a $1 million annual grants program to fund the implementation of anti-graffiti design treatments in identified hot spots.

Many members of the community have expressed interest in taking ownership of this issue. The first Sunday in May will be a day for graffiti clean-up, engaging teams of volunteers to participate in graffiti removal and paint out. The proposal has the support of Keep Australia Beautiful, a respected organisation with a proven track record of engaging people in a range of community pride activities. Next year Graffiti Action Day will be held on 2 May. People will be able to register their interest for the event by logging on to the Keep Australia Beautiful website, *www.kabnsw.org.au*. The public can also lead the way with simple do-it-yourself strategies that reduce the opportunity for graffiti to occur, such as securing any implement that could be used for graffiti. I encourage those interested in doing their bit to browse the Government's Stop Graffiti Vandalism website, *www.graffiti.nsw.gov.au*, for some handy, practical advice. I encourage people also to report graffiti, particularly on Roads and Traffic Authority or electricity authority facilities. Recently someone had a go at me for not having graffiti cleaned off. When I asked that person whether he had reported the graffiti, the answer was no.

In response to concerns raised on behalf of the Bar Association by the member for Epping, the Government has carefully considered when it is appropriate for a person to have spray paint, and this is reflected in the defence of lawful purpose that is provided in the bill. A child found at a public place in possession of a spray paint can has two alternative statutory defences to the offence under the bill. The first defence is to prove that he or she had the can in his or her possession for the lawful pursuit of an occupation, education or training. The second defence has two components: it must be shown that the spray paint was for another defined or lawful purpose in section 8B (3), such as lawful artistic activity, and was at or in the immediate vicinity of the place where the spray can was being used or was intended to be used. A juvenile with a spray can in his or her possession not for a lawful purpose will face the maximum penalty of $1,100 or six months imprisonment.

The defences for possession and/or supply are set out in the Act. The member for Epping referred to proposed section 8A of the Act, which involves the supply of spray cans to minors. He referred to the concerns of the Bar Association that the onus should be on the Crown to prove an unlawful purpose that is beyond reasonable doubt. The member said that the defence in proposed section 8A (2) is somewhat unusual. Proposed section 8A (2) places the onus of proof on the defendant on the balance of probabilities, and there are plenty of instances of this in the criminal law. The classic case, of course, is the offence of goods in custody, where the onus is on the defendant to show that he or she believed on reasonable grounds the goods in his or her possession were not stolen or unlawfully obtained. Sadly, the member for Castle Hill scoffed at the onus being on the defendant but it is appropriate in this particular case.

The research conducted by the Department of Justice and Attorney General on the motivation and modus operandi of graffiti offenders tells us we need a stronger response to break the nexus between children, graffiti and spray paint. The existing legislative restrictions on the sale of spray paint have made obtaining spray paint very difficult, which is why juveniles are resorting to having adults purchase spray paint on their behalf. That puts the onus on adults to prove lawful purpose and makes them take responsibility for their actions and will assist the police in catching and prosecuting those who seek to circumvent the restrictions on the sale of spray paint in the Graffiti Control Act by supplying spray paint to young people.

The member for Epping, the member for South Coast and the member for Cronulla all raised the issue of permanent markers. They asked what the Government is doing about permanent markers, as it was not mentioned in the bill. Section 4 of the Graffiti Control Act covers the applying of graffiti with an implement including a marker pen, and section 5 covers the possession of a graffiti implement, which also includes a marker pen. Offences committed under those sections can be dealt with by way of community service order and, under this bill, community cleanup orders.

Under the Graffiti Control Act the Government extended the reach of graffiti offences to cover more than just the use of spray paint. Graffiti is often carried out with a variety of different tools and the Act expanded the traditional spray paint can offences to involve all graffiti implements, including spray cans, marker pens, etching tools and anything else designed or modified to produce a permanent mark. On the specific issue of permanent markers, the Government's anti-graffiti action team is exploring the evidence of their impact so more effective controls can be considered—it is an issue on its agenda.

The member for Myall Lakes spoke about maximum penalties and claimed magistrates were soft when imposing penalties. Section 5 vests discretion in the court. The increase in penalties contained in the bill reflects the desire of the Government to deter graffiti vandals and to have them punished appropriately for their crimes. By increasing the penalties the Government is sending a message to the community about the seriousness of graffiti. Graffiti is not a victimless crime and there will be consequences for anyone who perpetrates it.

The contribution of the member for Cronulla was notable in that he did not mention graffiti in the Sutherland shire. If he had, he would have mentioned that Acting Commander Jenny Hayes from the Miranda Local Area Command and I appeared on the front page of the *St George and Sutherland Shire Leader*. I was showing her graffiti on a back wall of a building and she gave her undertaking to devote more resources to the clean-up of graffiti. A reward of $5,00 is also being offered by the Sutherland Shire Council leading to the arrest and conviction of persons for graffiti offences. The council is willing and able to clean up graffiti in public places, and I commend the council for its work in this area. One morning as I was driving to work I observed graffiti on a wall of a property adjoining a public park. I telephoned the council and by three o'clock that afternoon the graffiti had been removed. The Commander of the Sutherland Local Area Command, Superintendent Gavin Dengate, is working very hard with his police officers to identify tags and is targeting repeat offenders.

Not that long ago I obtained a grant from the Government for a program called Do Art Meaningfully and Get Educated [DAMAGE]. That program was conducted by Senior Constable Michelle Druery and Senior Constable Craig Picker of the Sutherland Police and Community Youth Club and involved getting young graffiti vandals at risk into education and to use their talents in a meaningful way. Only last Friday a wonderful mural was installed at Jannali railway station, which was done under the tutelage of a RailCorp artist. Pupils from Jannali High School and Jannali East Public School brightened up the railway station, allowing them to take ownership of part of their suburb.

The member for Castle Hill knows that magistrates cannot be coerced into enforcing the law—quite a ridiculous suggestion. I am sure he is well aware of the doctrine of the separation of powers. No doubt the member is also aware of the use of judicial discretion. The member for Wagga Wagga raised the issue of retailers bearing the brunt of the legislation. Under section 8A of the Act the word "supplies" is used but it is not confined to retailers supplying graffiti implements to minors. The restrictions on the sale and display of spray paint cans are already included in the Act in any event. "Supplies" includes the passing on of spray cans to others, not necessarily in a shop. It can be in public or private places.

The member for South Coast said that when she was a child at school the most embarrassing thing she could be forced to do was clean up the playground at recess or at lunchtime as a result of her misbehaviour in class. That is exactly what the Government is doing in this bill. The bill is about encouraging youngsters to accept responsibility for their actions by encouraging them to clean up their mess. The bill is one part of a

number of measures the Government is taking to fight against graffiti in New South Wales. The bill imposes harsher penalties, new methods of exacting punishment, and other measures aimed at tackling graffiti in the State. 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.

VALUATION OF LAND AMENDMENT BILL 2009

Agreement in Principle

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [10.09 p.m.], on behalf of Ms Verity Firth: I move:

> That this bill be now agreed to in principle.

The Valuation of Land Amendment Bill 2009 was introduced in the other place on 12 November 2009 and it is in the same form. I refer members to the Minister's second reading speech, which appears at pages 55 to 56 of the *Hansard* galley for that day. I commend the bill to the House.

Ms KATRINA HODGKINSON (Burrinjuck) [10.10 p.m.]: The Opposition does not oppose the Valuation of Land Amendment Bill. The bill makes a number of changes to legislation relating to valuation of heritage-restricted land to confirm the previous practices of the Valuer General for valuing heritage-restricted land for rating and taxing purposes, which had come into question as a result of the Court of Appeal decision in *Valuer General v Commonwealth Custodial Services* [2009]. The legislation seeks to clarify the Act in relation to that matter. A correspondent amendment is made to the Heritage Act 1977 covering valuation of heritage-listed land. The Minister with carriage of this bill, the Hon. Tony Kelly, said in his reply to the second reading debate in another place:

> The bill will restore the way valuations have been done in the past, so there will be no increase in either the land tax or the rates paid on these heritage buildings but neither will there be a decrease.

There are around 44,000 heritage properties in New South Wales, a significant number of which are located in regional New South Wales. In my home town of Yass there are many heritage properties, including the wonderful Cooma cottage, the original home of Hamilton Hume. There are other beautiful old buildings that many local residents take a lot of effort to act as curator for or take great pains to restore to former glory. There are buildings such as that throughout regional New South Wales, which is what makes regional New South Wales such a wonderful attraction for tourists to visit.

There are two categories of heritage land in New South Wales. First, I refer to heritage-restricted land, which is not on the State heritage register but is listed in the heritage schedule to its local council's local environment plan and valued under the Valuation of Land Act. Second, I refer to heritage-listed land, which is on the State heritage register and valued under the Heritage Act. In New South Wales valuations reflect the land value only and are assessed as if the land were vacant on the basis of its highest and best use. Section 14G of the Valuation of Land Act sets out the methodology for valuing heritage-restricted land based on a series of assumptions to assist a valuer to properly determine the highest practical use of heritage, according to the person who has the carriage of the bill on behalf of the Opposition, the Hon. Greg Pearce. I thank him for his carriage of this legislation on behalf of the Opposition in the other place.

The decision in *Valuer General v Commonwealth Custodial Services* [2009] concerned the valuation of heritage-restricted land. Where a property is heritage-restricted, a landowner can request the Valuer General to provide a heritage-restricted valuation to reflect the restrictions on its use and future development. Buildings on heritage-restricted land cannot be redeveloped, so it is important that restrictions in relation to future development and use are reflected. Any valuation is usually lower than comparable land not subject to heritage

restriction. I note that in her second reading speech in the other place the Hon. Penny Sharpe, representing the Minister, used the example of the Sydney Eye Hospital, which is next to State Parliament. She said that if somebody was going to buy that particular building they would have to take into account the fact that it is not possible to knock the building down and build a 30-storey high-rise building, for example. Those sorts of things need to be taken into consideration.

The Court of Appeal decision in *Valuer General v Commonwealth Custodial Services* considered the current wording of section 14G and concluded that the current condition of the building on heritage-restricted land must be taken into account in a valuation assessment. That decision cast doubt on the validity of heritage valuations undertaken by the Valuer General. It challenged the Valuer General's mass valuation process, which has been developed over 30 years, and would require the separate valuation of every heritage property in the State. The Valuer General has never valued heritage-restricted land in that way.

According to the Valuer General, failure to amend the Valuation of Land Act would require separate valuations to be made for every heritage property in the State, creating enormous strain on the system and also at incredible cost to the Government. The Valuer General has never valued heritage-restricted land in the manner described by the Court of Appeal. The amendments will maintain the status quo, as mentioned by the Minister for Lands in another place, by allowing the Valuer General to continue to value heritage-restricted land following the method based on a mass valuation process. That process is not perfect and it is extremely complex, but it has been used over the past 30 years and it does allow like properties to be considered together and valued in groups. Within each group at least one representative property is valued individually each year to measure value changes, which are then applied to all properties in the group.

Changes to the land valuation system over recent years have addressed many shortcomings of the Valuer General's methodology previously highlighted by the New South Wales Opposition. Land valuations, land tax and other issues relating to land do not seem to be the lightning rod issues that they were in the past. These amendments will not of themselves result in any increase in heritage property land values. They should prevent land value volatility as a result of the court decision and prevent variations in land values due to the landowner's intervention. The amendments do not make any changes to a landowner's right of appeal or objection to valuations made under the Act.

The Hon. Greg Pearce has advised me that the urban taskforce has argued that heritage owners should be given the benefit of the court's decision because of the burden of ownership of these properties. The effect would be generally lower valuations and therefore lower land taxes and rates. These issues are more appropriate in a consideration of our heritage policies and tax policies. The amendments do not really go far enough. New South Wales still has an extremely complicated and relatively flawed system for land valuation. The amendments do not address the fact that valuations of heritage land involve so many assumptions that it is hard not to regard the end result as anything other than something somebody has made up along the way. As always, the New South Wales Liberals-Nationals Coalition has consulted extensively. In summary, I refer to a comment in the recommendation of the Legislation Review Committee, which stated:

> … the Bill intends to clarify the approach to valuing heritage land that has been developed by the Valuer General and to "maintain the status quo" regarding this approach. Accordingly, in these circumstances, the Committee does not consider that the retrospective application of the proposed amendments will unduly trespass on personal rights and liberties.

The Opposition does not oppose the bill.

Ms CLOVER MOORE (Sydney) [10.18 p.m.]: I raise concerns about the Valuation of Land Amendment Bill 2009, which creates an additional assumption for the Valuer General when valuing heritage land, both State and local, that any "improvement" to the land is "new". By "improvement" the bill is referring to any sort of addition to the land, such as development, and by "new" it is referring to the condition of that addition. In other words, the bill assumes that for the purpose of valuing land for rates and taxes any development on the land is in good condition. It is fundamentally wrong to assume that development on heritage land is in good condition. In most cases it is the exact opposite with heritage items often dilapidated.

Heritage items are the historic items that we believe require preservation. They are not necessarily in good condition, sometimes they have been neglected or sometimes their age has led to damage. However, the history of these items and their potential for restoration has led us to make laws for their protection so that stories of our historic culture can be told in the future. The result of this assumption is that heritage land will be valued greater than its worth, thereby increasing rates and taxes, without the owner getting a greater return when the property gets sold, particularly given that heritage buildings cannot be developed to the same extent as other

land. This year heritage laws were changed to include economic and financial matters in decisions on heritage significance, despite an inconsistency with the Burra Charter principles that stress the need to keep decisions about heritage significance separate from management decisions.

Pursuant to this bill the costs of owning heritage land will increase to save the State the cost of making a proper valuation of the land with its heritage restrictions. This will encourage more owners to oppose their land being heritage listed on economic or financial grounds. I am concerned about the impact this bill will have on our common heritage and the owners of heritage restricted properties. The Government has said that the amendments in this bill will remove the need for the Valuer General to inspect each parcel of heritage land, but this is far from the case. Making an assumption that any "improvement" to land is "new" will not give the Valuer General the information needed for a valuation because the characteristic of being "new" does not inform the valuer about what the "improvement" is or how big it is.

An "improvement" could be a five-bedroom house with views or a humble shearer's hut. I understand this information is essential for a valuation because the Act requires the valuer to presume that the "improvements" to the land remain on it in their present use with no further improvements permitted. The Valuer General cannot assume that all "improvements" are the same and must inspect the land. "Improvements" on the site of the First Government House, for example, are nothing but foundations, which were once part of a house but are now quite different structurally to when the house was new and had walls and a roof. This bill would require the valuer to assume that the whole house is intact and new as it was when it was first built even though only foundations exist.

The Valuer General will have to inspect the site anyway to determine that the "improvements" are only foundations and not something of greater value like a house. Heritage is so important to our cultural wellbeing. I have repeatedly urged the Government to take heritage seriously. This bill will do nothing but increase the value of heritage sites and I do not understand its purpose. It cannot and will not reduce the cost of valuing heritage restricted sites, which is the stated purpose of the bill. This bill will destroy the heritage valuation system.

Mr FRANK TERENZINI (Maitland) [10.21 p.m.]: I support the Valuation of Land Amendment Bill 2009. The bill amends the Valuation of Land Act 1916 which, as members would be aware, established the method of valuing land for rating and taxing purposes. The bill also amends the Heritage Act 1977 in regards to those provisions that provide for a valuation of properties under the State Heritage Register. Land valuation in New South Wales, as defined by the Valuation of Land Act, is based on the sum that vacant land might be expected to realise if offered for sale on reasonable conditions to a bona fide purchaser.

The Government wishes to assure the people of New South Wales that land valuations undertaken by the Valuer General are sound, well-informed, quality valuations based on reliable information and expertise. The amendment proposed by this bill makes a small change to the Valuation of Land Act 1916 to clarify the manner in which valuations are to be made to heritage land. The amendment will allow the Valuer General's Office to administer the Valuation of Land Act with speed and efficiency.

Members may be aware of a decision in a recent court case involving the Commonwealth Bank building located on the corner of Martin Place and Elizabeth Street, which is known as the "moneybox" to those of us who grew up with a moneybox savings bank. I did. The decision in this case made it apparent that the words of section 14G needed urgent clarification, as the intention of the section was not properly stated. When valuing land that is heritage restricted, section 14G allows a number of assumptions designed to assist a valuer to determine the land value of the subject property. The assumptions allow a discount for heritage land that takes into account the fact that the land may be used only for its current purpose. The result is that the value of heritage restricted land is usually lower than that of comparable land that contains no such restrictions.

The court's interpretation of the words in section 14G do not permit the Valuer General to undertake a valuation of heritage land based on the same underlying methodology as is used for valuing land generally. The decision of the court means that the Valuer General must take into account the condition of the heritage restricted building when making its valuation, despite the fact that the purpose of the Valuation of Land Act is to ascertain the land value only, not the value of improvements that sit on the land. The court's decision also means that the Valuer General cannot value heritage-restricted land using the mass valuation methodology, which has been used to value land in New South Wales for decades. This methodology enables many parcels of land to be valued in one go. However, the decision of the court means that each heritage property will need to be individually assessed, thereby increasing costs and the time taken to undertake valuations of heritage land.

The bill will amend section 14G by inserting a new subsection 14G (1) (b1), which ensures that the actual condition of buildings and structures on the land, known as improvements, are not taken into consideration. This amendment will permit the Valuer General, for the purpose of determining the lands highest and best use, to properly, efficiently and expediently deal with valuations of heritage restricted land in New South Wales in the manner intended by section 14G of the Valuation of Land Act. If the amendments are not passed, owners of heritage properties will be provided with a temptation to allow their properties to fall into disrepair so as to affect their land value, and ultimately any applicable council rates and land taxes that may be payable by the landowner.

The bill also makes a similar amendment to the Heritage Act to take into account the valuations of properties on the State Heritage Register. Section 123 of the Heritage Act mirrors the wording of section 14G of the Valuation of Land Act. The amendments provided by this bill will ensure that the Valuer General's Office may carry out valuations of heritage land without complexity or increased costs and provide a reliable and timely service for rating and taxing authorities, which rely on the valuation of land. I am pleased to support the worthwhile amendments contained in the bill. For those reasons, I commend the bill to the House.

Mr ROB STOKES (Pittwater) [10.26 p.m.]: I will make a brief contribution to the Valuation of Land Amendment Bill 2009. The Coalition does not oppose the bill for the reasons stated by the member for Maitland. However, these incremental ad hoc changes to the valuation system expose the fundamental problems with the valuation of land in New South Wales. There has been an ongoing litany of litigation surrounding definitions of valuation. The case of *Maurici v Chief Commissioner of State Revenue* earlier this decade springs to mind. The finest legal minds of the State have trouble understanding the valuation Act in various circumstances. What hope does the ordinary punter have in understanding land value?

This problem relates to the fact that the Valuation of Land Act 1916 was created at a time when most land in New South Wales was greenfield land. Most of it was unimproved. In order to value a piece of land, one took into account the surrounding vacant land. It was easy to value its worth. With development and constantly changing zonings, the value of land has become a legal fiction. It is an opaque methodology for determining valuation that has spawned an entire industry of valuers. The fundamental issue is: What is the value to a purchaser? Surely the valuation system does not need to be as complicated as the one that we have developed. For example, as explained to me by a valuer, one of the puzzles from a legal point of view is that heritage and zoning restrictions are taken into account but not restrictions on title because restrictions on title relate to the capacity to be sold as estate in fee simple.

In actual fact the capacity to be sold as estate in fee simple relates to issues that prevent the land being sold, not what can be done with the land. There are substantial and serious problems with the whole valuation system. Unless we deal with the valuation system in New South Wales, we will continue to introduce legislation to try to fix up anomalies created by legal decisions. The ordinary person in New South Wales can tell you what their property is worth but they cannot tell you the value of their land. That is a significant problem. Until we fix that problem we will continue to introduce amending legislation.

Mr MICHAEL RICHARDSON (Castle Hill) [10.29 p.m.]: The Valuation of Land Amendment Bill 2009 amends legislation relating to the valuation of land that is heritage restricted to deal with the consequences of the decision by the Court of Appeal in the case *Valuer General v Commonwealth Custodial Services Ltd* [2009]. Property is normally valued on the basis of mass valuations, where properties are placed together and valued in groups called components. Within each component, at least one property is valued each year to measure how much the value has changed from the previous year. It takes into account the highest and best use to which the land can be put but does not take into account the buildings that may have been erected on the land.

Heritage property is different. The State of New South Wales recognises the importance of maintaining and preserving our heritage and so allows councils to keep their own heritage schedules as well as maintaining the State Heritage Register for significant heritage items. If a property is heritage listed or restricted, the highest use consideration no longer applies. You cannot just go and knock down a heritage listed building and replace it with a block of flats or an office block. That is the way things were done back in the 1960s and that is why so much of the heritage of the City of Parramatta, for example, has been lost.

Special provisions are made for heritage valuations under section 14G of the Act. It requires three assumptions to be made: that the land may be used only for the purpose for which it was being used at the date of valuation; that all improvements on the land are continued and maintained; and that no improvements may be made to or on that land. The actual building or buildings are not assessed for value. They are considered only to determine the nature of use and the extent of development permitted on the land.

This system has been working well for more than 30 years, but now the Court of Appeal has thrown a spanner in the works. The decision in *Valuer General v Commonwealth Custodial Services Ltd* held that the current condition of the building must be taken into account in the valuation assessment. The court held, inter alia, that:

> The debate in the previous case was essentially about valuation method. When using the comparable sales method of valuation to ascertain the value of a parcel of vacant land it is permissible to use the sale of other improved land and make the adjustments necessary to derive the value of that land without improvements. Although appropriate when analysing comparable sales, Toohey's case determined that this approach cannot be used to value the land itself. Because there were no comparable sales upon which the valuer for the Valuer-General considered he could rely he sought to depart from Toohey's case and determine the value of the land with its existing heritage improvements ("the improved value") and then deduct the value of the improvements, leaving the value of the vacant land. He determined the improved value by capitalising the rent using a discounted cash flow analysis. He assumed that the value of the existing improvements was their replacement cost, determined by a quantity surveyor, depreciated by 25 per cent to take account of the age of the building and other matters.

The court rejected this approach, saying that it conflicted with subsection 6A (1) of the Act, which requires land value to be determined upon the express assumption that improvements upon the land at the date of valuation had never been made. The court went on to say that in this particular case the valuers had to value the land as vacant land on the basis that it would only be used for the purpose for which it was being used at the date of valuation, and that the only building in which that use could be continued was the existing building on the land with all of its perceived benefits as a heritage building but all of its perceived deficiencies in terms of design, internal layout and so on. The court added:

> The continuance of the improvements is to be assumed but only for the purpose of ascertaining highest and best use to which the land may be put in determining its value.

The valuers for both parties involved assessed the value of the land in 2005 and 2006 on the basis that the rental for the building reflected market rates. Mr Dempsey, acting for Commonwealth Custodial, identified four sales of heritage affected buildings from which he derived the market rental per square metre of the subject building. Mr Hill, acting for the Valuer General, derived his figure by assuming that the building, while heritage restricted, was a new building, which in turn increased the rent and the land valuation. I think members will see the difficulties inherent in this approach. The judgement also said:

> There is no difficulty in valuing the land upon the assumption that it is vacant land but with its potential development and ultimate return confined by the existing building and the purpose or purposes for which it may be used. That existing building may be more or less marketable than a new building and may have greater maintenance costs, but it is that building which the statute assumes will remain and accordingly defines the potential of the land as vacant land.
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> The analysis must assume that the rental return determined for the building on the land, with its heritage restrictions, is the optimum return available from that building in the market place.

That is a very important aspect of the decision. Essentially the decision held that the current condition of the building must be taken into account when assessing the value of the land on which it stands. It said further that the cost of maintenance of a heritage building affects its return and the potential cost of refurbishment should therefore be factored in when determining the valuation. According to the Parliamentary Secretary, to do this for every one of 44,000 heritage properties in New South Wales would be prohibitively expensive. Moreover, it could mean, as the Parliamentary Secretary pointed out, that some owners of heritage properties might be tempted to let them run down to achieve a lower land value for the property—something I think we would all abhor.

To deal with the dilemma posed by the court's decision the Government has moved amendments to clarify that when valuing property under section 14G of the Act there is no need to take into account the building's actual condition. This is to avoid the possibility that the owner of a heritage property might deliberately let it run down to reduce the land valuation of the property. The building that was the subject of the court case that gave rise to the bill before the House was the Commonwealth Bank "Moneybox", just down Martin Place from the Parliament. Built between 1913 and 1933, it is called the "Moneybox" because every primary school child from the 1920s to the 1980s, including me, was given a metal moneybox, the design of which was based on that building. In fact if I look hard enough, I could probably find one such moneybox in a drawer somewhere at home full of 20 cent pieces. It is the very essence of solidity—exactly what would be expected of a bank established by the Government of Australia.

You would have to agree with their Honours that there are indeed heritage restrictions on the building that affect its land value. Members who have been into the ground floor tellers' section of that building would have noted the soaring ceilings and also that the floor, at least, of the building is not being used efficiently.

However, the building is not going to remain unaltered. And it has never remained unaltered. The original building, completed in 1916, which is the building on which the moneybox was based, was extended between 1929 and 1933 and again in 1966-67. In 1990 the bank planned to build a 39-storey office block on the site, incorporating the existing heritage facade.

Regardless of what the situation was in 2005-06 when this case first went to court, the building will be altered. The Commonwealth Bank has made a request to Sydney City Council seeking amendments to council's local environmental plan to allow it to build an 81-metre high office block on the south-eastern portion of the site. Moreover, this application was made to Sydney City Council in August this year—just two months after the judgement was handed down.

This puts a rather different complexion on the bill before the House and also on the decision of the court, I would have thought. Would their Honours have been so keen to assume that the land value should have been restricted by heritage considerations if they had known that the site was to be developed? Should not they and the valuers have taken into account what has already happened to the GPO—now the Westin Hotel—or the old Treasury Building at the corner of Bridge and Macquarie Streets, which is now the Hotel Intercontinental? Should not the original valuations have considered the 1990 proposal to build a 39-storey office block on the "Moneybox" site?

The Commonwealth Bank appears to have obtained the lowest valuation possible for its property over many years—below the actual value of the property—and been prepared to fight the Government through the courts to maintain that value. That site should have been valued in line with the "highest and best use" provisions of the Act, not simply under section 14G. There would have been a reduction in valuation consistent with the heritage issues surrounding the "Moneybox" building, but overall the valuation would have been considerably higher than Mr Hill's value, which the court found against.

The implication of this is that the bank has managed to pay perhaps millions of dollars less in rates and land tax than it would have done had it been valued as a potential development site, which it is and was. This bill does not really deal with this issue or go far enough. It does not create a foolproof way of valuing heritage property that takes into account the cost of owning the property as well as the potential of the property for development.

Mr BARRY COLLIER (Miranda—Parliamentary Secretary) [10.37 p.m.], in reply: The amendments in this bill address matters raised by the decision of the New South Wales Court of Appeal in the case of *Valuer General v Commonwealth Custodial Services Ltd*, [2009] NSWCA 143, known as the "Moneybox" case, which was handed down in June 2009. The "Moneybox" case put in doubt the valuation methodology used by the Valuer General when valuing heritage land. This methodology has been developed over 30 years and is designed to provide efficient, timely and consistent valuations. These valuations are used by rating and taxing authorities to assess their respective rates and taxes every year. I thank the members for the electorates of Burrinjuck, Sydney, Maitland, Pittwater and Castle Hill for their contributions to the debate.

Ever since the commencement of the Heritage Act in 1977, the New South Wales Legislature has created a regime for valuing heritage restricted land. This regime differs from the regime used for valuing other types of land, as heritage land is generally subject to legislation or planning instruments that impede demolition and redevelopment. It would be unjust to value such land in the same manner as other types of land are valued given that the development of the land will always be restrained by the heritage restriction.

Under this existing regime generous concessions are made. A comparison of the land values of properties on the State Heritage Register with the heritage valuation for those properties shows that on average the heritage valuation provides a discount of 32 per cent, which is a significant saving. The current wording of section 14G of the Valuation of Land Act and section 123 of the Heritage Act does not accurately reflect the Valuer General's methodology when valuing heritage land. These amendments are designed only to clarify the practice of the Valuer General. The amendments will not change anything in the approach that the Valuer General takes when valuing heritage land.

There are several compelling reasons that justify the need for this amendment. First is the complexity that would be introduced into the valuation process if the Court of Appeal's interpretation of section 14G were to be followed. It is a much more complex and subjective task to determine the actual condition of a building than it is to allow a discount on the land value based on the reduced development potential of heritage-restricted land. Secondly, valuations would become much more volatile, changing from year to year as the condition of the

building changes. The state and condition of some buildings can change dramatically year to year, and as such an owner of heritage property will get an inconsistent land valuation. This would make it almost impossible for a landowner to determine what his or her land tax and rating liability will be on a year-to-year basis. It will also make it impossible for government to properly budget for consequent financial years.

This volatility will greatly increase the potential for litigation. The litigation itself also will be more costly as additional expert reports would be required to justify each party's position. Without the amendment there will be a temptation for heritage property owners to let their heritage buildings fall into disrepair, hoping to receive a lower valuation. This would defeat the purpose of the Heritage Act, which aims to see the protection of heritage properties. Finally, there is the issue of cost. Without this amendment each of the approximately 44,000 heritage buildings would need an up-close and detailed inspection to determine the condition and state of repair of the building. The costs involved in determining the land value according to the court's decision would be significantly more than the current system developed by the Valuer General.

I can assure the owners of heritage property that it is not the intent of this bill to put any additional or new burden on them. A landowner will not see an increase in his or her rates and taxes attributable to the amendments contained in the bill. Finally, I can assure the owners of heritage property that it is not the intent of this bill to add or reduce the value of heritage land. The intent of the amendment is simply to allow the Valuer General to continue to value heritage land in accordance with practices developed over 30 years. 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.

ADJOURNMENT

Motion by Mr John Aquilina agreed to:

That this House do now adjourn.

The House adjourned, pursuant to resolution, at 10.42 p.m. until Thursday 26 November 2009 at 10.00 a.m.